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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10

GENERAL FORM FOR REGISTRATION OF SECURITIES
Pursuant to Section 12(b) or (g) of
The Securities Exchange Act of 1934

MRI Interventions, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**58-2394628**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

MRI Interventions, Inc.
One Commerce Square, Suite 2550
Memphis, TN 38103
(Address of principal executive offices)

Registrant's telephone number, including area code: (901) 522-9300

Securities to be registered pursuant to Section 12(b) of the Act:

Title of each class to be so registered	**Name of each exchange on which each class is to be registered**
N/A	N/A

Securities to be registered pursuant to Section 12(g) of the Act: Common Stock, $0.01 par value per share

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

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

EXPLANATORY NOTE

MRI Interventions, Inc. is filing this General Form for Registration of Securities on Form 10, or this registration statement, to register its common stock, par value $0.01 per share, pursuant to Section 12(g) of the Securities Exchange Act of 1934. Unless otherwise mentioned or unless the context requires otherwise, when used in this registration statement, the terms "company," "we," "us," and "our" refer to MRI Interventions, Inc.

We were incorporated in Delaware in 1998 under the name Surgi-Vision, Inc. On November 12, 2008, we changed our name to SurgiVision, Inc. On May 13, 2011, we changed our name to MRI Interventions, Inc. We operate in only one business segment. Our principal executive office is located at One Commerce Square, Suite 2550, Memphis, TN 38103, and our telephone number is (901) 522-9300. Our principal operations are located in Irvine, California. Our website address is www.mriinterventions.com. We do not incorporate the information on our website into this registration statement, and you should not consider it part of this registration statement.

ClearConnect™ , ClearPoint®, ClearTrace™, MRI Interventions™, SmartFrame®, and SmartGrid® are trademarks of MRI Interventions, Inc. Any other trademarks, trade names or service marks referred to in this registration statement are the property of their respective owners. As used in this registration statement, Siemens refers to Siemens Aktiengesellschaft, Healthcare Sector, Boston Scientific refers to Boston Scientific Corporation and its affiliates, and Brainlab refers to Brainlab AG.

The market data and other statistical information contained in this registration statement are based on independent industry publications, government publications, reports by market research firms and other published independent sources. Some data is also based on our good faith estimates, which are derived from other relevant statistical information, as well as the independent sources listed above. Although we believe these sources are reliable, we have not independently verified the information.

FORWARD LOOKING STATEMENTS

This registration statement contains forward-looking statements. The forward-looking statements are contained principally in the sections entitled "Business", "Risk Factors," and "Management's Discussion and Analysis of Financial Condition and Results of Operations". These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from any future results, performances or achievements, expressed or implied by the forward-looking statements. Forward-looking statements include, but are not limited to, statements about:

- our ability to market, commercialize and achieve market acceptance for our products;
- the anticipated progress of our research and product development activities;
- our ability to successfully complete the development of our current product candidates;
- our ability to obtain regulatory clearance or approval for our current product candidates;
- our ability to generate additional product candidates in the future;
- our ability to protect our intellectual property and operate our business without infringing upon the intellectual property rights of others; and
- the estimates regarding the sufficiency of our cash resources.

In some cases, you can identify forward-looking statements by terms such as "anticipates," "believes," "could," "estimates," "expects," "intends," "may," "plans," "potential," "predicts," "projects," "should," "will," "would," and similar expressions intended to identify forward-looking statements, although not all forward-looking statements contain these words. These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to be materially different from the information expressed or implied by these forward-looking statements. Although we believe that we have a reasonable basis for each forward-looking statement contained in this registration statement, we caution you that these statements are based on a combination of facts and factors currently known by us and our projections of the future, about which we cannot be certain.

You should refer to the section of this registration statement entitled "Risk Factors" for a discussion of important factors that may cause our actual results to differ materially from those expressed or implied by our forward-looking statements. As a result of these factors, we cannot assure you that the forward-looking statements in this registration statement will prove to be accurate. Furthermore, if our forward-looking statements prove to be inaccurate, the inaccuracy may be material. In light of the significant uncertainties in these forward-looking statements, you should not regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified time frame, or at all. We do not undertake to update any of the forward-looking statements after the date of this registration statement, except to the extent required by applicable securities laws.

Item 1. *Business*

Overview

We are a medical device company that develops and commercializes innovative platforms for performing minimally invasive surgical procedures in the brain and heart under direct, intra-procedural magnetic resonance imaging, or MRI, guidance. Since our inception in 1998, we have focused on research and product development in the field of interventional MRI. From 1998 to 2002, we deployed significant resources to fund our efforts to develop the foundational capabilities for enabling MRI-guided interventions and to build an intellectual property position. In 2003, our focus shifted to identifying and building out commercial applications for the technologies we developed in prior years.

We have two product platforms. Our ClearPoint system, which is in commercial use in the United States, is used to perform minimally invasive surgical procedures in the brain. Our ClearTrace system, which is still in development, will be used to perform minimally invasive surgical procedures in the heart. Both systems utilize intra-procedural magnetic resonance imaging to guide the procedures. Both systems are designed to work in a hospital's existing MRI suite.

Our products are designed to provide a new, minimally invasive surgical approach to address large patient populations for whom we believe current surgical techniques are deficient. Our ClearPoint system is designed to deliver therapies to treat certain neurological diseases. Our ClearTrace system is designed to deliver therapies to treat certain cardiac diseases. We believe that our two product platforms, subject to appropriate regulatory clearance and approval, will provide better patient outcomes, enhance revenue potential for both physicians and hospitals, and reduce costs to the healthcare system.

- *Better Patient Outcomes.* We believe that if a physician can see the surgical field, the surgical instruments and the patient's anatomy at the same time and in the same "imaging space," the physician can more efficiently perform a surgical intervention in the brain or heart. Our product platforms, subject to appropriate regulatory clearance or approval, are designed to enable physicians to see the target site, guide the surgical instrument to the site, deliver the therapy, monitor for adverse events and complications and confirm the desired results of the procedure, all under high resolution, intra-procedural magnetic resonance imaging. We believe that these capabilities will translate directly into better clinical outcomes for the patients undergoing the procedures due to improved efficiency, the potential for the reduction of adverse events and side effects, as well as the potential for faster recovery times.
- *Enhance Revenue Potential*. By providing direct, intra-procedural visualization, we believe our ClearPoint system can reduce the amount of time needed to perform the procedures for which it was designed. As a result, we believe that our ClearPoint system may improve the overall economics of the procedures for both the performing physician and the hospital. We believe that our ClearPoint system may also enable a physician to treat more patients in a given period of time, and treat patients who would otherwise not be able to be treated utilizing current surgical techniques.
- *Reduce Costs to the Healthcare System.* We believe that use of our products may result in more efficient utilization of healthcare resources and physician time. For example, our product platforms are designed to work in a hospital's existing MRI suite, which adds additional utility for an infrastructure investment that has already been made by the hospital. Further, if patient outcomes and procedure efficiencies are improved by use of our products, we believe that the result will be a reduction in overall healthcare costs.

Our ClearPoint system is in commercial use. In June 2010, we received 510(k) clearance from the Food and Drug Administration, or FDA, to market our ClearPoint system in the United States for general neurological interventional procedures. In February 2011, we also obtained CE marking approval for the ClearPoint system, which enables us to sell the ClearPoint system in the European Union. In April 2011, we entered into a co-development and distribution agreement with Brainlab, a leader in the image-guided surgery field, under which Brainlab will serve as our distribution partner for the ClearPoint system. As of December 23, 2011, a total of 13 ClearPoint systems have been installed, 12 in the United States and one in Europe. ClearPoint systems are in clinical use in connection with MRI scanners from the three major MRI scanner manufacturers, Siemens, GE Healthcare and Philips Healthcare, as well as the two major interventional MR/OR platforms that are manufactured by IMRIS and Brainlab.

The ClearTrace system, a product candidate still in development, is designed to allow catheter-based minimally invasive procedures in the heart to be performed using continuous, intra-procedural MRI guidance. In May 2009, we entered into an exclusive co-development agreement with Siemens, the global market leader in MRI scanners, for the development and commercialization of the hardware and MRI software necessary for the ClearTrace system. Because of Siemens' market-leading position, we believe that our exclusive relationship secures an important strategic market position for the ClearTrace system. Our development activities on the ClearTrace system are ongoing. We have not made any filings seeking regulatory clearance or approval for the ClearTrace system. We anticipate that the initial market for the ClearTrace system will be the European Union.

In addition to our strategic relationships with Brainlab and Siemens, we also have entered into exclusive licensing and development agreements with Boston Scientific, pursuant to which Boston Scientific may incorporate certain of our technologies into its cardiac pacemaker and neuromodulation products. To augment our research and development activities, we also have meaningful collaborations with renowned academic institutions.

We have a significant intellectual property portfolio in the field of MRI-guided interventions. As of December 23, 2011, our portfolio included 60 patents and 113 patent applications, both United States and foreign, which we wholly-own, co-own or have licensed. Our technologies have been the subject of numerous peer-reviewed articles in medical and scientific journals. As a result of our product offerings, intellectual property position and collaborative relationships, we believe that we are well positioned to remain on the forefront of the emerging market for MRI-guided minimally invasive surgical procedures.

Industry Background

Magnetic Resonance Imaging

MRI is a widely practiced imaging technique that uses spatially varying magnetic fields to produce images of the human anatomy. Hydrogen nuclei, present in molecules throughout the body, are slightly magnetic. When placed in large external magnetic fields, they can be induced to emit or resonate radio frequency signals. These radio frequency signals are used to construct images of human anatomy, including high resolution images of soft tissue.

MRI has important and advantageous properties that differentiate it from other imaging methods. MRI scans can provide images of any part of the body, in any plane of view, and offer more detailed information than other modalities, including fluoroscopy and computed tomography. Some of the unique advantages of MRI include:

- soft tissue imaging that enables superior tissue visualization and enhanced differentiation between healthy and diseased tissues;
- unlimited orientation and positioning of the imaging plane;
- ability to directly acquire volumetric (three dimensional) data sets;
- ability to evaluate both the structure and certain functions of internal organs; and
- no harmful ionizing radiation exposure for either the patient or the physician.

There are approximately 4,500 1.5T MRI scanners and approximately 550 3T MRI scanners installed in hospitals throughout the United States. MRI scanners are available in a number of different configurations and field strengths, which refers to the strength of the magnet used to create the magnetic field. Magnetic field strength is measured in Tesla, or T. The most common field strength for MRI scanners is 1.5T. Higher field strength scanners such as 3T MRI scanners have been introduced in clinical practice and are gaining commercial market adoption, offering faster scanner speeds and even higher resolution images than 1.5T MRI scanners.

Minimally Invasive Surgical Procedures

Over the past few decades, one of the most significant medical trends has been the development of minimally invasive surgical methods and techniques. As its name implies, a minimally invasive procedure is a less invasive approach than open surgery. Minimally invasive procedures typically involve use of laparoscopic devices, catheter-based devices or remote-control manipulation of instruments once inside the body. Minimally invasive procedures in the brain have typically been performed using a complex technique known as stereotactic neurosurgery, under which a physician merges pre-operative images and data with specialized surgical instruments to help guide the surgical procedure in the brain.

Our Current Products and Product Candidates

ClearPoint Neuro Intervention System

General

Our ClearPoint system is designed to allow minimally invasive procedures in the brain to be performed in a hospital's existing MRI suite. The ClearPoint system provides guidance for the placement and operation of instruments or devices during the planning and operation of neurological procedures performed within the MRI suite using MR imaging. Our ClearPoint system is intended to be used as an integral part of procedures, such as biopsies and the insertion of catheters and electrodes, which have traditionally been performed using stereotactic methods. Our ClearPoint system is intended to be used with both 1.5T and 3T MRI scanners. Our research efforts for our ClearPoint system began in 2003. In June 2010, we received 510(k) clearance from the FDA to market our ClearPoint system in the United States for general neurological interventional procedures. In February 2011, we also obtained CE marking approval for our ClearPoint system. The CE mark is an international symbol of adherence to quality assurance standards and compliance with applicable European Union medical device directives, and it allows us to market the ClearPoint system in the European Union.

The first patient procedure using our ClearPoint system was performed by physicians at the University of California, San Francisco Medical Center in August 2010. As of December 23, 2011, a total of 13 ClearPoint systems have been installed, 12 in the United States and one in Europe. ClearPoint systems are in clinical use in connection with MRI scanners from the three major MRI scanner manufacturers, Siemens, GE Healthcare and Philips Healthcare. Likewise, our ClearPoint system is also in use with the two major interventional MR/OR platforms, which are manufactured by IMRIS and Brainlab.

In April 2011, we entered into a co-development and distribution agreement with Brainlab, a leader in the development of software-driven medical technology that supports targeted, less-invasive patient treatment. Under that agreement, we appointed Brainlab as a distributor of our ClearPoint system products, on a non-exclusive basis, in the United States and Europe. We also agreed to collaborate on the potential integration of our ClearPoint system technologies with Brainlab's own interventional MRI technologies, with particular focus on direct delivery of drugs and other therapeutic agents to targets in the brain under MRI guidance, which we call the MRI-guided neurological drug delivery field of use. For that reason, we appointed Brainlab as our exclusive distributor of ClearPoint system products within the MRI-guided neurological drug delivery field of use.

The Need for Minimally Invasive Neurological Interventions

Millions of people suffer from neurological diseases including: movement disorders such as Parkinson's disease, essential tremor and dystonia; psychiatric disorders such as major depression, obsessive compulsive disorder and Alzheimer's disease; and brain tumors, such as glioblastoma multiform. The first line of therapy for

most of these conditions is systemic administration of drugs. For example, to treat the early stages of Parkinson's disease, a patient is often prescribed a drug called levodopa. Drugs such as levodopa can be effective in the earlier stages of the disease; however, as the disease progresses, systemic drugs may become less effective, and potentially ineffective, in treating the patient. Given the shortcomings of systemic drugs like levodopa, the medical community has focused significant resources to find new non-systemic or "local" therapies to treat these patients.

The development activity in, and the use of, local therapies is growing. For example, drug companies and researchers have identified and are investigating various compounds that are delivered directly into the diseased area of the brain, such as directly into the center of a tumor in the brain. Similarly, the medical community has developed a technique commonly referred to as focal lesioning, under which a special probe is inserted into a target area of the brain and a small area of diseased brain tissue is then destroyed by applying laser energy or radio frequency energy through the tip of the special probe. Physicians perform this procedure to treat disorders such as Parkinson's disease, essential tremor and epilepsy. The medical community has also developed another local therapy known as deep brain stimulation, or DBS. DBS uses mild electrical pulses from an implanted device to stimulate a small target region in the brain. A DBS system looks and operates much like a cardiac pacemaker, except that instead of sending pulses to the heart, it delivers electrical stimulation through the electrodes placed at a precisely targeted area in the brain. The FDA has approved the use of DBS for the treatment of Parkinson's disease and essential tremor. The FDA has also approved the use of DBS for the treatment of dystonia and obsessive compulsive disorder pursuant to humanitarian device exemptions. FDA approval is currently being sought for the use of DBS to treat epilepsy, and DBS is also being investigated as a therapy for treatment-resistant major depression.

These local therapies, among others, involve insertion of a catheter, probe or electrode into a target region of the brain, typically performed as a minimally invasive procedure. However, performing these minimally invasive interventions in the brain presents special challenges, including a need to reach a small therapeutic target often located deep within the brain, which target is often an area as small as a few millimeters in diameter. To reach these targets, the physician must act with precision to avoid damaging adjacent areas that are responsible for important neurological functions, such as memory or speech, or penetrating blood vessels which can lead to a life-threatening hemorrhage. The medical community developed stereotactic neurosurgery to address these obstacles. But, despite years of development and clinical experience, conventional stereotactic procedures remain complicated and time-consuming for many neurological interventions and can be extremely difficult on the patient.

Challenges with Conventional Stereotactic Neurosurgical Procedures

Conventional stereotactic neurosurgical procedures are performed in a standard operating room. With this method, a large, metal stereotactic frame is typically fixed to the patient's skull, using skull pins, to provide a fixed and common coordinate system. After the frame is attached to the patient's skull, the patient is then imaged pre-operatively, often using MRI, in order to obtain images showing both the stereotactic frame axes and the anatomical structures of the patient's brain. These pre-operative images are then loaded into a surgical planning workstation. Surgical planning software is used to identify the neurological target for the procedure, as well as to define a trajectory path from the skull, through the brain tissue, and to the target. The planned trajectory and target location are then calculated in relation to the frame axes and then used to guide the surgery.

Because conventional stereotaxy relies on pre-operative images, and not intra-procedural images, errors in the alignment of the pre-operative images with the patient's brain anatomy can, and often do, occur as a consequence of brain shift, variation in patient hydration, registration errors or misalignment of the frame. As a result, the physician often must undertake additional steps to further refine the process of locating the patient's neurological target. These steps include physiological "mapping" of the brain and require an additional procedural step called microelectrode recording, which is a tedious and time-consuming process during which small probes containing microelectrodes are inserted into the deep brain structures, usually multiple times. As these microelectrode recording probes are passed through brain tissue, they pick up electrical activity. The microelectrode recording system then converts the electrical activity into audible tones. In hearing these various audible tones, a trained neurologist or neurophysiologist can distinguish different regions of the brain. Based on these tones, locations are mapped against the pre-operative images and used to refine and adjust the neurological target as depicted on those pre-operative images. New coordinates are then calculated and a new trajectory is planned. To further confirm locations in the brain, various physiologic responses are induced or monitored with the microelectrodes. These physiological mapping steps require the patient to be awake during the surgery and off medications. Given the procedure's complexity, it is not uncommon for the procedure to last six or more hours.

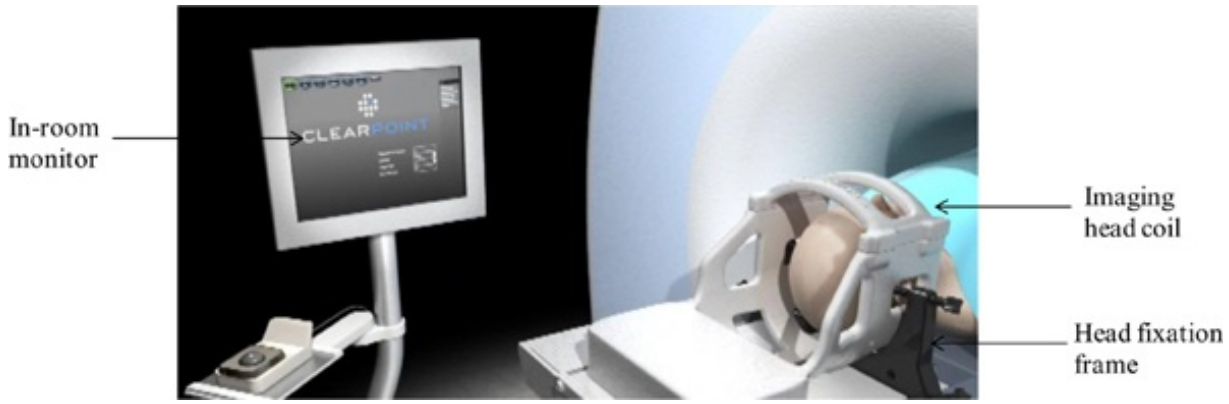
Our ClearPoint System Solution

Instead of relying on the indirect guidance of pre-operative imaging, microelectrode recording and physiological responses from the patient, our ClearPoint system is based on a direct approach, in which a physician is guided by high resolution magnetic resonance imaging during the procedure. By utilizing the direct approach of the ClearPoint system, the patient does not have to be awake and participating in his or her brain surgery. Instead, the patient can be under general anesthesia for the procedure and remain on his or her prescription drug regime. In addition, we believe the design of our ClearPoint system can significantly simplify how stereotactic neurological interventions are performed and can result in shorter procedure times.

A ClearPoint procedure is designed to be performed in a standard hospital-based MRI scanner. Our ClearPoint system is an integrated system comprised of hardware components, disposable components and intuitive, menu-driven software.

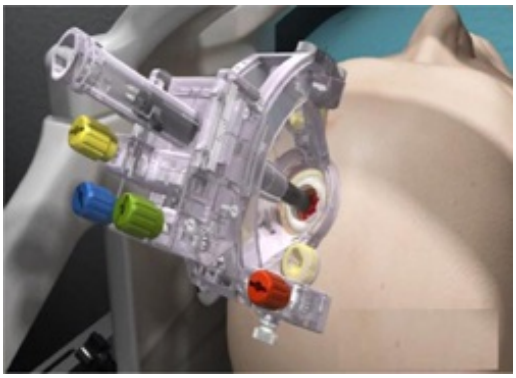
ClearPoint Hardware. Our hardware components consist primarily of an MR imaging head coil, head fixation frame, computer workstation and in-room monitor. The architecture of our imaging head coil allows for surgical access to the patient while maintaining high quality imaging capability. The head fixation frame is integrated with the head coil and is designed to optimize the placement of the head coil in proximity to the patient's head. For certain MRI scanner platforms, such as the MRI scanners manufactured by Philips Healthcare, our imaging head coil may not be needed. Our ClearPoint system software is installed on a computer workstation networked with an MRI scanner, for which we use a commercially available laptop computer. The in-room monitor allows the physician to view the display of our ClearPoint system workstation from the scanner room while performing the procedure.

The ClearPoint hardware is shown in the following image.



ClearPoint Disposables. The disposable components of our ClearPoint system consist primarily of our SmartFrame trajectory device, a hand controller and related accessories. Our SmartFrame device is an adjustable trajectory frame that attaches to the patient's skull and holds the targeting cannula. The hand controller attaches to our SmartFrame device, and it is used by the physician to adjust the roll, pitch and X and Y orientation of the targeting cannula while the patient is in the MRI scanner. The accessories include all other components necessary to facilitate the MRI-guided neurological procedure, such as our SmartGrid patch, which is an MRI-visible marking grid that enables rapid localization of the entry position into the brain, and our customized surgical draping, which creates a sterile field within the MRI scanner.

The following images show our SmartFrame device attached to the patient's head, as well as the hand controller attached to the SmartFrame device.




ClearPoint Software. Our ClearPoint system software guides the physician in surgical planning, device alignment, navigation to the target and procedure monitoring. The software receives standard images from the MRI scanner via a network connection to the scanner. The software leads the physician through a series of predefined steps, including MR image acquisition, establishment of image orientation landmarks, target identification and selection, trajectory planning, entry point planning and marking, targeting cannula orientation and refinement, and confirmation that the desired anatomical target(s) have been reached. The software uses image segmentation algorithms to help locate and identify our SmartFrame device and its targeting cannula, as well as the anatomical structures of the brain. The software also performs geometric computations to provide the physician with information regarding the positioning of instruments inserted into the patient's brain relative to the target anatomical structures. At the completion of the procedure, the software generates an automated report that includes the key metrics from the procedure.

The following is a sample screenshot of our ClearPoint system software being used to select a trajectory path to a target location in the brain.

The ClearPoint Procedure. Our ClearPoint procedure is performed entirely within a standard hospital-based MRI suite. Once placed in the MRI scanner, the patient's head is immobilized in our imaging head coil and integrated head fixation frame with the patient's head accessible to the physician. The physician then places our MRI-visible SmartGrid patch onto the patient's head where the physician expects to enter the skull. The patient is then moved to the center of the scanner and images are taken of the patient's brain that include the target area and our SmartGrid patch. Once the imaging is complete, the images are transferred to our ClearPoint system workstation so that the physician can determine the specific target site within the brain and the optimal trajectory path for the placement of the interventional device. With the trajectory path established, our ClearPoint system software will identify the specific location on our SmartGrid patch that corresponds with where the planned trajectory intersects the skull. The physician will then mark the skull using our custom marking tool. At the site of the mark, the physician will create the burr hole, which is the small hole in the patient's skull through which the interventional device can be inserted into the brain.

Our SmartFrame device is then centered and attached over the burr hole. The target and planned trajectory is reconfirmed by the physician using our ClearPoint system workstation. Using the hand controller, the physician adjusts the trajectory of the MRI-visible SmartFrame device to align the instrument with the planned trajectory. During this process, the software estimates a number of turns and direction of turn on each of the hand controller's color coded thumbwheels to align the instrument to the planned trajectory.

Once our SmartFrame device has been aligned to the proper trajectory, the depth dimension is calculated by the software. Immediately before insertion and partway through insertion, images are taken to ensure that the probe is correctly tracking along the planned trajectory. The physician continues advancing the interventional device towards the target site until it "snaps" into place on the SmartFrame device indicating that the interventional device has reached the proper depth. At this time, images are taken at the target site to insure the interventional device is in the proper location relative to the desired target.

Regulatory Status

Our 510(k) clearance from the FDA permits us to market and promote our ClearPoint system in the United States for use in general neurological interventions, such as biopsies and catheter or electrode insertions, which is the same indication for use that applies to other devices that have traditionally been used in the performance of stereotactic neurological procedures. Similar to other conventional stereotaxy-based systems, our ClearPoint system is not indicated for use in specific neurological procedures, such as DBS electrode placement or direct drug delivery. Similar to other conventional stereotaxy-based systems, unless and until we receive FDA clearance or approval for use of our ClearPoint system for specific indications, such indications may be considered off-label uses of our ClearPoint system, in which case we would be prohibited from promoting our system, or training physicians, for those specific uses in the United States. However, in their practice of medicine, physicians may lawfully choose to use medical devices for off-label uses. Therefore, similar to other conventional stereotaxy-based systems, a physician may use our ClearPoint system for uses not covered by the cleared labeling. We expect that physicians will use our ClearPoint system in a variety of specific neurological procedures, including DBS electrode placement, direct drug delivery and focal lesioning.

In the European Union, our CE marking approval includes all components of our ClearPoint system, other than our imaging head coil. The CE mark for the ClearPoint system carries the same indication for use as our 510(k) clearance. We have applied for CE marking approval for our imaging head coil, and we expect to obtain that approval in the first quarter of 2012.

In January 2011, we received 510(k) clearance from the FDA for our SmartFlow neuro ventricular cannula. Our SmartFlow cannula, which is compatible with our ClearPoint system, is an MRI-compatible injection and aspiration cannula. It is indicated for use in the injection of Cytarabine, which is a chemotherapy drug, or the removal of cerebrospinal fluid from the ventricles of the brain during an intracranial procedure. The SmartFlow cannula is a disposable device intended for single patient use only and is not intended for implant.

The ClearTrace Cardiac Intervention System

General

Our second product platform, the ClearTrace system, is a product candidate still in development. The ClearTrace system is designed to allow catheter-based minimally invasive procedures in the heart to be performed using continuous, intra-procedural MRI guidance.

Catheter-based cardiac interventions performed in a fluoroscopy suite, generally referred to as a Cath Lab or EP Lab, have been the standard of care for the treatment of many cardiac disorders, such as cardiovascular disease. Certain procedures, such as stent placement, are well suited for fluoroscopic imaging because they do not require continuous, detailed visualization of the cardiac tissue. However, other procedures are not well suited for fluoroscopy because of the clinical need for continuous, high resolution imaging of the cardiac anatomy along with the interventional instruments. One example of such a procedure is cardiac ablation to treat cardiac arrhythmias, such as atrial fibrillation. Another example is the precision delivery of stem cells directly into the wall of the heart, which represents a promising therapy being researched for the treatment of heart failure.

The ClearTrace system will be similar to the conventional Cath Lab or EP Lab, but with two critical distinctions. First, unlike the Cath Lab or EP Lab, the ClearTrace system will provide a continuous, high resolution, four dimensional imaging environment (the fourth dimension being time), which will include detailed visualization of cardiac tissue, along with the cardiac catheters used to deliver the therapy. We believe that this capability is required for the next generation of interventional cardiac therapies. Second, the ClearTrace system will eliminate all radiation exposure for both the patient and physician from the X-ray utilized in current procedures. Under current catheter-based treatments utilizing fluoroscopy, radiation exposure can exceed 45 minutes. We believe that the attributes of the ClearTrace system position it to be the therapy of choice for cardiac ablation procedures to treat cardiac arrhythmias, including atrial fibrillation, and the ideal platform for delivering future biologic therapies to treat heart failure and other similar cardiac disorders. The ClearTrace system is designed for procedures that initially will be performed using a Siemens 3T MRI scanner.

We began preliminary research for an MRI-guided cardiac ablation procedure shortly following our inception in 1998. As a culmination of our research efforts, in May 2009, we entered into an exclusive co-development agreement with Siemens, the global market leader in MRI scanners, for the development and commercialization of the hardware and MRI software necessary for the ClearTrace system. Under the terms of this agreement, we are working together with Siemens on the development of the ClearTrace software and the integration of system components. Once product development is completed, we will work together with Siemens on the commercial launch and field support of the ClearTrace system. Because of Siemens' market-leading position, we believe that our exclusive relationship secures an important strategic market position for the ClearTrace system.

Challenges with Current Treatments for Atrial Fibrillation

Cardiac arrhythmia is an abnormal beating of the heart that can result in insufficient blood flow, which may cause dizziness, inadequate function of important organs in the body, stroke and even death. Atrial fibrillation affects over three million people in the United States and approximately 6.7 million people worldwide, making it the most common form of cardiac arrhythmia. Atrial fibrillation is characterized by the irregular fluttering or very rapid beating of the atria resulting from malfunction of the electrical conduction system in the walls of the atria. Atrial fibrillation is a leading cause of stroke among persons 65 years or older and it is associated with increased risk of heart failure and other morbidity.

Most atrial fibrillation treatments are palliative and do not cure atrial fibrillation. The most common are anti-arrhythmic and anticoagulant drugs. However, anti-arrhythmic drug therapy often becomes less effective over time, with approximately half of the patients developing resistance to the drugs. In addition, anti-arrhythmic drugs have potentially severe side effects, including pulmonary fibrosis, impaired liver function, thyroid problems and the development of worse and even life-threatening ventricular arrhythmias.

One highly effective, curative therapy for atrial fibrillation used today is an open-heart operation, commonly known as the surgical "Cox-Maze" procedure, which has reported success rates as high as 96%. During this open heart procedure, the physician makes a series of cuts in a specific "maze-like" formation along the inside walls of the left atrium with a scalpel, and then sutures these cuts back together. The scars create an uninterrupted conduction block containing the chaotic electrical impulses that cause atrial fibrillation, thereby returning the heart to a normal rhythm. The open heart Cox-Maze procedure is usually done in tandem with another open heart procedure, such as a valve replacement or coronary artery bypass, because this operation is traumatic to the patient, very expensive, and typically associated with long hospital stays and a three to six month recovery time.

Because of the effectiveness of the Cox-Maze method, the medical community has worked for years to develop a less invasive approach that generates comparable clinical outcomes. The current minimally invasive approach is performed in the EP Lab with the physician relying upon flouroscopic imaging to guide a catheter through a blood vessel into the right atrium, puncturing the septum and advancing the catheter into the left atrium of the heart. The physician then delivers energy through the catheter to create lesions and destroy the target tissue. During the procedure, the physician is assisted in guiding and positioning the catheter primarily by fluoroscopic imaging. However, fluoroscopic imaging has significant limitations, namely it does not permit the physician to see the cardiac anatomy and tissue, the location of the catheter in relation to the cardiac tissue, or the intra-procedural creation of the lesions necessary to create the conduction block. Furthermore, the use of fluoroscopy exposes both patient and physician to dangerous radiation for an extended period of time.

Thus far, the medical community has been unsuccessful in replicating the high success rates of the highly invasive Cox-Maze procedure using a minimally-invasive catheter-based procedural approach. Despite the sophistication of the procedures, the success rates of the catheter-based approaches have been disappointing, some as low as 50% to 75%. We believe that the low success rate of the current catheter-based approaches is a result of the physician's inability to see the cardiac tissue during the procedure. Unlike the imaging modalities used in the current catheter-based approach, an MRI-based procedure, such as one performed with the ClearTrace system, allows the physician to visualize a patient's cardiac tissue. With this capability, a physician can, for example, distinguish healthy cardiac tissue from fibrotic tissue and see gaps in the lesion lines. MRI can allow visualization of ablation lesions that are created during the procedure. Because of the unique cardiac tissue visualization and assessment capabilities of MRI, we believe the medical community is advancing towards an MRI-guided approach and we believe that an MRI-guided approach may finally deliver Cox-Maze-like success rates with a minimally invasive catheter-based procedure.

The ClearTrace System Solution

The ClearTrace system represents a new paradigm in performing cardiac interventions. Similar to our ClearPoint system, the ClearTrace system is an integrated system of hardware components, disposable components and intuitive, menu-driven software.

ClearTrace Hardware. The hardware components are centered around our ClearConnect system, which is an MRI-compatible hardware and cable management system to safely enable MRI-guided cardiac ablation procedures in an MRI scanner.

ClearTrace Disposables. The disposable components include an ablation catheter, mapping catheter, coronary sinus catheter and septal puncture kit. Our ablation catheter will be used to perform MRI-guided delivery of ablative energy to create cardiac lesions. Our mapping catheter will be used for MRI-guided collection of intracardiac electrocardiogram signals and will include analog/digital filtering to enable electrocardiogram collection during scanning. Our coronary sinus catheter will be used to collect additional electrocardiogram signals and to provide cardiac pacing and defibrillation, as needed during the procedure. Our septal puncture kit will consist of a septal puncture needle, a dialator and sheath and will be used to perform an MRI-guided puncture of the septum of the heart to allow movement between the right atrium and left atrium. All catheters and components will be MRI-compatible and tightly integrated with the MRI scanner.

ClearTrace Software. The ClearTrace system includes software designed to assist the physician in: surgical planning; creating three dimensional volumes of cardiac chambers; navigating our ClearTrace catheters within the cardiac chambers; visualizing lesions as they are formed; tracking prior lesion locations; evaluating ablated cardiac tissue; and monitoring for possible adverse events. Under our co-development agreement, Siemens is responsible for developing the ClearTrace system software to our specifications. The ClearTrace system software will be integrated with our disposable components.

The ClearTrace Procedure. The ClearTrace system offers a novel, comprehensive solution for the planning, delivering and intra-procedural assessment of catheter-based cardiac interventions. The following discussion outlines what we believe will be the key steps in performing a ClearTrace system procedure to treat atrial fibrillation.

A ClearTrace procedure is performed in a standard, hospital-based 3T Siemens MRI scanner suite. At the start of a ClearTrace procedure, a MRI scan is performed of the patient's heart and surrounding vasculature. Using the images from the scan, the ClearTrace system software generates a three dimensional volumetric model of the patient's cardiac chambers that the physician will use as a guide while performing the procedure. Additional MRI images and patient data can be mapped onto the surface of the three dimensional model as needed by the physician. Referencing the three dimensional model and surface mapped image data and using real time MRI scans of the patient's heart, the physician plans the cardiac ablation procedure.

The ClearTrace coronary sinus catheter is then advanced through a blood vessel under MRI guidance and placed in the coronary sinus to collect electrocardiogram signals and to provide cardiac pacing and defibrillation, as may be needed during the procedure. The remaining ClearTrace catheters are then advanced through a blood vessel

under MRI guidance into the right atrium of the heart. Using the ClearTrace system plan, the physician will advance the catheters through the targeted site on the septum and into the left atrium. Referencing the ablation plan, and with continuous intra-procedural visualization of the catheters and patient anatomy, the physician will advance the catheters to the site of the first planned ablation. With the ClearTrace ablation catheter in the correct location, the physician will begin applying energy to the tip of the catheter to create a lesion.

During ablation, the ClearTrace system will present intra-procedural MR images that will allow the physician to see the changes in the tissue caused by the ablative energy, giving the physician the visualization capabilities similar to what he or she has in the open heart Cox-Maze procedure. The physician will then repeat the process of creating and visualizing lesions within the left atrium until the ablation plan has been completed. The physician will complete the procedure by taking a final scan to confirm the proper placement of all lesions.

By allowing the physician to see the lesions during the procedure, we believe the physician can make better decisions about where to ablate, what amount of energy to apply and how long to apply the energy. We believe this improved decision making capability will result in improved outcomes and reduced adverse events. In addition to the ability to visualize the changes in the cardiac tissue, the physician will also be able to use a loop catheter to measure electrical signals from the inside surface of the left atrium to further guide and confirm the effectiveness of the ablation process.

Other Potential Applications

We believe the ClearTrace system's unique ability to provide continuous, high resolution imaging of the cardiac anatomy, including the walls of the heart, during an interventional procedure will be valuable in treating other cardiac disorders. For example, we believe the ClearTrace system could serve as an ideal platform for delivering drugs and other therapeutic agents directly into the heart wall. The medical community is developing novel compounds that have the potential to address significant cardiac disorders, such as heart failure. However, some of these compounds must be injected directly into the heart wall with precision placement at the boundary of healthy and diseased tissue. Using the ClearTrace system, we believe a physician will be able to navigate within the heart to the boundary between healthy and diseased tissue, place the catheter tip on the boundary, inject the compound and watch the dispersion of the compound into the heart wall.

Regulatory Status

The ClearTrace system is still under development, and we have not made any filings seeking regulatory approval or clearance for the ClearTrace system in the United States or in any foreign jurisdiction. In the United States, we believe that most components of the ClearTrace system will be Class II medical devices and will fall under the FDA's 510(k) regulatory process. However, the ablation catheter component will be a Class III medical device and will require FDA approval of a premarket approval application, or PMA. We anticipate that the initial market for the ClearTrace system will be the European Union, and we plan to seek CE marking approval for the ClearTrace system. To date, we have been conducting animal studies and other preclinical work with respect to the ClearTrace system.

Our Strategy

Our key objective is to develop and commercialize medical systems to enable minimally invasive surgical procedures to be performed under direct, intra-procedural MRI guidance. Key elements of our strategy to achieve this objective are:

- ***Maximize installation and adoption of our ClearPoint system***. We are focusing our marketing efforts on key physicians and hospitals to adopt use of our ClearPoint system for general neurological interventional procedures. Working with Brainlab as our distribution partner, our strategy is to convince those physicians that our ClearPoint system offers a better procedural solution for their patients. With the physicians serving as our internal champions, we will continue to work with the physicians to encourage hospitals to install our ClearPoint system in their existing MRI suites. In hospitals where our ClearPoint system has been installed, we will focus on selling our disposable components to generate recurring revenue.

- ***Continue development of the ClearTrace system***. We will continue to co-develop the ClearTrace system with Siemens. Together, we will work to generate awareness among leading physicians of the benefits of an MRI-guided approach to cardiac ablation for the treatment of cardiac arrhythmias, such as atrial fibrillation. Upon regulatory approval, we will work with Siemens to promote installation of the MRI software and our hardware components for the ClearTrace system within Siemens' MRI customer base. In hospitals where the ClearTrace system has been installed, we will focus on selling our disposable components to generate recurring revenue.
- ***Build upon our core technologies to continue to develop MRI-based products***. Our research and development efforts to date have focused on developing novel MRI-related technologies. We have significant intellectual property protection in this particular area. As the field of MRI-guided interventions grows, we intend to develop future enhancements to the ClearPoint and ClearTrace systems, as well as researching opportunities for new products.

Licenses and Collaborative Relationships

In addition to our internally-developed technologies and devices, we have established and intend to continue to pursue licenses and collaborative relationships with medical device companies and academic institutions to further the development and commercialization of our product platforms and our core technologies. Our current licenses and collaborative relationships are discussed below.

Brainlab

In April 2011, we entered into a co-development and distribution agreement with Brainlab. Our agreement with Brainlab has a term of five years. Pursuant to the agreement, we and Brainlab will work together to potentially integrate our ClearPoint system technologies with Brainlab's own interventional MRI technologies for application in the MRI-guided neurological drug delivery field of use, subject to appropriate regulatory clearance or approval. Brainlab, at its expense, will explore the integration of our ClearPoint system technologies with Brainlab's interventional MRI technologies for other MRI-guided neurological procedures as well. Brainlab is responsible for obtaining any regulatory clearance or approval necessary to sell any product resulting from the integration of our respective technologies. During the term of the agreement, neither we nor Brainlab may enter into a collaborative arrangement with another party relating to the commercial development, sales or marketing of products in the MRI-guided neurological drug delivery field of use. In addition, Brainlab may not develop, market or sell in the MRI-guided neurological drug delivery field of use any product that performs substantially the same function as or otherwise competes with any of our ClearPoint products, other than products resulting from our co-development activities.

Under the agreement, we also granted Brainlab distribution rights with respect to our ClearPoint system. We appointed Brainlab as an exclusive distributor of ClearPoint products within the MRI-guided neurological drug delivery field of use and as a non-exclusive distributor of ClearPoint products for other MRI-guided neurological procedures. Brainlab's distribution territory includes the United States, the European Union and Canada, although we do not yet have regulatory approval to sell our ClearPoint system in Canada. As our distributor, we will supply products to Brainlab at agreed upon transfer prices. We believe the agreed-upon transfer prices will yield substantially the same financial return per unit as we receive on our own direct sales. As both we and Brainlab will be selling the ClearPoint products outside the MRI-guided neurological drug delivery field of use, our agreement specifies that, to the extent a ClearPoint system is installed at a hospital due to Brainlab's selling efforts, Brainlab will then be the party that sells all ClearPoint disposable products to that hospital.

Siemens

In May 2009, we entered into a cooperation and development agreement with Siemens to develop the hardware and MRI software systems for MRI-guided, catheter-based ablation to treat cardiac arrhythmias, such as atrial fibrillation. Under this agreement, Siemens is responsible for developing the software in accordance with our specifications, and we are responsible for developing the catheters and other hardware, other than the MRI scanner and workstation, necessary for the MRI-guided cardiac ablation procedures and for the integration work necessary to combine the software, catheters and other hardware to create the ClearTrace system. The agreement provides for

exclusivity for a period of five years following the date of regulatory clearance and/or approval, determined on a country-by-country basis. During the exclusivity period, Siemens may not market or offer software that is intended to work with a third party's catheters to conduct an MRI-guided cardiac ablation procedure, and we may not sell or offer any catheters that are intended to be used with an MRI scanner manufactured by a third party to conduct an MRI-guided cardiac ablation procedure. For two years after the exclusivity period ends, neither we nor Siemens may enter into an agreement or relationship with a third party that excludes or prevents the use of our devices with Siemens' MRI systems, and vice versa, in the field of MRI-guided cardiac ablation procedures. The agreement requires us to pay Siemens up to approximately $2,500,000 for Siemens' successful development of the software in accordance with our specifications. As of September 30, 2011, we have paid Siemens $800,000 and, in addition, we have accrued payables of approximately $574,000. Once the software for the ClearTrace system is commercially available, Siemens will pay to us a fixed amount for each software license sold by Siemens until we recoup our investment. The term of the agreement will expire once (i) all software, catheter and other hardware development and integration work has been successfully completed, (ii) requisite regulatory clearances or approvals have been obtained in at least the United States, Canada and Europe, and (iii) the product has been clinically released in at least the United States, Canada and Europe. Prior to or upon expiration of the term of the cooperation and development agreement, we anticipate entering into a separate sales and marketing agreement with Siemens.

Boston Scientific

In connection with our research and development efforts for the ClearPoint and ClearTrace systems, we developed technologies that we believe can improve the MRI-safety profile of implantable medical leads. Implantable medical leads are thin, insulated wires that are connected to implantable generators, such as a pacemaker or neurostimulator, and deliver electrical pulses or stimulation to a specific area of the body, such as the heart or the brain. In 2005 and 2008, we entered into agreements with Boston Scientific that contemplate the use of our MRI-safety technologies in Boston Scientific's implantable leads, as further described below.

Background on our MRI-Safety Technologies for Implantable Leads

It is estimated that between 50% and 75% of patients with an implantable device are expected to need an MRI scan during the lifetime of their devices. However, implantable medical leads are susceptible to heating in the MRI environment. An MRI scanner transmits radio frequency energy during the scanning process. Because the implantable lead contains metallic wire, which acts like an antenna, some of the radio frequency energy transmitted by the MRI scanner is absorbed by the lead. This could cause the lead to heat. The extent to which an implantable lead may heat can depend on many factors, such as the lead itself, the position of the patient in the MRI scanner, the clinical scanning sequence used and the location and trajectory of the lead in the patient. Scientific studies have shown that implantable leads may heat during an MRI scan to temperatures that can burn or destroy tissue. If that happens in the heart or brain, the patient could suffer a stroke, paralysis or even death. As a result, people with active implantable devices generally are prohibited from undergoing an MRI scan.

We believe our technologies address this issue by maintaining lead temperatures well within safe levels during an MRI scan. Current safety standards for active implantable medical devices require that MRI-related heating may not exceed one degree Celsius in the brain and two degrees Celsius in the heart. Our testing has shown that our technologies limit lead heating to less than one degree Celsius. Therefore, we believe our MRI-safety technologies will permit a patient with an implantable medical device to undergo an MRI scan. Manufacturers' studies have shown that cardiologists identify "MRI compatibility" as one of the main features that would drive a change in brand preference.

Neuromodulation Agreements

In December 2005, we entered into a development agreement and license agreement with Boston Scientific in the neuromodulation field:

System and Lead Development and Transfer Agreement. The development agreement relates to the design and development of MRI-compatible and MRI-safe implantable leads for neuromodulation applications, such as implantable DBS leads. Under the development agreement, we could receive up to $1,600,000 in future milestone-based payments associated with successful development and regulatory approval of the leads.

Technology License Agreement. Under the license agreement, we granted Boston Scientific an exclusive worldwide license with respect to certain of our owned or licensed intellectual property in the neuromodulation field to make, use, import, lease and sell neuro-related leads, neuro-related lead extensions, and neuro-related lead-type devices, such as implantable pulse generators. The license included a sublicense of applicable intellectual property that we licensed from The Johns Hopkins University, as further described below. Boston Scientific has agreed to pay us royalties on net sales of products that are covered by a licensed patent; however, Boston Scientific has no obligation to include the licensed intellectual property in its products or product candidates. Pursuant to the development agreement described above, Boston Scientific is responsible for patent prosecution of the licensed intellectual property and the payment of costs associated with patent prosecution.

Implantable Cardiac Agreements

In March 2008, we entered into a development agreement and license agreement with Boston Scientific in the field of implantable medical leads for cardiac applications.

Development Agreement. Under the development agreement, we are working with Boston Scientific to assess the feasibility of and, upon successful completion of feasibility studies, to design and develop different types of MRI-compatible, MRI-safe implantable cardiac rhythm management leads. Under the terms of the agreement, we could receive up to $20,000,000 in future milestone-based payments associated with successful development activities under the agreement as well as regulatory approval of the different implantable lead types. No earned milestone payments will be made unless and until the applicable lead is covered by an issued patent licensed to Boston Scientific pursuant to the technology license agreement described below. The development agreement is scheduled to expire upon FDA approval of a design for each different implantable lead type.

Technology License Agreement. Under the license agreement, we granted Boston Scientific an exclusive worldwide license with respect to certain of our owned or licensed intellectual property in the field of implantable medical leads for cardiac applications to make, have made, use, promote, market, import, distribute, lease, sell, offer for sale and commercialize products in that particular field of use. The license included a sublicense of applicable intellectual property that we licensed from The Johns Hopkins University. We received licensing fees of $13,000,000 in 2008. Boston Scientific has also agreed to pay us royalties on net sales of products that are covered by a licensed patent; however, Boston Scientific has no obligation to include our licensed intellectual property in its products or product candidates. Boston Scientific is responsible for patent prosecution of the licensed intellectual property and the payment of costs associated with patent prosecution.

Regulatory

Boston Scientific is responsible for making any regulatory filings with respect to its products that incorporate our MRI-safety technologies. To date, no such regulatory filing has been made with the FDA or any foreign authority. Boston Scientific will control the timing and manner of any regulatory filing, and it will be responsible for the costs associated with any regulatory filing. We do not anticipate that we will be able to influence the process or timing in any meaningful way. In the United States, we believe that any Boston Scientific product incorporating our MRI-safety technologies will be a Class III medical device and require a PMA submission.

The University of Utah

In July 2007, we entered into a research agreement with The University of Utah, or Utah. Under the agreement, Utah personnel are conducting research activities and experiments to develop knowledge, techniques, methods and technologies related to MRI-guided cardiac ablation, including a specific focus on MRI-guided cardiac ablation to treat atrial fibrillation. Those research activities are being performed through Utah's Comprehensive Arrhythmia Research and Management (CARMA) Center, the mission of which is to redefine the diagnosis and management of atrial fibrillation through an interdisciplinary program of basic and clinical research focused on the understanding, diagnosis, and clinical treatment of atrial fibrillation. The CARMA Center has brought together multiple disciplines in cardiology, advanced MR imaging, image processing and biomedical research, and we believe the CARMA Center is on the forefront of using MRI in the management and treatment of patients suffering from atrial fibrillation. Pursuant our agreement, Utah granted us a non-exclusive, worldwide license to any intellectual property created or conceived by Utah personnel in the performance of the research. In addition, we also received the first option to license exclusively any such intellectual property. Our agreement with Utah will terminate March 31, 2012, unless we and Utah agree to extend the term.

The Johns Hopkins University

We have in place five exclusive license agreements with Johns Hopkins. For additional information regarding these licenses, see "Business–Intellectual Property."

Sales and Marketing

Commercializing our ClearPoint system involves marketing:

- to physicians, who care for patients suffering from neurological disorders, including neurosurgeons, who perform the neurological procedures, and neurologists, who interact with patients prior to and following the therapy and who refer patients to therapy;
- to hospitals involved in the treatment of neurological disorders and the opinion leaders at these hospitals; and
- to patients who suffer from neurological disorders.

There are approximately 3,500 neurosurgeons in the United States. Similar to many fields of medicine, some neurosurgeons elect to focus on a particular specialty within the neurological field. For example, some neurosurgeons focus their practice on spine surgeries, others more on open craniotomy surgeries and others more on minimally invasive approaches, such as functional neurosurgery. We believe our ClearPoint system may be most applicable to those functional neurosurgeons, of whom there are approximately 300 in the United States, but we also market our ClearPoint system to other neurosurgeons. We believe that our ClearPoint system represents an attractive platform for a neurosurgery team within a hospital to perform various general neurological procedures.

Our business model for the ClearPoint system is focused on producing high margin revenue from sales of the disposable components. Given that focus on disposable product sales, we sell our reusable components at lower margins in order to secure installations of our system within hospitals. In addition, we may make the reusable ClearPoint components available to a hospital by loaning the equipment. Our disposable and reusable ClearPoint products are tightly integrated, which allows us to leverage each new installation of a system to generate recurring sales of our disposable products. As of December 23, 2011, 13 ClearPoint systems have been installed, which includes seven systems we provided to hospitals under our loan program, four systems we sold, and two systems we installed at hospitals pursuant to the terms of research or clinical trial agreements. As of December 23, 2011, we also had agreements to sell a ClearPoint system to a hospital and to provide loaned systems to four additional hospitals, but those systems have not yet been installed.

Presently, our sales and marketing efforts for our ClearPoint system are being coordinated primarily by our Vice President, Sales, our Vice President, Product Management and our two Clinical Engineering Managers, one of whom is located on the east coast of the United States and the other of whom is located on the west coast of the United States. We expect to continue building a small, highly focused sales force to market our ClearPoint system products in the United States. In addition, our distribution relationship with Brainlab significantly expands our sales and marketing capabilities for the ClearPoint system, both in the United States and in Europe.

Given the stage of development of the ClearTrace system, we have not developed a sales and marketing plan to commercialize ClearTrace either inside or outside the United States.

Research and Development

Continued innovation through research and development is critical to our future success. As of September 30, 2011, our research and development team, which is based primarily in our Irvine, California facility, consisted of nine employees. We have assembled an experienced team with recognized expertise in both the development of medical devices and advanced MRI technologies, including interventional MRI microcoils and catheters. We believe that our current research and development team is sufficient for our current needs; however, we may increase the size of our team depending on the progress of our ongoing research and development efforts.

Our principal research and development goals are:

- to complete development of the ClearTrace system in cooperation with Siemens;
- to continue to enhance our ClearPoint system; and
- to provide technical support and expertise in the area of MRI safety to Boston Scientific under our development and license agreements.

We have historically spent a significant portion of our capital resources on research and development. Our research and development expenses were approximately $4,258,000, $6,068,000 and $5,681,000 for the years ended December 31, 2008, 2009 and 2010, respectively. Our research and development expenses were approximately $3,134,000 for the nine months ended September 30, 2011.

Manufacturing and Assembly

Our ClearPoint system includes off-the-shelf components, custom-made components produced to our proprietary specifications by various third parties and components that we assemble in our Irvine, California facility. We use third parties to manufacture these components to utilize their individual expertise, minimize our capital investment and help control costs. We purchase most custom-made components of our ClearPoint system from a single source due to quality considerations, lower costs and constraints resulting from regulatory requirements; however, we believe alternative sources are available, if needed. Generally, we purchase our components through purchase orders and do not have long-term contracts with most of our suppliers.

Our Irvine, California facility is structured to complete component processing, final assembly, packaging and distribution activities for our ClearPoint system. The assembly process is performed in a controlled environment as required by applicable regulation for medical device assembly. Our operations are subject to extensive regulation by the FDA under its Quality System Regulation, or QSR, which requires that manufacturers have a quality management system for the design and production of medical devices. In addition, to the extent we conduct business outside the United States, we are subject to international regulatory requirements.

Our Irvine, California facility is FDA-registered, and we believe it is compliant with the FDA's QSR. We are also certified to ISO standard 13485. We have instituted a quality management system, under which we have established policies and procedures that control and direct our operations with respect to design, procurement, manufacture, inspection, testing, installation, data analysis, training and marketing. We review and internally audit our compliance with these policies and procedures, which provides a means for continued evaluation and improvement. As required by our quality management system, we undertake an assessment and qualification process for each third-party manufacturer or supplier that we use. Typically, our third-party manufacturers and suppliers are certified to ISO standard 9001 and/or 13485. We also periodically perform audit procedures on our third-party manufacturers and suppliers to monitor their activities for compliance with our quality management system. Our facility and the facilities of the third-party manufacturers and suppliers we use are subject to periodic inspections by regulatory authorities, including the FDA and other governmental agencies.

Intellectual Property

We believe that in order to maintain a competitive advantage in the marketplace, we must develop and maintain the proprietary aspects of our technologies. We rely on a combination of patent, trademark, trade secret, copyright and other intellectual property rights and measures to protect our intellectual property.

Our patent portfolio includes rights to patents and patent applications that we own, whether wholly-owned or co-owned, or license from others. We seek patent protection in the United States and internationally for our products and technologies where and when we believe it is appropriate. United States patents are granted generally for a term of 20 years from the earliest effective priority date of the patent application. The actual protection afforded by a foreign patent, which can vary from country to country, depends on the type of patent, the scope of its claims and the availability of legal remedies in the country.

We also rely on other forms of intellectual property rights and measures, including trade secrets and nondisclosure agreements, to maintain and protect proprietary aspects of our products and technologies. We require our employees and consultants to execute confidentiality agreements in connection with their employment or consulting relationships with us. We also require our employees and consultants to disclose and assign to us all inventions conceived during the term of their employment or engagement while using our property or which relate to our business.

Patents and Patent Applications

We have a significant intellectual property portfolio in the field of MRI-guided interventions. As of December 23, 2011, our portfolio included 60 patents and 113 patent applications, both United States and foreign, which we wholly-own, co-own or have licensed.

Owned Patents and Patent Applications

As of December 23, 2011, we wholly owned eight issued United States patents (including one design patent), 28 pending United States patent applications (including three provisional applications), seven issued foreign patent and 39 pending foreign patent applications (including two Patent Cooperation Treaty applications). In addition, as of December 23, 2011, we co-owned with third-parties a total of six issued United States patents, nine pending United States patent applications, 10 issued foreign patents and 20 pending foreign patent applications. Our owned, issued patents expire at various dates beginning in 2020.

Among our co-owned patents and patent applications, as of December 23, 2011, four issued United States patents, nine issued foreign patents and two pending foreign patent applications were co-owned by us and The Johns Hopkins University, one issued United States patent, nine pending United States patent applications, one issued foreign patent and 17 pending foreign patent applications were co-owned by us and Boston Scientific, and one issued United States patent and one pending foreign patent application were co-owned by us and other third parties.

We have licensing and cross-licensing arrangements in place with Boston Scientific with respect to the patent and patent applications we co-own with them. As a result of those arrangements, we have exclusive rights to all fields outside neuromodulation and implantable medical leads for cardiac applications, and we have licensed the fields of neuromodulation and implantable medical leads for cardiac applications to Boston Scientific.

Patents and Patent Applications Licensed from Third-Parties

As of December 23, 2011, we had licensed rights to 14 United States and 15 foreign third-party issued patents, and we had licensed rights to six United States and 11 foreign third-party pending patent applications. Our licensed, issued patents expire at various dates beginning in 2015.

License Arrangements

Our license arrangements are discussed below. The underlying agreements are filed as exhibits to this registration statement.

License Arrangements with The Johns Hopkins University

Our principal licensing arrangement is with Johns Hopkins. Shortly following our formation in 1998, we entered into a license agreement with Johns Hopkins pursuant to which we obtained an exclusive, worldwide license to a number of technologies owned by Johns Hopkins relating to devices, systems and methods for performing MRI-guided interventions, such as MRI-guided cardiac ablation procedures. The field of use for this exclusive license covers diagnostic or therapeutic methods, processes or devices using an intravascular, intralumen or intratissue miniature magnetic resonance coil detection probe. We are obligated to pay Johns Hopkins an annual maintenance fee, and we are also obligated to pay a royalty to Johns Hopkins based on the sale of products or provision of

services covered by a licensed patent. To the extent we sublicense any licensed intellectual property to a third-party, we agreed to pay Johns Hopkins a percentage of revenue we receive as a result of the sublicense. Under our license agreements with Boston Scientific, we sublicensed intellectual property that is licensed from Johns Hopkins. Therefore, we are obligated to pay Johns Hopkins a percentage of any revenue we receive from sales by Boston Scientific of products covered by a sublicensed patent. This license agreement with Johns Hopkins will terminate upon the expiration of the last to expire of the licensed patents.

In December 2006, we entered into a second license agreement with Johns Hopkins under which we obtained an exclusive, worldwide license to certain MRI-safety technologies owned by Johns Hopkins. Under the agreement, we are obligated to pay a royalty to Johns Hopkins based on the sale of products or provision of services covered by a licensed patent, subject to a minimum annual payment. Likewise, to the extent we sublicense any intellectual property to a third party, we agreed to pay Johns Hopkins a percentage of revenue we receive as a result of the sublicense. Under our license agreements with Boston Scientific, we sublicensed intellectual property that is licensed from Johns Hopkins. Therefore, we are obligated to pay Johns Hopkins a percentage of any revenue we receive from sales by Boston Scientific of products covered by a sublicensed patent. This license agreement with Johns Hopkins will terminate upon the expiration of the last to expire of the licensed patents.

We entered into three additional exclusive license agreements with Johns Hopkins in June 2008 as described below. Our development efforts with respect to the technologies we licensed under those agreements are at an early stage.

- Under the first agreement, we obtained an exclusive, worldwide license to certain catheter technology owned by Johns Hopkins. Under this agreement, we are obligated to pay a royalty to Johns Hopkins based on the sale of products or provision of services incorporating the licensed technology and a license fee. Likewise, to the extent we sublicense any licensed technology to a third party, we agreed to pay Johns Hopkins a percentage of revenue we receive as a result of a sublicense of the licensed technology. This license agreement with Johns Hopkins will terminate upon the expiration of the last licensed patent.
- Under the second agreement, we obtained an exclusive, worldwide license to certain technology owned by Johns Hopkins relating to catheter-based MRI probes. Under this agreement, we are obligated to pay a royalty to Johns Hopkins based on the sale of products or provision of services incorporating the licensed technology and a contingent license fee in the event a United States patent issues for the licensed technology. Likewise, to the extent we sublicense any licensed technology to a third party, we agreed to pay Johns Hopkins a percentage of revenue we receive as a result of a sublicense of the licensed technology. This license agreement with Johns Hopkins will terminate upon the expiration of the last licensed patent or, if no patent issues, on June 30, 2028. In addition, Johns Hopkins has the option to terminate the license in the event a commercial sale of a licensed product or a licensed service does not occur by June 30, 2012. We do not expect to have a commercial sale of a licensed product or a licensed service by that date. We will discuss with Johns Hopkins the removal of that termination clause, or an extension of the stated time period, if necessary.
- Under the third agreement, we obtained an exclusive, worldwide license to certain technology owned by Johns Hopkins to measure the amount of radio frequency absorption in the human body during an MRI scan. Under this agreement, we are obligated to pay a royalty to Johns Hopkins based on the sale of products or provision of services incorporating the licensed technology. Likewise, to the extent we sublicense any licensed technology to a third party, we agreed to pay Johns Hopkins a percentage of revenue we receive as a result of a sublicense of the licensed technology. This license agreement with Johns Hopkins will terminate upon the expiration of the last licensed patent or, if no patent issues, on June 30, 2028.

License Arrangements with Cedara Software Corp.

In July 2007, we entered into a master service and license agreement with Cedara Software Corp. (d/b/a Merge OEM), or Cedara, for Cedara to develop on our behalf, based on our detailed specifications, a customized software solution for our ClearPoint system. Cedara is in the business of providing software development and engineering services on a contract basis to a number of companies. In developing our ClearPoint system software, Cedara

utilized certain of its own pre-existing software code. Under our agreement with Cedara, we received a non-exclusive, worldwide license to that code as an integrated component of our ClearPoint system software. In return, we agreed to pay Cedara a license fee for each copy of our ClearPoint system software that we distribute. Except for Cedara's pre-existing software code, the work performed by Cedara was a "work-made-for-hire" and we exclusively own our ClearPoint system software. The agreement provides for annual minimum licensing fees. Our license from Cedara continues through July 2015, absent a mutual extension of the license term. If necessary, we could replace the licensed Cedara code.

License Arrangements with the National Institutes of Health

In April 2009, we entered into a patent license agreement with the National Institutes of Health, or NIH, that covers techniques for three dimensional renderings of the patient's anatomy from MRI data in real time. The techniques underlying this patent may be used in the development of the ClearTrace system. Under the terms of this agreement, we have a non-exclusive license to a pending United States patent application within the field of devices and systems for MRI-guided medical procedures. Our licensed territory includes Australia, Canada, China, Europe, Israel, Japan and the United States, although there is no patent or patent application pending for the licensed intellectual property outside the United States. Pursuant to this agreement, we are obligated to make royalty payments to NIH based on the sale of products and the practice of processes covered by the licensed intellectual property, whether by us or any sublicensee. In addition, NIH is entitled to receive a single milestone payment in the event we receive a regulatory clearance or approval of a product or process covered by the licensed intellectual property.

Competition

General

The length of time required for products to be developed and to receive regulatory and, in some cases, reimbursement clearance or approval is an important competitive factor. However, even if we are successful in obtaining regulatory clearances or approvals, the medical device industry is characterized by rapid and significant technological change. Thus, the development by others of new treatment methods, including novel drugs, medical devices or surgical techniques could render our product candidates non-competitive or obsolete. As a result, product development involves a high degree of risk and there can be no assurance that our current or new product development efforts will result in any commercially successful products.

ClearPoint System

Our success depends on convincing hospitals, neurosurgeons, neurologists and patients to utilize our ClearPoint system. Currently, we are not aware of any other company that offers a direct MRI-guided stereotactic system for neurological interventions, although two companies, Monteris Medical Inc. and Visualase, Inc., do offer devices for laser ablation under direct MRI guidance. However, companies such as Brainlab, Elekta AB, FHC Inc. and Medtronic, Inc. offer instruments and systems for use in conventional stereotactic neurological procedures, such as surgical navigation workstations and frame-based and frameless stereotactic systems, and these instruments and systems are competitive with our ClearPoint system. Additionally, we could also face competition from other medical device and pharmaceutical companies that have the technology, experience and capital resources to develop alternative therapy methods, including MRI-guided technologies. Many of our competitors have substantially greater financial, manufacturing, marketing and technical resources than we have.

ClearTrace System

Our success depends on convincing hospitals, physicians and patients to utilize the ClearTrace system for performing cardiac ablation procedures. While we are not aware of any companies that currently offer a direct MRI-guided cardiac ablation system, companies such as Imricor Medical Systems, Inc. and Philips Healthcare are in the process of developing such a system. We are not aware of any potential competitive advantages or disadvantages relative to any such system under development; however, if any of these companies develops, obtains regulatory clearance or approval and achieves commercial success for a direct MRI-guided cardiac ablation system, the ClearTrace system could be rendered non-competitive or obsolete.

We also will face competition from companies who are engaged in the development and marketing of conventional catheter-based cardiac ablation systems and devices. These products include mapping systems using contact mapping, single-point spatial mapping and non-contact, multi-site electrical mapping technologies and ablation systems using radio frequency, ultrasound, laser and cryoablation technologies. These products evolve rapidly, and their manufacturers are constantly attempting to make them easier to use or more efficacious in performing procedures. Today, the vast majority of minimally invasive catheter-based cardiac ablation procedures are performed with these products. Because these products are currently in use while the ClearTrace system remains under development, physician preferences will have to shift for the ClearTrace system to gain market acceptance. We believe that the primary factors which will drive physician preference will be the relative success rates and ease of the procedure for physicians with respect to the ClearTrace system compared to the alternative technologies available.

We are aware of two companies, Hansen Medical, Inc. and Stereotaxis, Inc., which market systems to remotely control catheters during interventional cardiac ablation and other procedures using either robotic or magnetic steering. The nature of these systems potentially could provide better control over the catheter compared to manual manipulation by the physician; however, these systems do not provide the physician with detailed intra-procedural visualization of the cardiac tissue. Also, other manufacturers are attempting to market devices that access the exterior of the heart wall through an endoscopic surgical technique called thoracoscopy to treat atrial fibrillation. Because this procedure was developed recently, the clinical advantages and disadvantages of this approach compared to a catheter-based approach inside the heart have not been established. Therefore, we are not aware of any competitive advantages or disadvantages of this procedure relative to the anticipated ClearTrace system procedure.

Additionally, we will face competition from large companies who are engaged in the development and marketing of products for other treatments of cardiac arrhythmias, such as atrial fibrillation. Their products include drugs, implantable devices, such as implantable defibrillators and pacemakers, and the devices used in open-heart surgery. While both current drug therapy and implantable cardiac devices can be effective in treating the symptoms of atrial fibrillation, they do not provide a cure for the underlying disease. Open-heart surgery, such as the Cox-Maze procedure, can provide a cure for atrial fibrillation and reported success rates have been very high; however, it is an invasive surgical procedure that is traumatic to the patient, very expensive and typically associated with long hospital stays and recovery times.

Many of our potential competitors have an established presence in the field of cardiac electrophysiology, including cardiac ablation, such as Biosense Webster Inc., a division of Johnson & Johnson, Boston Scientific, Medtronic, Inc. and St. Jude Medical, Inc. These potential competitors have substantially greater financial and other resources than we do, including larger research and development staffs and more experience and greater capabilities in conducting research and development activities, testing products in clinical trials, obtaining regulatory clearances or approvals, and manufacturing, marketing and distributing products.

Regulatory Requirements of the United States Food and Drug Administration

Our research, development and clinical programs, as well as our manufacturing and marketing operations, are subject to extensive regulation in the United States and other countries. Most notably, all of our products sold in the United States are subject to regulation as medical devices under the federal Food Drug and Cosmetic Act, as implemented and enforced by the FDA. The FDA governs the following activities that we perform or that are performed on our behalf, to ensure that the medical products we manufacture, promote and distribute domestically or exported internationally are safe and effective for their intended uses:

- product design, preclinical and clinical development and manufacture;
- product premarket clearance and approval;
- product safety, testing, labeling and storage;
- record keeping procedures;

- product marketing, sales and distribution; and
- post-marketing surveillance, complaint handling, medical device reporting, reporting of deaths, serious injuries or device malfunctions and repair or recall of products.

FDA Premarket Clearance and Approval Requirements

Unless an exemption applies, each medical device we wish to commercially distribute in the United States will require either premarket notification, or 510(k) clearance, or approval of a premarket approval application, or PMA, from the FDA. The FDA classifies medical devices into one of three classes. Class I devices, considered to have the lowest risk, are those for which safety and effectiveness can be assured by adherence to the FDA's general regulatory controls for medical devices, which include compliance with the applicable portions of the FDA's QSR, facility registration and product listing, reporting of adverse medical events, and appropriate, truthful and non-misleading labeling, advertising, and promotional materials (General Controls). Class II devices are subject to the FDA's General Controls, and any other special controls as deemed necessary by the FDA to ensure the safety and effectiveness of the device (Special Controls). Manufacturers of most Class II and some Class I devices are required to submit to the FDA a premarket notification under Section 510(k) of the FDCA requesting permission to commercially distribute the device. This process is generally known as 510(k) clearance. Devices deemed by the FDA to pose the greatest risks, such as life-sustaining, life-supporting or implantable devices, or devices that have a new intended use, or use advanced technology that is not substantially equivalent to that of a legally marketed device, are placed in Class III, requiring approval of a PMA.

510(k) Clearance Pathway

When a 510(k) clearance is required, we will be required to submit a 510(k) application demonstrating that our proposed device is substantially equivalent to a previously cleared 510(k) device or a device that was in commercial distribution before May 28, 1976 for which the FDA has not yet called for the submission of PMAs. By regulation, the FDA is required to clear or deny a 510(k) premarket notification within 90 days of submission of the application. As a practical matter, clearance may take longer. The FDA may require further information, including clinical data, to make a determination regarding substantial equivalence.

Once filed, the FDA has 90 days in which to review the 510(k) application and respond. Typically, the FDA's response after reviewing a 510(k) application is a request for additional data or clarification. Depending on the complexity of the application and the amount of data required, the process may be lengthened by several months or more. If additional data, including clinical data, are needed to support our claims, the 510(k) application process may be significantly lengthened.

If the FDA issues an order declaring the device to be Not Substantially Equivalent, or NSE, the device is placed into a Class III or PMA category. At that time, a company can request a de novo classification of the product. De novo generally applies where there is no predicate device and the FDA believes the device is sufficiently safe so that no PMA should be required. The request must be in writing and sent within 30 days from the receipt of the NSE determination. The request should include a description of the device, labeling for the device, reasons for the recommended classification and information to support the recommendation. The de novo process has a 60 day review period. If the FDA classifies the device into Class II, a company will then receive an approval order to market the device. This device type can then be used as a predicate device for future 510(k) submissions. However, if the FDA subsequently determines that the device will remain in the Class III category, the device cannot be marketed until the company has obtained an approved PMA. If we are required to follow a de novo process, an additional 60 to 90 days or more will be added on to the original 90 days required for the initial 510(k) review.

Any modification to a 510(k)-cleared device that would constitute a major change in its intended use, or any change that could significantly affect the safety or effectiveness of the device, requires a new 510(k) clearance and may even, in some circumstances, require a PMA, if the change raises complex or novel scientific issues or the product has a new intended use. The FDA requires every manufacturer to make the determination regarding the need for a new 510(k) submission in the first instance, but the FDA may review any manufacturer's decision. If the FDA were to disagree with any of our determinations that changes did not require a new 510(k) submission, it could require us to cease marketing and distribution and/or recall the modified device until 510(k) clearance or PMA

approval is obtained. If the FDA requires us to seek 510(k) clearance or PMA approval for any modifications, we may be required to cease marketing and/or recall the modified device, if already in distribution, until 510(k) clearance or PMA approval is obtained and we could be subject to significant regulatory fines or penalties.

The FDA continues its efforts to modernize its 510(k) process. In January 2011, the FDA announced an action plan that included 25 specific actions to improve the predictability, consistency and transparency of the 510(k) process. Although some of these specific actions have already been undertaken, the FDA continues to move forward on its action plan. As part of its efforts, in 2009, the FDA commissioned the Institute of Medicine (IOM) to report on the 510(k) approval process. In July 2011, the Institute of Medicine, which had previously been commissioned by the FDA to review the 510(k) process, released its report, in which the Institute of Medicine recommended, among other things, that the FDA forgo modifying the 510(k) process and, instead, eliminate the 510(k) process in favor of a new regulatory review framework. Although the FDA has indicated that the 510(k) process should not be eliminated, the FDA's continued modification of the 510(k) process, together with the Institute of Medicine's report, has created some regulatory uncertainty for the medical device industry, particularly as it relates to the time within which the FDA will conduct and complete its review of new applications.

PMA Approval Pathway

A PMA must be submitted to the FDA if the device cannot be cleared through the 510(k) process, or is not otherwise exempt from the FDA's premarket clearance and approval requirements. A PMA must generally be supported by extensive data, including, but not limited to, technical, preclinical, clinical trials, manufacturing and labeling, to demonstrate to the FDA's satisfaction the safety and effectiveness of the device for its intended use. During the review period, the FDA will typically request additional information or clarification of the information already provided. Also, an advisory panel of experts from outside the FDA may be convened to review and evaluate the application and provide recommendations to the FDA as to the approvability of the device. The FDA may or may not accept the panel's recommendation. In addition, the FDA will generally conduct a pre-approval inspection of our or our third-party manufacturers' or suppliers' manufacturing facility or facilities to ensure compliance with the QSR. Once a PMA is approved, the FDA may require that certain conditions of approval, such as conducting a post market clinical trial, be met.

New PMAs or PMA supplements are required for modifications that affect the safety or effectiveness of the device, including, for example, certain types of modifications to the device's indication for use, manufacturing process, labeling and design. PMA supplements often require submission of the same type of information as a PMA, except that the supplement is limited to information needed to support any changes from the device covered by the original PMA and may not require as extensive clinical data or the convening of an advisory panel. We have not submitted any of our product candidates for a PMA approval. However, we may in the future develop devices that will require the approval of a PMA, or seek to add new indications for use of existing products that require the approval of a PMA. There is no guarantee that the FDA will grant PMA approval of these specific indications for use or for our future products and failure to obtain necessary approvals for our future products would adversely affect our ability to grow our business.

Clinical Trials

Clinical trials are generally required to support a PMA application and are sometimes required for 510(k) clearance. Such trials generally require an application for an investigational device exemption, or IDE, which is approved in advance by the FDA for a specified number of patients and study sites, unless the product is deemed a non-significant risk device eligible for more abbreviated IDE requirements. A significant risk device is one that presents a potential for serious risk to the health, safety, or welfare of a patient and either is implanted, used in supporting or sustaining human life, substantially important in diagnosing, curing, mitigating, or treating disease or otherwise preventing impairment of human health, or otherwise presents a potential for serious risk to a subject. Clinical trials are subject to extensive monitoring, recordkeeping and reporting requirements. Clinical trials must be conducted under the oversight of an institutional review board, or IRB, for the relevant clinical trial sites and must comply with FDA regulations, including, but not limited to, those relating to good clinical practices. To conduct a clinical trial, we also are required to obtain the patient's informed consent in a form and substance that complies with both FDA requirements and state and federal privacy and human subject protection regulations. We, the FDA or the IRB could suspend a clinical trial at any time for various reasons, including a belief that the risks to study

subjects outweigh the anticipated benefits. Even if a trial is completed, the results of clinical testing may not adequately demonstrate the safety and efficacy of the device or may otherwise not be sufficient to obtain FDA clearance or approval to market the product in the United States. Similarly, in Europe, the clinical study must be approved by a local ethics committee and in some cases, including studies with high-risk devices, by the ministry of health in the applicable country.

Pervasive and Continuing Regulation

After a device is placed on the market, numerous regulatory requirements continue to apply. In addition to the requirements below, the MDR regulations require that we report to the FDA any incident in which our products may have caused or contributed to a death or serious injury or in which our product malfunctioned and, if the malfunction were to recur, would likely cause or contribute to death or serious injury. Additional regulatory requirements include:

- product listing and establishment registration, which helps facilitate FDA inspections and other regulatory action;
- QSR, which requires manufacturers, including third-party manufacturers, to follow stringent design, testing, control, documentation and other quality assurance procedures during all aspects of the design and manufacturing process;
- labeling regulations and FDA prohibitions against the promotion of products for uncleared, unapproved or off-label use or indication;
- clearance of product modifications that could significantly affect safety or effectiveness or that would constitute a major change in intended use of one of our cleared devices;
- approval of product modifications that affect the safety or effectiveness of one of our approved devices;
- post-approval restrictions or conditions, including post-approval study commitments;
- post-market surveillance regulations, which apply, when necessary, to protect the public health or to provide additional safety and effectiveness data for the device;
- the FDA's recall authority, whereby it can ask, or under certain conditions order, device manufacturers to recall from the market a product that is in violation of governing laws and regulations;
- regulations pertaining to voluntary recalls; and
- notices of corrections or removals.

As a manufacturer, we are subject to announced and unannounced inspections by the FDA to determine our compliance with FDA's QSR and other regulations. We have not yet been inspected by the FDA. We believe that we are in compliance with QSR and other regulations.

Advertising and promotion of medical devices, in addition to being regulated by the FDA, are also regulated by the United States Federal Trade Commission, or FTC, and by state regulatory and enforcement authorities. Recently, promotional activities for FDA-regulated products of other companies have been the subject of enforcement action brought under healthcare reimbursement laws and consumer protection statutes. In addition, under the federal Lanham Act and similar state laws, competitors and others can initiate litigation relating to advertising claims. In addition, we are required to meet regulatory requirements in countries outside the United States, which can change rapidly with relatively short notice. If the FDA determines that our promotional materials or training constitutes promotion of an unapproved or uncleared use, it could request that we modify our training or promotional materials or subject us to regulatory or enforcement actions, including the issuance of an untitled letter, a warning letter, injunction, seizure, civil fine or criminal penalty. It is also possible that other federal, state or foreign enforcement authorities might take action if they consider our promotional or training materials to constitute

promotion of an unapproved use, which could result in significant fines or penalties under other statutory authorities, such as laws prohibiting false claims for reimbursement. In that event, our reputation could be damaged and adoption of the products would be impaired.

Failure by us or by our third-party manufacturers and suppliers to comply with applicable regulatory requirements can result in enforcement action by the FDA or other regulatory authorities, which may result in sanctions including, but not limited to:

- untitled letters, warning letters, fines, injunctions, consent decrees and civil penalties;
- customer notifications or repair, replacement, refunds, recall, detention or seizure of our marketed products;
- operating restrictions or partial suspension or total shutdown of production;
- customer notifications or repair, replacement, refunds, recall, detention or seizure of our marketed products;
- refusing or delaying requests for 510(k) clearance or PMA approvals of new products or modified products;
- withdrawing 510(k) clearances or PMA approvals that have already been granted;
- refusal to grant export approval for our marketed products; or
- criminal prosecution.

International Marketing Approvals

International sales of medical devices are subject to foreign government regulations, which vary substantially from country to country. The time required to obtain approval by a foreign country may be longer or shorter than that required for FDA clearance or approval, and the requirements may differ.

The European Union has adopted numerous directives and standards regulating the design, manufacture, clinical trials, labeling, and adverse event reporting for medical devices. Each European Union member state has implemented legislation applying these directives and standards at a national level. Other countries, such as Switzerland, have voluntarily adopted laws and regulations that mirror those of the European Union with respect to medical devices. Devices that comply with the requirements of the laws of the relevant member state applying the applicable European Union directive are entitled to bear a CE mark and, accordingly, can be distributed throughout the member states of the European Union as well as in other countries, such as Switzerland and Israel, that have mutual recognition agreements with the European Union or have adopted the European Union's regulatory standards.

The method of assessing conformity with applicable regulatory requirements varies depending on the classification of the medical device, which may be Class I, Class IIa, Class IIb or Class III. Normally, the method involves a combination of self-assessment by the manufacturer of the safety and performance of the device, and a third-party assessment by a Notified Body, usually of the design of the device and of the manufacturer's quality system. A Notified Body is a private commercial entity that is designated by the national government of a member state as being competent to make independent judgments about whether a device complies with applicable regulatory requirements. An assessment by a Notified Body in one country with the European Union is required in order for a manufacturer to commercially distribute the device throughout the European Union. In addition, compliance with ISO 13485 issued by the International Organization for Standardization, among other standards, establishes the presumption of conformity with the essential requirements for CE marking. Certification to the ISO 13485 standard demonstrates the presence of a quality management system that can be used by a manufacturer for design and development, production, installation and servicing of medical devices and the design, development and provision of related services.

Healthcare Laws and Regulations

Third-Party Reimbursement

In the United States and elsewhere, healthcare providers that perform surgical procedures using medical devices such as ours generally rely on third-party payors, including governmental payors such as Medicare and Medicaid and private payors, to cover and reimburse all or part of the cost of the products. Consequently, sales of medical devices are dependent in part on the availability of reimbursement to the customer from third-party payors. The manner in which reimbursement is sought and obtained varies based upon the type of payor involved and the setting in which the product is furnished and utilized. In general, third-party payors will provide coverage and reimbursement for medically reasonable and necessary procedures and tests that utilize medical devices and may provide separate payments for the implanted or disposable devices themselves. Most payors, however, will not pay separately for capital equipment, such as our ClearPoint system. Instead, payment for the cost of using the capital equipment is considered to be covered as part of payments received for performing the procedure. In determining payment rates, third-party payors are increasingly scrutinizing the prices charged for medical products and services in comparison to other therapies. Our marketed products, and the procedures in which our marketed products will be used, may not be reimbursed by these third-party payors at rates sufficient to allow us to sell our marketed products on a competitive and profitable basis.

In addition, in many foreign markets, including the countries in the European Union, pricing of medical devices is subject to governmental control. In the United States, there have been, and we expect that there will continue to be, a number of federal and state proposals to limit payments by governmental payors for medical devices, and the procedures in which medical devices are used. While we cannot predict whether such legislative or regulatory proposals will be adopted, the adoption of such proposals could have a material adverse effect on our business, financial condition and profitability.

Medicare and Medicaid

The Medicare program is a federal health benefit program administered by CMS that covers and pays for certain medical care items and services for eligible elderly and certain disabled individuals, and individuals with end stage renal disease. The Medicaid program is a federal-state partnership under which states receive matching federal payments to fund healthcare services for the poor. Because some private commercial health insurers and some state Medicaid programs may follow the coverage and payment policies for Medicare, Medicare's coverage and payment policies are significant to our business. On July 30, 2008, CMS released a list of potential topics for national coverage determinations. This list included ablation for atrial fibrillation and specifically asked whether the evidence was adequate to demonstrate health benefits in patients who receive the procedure. On October 21, 2009, the Medicare Evidence Development and Coverage Advisory Committee, or MedCAC, held a meeting on the adequacy of the available evidence for catheter ablation for the treatment of atrial fibrillation. Although CMS has not formally opened a national coverage analysis on this topic, the agency clearly is interested in the clinical evidence of atrial fibrillation treatments and any national coverage decisions it makes could have a material effect on our potential business in this area.

Medicare coverage for the procedures in which our products would be used currently exists in the hospital inpatient setting, which falls under Part A of the Medicare program. Under Medicare Part A, Medicare reimburses acute care hospitals a prospectively determined payment amount for beneficiaries receiving covered inpatient services in an acute care hospital. This method of payment is known as the prospective payment system, or PPS. Under PPS, the prospective payment for a patient's stay in an acute care hospital is determined by the patient's condition and other patient data and procedures performed during the inpatient stay using a classification system known as DRGs. Payments also are adjusted to reflect regional variations in labor costs, indirect medical education expenses, payments for hospitals that treat a disproportionate share of poor patients, and other factors. As of October 1, 2007, CMS implemented a revised version of the DRG system that uses 745 Medicare Severity DRGs, or MS-DRGs, instead of the approximately 540 DRGs Medicare previously used. The MS-DRGs are intended to account more accurately for the patient's severity of illness when assigning each patient's stay to a payment classification. Medicare pays a fixed amount to the hospital based on the MS-DRG into which the patient's stay is classified, regardless of the actual cost to the hospital of furnishing the procedures, items and services that the patient's condition requires. Accordingly, acute care hospitals generally do not receive direct Medicare

reimbursement under PPS for the specific costs incurred in purchasing medical devices. Rather, reimbursement for these costs is deemed to be included within the MS-DRG-based payments made to hospitals for the services furnished to Medicare-eligible inpatients in which the devices are utilized. For cases involving unusually high costs, a hospital may receive additional "outlier" payments above the pre-determined amount. In addition, there is a mechanism by which new technology services can apply to Medicare for additional payments above the pre-determined amount, although such requests have not been granted frequently.

Because PPS payments are based on predetermined rates and may be less than a hospital's actual costs in furnishing care, acute care hospitals have incentives to lower their inpatient operating costs by utilizing products, devices and supplies that will reduce the length of inpatient stays, decrease labor or otherwise lower their costs. For each MS-DRG, a relative weight is calculated representing the average resources required to care for cases grouped in that particular MS-DRG relative to the average resources used to treat cases in all MS-DRGs. MS-DRG relative weights are recalculated every year to reflect changes in technology and medical practice in a budget neutral manner. Under the MS-DRG payment system, there can be significant delays in obtaining adequate reimbursement amounts for hospitals for new technologies such that reimbursement may be insufficient to permit broad acceptance by hospitals.

In addition to payments to hospitals for procedures using our technology, Medicare makes separate payments to physicians for their professional services. The American Medical Association, or AMA, has developed a coding system known as the Current Procedural Terminology, or CPT, codes, which have been adopted by the Medicare program to describe and develop payment amounts for certain physician services.

The Medicare physician fee schedule uses CPT codes (and other codes) as part of the determination of allowable payment amounts to physicians. In determining appropriate payment amounts for surgeons, CMS receives guidance from the AMA regarding the relative technical skill level, level of resources used, and complexity of a new surgical procedure. Generally, the designation of a new procedure code for a new procedure using a new product does not occur until after FDA clearance or approval of the product used in the procedure. Codes are assigned by either the AMA (for CPT codes) or CMS (for Medicare-specific codes) and new codes usually become effective on January 1st of each year.

One result of the current Medicare payment system, which is also utilized by most non-governmental third-party payors, is that a patient's treating physician orders a particular service and the hospital (or other facility in which the procedure is performed) bears the cost of delivery of the service. Hospitals have limited ability to align their financial interests with that of the treating physician because Medicare law generally prohibits hospitals from paying physicians to assist in controlling the costs of hospital services, including paying physicians to limit or reduce services to Medicare beneficiaries even if such services are medically unnecessary. As a result, hospitals have traditionally stocked supplies and products requested by physicians and have had limited ability to restrict physician choice of products and services.

The Patient Protection and Affordable Care Act enacted on March 23, 2010, as amended by the Health Care and Education Reconciliation Act of 2010 enacted on March 30, 2010, or, together, the Health Care Reform Law, includes a number of provisions that will likely result in more coordination between hospitals and physicians resulting in the alignment of financial incentives between hospitals and physicians to control hospital costs. Most significantly, the Health Care Reform Law provides for the establishment of a Medicare shared savings program, which goes into effect in 2012, whereby Medicare will share certain savings realized in the delivery of services to Medicare beneficiaries with accountable care organizations, which may be organized through various different legal structures between hospitals and physicians. Other payment reform provisions in the Health Care Reform Law include pay-for-performance initiatives, payment bundling and the establishment of an independent payment advisory board. We expect that the overall result of such payment reform initiatives and increased coordination among hospitals and physicians will be voluntary reductions in the array of choices currently available to physicians with respect to diagnostic services, medical supplies and equipment. Such a reduction in physician choices may also result in hospitals reducing their overall number of vendors from which they purchase supplies, equipment and products. The Health Care Reform Law could substantially change how health care is developed and delivered in the United States, and may materially impact many aspects of our business and operations, including limiting the acceptance and availability of our products.

Among other things, the Health Care Reform Law will ultimately increase the overall pool of persons with access to health insurance in the United States. Although such an increase in covered lives should ultimately benefit hospitals, the Health Care Reform Law, also includes a number of cuts in Medicare reimbursement to hospitals that may take effect prior to hospitals' realizing the financial benefit of a larger pool of insured persons. Such cuts in Medicare reimbursement could adversely impact the operations and finances of hospitals reducing their ability to purchase medical devices such as our products. Further, Congress has yet to address in a comprehensive and permanent manner the pending reduction in Medicare payments to physicians under the sustainable growth rate formula, which if not resolved, will likely result in an overall reduction of physicians willing to participate in Medicare.

Commercial Insurers

In addition to the Medicare program, many private payors look to CMS policies as a guideline in setting their coverage policies and payment amounts. The current coverage policies of these private payors may differ from the Medicare program, and the payment rates they make may be higher, lower, or the same as the Medicare program. If CMS or other agencies decrease or limit reimbursement payments for doctors and hospitals, this may affect coverage and reimbursement determinations by many private payors. Additionally, some private payors do not follow the Medicare guidelines, and those payors may reimburse only a portion of the costs associated with the use of our products, or none at all.

Fraud and Abuse Laws

Because of the significant federal funding involved in Medicare and Medicaid, Congress and the states have enacted, and actively enforce, a number of laws whose purpose is to eliminate fraud and abuse in federal healthcare programs. Our business is subject to compliance with these laws.

Anti-Kickback Laws

In the United States, there are federal and state anti-kickback laws that generally prohibit the payment or receipt of kickbacks, bribes or other remuneration in exchange for the referral of patients or other health-related business. The United States federal healthcare programs' Anti-Kickback Statute makes it unlawful for individuals or entities knowingly and willfully to solicit, offer, receive or pay any kickback, bribe or other remuneration, directly or indirectly, in exchange for or to induce the purchase, lease or order, or arranging for or recommending purchasing, leasing, or ordering, any good, facility, service, or item for which payment may be made in whole or in part under a federal healthcare program such as Medicare or Medicaid. The Anti-Kickback Statute covers "any remuneration," which has been broadly interpreted to include anything of value, including for example gifts, certain discounts, the furnishing of free supplies, equipment or services, credit arrangements, payments of cash and waivers of payments. Several courts have interpreted the statute's intent requirement to mean that if any one purpose of an arrangement involving remuneration is to induce referrals of federal healthcare covered business, the arrangement can be found to violate the statute. Penalties for violations include criminal penalties and civil sanctions such as fines, imprisonment and possible exclusion from Medicare, Medicaid and other federal healthcare programs. In addition, several courts have permitted kickback cases brought under the Federal False Claims Act to proceed, as discussed in more detail below.

Because the Anti-Kickback Statute is broadly written and encompasses many harmless or efficient arrangements, Congress authorized the Office of Inspector General of the United States Department of Health and Human Services, or OIG, to issue a series of regulations, known as "safe harbors." For example, there are regulatory safe harbors for payments to bona fide employees, properly reported discounts, and payments for certain investment interests. Although an arrangement that fits into one or more of these exceptions or safe harbors is immune from prosecution, arrangements that do not fit squarely within an exception or safe harbor do not necessarily violate the statute. The failure of a transaction or arrangement to fit precisely within one or more of the exceptions or safe harbors does not necessarily mean that it is illegal or that prosecution will be pursued. However, conduct and business arrangements that arguably implicate the Anti-Kickback Statute but do not fully satisfy all the elements of an exception or safe harbor may be subject to increased scrutiny by government enforcement authorities such as the OIG. The Health Care Reform Law increases the investigatory authority of the OIG, clarifies that Anti-Kickback Statute claims can be brought under the federal civil False Claims Act, and provides for enhanced civil monetary penalties and expanded permissible exclusion authority.

Many states have laws that implicate anti-kickback restrictions similar to the Anti-Kickback Statute. Some of these state prohibitions apply regardless of whether federal healthcare program business is involved such as for self-pay or private pay patients.

Government officials have focused their enforcement efforts on marketing of healthcare services and products, among other activities, and recently have brought cases against companies, and certain sales, marketing and executive personnel, for allegedly offering unlawful inducements to potential or existing customers in an attempt to procure their business.

Federal Civil False Claims Act and State False Claims Laws

The federal civil False Claims Act imposes liability on any person or entity who, among other things, knowingly and willfully presents, or causes to be presented, a false or fraudulent claim for payment by a federal healthcare program, including Medicare and Medicaid. The "qui tam," or "whistleblower," provisions of the False Claims Act allow a private individual to bring actions on behalf of the federal government alleging that the defendant has submitted a false claim to the federal government, and to share in any monetary recovery. In recent years, the number of suits brought against healthcare providers by private individuals has increased dramatically. Medical device companies, like us, can be held liable under false claims laws, even if they do not submit claims to the government where they are deemed to have caused submission of false claims by, among other things, providing incorrect coding or billing advice about their products to customers that file claims, or by engaging in kickback arrangements with customers that file claims.

The False Claims Act also has been used to assert liability on the basis of misrepresentations with respect to the services rendered and in connection with alleged off-label promotion of products. Our future activities relating to the manner in which we sell our products and document our prices such as the reporting of discount and rebate information and other information affecting federal, state and third-party reimbursement of our products, and the sale and marketing of our products, may be subject to scrutiny under these laws.

The Health Care Reform Law is likely to increase the number of cases asserting civil False Claims Act violations since it removes a significant defense to such claims and clarifies that a violation of the Anti-Kickback Statute or retention of a federal healthcare program overpayment are actionable under the civil False Claims Act.

When an entity is determined to have violated the False Claims Act, it may be required to pay up to three times the actual damages sustained by the government, plus civil penalties of between $5,500 to $11,000 for each separate false claim. There are many potential bases for liability under the False Claims Act. A number of states have enacted false claim laws analogous to the federal civil False Claims Act and many of these state laws apply where a claim is submitted to any state or private third-party payor. In this environment, our engagement of physician consultants in product development and product training and education could subject us to similar scrutiny. We are unable to predict whether we would be subject to actions under the False Claims Act or a similar state law, or the impact of such actions. However, the costs of defending such claims, as well as any sanctions imposed, could significantly affect our financial performance.

HIPAA Fraud and Other Regulations

The Health Insurance Portability and Accountability Act of 1996, or HIPAA, created a class of federal crimes known as the "federal health care offenses," including healthcare fraud and false statements relating to healthcare matters. The HIPAA healthcare fraud statute prohibits, among other things, knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any healthcare benefit program, or to obtain by means of false of fraudulent pretenses, any money under the control of any healthcare benefit program, including private payors. A violation of this statute is a felony and may result in fines, imprisonment and/or exclusion from government-sponsored programs. The Health Care Reform Law also provides for civil monetary penalties for knowingly participating in certain federal healthcare offenses and enhances sentences under the Federal Sentencing Guidelines for such offenses. The HIPAA false statements statute prohibits, among other things, knowingly and willfully

falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement or representation in connection with the delivery of or payment for healthcare benefits, items or services. A violation of this statute is a felony and may result in fines and/or imprisonment. Entities that are found to have aided or abetted in a violation of the HIPAA federal health care offenses are deemed by statute to have committed the offense and are punishable as a principal.

We are also subject to the United States Foreign Corrupt Practices Act and similar anti-bribery laws applicable in non-United States jurisdictions that generally prohibit companies and their intermediaries from making improper payments to non-United States government officials for the purpose of obtaining or retaining business. Because of the predominance of government sponsored healthcare systems around the world, most of our customer relationships outside of the United States will be with governmental entities and therefore subject to such anti-bribery laws.

HIPAA and Other Privacy & Security Laws

As a part of HIPAA, Congress enacted the Administrative Simplification provisions, which are designed to require the establishment of uniform standards governing the conduct of certain electronic healthcare transactions and protecting the security and privacy of individually identifiable health information maintained or transmitted by healthcare providers, health plans and healthcare clearinghouses, which are referred to as "covered entities." Several regulations have been promulgated under HIPAA's regulations including: the Standards for Privacy of Individually Identifiable Health Information, or the Privacy Rule, which restricts the use and disclosure of certain individually identifiable health information, the Standards for Electronic Transactions, which establishes standards for common healthcare transactions, such as claims information, plan eligibility, payment information and the use of electronic signatures, and the Security Standards for the Protection of Electronic Protected Health Information, or the Security Rule, which requires covered entities to implement and maintain certain security measures to safeguard certain electronic health information. Although we do not believe we are a covered entity and therefore are not currently directly subject to these standards, we expect that our customers generally will be covered entities and may ask us to contractually comply with certain aspects of these standards by entering into business associate agreements, when appropriate. While the government intended this legislation to reduce administrative expenses and burdens for the healthcare industry, our compliance with certain provisions of these standards entails significant costs for us.

The Health Information Technology for Economic and Clinical Health Act, or the HITECH Act, which was enacted in February 2009, strengthens and expands the HIPAA Privacy and Security Rules and the restrictions on use and disclosure of patient identifiable health information. HITECH also fundamentally changed a business associate's obligations by imposing a number of Privacy Rule requirements and a majority of Security Rule provisions directly on business associates that were previously only directly applicable to covered entities. HITECH includes, but is not limited to, prohibitions on exchanging patient identifiable health information for remuneration (directly or indirectly), restrictions on marketing to individuals and obligations to agree to provide individuals an accounting of virtually all disclosures of their health information. Moreover, HITECH requires covered entities to report any unauthorized use or disclosure of patient identifiable health information that compromises the security or privacy of the information, known as a breach, to the affected individuals, the United States Department of Health and Human Services, or HHS, and depending on the size of any such breach, the media for the affected market. Business associates are similarly required to notify covered entities of a breach. Most of the HITECH provisions became effective in February 2010 and was expected that the HHS would final regulations to implement many of the new provisions in 2011. Those regulations have not yet been released. HHS has already issued regulations governing breach notification which were effective in September 2009.

HITECH has increased civil penalty amounts for violations of HIPAA by either covered entities or business associates up to an annual maximum of $1.5 million for uncorrected violations based on willful neglect. Imposition of these penalties is more likely now because HITECH significantly strengthens enforcement. It requires HHS to conduct periodic audits to confirm compliance and to investigate any violation that involves willful neglect which carries mandatory penalties beginning in February 2011. Additionally, state attorneys general are authorized to bring civil actions seeking either injunctions or damages in response to violations of HIPAA Privacy and Security Rules that threaten the privacy of state residents. HHS held training sessions on the HIPAA rules and enforcement for state attorneys general in the spring of 2011.

In addition to federal regulations issued under HIPAA, some states have enacted privacy and security statutes or regulations that, in some cases, are more stringent than those issued under HIPAA. In those cases, it may be necessary to modify our planned operations and procedures to comply with the more stringent state laws. If we fail to comply with applicable state laws and regulations, we could be subject to additional sanctions. Further, the majority of states have enacted state data breach laws, which also require notification of certain alleged breaches of the privacy or security of personal information.

Federal and state consumer protection laws are being applied increasingly by the FTC and state attorneys general to regulate the collection, use, storage and disclosure of personal or patient information, through websites or otherwise, and to regulate the presentation of web site content. Courts may also adopt the standards for fair information practices promulgated by the FTC, which concern consumer notice, choice, security and access. Numerous other countries have or are developing laws governing the collection, use, disclosure and transmission of personal or patient information.

HIPAA as well as other federal and state laws apply to our receipt of patient identifiable health information in connection with research and clinical trials. We collaborate with other individuals and entities in conducting research and all involved parties must comply with applicable laws. Therefore, the compliance of the physicians, hospitals or other providers or entities with which we collaborate also impacts our business.

Employees

As of September 30, 2011, we had 23 full time employees, of whom nine were engaged in research and development, five in manufacturing, four in sales and marketing and five in general administrative and finance functions. None of our employees is covered by a collective bargaining agreement, and we consider our relationship with our employees to be good.

Item 1A. ***Risk Factors***

We have incurred significant losses since our inception and anticipate that we may continue to incur significant losses. If we fail to generate significant revenue from sales of our products, we may never achieve or sustain profitability.

As of September 30, 2011, we had an accumulated deficit of approximately $57,933,000. The accumulated deficit has resulted principally from costs incurred in our research and development efforts and general operating expenses. We have incurred significant losses in each year since our inception in 1998. Net losses were approximately $6,456,000 for the nine months ended September 30, 2011, approximately $9,454,000 for the year ended December 31, 2010, approximately $7,159,000 for the year ended December 31, 2009, and approximately $5,430,000 for the year ended December 31, 2008. We may continue to incur significant operating losses as we continue to invest capital in the sales and marketing of our products, development of our product candidates and our business generally. We also expect that our general and administrative expenses will increase due to additional operational and regulatory burdens associated with operating as a public company.

As a result of the numerous risks and uncertainties associated with developing medical devices, we are unable to predict the extent of any future losses or when we will become profitable, if at all. Our profitability will depend on revenues from the sale of our products. We cannot provide any assurance that we will ever achieve profitability and, even if we achieve profitability, that we will be able to sustain or increase profitability on a quarterly or annual basis. Further, because of our limited commercialization history, we have limited insight into the trends that may emerge and affect our business. We may make errors in predicting and reacting to relevant business trends, which could harm our business and financial condition. Any failure to achieve and maintain profitability would continue to have an adverse effect on our stockholders' equity and working capital and or cause us to cease operations.

Our ClearPoint system may not achieve market acceptance or be commercially successful.

We expect sales of our ClearPoint system will account for the vast majority of our revenues for at least the next several years. Our ClearPoint system may not gain market acceptance unless we convince physicians, hospitals and patients of its benefits. Moreover, even if physicians and hospitals understand the benefits of our ClearPoint system, they still may elect not to use our ClearPoint system for a variety of reasons, including:

- the shift in location of the procedure from the operating room to the MRI suite;
- the hospital's ability and willingness to satisfy the increased demand for the MRI suite;
- the cost to the hospital to purchase or otherwise use our products;
- the amount of reimbursement available from third-party payors;
- insufficient supporting clinical data; and
- the familiarity of the physician, and the physician having achieved successful results, with other devices and approaches.

If physicians and hospitals do not perceive our ClearPoint system as an attractive alternative to other products and procedures, we will not achieve significant market penetration or be able to generate significant revenues. To the extent that our ClearPoint system is not commercially successful or is withdrawn from the market for any reason, our revenues will be adversely impacted and our business, operating results and financial condition will be harmed.

If hospitals and physicians are unable to obtain adequate coverage and reimbursement from third-party payors for procedures utilizing our ClearPoint system, our revenues and prospects for profitability will suffer.

Our ClearPoint system components are purchased primarily by hospitals, which bill various third-party payors, including governmental healthcare programs, such as Medicare, and private insurance plans, for procedures in which our ClearPoint system is used. Reimbursement is a significant factor considered by hospitals in determining whether to acquire new medical devices such as our ClearPoint system. Therefore, our ability to successfully commercialize our ClearPoint system depends significantly on the availability of coverage and reimbursement from these third-party payors.

Medicare pays hospitals a prospectively determined amount for inpatient operating costs. The prospective payment for a patient's stay is determined by the patient's condition and other patient data and procedures performed during the inpatient stay using a classification system known as Medical Severity Diagnosis Related Groups, or MS-DRGs. Medicare pays a fixed amount to the hospital based on the MS-DRG into which the patient's stay is assigned, regardless of the actual cost to the hospital of furnishing the procedures, items and services provided. Therefore, a hospital must absorb the cost of our products as part of the payment it receives for the procedure in which the product is used. In addition, physicians that perform procedures in hospitals are paid a set amount by Medicare for performing such services under the Medicare physician fee schedule. Medicare payment rates for both systems are established annually.

We do not know if hospitals will consider third-party reimbursement levels adequate to cover the cost of our ClearPoint system. Furthermore, we do not know if physicians will consider third-party reimbursement levels adequate to compensate them for performing the procedures in which our products are used. Failure by hospitals and physicians to receive an amount that they consider to be adequate reimbursement for procedures in which our products are used will deter them from purchasing or using our products and limit our sales growth.

One result of the current Medicare payment system, which is also utilized by most non-governmental third-party payors, is that a patient's treating physician orders a particular service and the hospital (or other facility in which the procedure is performed) bears the cost of delivery of the service. Hospitals have limited ability to align their financial interests with those of the treating physician because Medicare law generally prohibits hospitals from paying physicians to assist in controlling the costs of hospital services, including paying physicians to limit or reduce services to Medicare beneficiaries even if such services are medically unnecessary. As a result, hospitals have traditionally stocked supplies and products requested by physicians and have had limited ability to restrict physician choice of products and services.

The Health Care Reform Law includes a number of provisions that will likely result in more coordination between hospitals and physicians resulting in the alignment of financial incentives between hospitals and physicians to control hospital costs. Most significantly, the Health Care Reform Law provides for the establishment of a Medicare shared savings program, which goes into effect in 2012, whereby Medicare will share certain savings realized in the delivery of services to Medicare beneficiaries with accountable care organizations, which may be organized through various different legal structures between hospitals and physicians. Other payment reform provisions in the Health Care Reform Law include pay-for-performance initiatives, payment bundling and the establishment of an independent payment advisory board. We expect that the overall result of such payment reform efforts and the increased coordination among hospitals and physicians will be voluntary reductions in the array of choices currently available to physicians with respect to diagnostic services, medical supplies and equipment. Such a reduction in physician choices may also result in hospitals reducing the overall number of vendors from which they purchase supplies, equipment and products. The Health Care Reform Law may limit the acceptance and availability of our products, which could have an adverse effect on our financial results and business.

If there are changes in coverage or reimbursement from third-party payors, our revenues and prospects for profitability will suffer.

In the United States, we believe that existing billing codes apply to procedures using our ClearPoint system. Reimbursement levels for procedures using our ClearPoint system or any product that we may market in the future could be decreased or eliminated as a result of future legislation, regulation or reimbursement policies of third-party payors. Any such decrease or elimination would adversely affect the demand for our ClearPoint system or any product that we may market in the future and our ability to sell our products on a profitable basis. For example, on July 30, 2008, Centers for Medicare and Medicaid Services, or CMS, the federal agency that administers the Medicare Program, released a list of potential topics for national coverage determinations. This list included ablation for atrial fibrillation and specifically asked whether the evidence was adequate to demonstrate health benefits in patients who receive the procedure. On October 21, 2009, the Medicare Evidence Development and Coverage Advisory Committee held a meeting on the adequacy of the available evidence for catheter ablation for the treatment of atrial fibrillation. Although CMS has not formally opened a national coverage analysis on this topic, the agency has shown that it is interested in the clinical evidence of atrial fibrillation treatments and any national coverage decisions it makes could have a material effect on the ClearTrace system and our potential business in this area. Furthermore, if procedures using our ClearPoint system gain market acceptance and the number of these procedures increases, CMS, as well as other public or private payors, may establish new billing codes for those procedures that provide for a lower reimbursement amount than traditional approaches, which would adversely affect our financial results and business.

Among other things, the Health Care Reform Law will ultimately increase the overall pool of persons with access to health insurance in the United States. Although such an increase in covered lives should ultimately benefit hospitals, the Health Care Reform Law also includes a number of cuts in Medicare reimbursement to hospitals that may take effect prior to the time hospitals realize the financial benefit of a larger pool of insured persons. Those cuts in Medicare reimbursement could adversely impact the operations and finances of hospitals, reducing their ability to purchase medical devices, such as our products. Further, Congress has not yet addressed in a comprehensive and permanent manner the pending reduction in Medicare payments to physicians under the sustainable growth rate formula, which if not resolved will likely result in an overall reduction in physicians willing to participate in Medicare.

If third-party payors deny coverage or reimbursement for procedures using our ClearPoint system, our revenues and prospects for profitability will suffer.

Notwithstanding its regulatory clearance in the United States, third-party payors may deny coverage or reimbursement if the payor determines that the use of our ClearPoint system is unnecessary, inappropriate, experimental, not cost-effective, or is used for a non-approved indication. In addition, no uniform policy of coverage and reimbursement for medical technology exists among third-party payors. Therefore, coverage and reimbursement for medical technology can differ significantly from payor to payor. Any denial of coverage or reimbursement for procedures using our ClearPoint system could have an adverse effect on our business, financial results and prospects for profitability.

We have limited internal manufacturing resources, and if we unable to provide an adequate supply of our ClearPoint disposable products, our growth could be limited and our business could be harmed.

Final assembly of many of our ClearPoint disposable components occurs at our Irvine, California facility. If our facility experiences a disruption, we would have no other means of assembling those components until we are able to restore the manufacturing capability at our current facility or develop the same capability at an alternative facility.

In connection with the continued commercialization of our ClearPoint system, we expect that we will need to increase, or "scale up," the production process of our disposable components over the current level of production. Manufacturers often encounter difficulties in scaling up production, such as problems involving yields, quality control and assurance, and shortages of qualified personnel. If the scaled-up production process is not efficient or produces a product that does not meet quality and other standards, we may be unable to meet market demand and our revenues, business and financial prospects would be adversely affected.

Our reliance on single-source suppliers could harm our ability to meet demand for our ClearPoint system in a timely manner or within budget.

Many of the components and component assemblies of our ClearPoint system are currently provided to us by single-source suppliers. We generally purchase components and component assemblies through purchase orders rather than long-term supply agreements and generally do not maintain large volumes of inventory. While alternative suppliers exist and have been identified, the disruption or termination of the supply of components and component assemblies could cause a significant increase in the cost of these components, which could affect our operating results. Our dependence on a limited number of third-party suppliers and the challenges we may face in obtaining adequate supplies involve several risks, including limited control over pricing, availability, quality and delivery schedules. A disruption or termination in the supply of components could also result in our inability to meet demand for our ClearPoint system, which could harm our ability to generate revenues, lead to customer dissatisfaction and damage our reputation. Furthermore, if we are required to change the supplier of a key component or component assembly of our ClearPoint system, we may be required to verify that the new supplier maintains facilities and procedures that comply with quality standards and with all applicable regulations and guidelines. The delays associated with the verification of a new supplier could delay our ability to manufacture our ClearPoint system in a timely manner or within budget.

If we are unable to expand our sales and marketing capabilities, we may be unable to generate material product revenues.

We have limited experience in the sales and marketing of medical devices. Currently, our sales and marketing efforts for our ClearPoint system are being coordinated primarily by our Vice President, Sales, our Vice President, Product Management and our two Clinical Engineering Managers. We expect to continue building a small, highly focused sales force to market our ClearPoint system products in the United States. That effort, though, could take longer than we anticipate, in which case our commercialization efforts would be delayed. Our distribution relationship with Brainlab significantly expands our sales and marketing capabilities for the ClearPoint system. However, for ClearPoint products that Brainlab sells, our revenues will be lower than if we sell the ClearPoint products ourselves. Likewise, there is no assurance that Brainlab will be successful in marketing and selling our ClearPoint system. Under our agreement, Brainlab is not subject to any minimum sales or other performance requirements.

If we fail to obtain regulatory approval for our ClearPoint system in additional foreign jurisdictions, we will not be able to expand the commercialization of our products abroad.

We obtained CE marking approval for our ClearPoint system in February 2011, which enables us to market the ClearPoint system in the European Union. To sell our ClearPoint system in other foreign jurisdictions, we will have to obtain separate regulatory approvals from those foreign jurisdictions as well. The regulatory approval process varies among jurisdictions and can involve substantial additional testing. Clearance or approval by the FDA does not ensure clearance or approval by regulatory authorities in other jurisdictions, and clearance or approval by one foreign regulatory authority does not ensure clearance or approval by regulatory authorities in other foreign

jurisdictions. The foreign regulatory approval process may include all of the risks associated with obtaining FDA clearance or approval in addition to other risks. In addition, the time required to obtain foreign clearance or approval may differ from that required to obtain FDA clearance or approval and we may not obtain foreign regulatory clearances or approvals on a timely basis, if at all. We may not be able to file for regulatory clearance or approval and may not receive necessary clearance or approval to commercialize our ClearPoint system in any additional foreign market, either of which would preclude sale of our ClearPoint system outside the United States other than in the European Union.

Our business will be subject to economic, political, regulatory and other risks associated with international operations.

We have CE marking approval to market our ClearPoint system in the European Union, which subjects us to rules and regulations in the European Union relating to our products. As part of our product development and regulatory strategy, we also intend to market our ClearPoint system in other foreign jurisdictions. There are a number of risks associated with conducting business internationally, including:

- differences in treatment protocols and methods across the markets in which we expect to market our ClearPoint system;
- requirements necessary to obtain product reimbursement;
- product reimbursement or price controls imposed by foreign governments;
- difficulties in compliance with foreign laws and regulations;
- changes in foreign regulations and customs;
- changes in foreign currency exchange rates and currency controls;
- changes in a specific country's or region's political or economic environment;
- trade protection measures, import or export licensing requirements or other restrictive actions by U.S. or foreign governments; and
- negative consequences from changes in tax laws.

Any of these risks could adversely affect our financial results and our ability to operate outside the United States, which could harm our business.

The Health Care Reform Law and other payment and policy changes may have a material adverse effect on us.

In addition to the reimbursement changes discussed above, the Health Care Reform Law will also impose a 2.3% excise tax on the sale of any taxable human medical device after December 31, 2012, subject to certain exclusions, by the manufacturer, producer or importer of such devices. The total cost to the industry is expected to be approximately $20 billion over ten years. This new and significant tax burden could have a material negative impact on the results of our operations and the operations of our strategic partners. Further, the Health Care Reform Law encourages hospitals and physicians to work collaboratively through shared savings programs, such as accountable care organizations, as well as other bundled payment initiatives, which may ultimately result in the reduction of medical device acquisitions and the consolidation of medical device suppliers used by hospitals. While passage of the Health Care Reform Law may ultimately expand the pool of potential end-users of our ClearPoint system, the above-discussed changes could adversely affect our financial results and business.

Further, with the increase in demand for healthcare services, we expect both a strain on the capacity of the healthcare system and more proposals by legislators, regulators and third-party payors to keep healthcare costs down. Certain proposals, if passed, could impose limitations on the prices we will be able to charge for our ClearPoint system, or the amounts of reimbursement available from governmental agencies or third-party payors. These limitations could have a material adverse effect on our financial position and results of operations.

Various healthcare reform proposals have also emerged at the state level. We cannot predict what healthcare initiatives, if any, will be implemented at the federal or state level, or the effect any future legislation or regulation will have on us. However, an expansion in government's role in the United States healthcare industry may lower reimbursements for our ClearPoint system, reduce medical procedure volumes and adversely affect our business, possibly materially.

Our future success depends on our ability to obtain regulatory clearances or approvals for the ClearTrace system. We cannot be certain that we will be able to do so in a timely fashion, or at all.

We do not have the necessary regulatory clearances or approvals to market the ClearTrace system in the United States or in any foreign market. In the United States, without FDA clearances or approvals, we cannot market a new medical device, or a new use of, or claim for, or significant modification to, an existing product, unless an exemption applies. To obtain FDA clearance or approval, we must first receive either premarket clearance under Section 510(k) of the federal Food, Drug, and Cosmetic Act or approval of a PMA from the FDA.

In the 510(k) clearance process, the FDA must determine that a proposed device is "substantially equivalent" to a device legally on the market, known as a "predicate" device, with respect to intended use, technology, safety and effectiveness, in order to clear the proposed device for marketing. Clinical data is sometimes required to support substantial equivalence. The 510(k) clearance process generally takes three to twelve months from submission, but can take significantly longer.

The process of obtaining PMA approval is much more costly and uncertain than the 510(k) clearance process. The PMA approval process can be lengthy and expensive and requires an applicant to demonstrate the safety and effectiveness of the device based, in part, on data obtained in clinical trials. The PMA process generally takes one to three years, or even longer, from the time the PMA application is submitted to the FDA until an approval is obtained.

Outside the United States, the regulatory approval process varies among jurisdictions and can involve substantial additional testing. Clearance or approval by the FDA does not ensure clearance or approval by regulatory authorities in other jurisdictions, and clearance or approval by one foreign regulatory authority does not ensure clearance or approval by regulatory authorities in other foreign jurisdictions. The foreign regulatory approval process may include all of the risks associated with obtaining FDA clearance or approval in addition to other risks. In addition, the time required to obtain foreign clearance or approval may differ from that required to obtain FDA clearance or approval and we may not obtain foreign regulatory clearances or approvals on a timely basis, if at all. We may not be able to file for regulatory clearance or approval and may not receive necessary clearance or approval to commercialize a product candidate in any foreign market, either of which would preclude sale of that product candidate in foreign jurisdictions.

The ClearTrace system is still under development. We have not made any regulatory filings with the FDA or any foreign regulatory authority with respect to that system. We anticipate that the initial market for the ClearTrace system will be the European Union and we plan to seek CE marking approval for the ClearTrace system, although there can be no assurance that we will receive CE marking approval. To date, we have been conducting animal studies and other preclinical work with respect to the ClearTrace system. The ClearTrace system consists of several components, including an ablation catheter. The FDA has determined that ablation catheters specifically indicated to treat atrial fibrillation require the submission of a PMA. Therefore, in the United States, we will be required to pursue the PMA process in order to specifically indicate our ablation catheter for the treatment of atrial fibrillation.

The FDA or any applicable foreign authority may not act favorably or quickly in its review of any regulatory submission that we may file. Additionally, we may encounter significant difficulties and costs in obtaining clearances or approvals. If we are unable to obtain regulatory clearances or approvals for the ClearTrace system, or otherwise experience delays in obtaining regulatory clearances or approvals, the commercialization of the ClearTrace system will be delayed or prevented, which will adversely affect our ability to generate revenues. Such delay may also result in the loss of potential competitive advantages that might otherwise be attained by bringing products to market earlier than competitors. Any of these contingencies could adversely affect our business. Even if cleared or approved, the ClearTrace system may not be cleared or approved for the indications that are necessary or desirable for successful commercialization.

To the extent we seek a new indication for use of, or new claims for, our ClearPoint system, the FDA may not grant 510(k) clearance or PMA approval of such new use or claims, which may affect our ability to grow our business.

We received 510(k) clearance to market our ClearPoint system for use in general neurological interventional procedures. In the future, we may seek to obtain additional, more specific indications for use of our ClearPoint system beyond the general neurological intervention claim. Some of these expanded claims could require FDA 510(k) clearance. Other claims could require FDA approval of a PMA. Moreover, some specific ClearPoint system claims that we may seek may require clinical trials to support regulatory clearance or approval, and we may not successfully complete or have the funds to initiate these clinical trials. The FDA may not clear or approve these future claims or future generations of our ClearPoint system for the indications that are necessary or desirable for successful commercialization. Indeed, the FDA may refuse our requests for 510(k) clearance or PMA approval. Failure to receive clearance or approval for additional claims for our ClearPoint system could have an adverse effect on our ability to expand our business.

Clinical trials necessary to support 510(k) clearance or PMA approval for the ClearTrace system or any new indications for use for our ClearPoint system will be expensive and may require the enrollment of large numbers of suitable patients, who may be difficult to identify and recruit. Delays or failures in our clinical trials will prevent us from commercializing any modified or new product candidates and will adversely affect our business, operating results and prospects.

Initiating and completing clinical trials necessary to support a PMA for the ClearTrace system or any other product candidates that we may develop, or additional safety and efficacy data that the FDA may require for 510(k) clearance or PMA approval for any new specific indications of our ClearPoint system that we may seek, will be time consuming and expensive with an uncertain outcome. Moreover, the results of early clinical trials are not necessarily predictive of future results, and any product candidate we advance into clinical trials may not have favorable results in later clinical trials.

Conducting successful clinical trials may require the enrollment of large numbers of patients, and suitable patients may be difficult to identify and recruit. Patient enrollment in clinical trials and completion of patient participation and follow-up depends on many factors, including the size of the patient population, the nature of the trial protocol, the attractiveness of, or the discomforts and risks associated with, the treatments received by enrolled subjects, the availability of appropriate clinical trial investigators and support staff, the proximity to clinical sites of patients that are able to comply with the eligibility and exclusion criteria for participation in the clinical trial, and patient compliance. For example, patients may be discouraged from enrolling in our clinical trials if the trial protocol requires them to undergo extensive post-treatment procedures or follow-up to assess the safety and effectiveness of our product candidates or if they determine that the treatments received under the trial protocols are not attractive or involve unacceptable risks or discomforts. In addition, patients participating in clinical trials may die before completion of the trial or suffer adverse medical events unrelated to our product candidates.

Development of sufficient and appropriate clinical protocols to demonstrate safety and efficacy will be required and we may not adequately develop such protocols to support clearance or approval. Further, the FDA may require us to submit data on a greater number of patients than we originally anticipated and/or for a longer follow-up period or change the data collection requirements or data analysis applicable to our clinical trials. Delays in patient enrollment or failure of patients to continue to participate in a clinical trial may cause an increase in costs and delays in the approval and attempted commercialization of our product candidates or result in the failure of the clinical trial. Such increased costs and delays or failures could adversely affect our business, operating results and prospects.

If the third parties on which we may need to rely to conduct any clinical trials and to assist us with pre-clinical development do not perform as contractually required or expected, we may not be able to obtain regulatory clearance or approval for the ClearTrace system or any additional claims that we may seek for our ClearPoint system.

We do not have the independent ability to conduct pre-clinical and clinical trials. To the extent that we will need to conduct such trials, we will need to rely on third parties, such as contract research organizations, medical institutions, clinical investigators and contract laboratories, to conduct such trials. If these third parties do not successfully carry out their contractual duties or regulatory obligations or meet expected deadlines, if these third parties need to be replaced, or if the quality or accuracy of the data they obtain is compromised due to the failure to adhere to our clinical protocols or regulatory requirements or for other reasons, our pre-clinical development activities or clinical trials may be extended, delayed, suspended or terminated, and we may not be able to obtain regulatory clearance or approval for a product candidate or additional claims we may seek for our products on a timely basis, if at all. As such, our business, operating results and prospects may be adversely affected. Furthermore, our third-party clinical trial investigators may be delayed in conducting our clinical trials for reasons outside of their control.

The results of our clinical trials may not support our product candidate claims or any additional claims we may seek for our products and may result in the discovery of adverse side effects.

Even if any clinical trial that we need to undertake is completed as planned, we cannot be certain that its results will support our product candidate claims or any new indications that we may seek for our products or that the FDA or foreign authorities will agree with our conclusions regarding the results of those trials. The clinical trial process may fail to demonstrate that our products or a product candidate is safe and effective for the proposed indicated use, which could cause us to stop seeking additional clearances or approvals for our ClearPoint system, abandon the ClearTrace system or delay development of other product candidates. Any delay or termination of our clinical trials will delay the filing of our regulatory submissions and, ultimately, our ability to commercialize a product candidate. It is also possible that patients enrolled in clinical trials will experience adverse side effects that are not currently part of the product candidate's profile.

The markets for medical devices are highly competitive and we may not be able to compete effectively against the larger, well-established companies in our markets or emerging and small innovative companies that may seek to obtain or increase their share of the market.

We will face competition from products and techniques already in existence in the marketplace. The markets for the ClearPoint system and the ClearTrace system are intensely competitive, and many of our competitors are much larger and have substantially more financial and human resources than we do. Many have long histories and strong reputations within the industry, and a relatively small number of companies dominate these markets. Examples of such large, well-known companies include Biosense Webster Inc., a division of Johnson & Johnson, Medtronic, Inc. and St. Jude Medical Inc.

These companies enjoy significant competitive advantages over us, including:

- broad product offerings, which address the needs of physicians and hospitals in a wide range of procedures;
- greater experience in, and resources for, launching, marketing, distributing and selling products, including strong sales forces and established distribution networks;
- existing relationships with physicians and hospitals;
- more extensive intellectual property portfolios and resources for patent protection;
- greater financial and other resources for product research and development;
- greater experience in obtaining and maintaining FDA and other regulatory clearances or approvals for products and product enhancements;

- established manufacturing operations and contract manufacturing relationships; and
- significantly greater name recognition and more recognizable trademarks.

We may not succeed in overcoming the competitive advantages of these large and established companies. Smaller or early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. These companies may introduce products that compete effectively against our products in terms of performance, price or both.

We could become subject to product liability claims that could be expensive, divert management's attention and harm our business.

Our business exposes us to potential product liability risks that are inherent in the manufacturing, marketing and sale of medical devices. We may be held liable if our products cause injury or death or are found otherwise unsuitable or defective during usage. Our ClearPoint system and the ClearTrace system incorporate mechanical and electrical parts, complex computer software and other sophisticated components, any of which can have defective or inferior parts or contain defects, errors or failures. Complex computer software is particularly vulnerable to errors and failures, especially when first introduced.

Because our ClearPoint system and the ClearTrace system are designed to be used to perform complex surgical procedures, defects could result in a number of complications, some of which could be serious and could harm or kill patients. The adverse publicity resulting from any of these events could cause physicians or hospitals to review and potentially terminate their relationships with us.

The medical device industry has historically been subject to extensive litigation over product liability claims. A product liability claim, regardless of its merit or eventual outcome, could result in significant legal defense costs. Although we maintain product liability insurance, the coverage is subject to deductibles and limitations, and may not be adequate to cover future claims. Additionally, we may be unable to maintain our existing product liability insurance in the future at satisfactory rates or in adequate amounts. A product liability claim, regardless of its merit or eventual outcome could result in:

- decreased demand for our products;
- injury to our reputation;
- diversion of management's attention;
- significant costs of related litigation;
- payment of substantial monetary awards by us;
- product recalls or market withdrawals;
- a change in the design, manufacturing process or the indications for which our marketed products may be used;
- loss of revenue; and
- an inability to commercialize product candidates.

We may not realize the anticipated benefits from our collaborative agreement with Siemens regarding the ClearTrace system.

We have entered into a co-development agreement with Siemens to develop the hardware and MRI software necessary for the ClearTrace system. There can be no assurance that our co-development efforts will be successful or that we will complete development of the ClearTrace system hardware and MRI software. Under our agreement,

Siemens is responsible for developing the software for the ClearTrace system, and we are responsible for developing the catheters and other hardware, other than the MRI scanner and workstation. The co-development agreement requires us to pay Siemens up to approximately $2,500,000 for Siemens' successful development of the software in accordance with our specifications. As of September 30, 2011, we have paid Siemens $800,000 and, in addition, we have accrued payables of approximately $574,000. Once the software for the ClearTrace system is commercially available, Siemens will pay us a fixed amount for each software license sold by Siemens until we recoup our investment in the software. However, if Siemens does not successfully commercialize the software, or if our agreement with Siemens is terminated, we may not recover our investment in the software.

We may not realize the anticipated benefits from our license and development agreements with Boston Scientific.

We entered into license and development agreements with Boston Scientific with respect to our MRI-safety technologies. We are working with Boston Scientific to incorporate our MRI-safety technologies into Boston Scientific's implantable medical leads for cardiac and neuromodulation applications. There is no assurance that our joint development efforts will be successful or that patents will issue on any patent applications we licensed to Boston Scientific, in which case we would not receive future milestone payments or royalties provided for under our agreements with Boston Scientific. Further, Boston Scientific has no obligation to include our licensed intellectual property in its product candidates. Even if Boston Scientific incorporates our licensed intellectual property into its product candidates, Boston Scientific may be unable to obtain regulatory clearance or approval or successfully commercialize the related products, in which case we would not receive royalties in the amounts that we currently anticipate.

Risks Related to our Need for Financing

We may not be able to continue operations as a going concern and our stockholders may lose their entire investment in us.

At September 30, 2011 and December 31, 2010, we had cash and cash equivalents of approximately $70,000 and $1,577,000, respectively, and stockholders' deficit of approximately $20,547,000 and $15,337,000, respectively. In addition, we had a net loss for the nine months ended September 30, 2011 of approximately $6,456,000 and a net loss for the year ended December 31, 2010 of approximately $9,454,000.

As discussed in the notes to our financial statements included elsewhere in this registration statement, our cumulative net loss since inception and the net losses we incurred in 2010, 2009 and 2008 raise substantial doubt that we will be able to continue operations as a going concern. Our independent auditors included an explanatory paragraph regarding the uncertainty of whether we will be able to continue operations as a going concern in their report on our financial statements for the year ended December 31, 2010. Our ability to continue as a going concern is dependent upon us generating cash flow sufficient to fund operations and reducing operating expenses. Our business plans may not be successful in addressing these issues. If we cannot continue as a going concern, our stockholders may lose their entire investment in us.

We will need additional funding to continue to commercialize our ClearPoint system and to bring the ClearTrace system to market and we may not be able to raise capital when needed, which would force us to delay, reduce or eliminate our commercialization efforts or our product development programs.

We will require substantial future capital in order to continue to establish effective marketing and sales capabilities for our ClearPoint system and to conduct the research and development and regulatory clearance and approval activities necessary to bring the ClearTrace system to market. We believe that our existing cash resources, together with cash generated from sales of our products and cash generated from our financing activities, will be sufficient to meet our anticipated needs into June 2012. However, our operating plans may change, and we may need additional funds sooner than anticipated to meet our operational needs and capital requirements for product commercialization, product development, clinical trials, and regulatory clearances and approvals.

Additional funds may not be available when we need them on terms that are acceptable to us, or at all. If adequate funds are not available on a timely basis, we may terminate or delay the development of the ClearTrace system, or take actions that negatively impact the commercialization of our ClearPoint system.

Our future funding requirements will depend on many factors, including:

- the scope, rate of progress and cost of our research and development activities;
- the achievement of milestone events under, and other matters related to, our agreements with Boston Scientific and Siemens;
- the terms and timing of any future collaborative, licensing or other arrangements that we may establish;
- the cost and timing of clinical trials;
- the cost and timing of regulatory filings, clearances and approvals;
- the cost and timing of establishing sales, marketing and distribution capabilities and other corporate infrastructure;
- the cost of establishing product inventories;
- the effect of competing technological and market developments; and
- the cost of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights.

Raising additional capital by issuing securities or through collaborative or licensing arrangements may cause dilution to existing stockholders, restrict our operations or require us to relinquish proprietary rights.

To the extent that we raise additional capital through the sale of equity or convertible debt securities, your ownership interest will be diluted, and the terms may include liquidation or other preferences that adversely affect your rights as a stockholder. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions such as incurring additional debt, making capital expenditures or declaring dividends. If we raise additional funds through collaboration or licensing arrangements with third parties, we may have to relinquish valuable rights to our technologies or products or grant licenses on terms that are not favorable to us. Any of these events could adversely affect our ability to achieve our product development and commercialization goals and have a material adverse effect on our business, financial condition and results of operations.

Risks Related to our Intellectual Property

If we, or the third parties from whom we license intellectual property, are unable to secure and maintain patent or other intellectual property protection for the intellectual property covering our marketed products or our product candidates, our ability to compete will be harmed.

Our commercial success depends, in part, on obtaining patent and other intellectual property protection for the technologies contained in our marketed products and product candidates. The patent positions of medical device companies, including ours, can be highly uncertain and involve complex and evolving legal and factual questions. Our patent position is uncertain and complex, in part, because of our dependence on intellectual property that we license from others. If we, or the third parties from whom we license intellectual property, fail to obtain adequate patent or other intellectual property protection for intellectual property covering our marketed products or product candidates, or if any protection is reduced or eliminated, others could use the intellectual property covering our marketed products or product candidates, resulting in harm to our competitive business position. In addition, patent and other intellectual property protection may not provide us with a competitive advantage against competitors that devise ways of making competitive products without infringing any patents that we own or have rights to.

As of December 23, 2011, our portfolio included eight wholly-owned issued United States patents (including one design patent), 28 wholly-owned pending United States patent applications (including three provisional application), six co-owned issued United States patents, nine co-owned pending United States patent applications, seven wholly-owned issued foreign patent, 39 wholly-owned pending foreign patent applications (including two Patent Cooperation Treaty applications), 10 co-owned issued foreign patents and 20 co-owned pending foreign patent applications. In addition, as of December 23, 2011, we had licensed rights to 14 United States and 15 foreign third-party issued patents, and we had licensed rights to six United States and 11 foreign third-party pending patent applications. United States patents and patent applications may be subject to interference proceedings and United States patents may be subject to reissue and reexamination proceedings in the United States Patent and Trademark Office. Foreign patents may be subject to opposition or comparable proceedings in the corresponding foreign patent offices. Any of these proceedings could result in either loss of the patent or denial of the patent application, or loss or reduction in the scope of one or more of the claims of the patent or patent application. Changes in either patent laws or in interpretations of patent laws may also diminish the value of our intellectual property or narrow the scope of our protection. Interference, reexamination and opposition proceedings may be costly and time consuming, and we, or the third parties from whom we license intellectual property, may be unsuccessful in such proceedings. Thus, any patents that we own or license may provide limited or no protection against competitors. In addition, our pending patent applications and those we may file in the future may not result in patents being issued or may have claims that do not cover our products or product candidates. Even if any of our pending or future patent applications are issued, they may not provide us with adequate protection or any competitive advantages. Our ability to develop additional patentable technology is also uncertain.

Non-payment or delay in payment of patent fees or annuities, whether intentional or unintentional, may also result in the loss of patents or patent rights important to our business. Many countries, including certain countries in Europe, have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties. In addition, many countries limit the enforceability of patents against third parties, including government agencies or government contractors. In these countries, the patent owner may have limited remedies, which could materially diminish the value of the patent. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as do the laws of the United States, particularly in the field of medical devices and procedures.

Others may assert that our ClearPoint system or the ClearTrace system infringe their intellectual property rights, which may cause us to engage in costly disputes and, if we are not successful in defending ourselves, could also cause us to pay substantial damages and prohibit us from selling our marketed products.

There may be United States and foreign patents issued to third parties that relate to our business, including MRI-guided intervention systems and the components and methods and processes related to these systems. Some of these patents may be broad enough to cover one or more aspects of our present technologies and/or may cover aspects of our future technologies. We do not know whether any of these patents, if asserted, would be held valid, enforceable and infringed. We cannot assure that a court or administrative body would agree with any arguments or defenses we may have concerning invalidity, unenforceability or non-infringement of any third-party patent.

The medical device industry has been characterized by extensive litigation and administrative proceedings regarding patents and other intellectual property rights, and companies have employed such actions to gain a competitive advantage. If third parties assert infringement or other intellectual property claims against us, our technical and management personnel will experience a significant diversion of time and effort and we will incur large expenses defending our company. If third parties in any patent action are successful, our patent portfolio may be damaged, we may have to pay substantial damages and we may be required to stop selling our marketed products or obtain a license which, if available at all, may require us to pay substantial royalties. We cannot be certain that we will have the financial resources or the substantive arguments to defend our marketed products or product candidates from infringement or our patents from claims of invalidity or unenforceability, or to defend our marketed products or product candidates against allegations of infringement of third-party patents. In addition, any public announcements related to litigation or administrative proceedings initiated by us, or initiated or threatened against us, could negatively impact our business.

If we lose access to critical third-party software that is integrated into our ClearPoint system software, our costs could increase and sales of our ClearPoint system would be delayed, potentially hurting our competitive position.

We license software from a third party that is integrated into the software component of our ClearPoint system. Our license continues through July 2015. If we are unable to continue to license this third-party software, we would not be able to continue to commercialize our ClearPoint system until equivalent software could be identified, licensed or developed, and integrated into the software component of our ClearPoint system. These delays, if they occur, could harm our business, operating results and financial condition.

We may be subject to damages resulting from claims that our employees or we have wrongfully used or disclosed alleged trade secrets or other proprietary information of their former employers.

Many of our employees were previously employed at universities or other medical device companies, including competitors or potential competitors. In the future, we could be subject to claims that these employees, or we, have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of their former employers. Litigation may be necessary to defend against these claims. If we fail in defending against such claims, a court could order us to pay substantial damages and prohibit us from using technologies or features that are essential to our products and product candidates, if such technologies or features are found to incorporate or be derived from the trade secrets or other proprietary information of the former employers. In addition, we may lose valuable intellectual property rights or personnel. A loss of key research personnel or their work product could hamper or prevent our ability to commercialize certain product candidates, which could severely harm our business. Even if we are successful in defending against these claims, such litigation could result in substantial costs and be a distraction to our employees and management.

If the combination of patents, trade secrets and contractual provisions that we rely on to protect our intellectual property is inadequate, our ability to successfully commercialize our marketed products and product candidates will be harmed, and we may not be able to operate our business profitably.

Our success and ability to compete is dependent, in part, upon our ability to maintain the proprietary nature of our technologies. We rely on a combination of patent, copyright, trademark and trade secret law and nondisclosure agreements to protect our intellectual property. However, such methods may not be adequate to protect us or permit us to gain or maintain a competitive advantage. Our patent applications may not issue as patents in a form that will be advantageous to us, or at all. Our issued patents, and those that may issue in the future, may be challenged, invalidated or circumvented, which could limit our ability to stop competitors from marketing related products.

To protect our proprietary rights, we may in the future need to assert claims of infringement against third parties to protect our intellectual property. There can be no assurance that we will be successful on the merits in any enforcement effort. In addition, we may not have sufficient resources to litigate, enforce or defend our intellectual property rights. Litigation to enforce our intellectual property rights in patents, copyrights or trademarks is highly unpredictable, expensive and time consuming and would divert human and monetary resources away from managing our business, all of which could have a material adverse effect on our financial condition and results of operations even if we were to prevail in such litigation. In the event of an adverse judgment, a court could hold that some or all of our asserted intellectual property rights are not infringed, or that they are invalid or unenforceable, and could award attorney fees.

Despite our efforts to safeguard our unpatented and unregistered intellectual property rights, we may not be successful in doing so or the steps taken by us in this regard may not be adequate to detect or deter misappropriation of our technologies or to prevent an unauthorized third party from copying or otherwise obtaining and using our products, technologies or other information that we regard as proprietary. Additionally, third parties may be able to design around our patents. Furthermore, the laws of foreign countries may not protect our proprietary rights to the same extent as the laws of the United States. Our inability to adequately protect our intellectual property could allow our competitors and others to produce products based on our technologies, which could substantially impair our ability to compete.

We have entered into confidentiality and intellectual property assignment agreements with our employees and consultants as one of the ways we seek to protect our intellectual property and other proprietary technologies. However, these agreements may not be enforceable or may not provide meaningful protection for our trade secrets or other proprietary information in the event of unauthorized use or disclosure or other breaches of the agreements.

Our employees and consultants may unintentionally or willfully disclose our confidential information to competitors, and confidentiality agreements may not provide an adequate remedy in the event of unauthorized disclosure of confidential information. Enforcing a claim that a third party illegally obtained and is using our proprietary know-how is expensive and time-consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect know-how than courts in the United States. Moreover, our competitors may independently develop equivalent knowledge, methods and know-how. Failure to obtain or maintain intellectual property protection could adversely affect our competitive business position.

We may be dependent upon one of our licenses from The Johns Hopkins University to develop and commercialize some components of the ClearTrace system.

We have entered into exclusive license agreements with The Johns Hopkins University, or Johns Hopkins, with respect to a number of technologies owned by Johns Hopkins. Under one of those agreements, which we entered into in 1998, we licensed a number of technologies relating to devices, systems and methods for performing MRI-guided interventions, particularly MRI-guided cardiac ablation procedures. Therefore, that license is important to the development of the ClearTrace system. Without that license, we may not be able to commercialize some of the components of the ClearTrace system when, and if, developed, subject to FDA clearance or approval. Johns Hopkins has the right to terminate the license under specified circumstances, including a breach by us and failure to cure such breach or in the event we file for bankruptcy. We are obligated to use commercially reasonable efforts to develop and commercialize products based on the licensed patents and patent applications. This obligation could require us to take actions related to the development of the ClearTrace system that we would otherwise not take.

Risks Related to Regulatory Compliance

We operate in a highly-regulated industry and any failure to comply with the extensive government regulations may subject us to fines, injunctions and other penalties that could harm our business.

We are subject to extensive regulation by the FDA and various other federal, state and foreign governmental authorities. Government regulations and foreign requirements specific to medical devices are wide ranging and govern, among other things:

- design, development and manufacturing;
- testing, labeling and storage;
- product safety;
- marketing, sales and distribution;
- premarket clearance or approval;
- recordkeeping procedures;
- advertising and promotions;
- recalls and field corrective actions;
- post-market surveillance, including reporting of deaths or serious injuries and malfunctions that, if they were to recur, could lead to death or serious injury; and
- product export.

We are subject to ongoing FDA requirements, including: required submissions of safety and other post-market information; manufacturing facility registration and device listing requirements; compliance with FDA's medical device current Good Manufacturing Practice regulations, as codified in the Quality System Regulation, or QSR; requirements regarding field corrections and removals of our marketed products; reporting of adverse events and certain product malfunctions to the FDA; and numerous recordkeeping requirements. If we or any of our collaborators or suppliers fail to comply with applicable regulatory requirements, a regulatory agency may take action against us, including any of the following sanctions:

- untitled letters, warning letters, fines, injunctions, consent decrees and civil penalties;
- customer notifications or orders for the repair or replacement of our marketed products or refunds;
- recall, detention or seizure of our marketed products;
- operating restrictions or partial suspension or total shutdown of production;
- refusing or delaying requests for 510(k) clearances or PMA approvals of new products or modified products;
- withdrawing 510(k) clearances or PMA approvals that have already been granted; or
- refusing to grant export approval for our marketed products.

The FDA's and foreign regulatory agencies' statutes, regulations or policies may change, and additional government regulation or statutes may be enacted, which could increase post-approval regulatory requirements, or delay, suspend or prevent marketing of our products. We cannot predict the likelihood, nature or extent of adverse governmental regulation that might arise from future legislative or administrative action, either in the United States or abroad.

If we or our third-party suppliers fail to comply with the FDA's QSR or any applicable state equivalent, our manufacturing operations could be interrupted and our potential product sales and operating results could suffer.

We and some of our third-party suppliers are required to comply with the FDA's QSR, which covers the methods and documentation of the design, testing, production, control, quality assurance, labeling, packaging, sterilization, storage and shipping of our products and product candidates. We and our suppliers will also be subject to the regulations of foreign jurisdictions regarding the manufacturing process to the extent we market our products in these jurisdictions. The FDA enforces the QSR through periodic and unannounced inspections of manufacturing facilities. Our facilities have not been inspected by the FDA for QSR compliance. We anticipate that we and certain of our third-party suppliers will be subject to future inspections. The failure by us or one of our third-party suppliers to comply with applicable statutes and regulations administered by the FDA and other regulatory bodies, or the failure to timely and adequately respond to any adverse inspectional observations, could result in enforcement actions against us, which could impair our ability to produce our products in a cost-effective and timely manner in order to meet our customers' demands. If we fail to comply with the FDA's QSR or any applicable state equivalent, we would be required to incur the costs and take the actions necessary to bring our operations into compliance, which may have a negative impact on our future sales and our ability to generate a profit.

Our products may in the future be subject to product recalls that could harm our reputation, business operations and financial results.

The FDA and similar foreign governmental authorities have the authority to require the recall of commercialized products in the event of material deficiencies or defects in design, manufacture or labeling. In the case of the FDA, the authority to require a recall must be based on an FDA finding that there is a reasonable probability that the device would cause serious injury or death. In addition, foreign governmental bodies have the authority to require the recall of our products in the event of material deficiencies or defects in design or manufacture. Manufacturers may, under their own initiative, recall a product if any material deficiency in a device is

found. A government-mandated or voluntary recall by us could occur as a result of component failures, manufacturing errors, design or labeling defects or other deficiencies and issues. Recalls of any of our products would divert managerial and financial resources and have an adverse effect on our financial condition and results of operations. We may initiate certain voluntary recalls involving our products in the future. Companies are required to maintain certain records of recalls, even if they are not reportable to the FDA. If we determine that certain of those recalls do not require notification to the FDA, the FDA may disagree with our determinations and require us to report those actions as recalls. A future recall announcement could harm our reputation with customers and negatively affect our sales. In addition, the FDA could take enforcement actions against us, which could impair our ability to produce our products in a cost-effective and timely manner in order to meet our customers' demands. Regulatory investigations or product recalls could also result in our incurring substantial costs, losing revenues and implementing a change in the design, manufacturing process or the indications for which our products may be used, each of which would harm our business.

If our products cause or contribute to a death or a serious injury, or malfunction in certain ways, we will be subject to medical device reporting regulations, which can result in voluntary corrective actions or agency enforcement actions.

Under the FDA's medical device reporting regulations, we are required to report to the FDA any incident in which our products may have caused or contributed to a death or serious injury or in which our products malfunctioned and, if the malfunction were to recur, would likely cause or contribute to death or serious injury. In the future, we may experience events that may require reporting to the FDA pursuant to the medical device reporting regulations. In addition, all manufacturers placing medical devices in European Union markets are legally bound to report any serious or potentially serious incidents involving devices they produce or sell to the relevant authority in whose jurisdiction the incident occurred. Any adverse event involving our products could result in future voluntary corrective actions, such as recalls or customer notifications, or agency action, such as inspection, mandatory recall or other enforcement action. Any corrective action, whether voluntary or involuntary, as well as defending ourselves in a lawsuit, will require the dedication of our time and capital, distract management from operating our business, and may harm our reputation and financial results. In addition, failure to report such adverse events to appropriate government authorities on a timely basis, or at all, could result in an enforcement action against us.

We may incur significant liability if it is determined that we are promoting off-label uses of our products in violation of federal and state regulations in the United States or elsewhere.

We obtained 510(k) clearance of our ClearPoint system from the FDA for a general neurological intervention claim. This general neurological intervention indication is the same indication for use that applies to other devices that have traditionally been used in the performance of stereotactic neurological procedures. Unless and until we receive regulatory clearance or approval for use of our ClearPoint system in specific procedures, uses in procedures other than general neurological intervention procedures, such as biopsies and catheter and electrode insertions, may be considered off-label uses of our ClearPoint system.

Under the federal Food, Drug, and Cosmetic Act and other similar laws, we are prohibited from labeling or promoting our ClearPoint system, or training physicians, for such off-label uses. The FDA defines labeling to include not only the physical label attached to the product, but also items accompanying the product. This definition also includes items as diverse as materials that appear on a company's website. As a result, we are not permitted to promote uses of our products that are not cleared or approved, whether on our website, in product brochures or in customer communications. This prohibition means that the FDA could deem it unlawful for us to make claims about the use of our ClearPoint system for specific neurological procedures, such as DBS electrode placement procedures, or proactively discuss or provide information or training on the use of our ClearPoint system for those specific neurological procedures. However, although manufacturers are not permitted to promote for off-label uses, in their practice of medicine, physicians may lawfully choose to use medical devices for off-label uses. Therefore, a physician could use our ClearPoint system for uses not covered by the cleared labeling. This would constitute an off-label use. We expect that physicians will use our ClearPoint system for a variety of specific neurological procedures.

The FDA and other regulatory agencies actively enforce regulations prohibiting promotion of off-label uses and the promotion of products for which marketing clearance or approval has not been obtained. If the FDA determines that our promotional materials or training constitutes promotion of an off-label use, it could request that we modify our training or promotional materials or subject us to regulatory or enforcement actions, including the issuance of an untitled letter, warning letter, injunction, seizure, civil fine and criminal penalties. It is also possible that other federal, state or foreign enforcement authorities might take action if they consider our promotional or training materials to constitute promotion of an unapproved use, which could result in significant fines or penalties under other statutory authorities, such as laws prohibiting false claims for reimbursement. In that event, our reputation could be damaged and market adoption of our products would be impaired. Due to these legal constraints, our sales and marketing efforts will focus on the general technical attributes and benefits of our ClearPoint system and the FDA cleared indications for use. In addition, the off-label use of our products may increase the risk of injury to patients, and, in turn, the risk of product liability claims. Product liability claims are expensive to defend and could divert our management's attention and result in substantial damage awards against us.

We may be subject, directly or indirectly, to federal and state healthcare fraud and abuse laws and regulations and could face substantial penalties if we are unable to fully comply with such laws.

Although we do not provide healthcare services or receive payments directly from Medicare, Medicaid or other third-party payors for our marketed products or the procedures in which our marketed products may be used, many state and federal healthcare laws and regulations governing financial relationships between medical device companies and healthcare providers apply to our business and we could be subject to enforcement by both the federal government, private whistleblowers and the states in which we conduct our business. The healthcare laws and regulations that may affect our ability to operate include:

- The federal healthcare programs' Anti-Kickback Statute, which prohibits, among other things, individuals or entities from knowingly and willfully soliciting, receiving, offering or providing any kickback, bribe or other remuneration, directly or indirectly, in exchange for or to induce the purchase, lease or order, or arranging for or recommending of, any item or service for which payment may be made under a federal healthcare program such as the Medicare and Medicaid programs.
- Federal false claims laws, which prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, claims for payment to Medicare, Medicaid or other federally- funded healthcare programs that are false or fraudulent, or are for items or services not provided as claimed, and which may apply to entities like us to the extent that our interactions with customers may affect their billing or coding practices. Changes to the Federal false claims law enacted as part of the Health Care Reform Law will likely increase the number of whistleblower cases brought against providers and suppliers of health care items and services.
- The federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, in addition to the privacy and security rules normally associated with it, which are discussed below, established new federal crimes for knowingly and willfully executing a scheme to defraud any healthcare benefit program or making false statements in connection with the delivery of or payment for healthcare benefits, items or services.
- State and foreign law equivalents and analogues of each of the above federal laws, such as anti-kickback and false claims laws and the Foreign Corrupt Practices Act, which may apply to items or services reimbursed by any third-party payor, including commercial insurers, or when physicians are employees of a foreign government entity.
- The Health Care Reform Law imposes certain reporting obligations on manufacturers of drugs, devices and biologics. Specifically, on March 31, 2013, and on the 90th day of each calendar year thereafter, these manufacturers must report all payments or other transfers of value to or on behalf of a physician or teaching hospital by such manufacturers as well as any ownership or investment interest held by physicians in such manufacturers. On December 19, 2011, CMS issued proposed regulations to implement this so-called "Sunshine" provision of the Health Care Reform Law. The proposed regulations suggest that we will be subject to such data collecting, reporting and public disclosure obligation. Data collecting obligations will commence on the effective date of final regulations, which is expected in 2012 with reporting obligations beginning on March 31, 2013. Violations of the reporting requirements are subject to civil monetary penalties, capped at $150,000 annually for failing to report, and $1,000,000 for knowingly failing to report. Reported data will be made publicly available by September 30, 2013.

- The Health Care Reform Law also grants the Office of Inspector General additional authority to obtain information from any individual or entity to validate claims for payment or to evaluate the economy, efficiency or effectiveness of the Medicare and Medicaid programs, expands the permissible exclusion authority to include any false statements or misrepresentations of material facts, enhances the civil monetary penalties for false statements or misrepresentation of material facts, and enhances the Federal Sentencing Guidelines for those convicted of Federal healthcare offenses.

The medical device industry has been under heightened scrutiny as the subject of government investigations and government enforcement or private whistleblower actions under the Anti-Kickback Statute and the False Claims Act involving manufacturers who allegedly offered unlawful inducements to potential or existing customers in an attempt to procure their business, including specifically arrangements with physician consultants.

We have agreements with physicians that may be scrutinized or may be subject to reporting requirements in the future, including consulting contracts for product development in which we compensate physicians for various services, including:

- keeping us informed of new developments in their respective fields of practice;
- advising us on our research and development projects related to their respective fields;
- advising us on improvements to methods, processes and devices related to their respective fields (such as advice on the development of prototype devices);
- assisting us with the technical evaluation of our methods, processes and devices related to their respective fields; and
- advising us with respect to the commercialization of products in their respective fields.

We may enter into similar agreements with physicians in the future. Likewise, we may enter into agreements with physicians to provide training and other similar services on the proper use of our products.

The Health Care Reform Law mandates increased transparency of arrangements between physicians and medical device companies, which we expect will increase our overall cost of compliance. We believe that this increased transparency will also result in a heightened level of government scrutiny of the relationships between physicians and medical device companies. While we believe that all of our arrangements with physicians comply with applicable law, the increased level of scrutiny, coupled with the expanded enforcement tools available to the government under the Health Care Reform Law, may increase the likelihood of a governmental investigation. If we become subject to such an investigation, our business and operations would be adversely affected even if we ultimately prevail because the cost of defending such investigation would be substantial. Moreover, companies subject to governmental investigations could lose both overall market value and market share during the course of the investigation.

In addition, we may provide customers with information on products that could be deemed to influence their coding or billing practices, and may have sales, marketing or other arrangements with hospitals and other providers that could also be the subject of scrutiny under these laws. If our operations are found to be in violation of any of the laws described above or any other governmental regulations that apply to us, we may be subject to penalties, including civil and criminal penalties, damages, fines, exclusion from the Medicare and Medicaid programs and the curtailment or restructuring of our operations. Any penalties, damages, fines, exclusions, curtailment or restructuring of our operations could adversely affect our ability to operate our business and our financial results. The risk of our being found in violation of these laws is increased by the fact that many of these laws are broad and their provisions are open to a variety of interpretations. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. If the surgeons or other providers or entities with whom we do business are found to be non-compliant with applicable laws, they may be subject to sanctions, which could also have a negative impact on our business.

We may be subject to privacy and data protection laws governing the transmission, security and privacy of health information which may impose restrictions on technologies and subject us to penalties if we are unable to fully comply with such laws.

Numerous federal, state and international laws and regulations govern the collection, use, disclosure, storage and transmission of patient-identifiable health information. These laws include:

- HIPAA and its implementing regulations, the HIPAA Privacy and Security Rules, apply to covered entities, which include most healthcare facilities that purchase and use our products. The HIPAA Privacy and Security Rules set forth minimum standards for safeguarding individually identifiable health information, impose certain requirements relating to the privacy, security and transmission of individually identifiable health information and provide certain rights to individuals with respect to that information. HIPAA also requires covered entities to contractually bind third parties, known as business associates, in the event that they perform an activity or service for or on behalf of the covered entity that involves access to patient identifiable health information.
- The federal Health Information Technology for Economic and Clinical Health Act, or HITECH, which was enacted in February 2009, strengthens and expands the HIPAA Privacy and Security Rules and its restrictions on use and disclosure of patient identifiable health information, including imposing liability on business associates of "covered entities".
- Both HITECH and most states have data breach laws that necessitate the notification in certain situations of a breach that compromises the privacy or security of personal information.
- Other federal and state laws restricting the use and protecting the privacy and security of patient information may apply, many of which are not preempted by HIPAA.
- Federal and state consumer protection laws are being applied increasingly by the United States Federal Trade Commission, or FTC, and state attorneys' general to regulate the collection, use, storage and disclosure of personal or patient information, through websites or otherwise, and to regulate the presentation of website content.
- Other countries also have, or are developing, laws governing the collection, use and transmission of personal or patient information.
- Federal and state laws regulating the conduct of research with human subjects.

We are required to comply with federal and state laws governing the transmission, security and privacy of patient identifiable health information that we may obtain or have access to in connection with manufacture and sale of our marketed products. We do not believe that we are a HIPAA covered entity because we do not submit electronic claims to third-party payors, but there may be limited circumstances in which we may operate as a business associate to covered entities if we receive patient identifiable data through activities such as training providers on the use of our products or investigating product performance or if our products store patient identifiable health information on behalf of a healthcare provider. We may be required to make costly system modifications to comply with the HIPAA privacy and security requirements that will be imposed on us contractually through business associate agreements by covered entities and directly under HITECH provisions that became effective in February 2010. Because the final regulatory changes to the HIPAA regulations required as part of HITECH have not yet been released, we are unable to predict what the impact on our business may be. Our failure to comply may result in criminal and civil liability because the potential for enforcement action against business associates is now greater. Enforcement actions can be costly and interrupt regular operations which may adversely affect our business.

In addition, numerous other federal and state laws protect the confidentiality of patient information as well as employee personal information, including state medical privacy laws, state social security number protection laws, state data breach laws and federal and state consumer protection laws. These various laws in many cases are not preempted by the HIPAA rules and may be subject to varying interpretations by the courts and government agencies, creating complex compliance issues for us and our customers and potentially exposing us to additional expense, adverse publicity and liability.

In connection with any clinical trials we conduct, we will be subject to state and federal privacy and human subject protection regulations. The HIPAA requirements and other human subjects research laws could create liability for us or increase our cost of doing business because we must depend on our research collaborators to comply with the applicable laws. We may adopt policies and procedures that facilitate our collaborators' compliance, and contractually require compliance, but we cannot ensure that non-employee collaborators or investigators will comply with applicable laws. As a result, unauthorized uses and disclosures of research subject information in violation of the law may occur. These violations may lead to sanctions that will adversely affect our business.

Risks Related to Facilities, Employees and Growth

We are dependent on our senior management team, engineering team, sales and marketing team and key research and physician advisors, and the loss of any of them could harm our business.

We are highly dependent on members of our senior management, in particular Kimble L. Jenkins, our President, Chief Executive Officer and Chairman of the Board of Directors, and Peter G. Piferi, our Chief Operating Officer. The loss of members of our senior management team, engineering team, sales and marketing team and key research and physician advisors, or our inability to attract or retain other qualified personnel or advisors, could have a material adverse effect on our business, financial condition and results of operations. We do not maintain key employee life insurance on any of our personnel other than for Mr. Jenkins and Mr. Piferi. Although we have obtained key employee insurance covering Mr. Jenkins and Mr. Piferi in the amount of $2,000,000, this would not fully compensate us for the loss of Mr. Jenkins' or Mr. Piferi's services.

We adopted our Key Personnel Incentive Plan, which is described in more detail in "Executive Compensation–Benefit Plans," to provide Dr. Paul Bottomley, who is a key research advisor, and Mr. Parag Karmarkar, who is a key member of our engineering team, the opportunity to receive incentive bonus payments based on future performance of services to us or upon a sale of our company. However, if Dr. Bottomley or Mr. Karmarkar dies, becomes disabled or is involuntarily terminated by us without cause, we nevertheless would be obligated to make the incentive bonus payments otherwise provided under the plan. The obligation to make these payments could have a material adverse effect on our financial position. We may obtain life insurance on Dr. Bottomley and Mr. Karmarkar to reduce our financial exposure in the event of a participant's death. We also adopted the Cardiac EP Business Participation Plan, which is described in more detail in "Executive Compensation–Benefit Plans," to provide Dr. Nassir Marrouche, who is a key product development advisor, with financial rewards in the event that we sell our business operations relating to catheter-based MRI-guided cardiac ablation to treat cardiac arrhythmias, which we refer to as our cardiac EP business operations. If we sell our cardiac EP business operations or our entire company, we will be required to make a payment to Dr. Marrouche which is calculated as a percentage of the purchase price paid for, or allocated to, our cardiac EP business operations.

We need to hire and retain additional qualified personnel to grow and manage our business. If we are unable to attract and retain qualified personnel, our business and growth could be seriously harmed.

Our performance depends on the talents and efforts of our employees. Our future success will depend on our ability to attract, retain and motivate highly skilled personnel in all areas of our organization. We plan to continue to grow our business and will need to hire additional personnel to support this growth. We believe that there are only a limited number of individuals with the requisite skills to serve in many of our key positions, and we compete for key personnel with other medical device companies, as well as universities and research institutions. It is often difficult to hire and retain these persons, and we may be unable to replace key persons if they leave or fill new positions requiring key persons with appropriate experience. If we experience difficulties locating and hiring suitable personnel in the future, our growth may be hindered. Qualified individuals are in high demand, particularly in the medical device industry, and we may incur significant costs to attract and retain them. Employees that hold shares of our common stock or options to purchase our common stock may be more likely to leave us following the establishment of a public market for our common stock. If we are unable to attract and retain the personnel we need to succeed, our business and growth could be harmed.

If we do not effectively manage our growth, we may be unable to successfully develop, market and sell our products.

Our future revenue and operating results will depend on our ability to manage the anticipated growth of our business. In order to achieve our business objectives, we must continue to grow. However, continued growth presents numerous challenges, including:

- implementing appropriate operational and financial systems and controls;
- expanding our assembly capacity and increasing production;
- expanding our sales and marketing infrastructure and capabilities;
- improving our information systems;
- identifying, attracting and retaining qualified personnel in our areas of activity; and
- hiring, training, managing and supervising our personnel.

We cannot be certain that our systems, controls, infrastructure and personnel will be adequate to support our future operations. Any failure to effectively manage our growth could impede our ability to successfully develop, market and sell our products and our business will be harmed.

Our operations are vulnerable to interruption or loss due to natural disasters, power loss and other events beyond our control, which would adversely affect our business.

We will conduct a significant portion of our activities, including component processing, final assembly, packaging and distribution activities for our ClearPoint system, at a facility located in Irvine, California, which is a seismically active area that has experienced major earthquakes in the past, as well as other natural disasters, including wildfires. We have taken precautions to safeguard our facility, including obtaining business interruption insurance. However, any future natural disaster, such as an earthquake or a wildfire, could significantly disrupt our operations, and delay or prevent product assembly and shipment during the time required to repair, rebuild or replace our facility, which could be lengthy and result in significant expenses. Furthermore, the insurance coverage we maintain may not be adequate to cover our losses in any particular case or continue to be available at commercially reasonable rates and terms. In addition, our facility may be subject to shortages of electrical power, natural gas, water and other energy supplies. Any future shortage or conservation measure could disrupt our operations and cause expense, thus adversely affecting our business and financial results.

Risks Related to Our Shares of Common Stock

Our common stock has no active trading market. Unless an active trading market develops for our common stock, you may be unable to sell your shares.

Currently, there is no active trading market for our common stock, and an active trading market for our common stock may not develop or be sustained. There are a number of factors that will make it difficult for an active trading market in our common stock to develop. These factors include:

- stock analysts, stock brokers, institutional investors and other members of the investment community may be reluctant to follow us or create a market in our stock;
- our stock may be deemed to be “penny stock,” which means stock traded at a price less than $5.00 per share, which will make it unsuitable for some investors to purchase; and
- there are a limited number of stock brokers that will be willing to act as market makers for our common stock, which is essential for establishing an active trading market.

We intend to have our common stock quoted on the OTC Bulletin Board. This market lacks the credibility of established stock markets and is characterized by a lack of liquidity, sporadic trading and larger gaps between bid and ask prices. Compared to a seasoned issuer with stock traded on an established market, which typically results in a large and steady volume of trading activity, there may be periods when trading activity in our shares is minimal or nonexistent. Trading in our common stock will likely be characterized by large swings in market prices. Unless an active trading market for our common stock is developed and maintained, you may be unable to sell your stock at or above the price you paid, or at all.

If a trading market in our common stock does develop, our stock price is likely to be volatile.

If a trading market in our common stock develops, the market will likely be subject to wide fluctuations in price. Additionally, stocks quoted on the OTC Bulletin Board have traditionally experienced significant price and volume fluctuations that often are unrelated or disproportionate to the operating performance of a company traded in such markets. Regardless of our actual operating performance, the market price for our common stock may materially decline from time to time. There can be no assurance that you will be able to sell your stock at a time when the market price is greater than what you paid. If a large volume of our shares of common stock is posted for sale, it will likely cause the market price of our common stock to decline.

Our directors, executive officers and principal stockholders and their respective affiliates have substantial control over us and could delay or prevent a change in corporate control.

As of November 30, 2011, our directors and executive officers, together with their affiliates, beneficially owned, in the aggregate, approximately 33.6% of our outstanding common stock. As a result, these stockholders, acting together, have substantial control over the outcome of matters submitted to our stockholders for approval, including the election of directors and any merger, consolidation or sale of all or substantially all of our assets. In addition, these stockholders, acting together, have significant influence over the management and affairs of our company. Accordingly, this concentration of ownership may have the effect of:

- delaying, deferring or preventing a change in corporate control;
- impeding a merger, consolidation, takeover or other business combination involving us; or
- discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us.

We have not paid dividends in the past and do not expect to pay dividends in the future.

We have never declared or paid cash dividends on our capital stock. We currently intend to retain all future earnings for the operation and expansion of our business and, therefore, do not anticipate declaring or paying cash dividends in the foreseeable future. The payment of dividends will be at the discretion of our Board of Directors and will depend on our results of operations, capital requirements, financial condition, prospects, contractual arrangements, any limitations on payments of dividends present in any of our future debt agreements and other factors our Board of Directors may deem relevant. If we do not pay dividends, a return on your investment will only occur if our stock price appreciates.

Anti-takeover provisions in our certificate of incorporation, bylaws and Delaware law could prevent or delay a change in control of our company.

Provisions in our certificate of incorporation and bylaws, as well as provisions of Delaware law, may discourage, delay or prevent a merger, acquisition or change of control. These provisions could also discourage proxy contests and make it more difficult for stockholders to elect directors and take other corporate actions. These provisions:

- provide for a staggered Board of Directors;
- permit our Board of Directors to issue shares of preferred stock, with any rights, preferences and privileges as they may designate, including the right to approve an acquisition or other change in our control;
- provide that the authorized number of directors may be changed only by resolution of the Board of Directors;
- provide that all vacancies, including newly created directorships, may, except as otherwise required by law, be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum;
- require that any action to be taken by our stockholders must be effected at a duly called annual or special meeting of stockholders and not be taken by written consent;
- provide that stockholders seeking to present proposals before a meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide notice in writing in a timely manner, and also specify requirements as to the form and content of a stockholder's notice;
- do not provide for cumulative voting rights (therefore allowing the holders of a majority of the shares of common stock entitled to vote in any election of directors to elect all of the directors standing for election, if they should so choose);
- provide that special meetings of our stockholders may be called only by the chairman of the Board of Directors, our Chief Executive Officer or by the Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors; and
- provide that stockholders will be permitted to amend our amended and restated bylaws only upon receiving at least 66 2/3% of the votes entitled to be cast by holders of all outstanding shares then entitled to vote generally in the election of directors, voting together as a single class.

In addition, we are subject to Section 203 of the Delaware General Corporation Law, which generally prohibits a Delaware corporation from engaging in any broad range of business combinations with any stockholder who owns, or at any time in the last three years owned, 15% or more of our outstanding voting stock for a period of three years following the date on which the stockholder became an interested stockholder. This provision could have the effect of delaying or preventing a change of control, whether or not it is desired by or beneficial to our stockholders.

We will incur significant increased costs as a result of operating as a public company, and our management will be required to divert attention from product development and commercialization and to devote substantial resources and time to new compliance initiatives.

As a public company, we will incur significant legal, accounting and other expenses that we did not incur as a private company. We are working with our independent legal and accounting advisors to identify those areas in which changes should be made to our financial and management control systems to manage our growth and our obligations as a public company. These areas include corporate control, disclosure controls and procedures and financial reporting and accounting systems, including requirements under the Sarbanes-Oxley Act of 2002, as amended, or the Sarbanes-Oxley Act. We will incur costs associated with our public company reporting requirements and corporate governance requirements, including requirements under the Sarbanes-Oxley Act, as well as rules implemented by the SEC and the securities exchange on which our stock trades. We will need to devote a substantial amount of time to these compliance initiatives. Moreover, these rules and regulations will increase our legal and financial compliance costs and will make some activities more time-consuming and costly. For example, we expect these rules and regulations to make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified people to serve on our Board of Directors, our board committees or as executive officers.

In addition, the Sarbanes-Oxley Act requires, among other things, that we maintain effective internal control over financial reporting and disclosure controls and procedures. In particular, for the fiscal year ending December 31, 2012, we must perform system and process evaluation and testing of our internal control over financial reporting to allow management and our independent registered public accounting firm to report on the effectiveness of our internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act. Our compliance with Section 404 will require that we incur substantial expense and expend significant management time on compliance-related issues.

Item 2. ***Financial Information***

We have derived the following statement of operations data for the years ended December 31, 2010, 2009 and 2008 and balance sheet data as of December 31, 2010 and 2009 from our audited financial statements included elsewhere in this registration statement. We have derived the following statement of operations data for the years ended December 31, 2007 and 2006 and balance sheet data as of December 31, 2008, 2007 and 2006 from our audited financial statements not included in this registration statement. We derived the following selected historical financial data as of and for the nine months ended September 30, 2011 from our unaudited historical financial statements and the notes thereto included elsewhere in this registration statement. In the opinion of management, the interim financial data set forth below include all adjustments, consisting of normal recurring accruals, necessary to present fairly our financial position and results of operations. Operating results for the nine months ended September 30, 2011 are not necessarily indicative of the results that may be expected for the entire fiscal year. You should read the financial data set forth below in conjunction with our financial statements and related notes and the information under "Management's Discussion and Analysis of Financial Condition and Results of Operations." Our historical results are not necessarily indicative of our results to be expected in any future period.

	Nine Months Ended September 30,	Years Ended December 31,				
(in thousands except for share and per share amounts)	2011	2010	2009	2008	2007	2006
Statement of Operations Data:						
Related party license revenue	$ 1,950	$ 2,600	$ 2,600	$ 1,950	$ —	$ —
Product revenues	704	69	—	—	—	—
Total revenues	2,654	2,669	2,600	1,950	—	—
Costs and operating expenses:						
Cost of product revenues	421	16	—	—	—	—
Research and development	3,134	5,681	6,068	4,258	2,099	620
Selling, general and administrative	3,709	4,699	3,596	2,920	1,413	525
Costs of withdrawn IPO	—	1,789	—	—	—	—
Gain on settlement of accounts payable	—	—	—	—	—	(484)
Operating loss	(4,610)	(9,515)	(7,064)	(5,229)	(3,512)	(662)
Other income (expense):						
Other income (expense)	(2)	414	—	—	—	—
Gain on change in fair value of derivative liability	—	1,228	—	—	—	—
Interest income (expense), net	(1,843)	(1,580)	(46)	(201)	(185)	(133)
Loss before income taxes	(6,456)	(9,454)	(7,110)	(5,430)	(3,697)	(795)
Income tax expense	—	—	49	—	—	—
Net loss	$ (6,456)	$ (9,454)	$ (7,159)	$ (5,430)	$ (3,697)	$ (795)
Net loss per share (basic and diluted)	$ (0.41)	$ (1.40)	$ (1.34)	$ (1.04)	$ (0.74)	$ (0.16)
Weighted average shares outstanding (basic and diluted)	15,919,249	6,773,714	5,336,633	5,245,081	5,024,515	4,891,745

(amounts in thousands)	As of September 30, 2011	As of December 31, 2010	2009	2008	2007	2006
Balance Sheet Data:						
Cash and cash equivalents	$ 70	$ 1,577	$ 2,569	$ 9,921	$ 3,612	$ 6,068
Total assets	2,793	4,563	4,674	10,955	3,730	6,110
Notes payable—current (principal)	7,571	—	—	—	—	—
Notes payable—current (discount)	(332)	—	—	—	—	—
Notes payable—current (net)	7,239	—	—	—	—	—
Notes payable—long-term (principal)	6,310	10,571	3,500	—	1,500	1,000
Notes payable—long-term (discount)	(3,269)	(4,000)	(1,129)	—	—	—
Notes payable—long-term (net)	3,041	6,571	2,371	—	1,500	1,000
Total liabilities	23,340	19,900	14,561	12,720	1,661	1,289
Accumulated deficit	(57,933)	(51,477)	(42,023)	(34,864)	(29,434)	(25,737)
Total stockholders' equity (deficit)	(20,547)	(15,337)	(9,888)	(1,764)	2,069	4,820

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition and results of operations should be read together with our financial statements and related notes included elsewhere in this registration statement. This discussion and analysis contains forward-looking statements that are based upon current expectations and involve risks, assumptions and uncertainties. You should review the "Risk Factors" section of this registration statement for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements described in the following discussion and analysis.

Overview

We are a medical device company that develops and commercializes innovative platforms for performing minimally invasive surgical procedures in the brain and heart under direct, intra-procedural MRI. We have two product platforms. Our ClearPoint system, which is in commercial use in the United States, is used to perform minimally invasive surgical procedures in the brain. Our ClearTrace system, which is still in development, will be used to perform minimally invasive surgical procedures in the heart. Both systems utilize intra-procedural magnetic resonance imaging to guide the procedures. Both systems are designed to work in a hospital's existing MRI suite. We believe that our two product platforms, subject to appropriate regulatory clearance and approval, will deliver better patient outcomes, enhance revenue potential for both physicians and hospitals, and reduce costs to the healthcare system.

In 2010 we received regulatory clearance from the FDA to market our ClearPoint system in the United States for general neurological procedures. In February 2011, we also obtained CE marking approval for the ClearPoint system, which enables us to sell the ClearPoint system in the European Union. Substantially all $0.7 million in 2011 product revenues relate to sales of our ClearPoint system products in the United States. We do not have regulatory clearance or approval to sell our ClearTrace system and, therefore, we have not generated revenues from sales of that product candidate. In 2008, we received licensing fees totaling $13.0 million from Boston Scientific for our MRI-safety technologies, which we used to finance our operations and internal growth. We have also financed our operations and internal growth through private placements of securities, borrowings and interest earned on the net proceeds from our private placements and the Boston Scientific licensing fees. Prior to 2008, we were a development stage enterprise. We have incurred significant losses since our inception in 1998 as we have devoted substantially all of our efforts to research and development. As of September 30, 2011, we had an accumulated deficit of $57.9 million. We may continue to incur significant operating losses as we commercialize our ClearPoint system products, continue to develop our product candidates and expand our business generally. We also expect that our general and administrative expenses will increase due to additional operational and regulatory costs and burdens associated with operating as a public company.

Factors Which May Influence Future Results of Operations

The following is a description of factors which may influence our future results of operations, including significant trends and challenges that we believe are important to an understanding of our business and results of operations.

Revenues

In June 2010 we received 510(k) clearance from the FDA to market our ClearPoint system in the United States for general neurological procedures. Future revenues from sales of our ClearPoint system products are difficult to predict and may not be sufficient to offset our continuing and increasing research and development expenses and selling, general and administrative expenses for the next several years. We cannot sell any of our product candidates until we receive regulatory clearance or approval.

The generation of recurring revenues through sales of our disposable components is an important part of our business model for our ClearPoint system. We first generated revenues through the sale of ClearPoint system disposable components in the third quarter of 2010. We anticipate that recurring revenues will constitute an increasing percentage of our total revenues as we leverage each new installation of our ClearPoint system to generate recurring sales of these disposable components. With respect to a single hospital, we do not anticipate that sales of the reusable components of our ClearPoint system will generate recurring revenues.

Since inception, our revenues relate primarily to our collaborative agreements with Boston Scientific, principally from recognition of portions of the $13.0 million of licensing fees, which we received in 2008. Revenues associated with these licensing fees are recognized on a straight-line basis over a five year period, which is our estimated period of continuing involvement in the development activities. Additional payments related to substantive, performance-based milestones that may be received under the agreement regarding implantable cardiac leads will be deferred upon receipt and achievement of the specified milestones and recognized over our estimated period of continuing involvement. These revenue recognition policies are more fully described in the "Critical Accounting Policies and Significant Judgments and Estimates" section below. We did not report any revenues in 2007 or 2006.

Research and Development Costs

Our research and development costs consist primarily of costs associated with the conceptualization, design, testing and prototyping of our ClearPoint system products and our product candidates. This includes: the salaries, travel and benefits of research and development personnel; materials and laboratory supplies used by our research personnel; consultant costs; sponsored contract research and product development with third parties; and licensing costs. From our inception through September 30, 2011, we have incurred approximately $34 million in research and development expenses. We anticipate that research and development expenses will increase as we: (1) continue to develop enhancements to our ClearPoint system; (2) continue our product development efforts for the ClearTrace system; and (3) expand our research to apply our technologies to additional product applications.

Product development timelines, likelihood of success and total costs vary widely by product candidate. At this time, due to the risks inherent in the product clearance and approval process and given the stage of development of our ClearTrace system, we are unable to estimate with any certainty the costs that we will incur in the continued development of that product candidate for commercialization.

Selling, General and Administrative Expenses

Our selling, general and administrative expenses consist primarily of: salaries, sales incentive payments, travel and benefits; share-based compensation; professional fees, including fees for attorneys and outside accountants; occupancy costs; insurance; marketing costs; and other general and administrative expenses, which include corporate licenses and taxes, postage, office supplies and meeting costs. Our selling, general and administrative expenses are expected to increase due to costs associated with the commercialization of our ClearPoint system, increased headcount necessary to support our continued growth in operations, and the additional operational and regulatory burdens and costs associated with operating as a publicly traded company. In addition, we expect to incur additional costs associated with protecting our intellectual property rights as necessary to support our product offerings.

Critical Accounting Policies and Significant Judgments and Estimates

Our management's discussion and analysis of our financial condition and results of operations are 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 assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the financial statements as well as the reported expenses during the reporting periods. The accounting estimates that require our most significant, difficult and subjective judgments include revenue recognition, impairment of long-lived assets, computing the fair value of our derivative liability and the determination of share-based compensation and financial instruments. We evaluate our estimates and judgments on an ongoing basis. Actual results may differ materially from these estimates under different assumptions or conditions.

While our significant accounting policies are more fully described in note 2 to our financial statements included elsewhere in this registration statement, we believe that the following accounting policies and estimates are most critical to a full understanding and evaluation of our reported financial results.

Revenue Recognition. Our revenues arise from: (1) the sale of ClearPoint system reusable components, including associated installation services; (2) the sale of ClearPoint disposable products; and (3) license and development arrangements. We evaluate the various elements of our arrangements based upon GAAP for multiple element arrangements to determine whether the various elements represent separate units of accounting. This evaluation requires subjective determinations about the fair value or estimated selling price of each element and whether delivered elements have stand alone value and, therefore, are separable from the undelivered contract elements for revenue recognition purposes. In addition, we evaluated repayment provisions associated with one of the license agreements which, under certain conditions, would require us to return payments received under the agreement. We recognize revenue, in accordance with Accounting Standards Codification, or ASC, 605-10-S99, Revenue Recognition, when persuasive evidence of an arrangement exists, the fee is fixed or determinable, collection of the fee is probable and delivery has occurred. For all sales, we require either a purchase agreement or a purchase order as evidence of an arrangement.

(1) *Sale of ClearPoint system reusable components* — Revenues related to ClearPoint system sales are recognized upon installation of the system and the completion of training of at least one of the customer's physicians, which typically occurs concurrently with the ClearPoint system installation.

(2) *Sales of ClearPoint disposable products* — Revenues from the sale of ClearPoint disposable products utilized in procedures performed using the ClearPoint system, which occurs after the system installation is completed for a given customer, are recognized at the time risk of loss passes, which is generally at shipping point or the customer's location, based on the specific terms with that customer.

(3) *License and development arrangements* — Historically we have evaluated revenue recognition on an agreement-by-agreement basis, which has principally involved two license agreements with Boston Scientific. Both agreements provide various revenue streams for us, including an up-front licensing fee for one of the licenses, various milestone payments, payments for research and development and consulting services, and royalties. In both license agreements, we concluded that all of the contract elements should be treated as a single unit of accounting. As such, all amounts received were initially recorded as deferred revenue and thereafter recognized as revenue over our estimated period of performance on a straight-line basis. In the case of the license with possible repayment obligation provisions, revenue recognition will not occur until the repayment obligation period expires. Note 2 to our financial statements, "Significant Accounting Policies —Revenue Recognition", more fully describes the deliverables under these license agreements including our rights, obligations and cash flows.

Inventory. Inventory is carried at the lower of cost (first-in, first-out method) or net realizable value. All items included in inventory relate to our ClearPoint system. We periodically review our inventory for obsolete items and provide a reserve upon identification of potential obsolete items.

Valuation Allowance for Deferred Tax Assets and Liabilities. Deferred tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective income tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that included the enactment date.

Valuation allowances are recorded for deferred tax assets when the recoverability of such assets is not deemed more likely than not.

We have evaluated the effect of guidance provided by GAAP regarding accounting for uncertainty in income taxes. In that regard, we have evaluated all tax positions that could have a significant effect on the financial statements and determined that we have no uncertain tax positions at September 30, 2011 that could have a significant effect on our financial statements. Our returns after 2006 remain open for examination.

Impairment of long-lived assets. We evaluate the recoverability of our long-lived assets (finite lived intangible assets and property and equipment) whenever events or changes in circumstances indicate that the carrying amount of such assets may not be fully recoverable. When this occurs, the expected undiscounted future cash flows are compared to the net book value of the related assets. If the net book value of the related assets exceeds the expected undiscounted future cash flows of the assets, the carrying amount will be reduced to the present value of the expected future cash flows and an impairment loss would be recognized. As of September 30, 2011, we have not recorded any impairment losses.

Share-based compensation. We account for compensation for all arrangements under which employees and others receive shares of stock or equity instruments (including options and warrants) in accordance with FASB ASC Topic 718 "*Compensation – Stock Compensation*", or ASC Topic 718. Under ASC Topic 718, the fair value of each award is estimated and amortized as compensation expense over the requisite service period. The fair value of our share-based awards is estimated on the grant date using the Black-Scholes valuation model. This valuation model requires the input of highly subjective assumptions, including the expected price volatility and estimated option term. As we have been operating as a private company, we are unable to use actual price volatility and option life data as input assumptions within our Black-Scholes valuation model. Prior to October 2009, we used expected volatilities based on the historical volatility of the industry sector in which we operate, in accordance with the guidance set forth in ASC Topic 718.

Beginning in October 2009, we based our estimate of expected volatility on the average historical volatilities of publicly traded companies we deemed similar due to our lack of historical volatility data of our own. We will consistently apply this methodology until a sufficient amount of historical information regarding the volatility of our share price becomes available.

To estimate the expected term, we chose to utilize the "simplified" method for "plain vanilla" options as discussed in the Securities and Exchange Commission's Staff Accounting Bulletin 107, or SAB 107. We believe that all factors listed in SAB 107 as pre-requisites for utilizing the simplified method are true for us and for our share-based payment arrangements. We intend to utilize the simplified method for the foreseeable future until more detailed information about exercise behavior becomes available.

Our risk-free interest rates are based on a zero-coupon U.S. treasury instrument, the term of which is consistent with the expected term of the stock options. We have not paid and do not anticipate paying cash dividends on our shares of common stock; therefore, the expected dividend yield is assumed to be zero. The fair value of share-based payments are generally amortized on a straight-line basis over the requisite service periods of the awards, which are generally the vesting periods.

We believe there is a high degree of subjectivity involved when using option pricing models to estimate share-based compensation under ASC Topic 718. Currently, there is not a market-based mechanism or other practical application to verify the reliability and accuracy of the estimates stemming from these valuation models, nor is there a means to compare and adjust the estimates to actual values. Although the fair value of stock option awards is determined in accordance with ASC Topic 718 using an option pricing model, that value may not be indicative of the fair value observed in a market transaction between a willing buyer and a willing seller. If factors change and we employ different assumptions in the application of ASC Topic 718 in future periods than those currently applied under ASC Topic 718, the compensation expense we record in future periods under ASC Topic 718 may differ significantly from what we have historically reported.

Total share-based compensation expense for the nine months ended September 30, 2011 and 2010 was $0.8 million and $0.2 million, respectively, and for years ended December 31, 2010, 2009 and 2008, it was $0.2 million, $0.1 million and $0.1 million, respectively. As of September 30, 2011 there was $2.1 million of unrecognized compensation cost related to nonvested share-based compensation arrangements. That cost is expected to be recognized over a weighted-average period of 2.1 years.

Research and development costs. Expenses related to research, design and development of products are charged to research and development costs as incurred. These expenditures include direct salary costs for research and development personnel, costs for materials used in research and development activities and costs for outside services.

Derivative Financial Instruments. We account for derivative instruments in accordance with FASB ASC Topic 815, which establishes accounting and reporting standards for derivative instruments and hedging activities, including certain derivative instruments embedded in other financial instruments or contracts and requires recognition of all derivatives on the balance sheet at fair value. We calculate the fair value of these instruments using the Black-Scholes valuation model. Changes in the fair value of derivatives are recorded each period as a gain or loss in the statement of operations unless the derivative qualifies for hedge accounting. At September 30, 2011, at December 31, 2010 and at December 31, 2009, we did not have any derivative instruments that were designated as hedges.

Results of Operations

Comparison of the Nine Months Ended September 30, 2011 to the Nine Months Ended September 30, 2010

($s in thousands)	Nine Months Ended September 30, 2011	2010	Percentage Change
Revenues	$ 2,654	$ 1,960	35%
Cost of product revenues	421	2	NM
Research and development costs	3,134	4,589	(32)%
Selling, general and administrative expenses	3,709	3,066	21%
Costs of withdrawn IPO	—	1,789	NM
Other income (expense), net	(1,845)	88	NM
Net loss	(6,423)	(7,397)	13%

NM = not meaningful

Revenues. Revenues were $2.7 million for the nine months ended September 30, 2011, compared to $2.0 million for the nine months ended September 30, 2010. Licensing fee revenues related to our license agreement with Boston Scientific for implantable cardiac leads was $2.0 million during both periods. Product revenues for the nine months ended September 30, 2011 and 2010 were $0.7 million and $10,000, respectively. The increase relates to sales of our ClearPoint system reusable and disposable components. We initiated the commercial launch of our ClearPoint system in 2010 after receiving FDA regulatory clearance in June 2010. Higher ClearPoint product sales during the nine months ended September 30, 2011 reflect increased adoption and use of our ClearPoint system.

Cost of Product Revenues. Cost of product revenues was $0.4 million for the nine months ended September 30, 2011, compared to $2,000 for the nine months ended September 30, 2010. The increase in cost of product revenues was due to the increase in product revenues and the change in our sales mix. All product revenues for the

nine months ended September 30, 2010 were related to sales of our ClearPoint system disposable products. On the other hand, approximately one-half of our product revenues for the nine months ended September 30, 2011 were from sales of our disposable products and approximately one-half from sales of our reusable components. Gross margin is significantly higher on our sales of ClearPoint system disposable products than sales of our ClearPoint system reusable products.

Research and Development Costs. Research and development costs were $3.1 million for the nine months ended September 30, 2011, compared to $4.6 million for the nine months ended September 30, 2010. This decrease of $1.5 million, or 32%, was due primarily to: (i) a decrease of $0.7 million in software development expenses related to our ClearPoint system software, as very little development work was left to be completed in 2011; (ii) a decrease of $0.5 million in ClearTrace system software development expenses related to the timing of achievement of development milestones by Siemens, which is developing the software based on our specifications; and (iii) a decrease of $0.2 million due to a reduction in the use of outside consultants.

Selling, General and Administrative Expenses. Selling, general and administrative expenses were $3.7 million for the nine months ended September 30, 2011, compared to $3.1 for the nine months ended September 30, 2010. The increase of $0.6 million, or 21%, relates mostly to an increase in share-based compensation expense of $0.6 million.

Costs of Withdrawn IPO. Costs of withdrawn IPO were $1.8 million for the nine months ended September 30, 2010. In December 2009, we filed a registration statement with the Securities and Exchange Commission relating to the initial public offering, or IPO, of shares of our common stock. In September 2010 we made the decision to withdraw that registration statement and to cancel the planned IPO. Costs which had been deferred during 2009 totaling $0.4 million and $1.4 million of costs incurred during 2010 related to the IPO effort were expensed to costs of withdrawn IPO in September 2010.

Other Income (Expense), Net. Net other expense was $1.8 million for the nine months ended September 30, 2011, compared to net other income of $88,000 for the nine months ended September 30, 2010. Net interest expense was $1.8 million for the nine months ended September 30, 2011, compared to $1.1 million for the nine months ended September 30, 2010. The increase in interest expense relates to interest on increased borrowings and related amortization of debt discount and deferred financing costs. We issued notes payable in the aggregate principal amount of $7.1 million during 2010 that were outstanding for full nine month period ended September 30, 2011. In addition, we issued notes payable during the first nine months of 2011 in the aggregate principal amount of $3.3 million. Net interest expense for the nine months ended September 30, 2010 was more than offset by a gain of $1.2 million recorded on the revaluation of our derivative liability.

Comparison of the Year Ended December 31, 2010 to the Year Ended December 31, 2009

($s in thousands)	Year Ended December 31, 2010	2009	Percentage Change
Revenues	$ 2,669	$ 2,600	3%
Cost of product revenues	16	—	NM
Research and development costs	5,681	6,068	(6)%
Selling, general and administrative expenses	4,699	3,596	31%
Costs of withdrawn IPO	1,789	—	NM
Other income (expense), net	61	(46)	NM
Net loss	(9,454)	(7,159)	(32)%

NM = not meaningful

Revenues. Revenues were $2.7 million for the year ended December 31, 2010 compared to $2.6 million for the year ended December 31, 2009, an increase of 3%. Licensing fee revenues related to our license agreement with Boston Scientific for implantable medical leads was $2.6 million during both periods. Sales of ClearPoint system disposable products of $0.1 million for the year ended December 31, 2010 comprised the increase.

Research and Development Costs. Research and development costs were $5.7 million for the year ended December 31, 2010, compared to $6.1 million for the year ended December 31, 2009, a decrease of $0.4 million, or

6%. This decrease was due primarily to: (i) a decrease in personnel related costs of $0.6 million related mostly to reallocation of resources from development related activities in 2009 to selling and operational activities in 2010; (ii) a reduction in prototyping, testing and third party engineering services related to our ClearPoint system of approximately $0.5, as more ClearPoint system development work was being performed in 2009; and (iii) a decrease of $0.2 million in software development expenses related to our ClearPoint system, as more software development work was performed in 2009. These decreases were partially offset by an increase in ClearTrace system software development expenses related to the timing of achievement of development milestones and an increase of $0.3 million in compensation expense related to incentive compensation earned under our Key Personnel Incentive Program.

Selling, General and Administrative Expenses. Selling, general and administrative expenses were $4.7 million for the year ended December 31, 2010 compared to $3.6 million for the year ended December 31, 2009, an increase $1.1 million, or 31%. The increase was due primarily to: (i) an increase of $0.9 million in selling, marketing, and other operations costs associated with our commercial launch of our ClearPoint system; (ii) an increase of $0.1 in professional services related to patent filings; and (iii) a $0.1 million increase in share-based compensation expense.

Other Income (Expense), Net. Net other income was $61,000 for the year ended December 31, 2010, compared to net other expense of $46,000 for the year ended December 31, 2009. Net interest expense was $1.6 million for the year ended December 31, 2010, compared to $0.2 million for the year ended December 31, 2009. The increase in interest expense relates to interest on increased borrowings and related amortization of debt discount and deferred financing costs. We issued notes payable in the aggregate principal amount of $3.5 million in the fourth quarter of 2009 that were outstanding for all of 2010. In addition, we issued notes payable during 2010 in the aggregate principal amount of $7.1 million. Net interest expense for the year ended December 31, 2010 was more than offset by the combination of a gain of $1.2 million recorded on the revaluation of our derivative liability and other income of $0.4 million related to grants received under the Qualifying Therapeutic Discovery Project provided by the United States Treasury Department.

Comparison of the Year Ended December 31, 2009 to the Year Ended December 31, 2008

($s in thousands)	Year Ended December 31, 2009	2008	Percentage Change
Revenues	$ 2,600	$ 1,950	33%
Research and development costs	6,068	4,258	43%
Selling, general and administrative expenses	3,596	2,920	23%
Other income (expense), net	(46)	(201)	NM
Net loss	(7,159)	(5,430)	(32)%

NM = not meaningful

Revenues. Revenues were $2.6 million for the year ended December 31, 2009 compared to $2.0 million for the year ended December 31, 2008, an increase of 33%. Revenues for both periods relate solely to our licensing agreement with Boston Scientific for implantable cardiac leads. The increase in revenues resulted from the recognition of a full year of licensing fee revenues during the year ended December 31, 2009 compared to the recognition of only nine months of licensing fee revenues for the year ended December 31, 2008 (as the license commenced in March 2008).

Research and Development Costs. Research and development costs were $6.1 million for the year ended December 31, 2009, compared to $4.3 million for the year ended December 31, 2008, an increase of 43%. This increase was due primarily to: (i) an increase of $1.2 million related to the employment of additional research and development personnel for ClearPoint product development efforts; (ii) an increase of $0.7 million related to the use of third-parties for research and development services; and (iii) an increase of $0.4 million for materials and supplies necessary for product candidate testing and prototyping, depreciation and miscellaneous research and development expenses. These increases in research and development expenses was partially offset by decreases in third party engineering design costs and software development costs of $0.4 million and $0.3 million, respectively.

Selling, General and Administrative Expenses. Selling, general and administrative expenses were $3.6 million for the year ended December 31, 2009 compared to $2.9 million for the year ended December 31, 2008, an increase of 23%. The increase was due primarily to: (i) an increase of $0.5 million in corporate and operations personnel costs; (ii) an increase of $0.3 million in sales and marketing costs incurred in preparation of the anticipated commercial launch of our ClearPoint system; and (iii) an increase of $0.1 million in occupancy costs. Increases in corporate and operating personnel costs were caused mostly by additional hires. The increase in occupancy costs was associated with a full year of lease expense for the year ended December 31, 2009 for both our Irvine and Memphis offices as compared to only occupying these offices a portion of the year during 2008. Increases in general and administrative expenses were partially offset by an approximate $0.4 million reduction in professional fees during the year ended December 31, 2009 related to the timing of patent filings.

Other Income (Expense), Net. Net interest expense was $46,000 for the year ended December 31, 2009 compared to net interest expense of $0.2 million for the year ended December 31, 2008. Interest expense decreased for the year ended December 31, 2009 as compared to the year ended December 31, 2008 as a result of the amortization of a debt discount related to a convertible note converted in June 2008 of $0.4 million as compared to amortization of debt discount of $0.1 million since inception of the related party convertible note payable in October 2009 through December 31, 2009. Interest income in 2009 decreased from 2008 by approximately $0.1 million due to lower average cash balances.

Liquidity and Capital Resources

We received $13.0 million in licensing fees in 2008 under one of our agreements with Boston Scientific. We recognize revenue from these licensing fees over the estimated time period to complete our development work under the agreement. In addition, under the terms of the agreements, we could receive up to $20.8 million in future milestone-based payments, subject to our achievement of the milestones stipulated in the agreements and the issuance of certain patents licensed to Boston Scientific, of which there can be no assurance. In addition to payments received from Boston Scientific, we have financed our operations and internal growth almost exclusively through private placements of preferred stock and borrowings. We have incurred significant losses since our inception in 1998. As of September 30, 2011, we had an accumulated deficit of $57.9 million. Our accumulated deficit resulted primarily from research and development activities and the costs to support such efforts as recorded in general and administrative costs.

During 2009, Boston Scientific loaned us $3.5 million pursuant to the terms of three convertible promissory notes. Interest on the loans accrues at 10% per annum and compounds annually. The Boston Scientific loans are secured by a first priority security interest in all of our assets. Each loan was originally scheduled to mature on the second anniversary of the date on which the funds were advanced. However, the maturity dates of the loans have been extended through January 16, 2012, as we and Boston Scientific negotiate a longer term extension. Under the terms of the loans, we will be required to prepay all or a portion of the loans upon the consummation of any qualified financing, which is any equity financing in which shares of our preferred stock are issued in exchange for cash proceeds. Upon consummation of a qualified financing from Medtronic, Inc., St. Jude Medical, Inc., or Johnson & Johnson, or any of their respective subsidiaries or affiliates, up to 100% of the cash proceeds from such qualified financing must be used to prepay the outstanding amount of the loans. Upon consummation of a qualified financing from any other investor, up to 25% of the cash proceeds from such qualified financing must be applied by us to prepay the outstanding amount of the loans. To date, we have not consummated a qualified financing. We can prepay each loan at any time prior to its respective maturity date. At the option of Boston Scientific, these loans are convertible into one share of our preferred stock for every $8.00 outstanding under the loans at the time of conversion.

In March 2010, we issued 10% senior unsecured convertible notes in the aggregate principal amount of $4.1 million in a private placement. The notes mature two years from the date of issuance and accrue interest at the rate of 10% per annum. When issued, the notes did not provide for conversion into shares of our common stock upon the effectiveness of this registration statement. However, as of December 23, 2011, holders of $3.4 million in principal amount of the notes have amended their notes to provide for the automatic conversion of their notes, including the principal and all accrued interest, into shares of our common stock upon the effectiveness of this registration statement, based on a conversion price of $1.00 per share.

In November 2010, we closed a private placement in which we sold units to existing stockholders and other existing investors in the company. Each unit consisted of a junior secured note and one share of our common stock. In the aggregate, we issued 10,714,286 units and received proceeds of $3.0 million, meaning we issued 10,714,286 shares of common stock and promissory notes in the aggregate principal amount of $3.0 million. The notes mature 10 years from the date of issuance and accrue interest at the rate of 3.5% per year. The notes are secured by a security interest in all our assets. The notes are not convertible into shares of our common stock or any other securities. All outstanding principal and interest on the notes will be due and payable in a single payment upon maturity.

In April 2011, we issued a 10% subordinated secured convertible note in the principal amount of $2.0 million to Brainlab. The note matures in April 2016, unless earlier converted, and it accrues interest at the rate of 10% per year. All outstanding principal and interest on the note will be due and payable in a single payment upon maturity. The note is secured by a security interest in all our assets. In the event we close a financing transaction in which we issue shares of our preferred stock and receive at least $10.0 million in net proceeds, the principal and accrued interest of Brainlab's note will automatically convert into shares of the preferred stock issued in the financing, based on the lower of the price paid by investors in the financing or $0.60 per share, if the number of shares to be issued upon conversion represents at least 10% of our outstanding shares of stock on a fully diluted basis. If the number of shares that would be issued upon conversion represents less than 10% of our outstanding shares of stock on a fully diluted basis, the note will convert into the shares of preferred stock that are issued in the financing, based on the lower of the price paid by investors in the financing or $0.60 per share, only upon Brainlab's election to convert.

In June through September 2011, we issued unsecured convertible notes in the aggregate principal amount of $1.3 million to six of our non-employee directors. The note holders also received common stock warrants. The notes mature two years from the date of issuance, unless earlier converted, and accrue interest at 15% per year. The warrants vest immediately, have a term of five years, and have an exercise price of $0.01 per share. When issued, the notes provided for conversion into shares of our common stock (i) upon consummation of an initial public offering, based on a conversion price equal to 60% of the public offering price, or (ii) upon consummation of a reverse merger of our company into a publicly held shell company, based on a conversion price equal to 60% of the fair market value of our common stock at the time of the merger. The notes were subsequently amended to provide that the principal and all accrued interest under the notes will automatically convert into shares of our common stock upon the effectiveness of this registration statement, based on a conversion price of $0.60 per share.

In October 2011, we began a private placement of our securities in which we are offering units, with each unit consisting of a 10% secured convertible note in the principal amount of $100,000 and a warrant to purchase 50,000 shares of our common stock. The notes mature three years from the date of issuance, unless earlier converted, and accrue interest at 10% per year. The notes are secured by a security interest in all our assets. The notes, including the principal and all accrued interest, convert automatically into shares of our common stock upon the effectiveness of this registration statement, based on a conversion price of $0.60 per share. Likewise, a note holder may elect at any time to convert the note into shares of our common stock, based on a conversion price of $0.60 per share. The warrants vest immediately, have a term of five years, and have an exercise price of $0.75 per share. As of December 23, 2011, we have received gross proceeds of $1,625,000 in connection with the unit offering. The placement agent for the financing will receive a cash fee equal to 10% of the gross proceeds, as well as a warrant to purchase that number of shares of our common stock equal to 8% of the number of shares of our common stock issuable upon conversion of the notes and exercise of the warrants sold in this financing. We intend to use the proceeds from the financing for working capital and general corporate purposes.

Net Cash Flows from Operating Activities. Net cash flows from operating activities for the nine months ended September 30, 2011 and 2010 and the years ended December 31, 2010, 2009 and 2008 was $(4.8) million, $(6.2) million, $(7.5) million, $(9.5) million, and $7.3 million, respectively. The use of cash in the nine months ended September 30, 2011 and 2010 and the years ended December 31, 2010 and 2009 resulted primarily from funding research and development activities and from incurring supporting selling, general and administrative expenses. The positive net cash for the year ended December 31, 2008 resulted from the $13.0 million in licensing fees under one our license agreement with Boston Scientific for implantable cardiac leads.

Net Cash Flows from Investing Activities. Net cash flows from investing activities for the nine months ended September 30, 2011 and 2010 and the years ended December 31, 2010, 2009 and 2008 was $(17,000), $(0.1) million, $(0.2) million, $(0.3) million, and $(0.9) million, respectively. Net cash used in investing activities for each of the periods was primarily related to the purchase of property and equipment to establish and support operations at our Irvine, California facility and the acquisition of intellectual property licenses.

Net Cash Flows from Financing Activities. Net cash flows from financing activities for the nine months ended September 30, 2011 and 2010 and the years ended December 31, 2010, 2009 and 2008 was $3.3 million, $3.8 million, $6.8 million, $2.4 million, and zero, respectively. Net cash flows from financing activities for each period noted above related primarily to the proceeds from our issuance the notes and other securities described above.

Operating Capital and Capital Expenditure Requirements. To date, we have not achieved profitability. We could continue to incur substantial net losses for the next several years as we commercialize our ClearPoint system products, continue to develop the ClearTrace system, expand our corporate infrastructure and pursue additional applications for our technology platforms.

As of September 30, 2011, we had $70,000 in cash and cash equivalents. Our cash balances are typically held in a variety of interest bearing instruments, including interest bearing demand accounts and certificates of deposit. Cash in excess of immediate requirements is invested primarily with a view to liquidity and capital preservation. As described above, we are in the process of conducting a private placement of securities to raise capital for our business. We believe that our existing cash resources, together with cash generated from sales of our products and cash generated from our current financing transaction, will be sufficient to meet our anticipated cash requirements into June 2012. If our available cash and cash equivalents, cash generate from product sales and the net proceeds from our current financing transaction are insufficient to satisfy our liquidity requirements, we may seek to sell additional equity or debt securities or enter into a credit facility. The sale of additional equity and debt securities may result in dilution to our stockholders. If we raise additional funds through the issuance of debt securities, these securities could have rights senior to those of our common stock and could contain covenants that would restrict our operations. We may require additional capital beyond our currently forecasted amounts. Any such required additional capital may not be available on reasonable terms, if at all. If we are unable to obtain additional financing, we may be required to reduce the scope of, delay, or eliminate some or all of, our planned commercialization, research and development activities, which could materially harm our business.

Our forecast of the period of time through which our financial resources will be adequate to support our operations, the costs to commercialize our ClearPoint system products and the costs to complete development of our product candidates are forward-looking statements and involve risks and uncertainties, and actual results could vary materially and negatively as a result of a number of factors, including the factors discussed in the “Risk Factors” section of this registration statement. We have based these estimates on assumptions that may prove to be wrong, and we could deplete our available capital resources sooner than we currently expect.

Because of the numerous risks and uncertainties associated with the development and commercialization of medical devices, we are unable to estimate the exact amounts of capital outlays and operating expenditures necessary to successfully commercialize our products and complete the development of our product candidates. Our future capital requirements will depend on many factors, including but not limited to the following:

- the cost and timing of expanding our sales, marketing and distribution capabilities and other corporate infrastructure;
- the cost of establishing inventories;
- the effect of competing technological and market developments;
- the scope, rate of progress and cost of our research and development activities;
- the achievement of milestone events under, and other matters related to, our agreements with Boston Scientific and Siemens;
- the terms and timing of any future collaborative, licensing or other arrangements that we may establish;
- the cost and timing of any clinical trials;
- the cost and timing of regulatory filings, clearances and approvals; and
- the cost of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights.

The following table summarizes our outstanding future contractual obligations as of December 31, 2010 and the effect those obligations are expected to have on our liquidity and cash flows in future periods:

	Payments Due by Period				
($s in thousands)	Total	Less than 1 year	1-3 years	3-5 years	After 5 years
Operating Leases	$ 427	$ 169	$ 200	$ 58	$ —
Notes Payable	13,170	—	9,120	—	4,050
Shared Research	877	690	187	—	—
Co-Development	1,309	240	1,069	—	—
Software Licenses	1,050	—	700	350	—
Incentive Compensation Plan	2,700	—	1,350	1,350	—
Minimum Royalty Payments	1,530	70	165	190	1,105
Total	$ 21,063	$ 1,169	$ 12,791	$ 1,948	$ 5,155

Our commitments under operating leases shown above consist of payments relating to our facilities under leases that as of December 31, 2010 expire in 2011, 2012 and 2014. Our note payable obligations consist of the principal amounts and interest that will be payable under the convertible promissory notes we issued to Boston Scientific, the senior unsecured convertible notes we issued in March 2010, and the junior secured notes we issued in November 2010. Shared research obligations consist of amounts payable under research agreements with certain universities. Co-development obligations consist of the payment obligations to Siemens in connection with the ClearTrace system software development. Software license obligations represent minimum purchase commitments under a master service and license agreement for the license of software code that is used in our ClearPoint system. Incentive compensation plan obligations represent amounts payable to participants under a key personnel incentive program. Minimum royalty payment obligations consist of the minimum royalty payments due to a licensor.

Quantitative and Qualitative Disclosures about Market Risk

Our exposure to market risk for changes in interest rates relates to our cash equivalents on deposit in demand deposit accounts and certificates of deposit. The primary objective of our cash investment activities is to preserve principal while at the same time maximizing the income we receive from our invested cash without significantly increasing risk of loss. We do not currently use derivative financial instruments. Our cash and investments policy emphasizes liquidity and preservation of principal over other portfolio considerations. As of September, substantially all of our transactions have been denominated in United States dollars, accordingly, we do not have any material exposure to foreign currency rate fluctuations.

Off-Balance Sheet Arrangements

Since our inception, we have not engaged in any off-balance sheet arrangements, including the use of structured finance, special purpose entities or variable interest entities.

Recent Accounting Pronouncements

In May 2011, the Financial Accounting Standards Board, or FASB, issued additional guidance on fair value measurements. The updated guidance provides a consistent definition of fair value and aligns the fair value measurement and disclosure requirements between U.S. GAAP and International Financial Reporting Standards, or IFRS, amends certain guidance primarily related to fair value measurements for financial instruments, and enhances disclosure requirements particularly for Level 3 fair value measurements. The guidance is effective prospectively for fiscal years beginning after December 15, 2011 and interim periods within those years. Early adoption is permitted. We do not expect the adoption of this guidance will have a material impact on our financial statements.

In June 2011, the FASB issued new accounting guidance related to the presentation of comprehensive income that increases comparability between U.S. GAAP and IFRS. This guidance will require companies to present the components of net income and other comprehensive income either as one continuous statement or as two consecutive statements, eliminating the option to present components of other comprehensive income as part of the statement of changes in stockholders' equity. Public entities are required to apply this guidance for fiscal years and

interim periods within those years, beginning after December 15, 2011. Nonpublic entities should begin applying these requirements for fiscal years ending after December 15, 2012, and interim and annual periods thereafter. We do not believe the adoption of this guidance will materially impact our results of operations or financial position.

Item 3. ***Properties***

We lease approximately 7,400 square feet of space in Irvine, California under a lease that expires in September 2012, which we use as our principal research and development facility and for the assembly of certain of our products. We have the right to extend our Irvine lease for three additional years upon prior written notice and the fulfillment of certain conditions.

We lease approximately 3,300 square feet of office space in Memphis, Tennessee, which we use as our executive offices. Our Memphis lease expires in November 2014. We also have a license to use approximately 1,400 square feet of space in Baltimore, Maryland, which we use as our advanced research and development facility. The term of our license agreement for our Baltimore facility is currently month to month.

We believe that our current facilities are sufficient to meet our needs for the foreseeable future.

Item 4. ***Security Ownership of Certain Beneficial Owners and Management***

The following table sets forth information as of November 30, 2011 regarding the beneficial ownership of our common stock by:

- each person, or group of affiliated persons, who is known by us to own beneficially five percent or more of our common stock;
- each of our directors;
- each of our named executive officers; and
- all our directors and executive officers as a group.

Percentage ownership calculations for beneficial ownership are based on 32,257,577 shares outstanding as of November 30, 2011, which includes and assumes:

- 16,084,981 shares of common stock outstanding as of November 30, 2011;
- conversion of all outstanding shares of our preferred stock into 7,965,000 shares of common stock, upon the effectiveness of this registration statement; and
- conversion of $6,508,509 in principal amount of, and interest on, convertible promissory notes into 8,207,596 shares of common stock, upon the effectiveness of this registration statement.

Except as otherwise indicated below, the address of each officer, director and five percent stockholder listed below is c/o MRI Interventions, Inc., One Commerce Square, Suite 2550, Memphis, TN 38103.

We have determined beneficial ownership in accordance with the rules of the Securities and Exchange Commission. These rules generally attribute beneficial ownership of securities to persons who possess sole or shared voting power or investment power with respect to those securities. In addition, the rules include shares of common stock issuable pursuant to the exercise of stock options and warrants that are either immediately exercisable or exercisable within 60 days of November 30, 2011. Likewise, the rules also include shares of common stock issuable pursuant to the conversion of convertible promissory notes that are either immediately convertible or convertible within 60 days of November 30, 2011. These shares are deemed to be outstanding and beneficially owned by the person holding those options, warrants or convertible notes for the purpose of computing the percentage ownership of that person, but they are not treated as outstanding for the purpose of computing the percentage ownership of any other person. Unless otherwise indicated, the persons or entities identified in this table have sole voting and investment power with respect to all shares shown as beneficially owned by them.

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Beneficial Owner	Number of Shares Owned	% of Shares Outstanding
5% Stockholders		
None		
Directors and Named Executive Officers		
Kimble L. Jenkins(1)	1,372,695	4.2
David W. Carlson(2)	175,418	*
Paul A. Bottomley(3)	214,833	*
Bruce C. Conway(4)	3,234,375	10.0
Charles E. Koob(5)	568,654	1.8
James K. Malernee, Jr.(6)	219,958	*
Michael A. Pietrangelo(7)	84,403	*
Andrew K. Rooke(8)	5,063,332	15.3
Michael J. Ryan	—	—
John N. Spencer, Jr.(9)	43,611	*
Peter G. Piferi(10)	232,418	*
Oscar L. Thomas(11)	208,352	*
Michael M. Moore(12)	45,000	*
All directors and executive officers as a group (15 persons)(13)	11,523,381	33.6

* Represents beneficial ownership of less than 1% of our outstanding common stock.

(1) Includes 96,625 shares that Mr. Jenkins has the right to acquire through the exercise of warrants and 226,601 shares that Mr. Jenkins has the right to acquire through the exercise of options.

(2) Includes 86,133 shares that Mr. Carlson has the right to acquire through the exercise of options.

(3) Includes 87,667 shares that Dr. Bottomley has the right to acquire through the exercise of options.

(4) Includes 14,141 shares jointly held with his spouse, 56,562 shares held solely by his spouse, 58,611 shares issuable upon the conversion of a convertible note in the principal amount of $50,000, 395,538 shares issuable upon the conversion of convertible notes in the aggregate principal amount of $225,000, and 20,661 shares in the aggregate owned by Alden M. Conway Trust, the Chase T. Conway Trust, the Merritt Elizabeth Conway Trust, the Edna N. Conway Irrevocable Trust FBO Alden M. Conway, the Edna N. Conway Irrevocable Trust FBO Chase T. Conway and the Edna N. Conway Irrevocable Trust FBO Merritt Elizabeth Conway. Mr. Conway is the trustee of each of the aforementioned trusts and has voting and investment power of each trust's shares, which are held in trust for the benefit of his children.

(5) Includes 50,000 shares that Mr. Koob has the right to acquire through the exercise of warrants and 21,417 shares that Mr. Koob has the right to acquire through the exercise of options, and 85,972 shares issuable upon the conversion of a convertible note in the principal amount of $50,000.

(6) Includes 75,000 shares that Dr. Malernee has the right to acquire through the exercise of warrants, 12,667 shares that Dr. Malernee has the right to acquire through the exercise of options, and 128,958 shares issuable upon the conversion of a convertible note in the principal amount of $75,000.

(7) Includes 25,000 shares that Mr. Pietrangelo has the right to acquire through the exercise of warrants, 12,667 shares that Mr. Pietrangelo has the right to acquire through the exercise of options, and 42,986 shares issuable upon the conversion of a convertible note in the principal amount of $25,000.

(8) Includes 500,000 shares owned by Payne Partners, LLC, 260,102 shares owned by Withington Foundation, 925,000 shares that Rooke Fiduciary Management has the right to acquire through the exercise of warrants, and 1,625,398 shares issuable upon the conversion of convertible notes in the aggregate principal amount of $925,000 held by Rooke Fiduciary Management. Mr. Rooke has voting and investment power over the shares owned by Payne Partners, LLC and Withington Foundation, as well as any shares acquired by Rooke Fiduciary Management through the exercise of warrants or the conversion of convertible notes. Also includes 827,832 shares owned by 12 trusts established for the benefit of Mr. Rooke and his family members. Mr. Rooke is the trustee of each of those trusts and he has voting and investment power of each trust's shares.

(9) Includes 10,000 shares that Mr. Spencer has the right to acquire through the exercise of warrants, 12,667 shares that Mr. Spencer has the right to acquire through the exercise of options, and 17,194 shares issuable upon the conversion of a convertible note in the principal amount of $10,000 held jointly by Mr. Spencer and his spouse.

(10) Includes 143,133 shares that Mr. Piferi has the right to acquire through the exercise of options.

(11) Includes 119,067 shares that Mr. Thomas has the right to acquire through the exercise of options.

(12) Includes 45,000 shares that Mr. Moore has the right to acquire through the exercise of options.

(13) Includes 760,102 shares owned by entities controlled by a director, 848,493 shares owned by trusts for which a director serves as trustee, 2,354,657 shares issuable upon conversion of convertible notes in the aggregate principal amount of $1,360,000, 1,083,976 shares issuable upon the exercise of options and warrants, and 925,000 shares issuable upon the exercise of warrants held by an entity controlled by a director.

Item 5. ***Directors and Executive Officers***

The following table sets forth information about our directors, executive officers and other key employees as of November 30, 2011.

Name	Age	Position(s)
Directors and Executive Officers		
Kimble L. Jenkins	49	President, Chief Executive Officer and Chairman of Board of Directors
Paul A. Bottomley	58	Director
Bruce C. Conway	60	Director
Charles E. Koob	67	Director
James K. Malernee, Jr.	64	Director
Michael A. Pietrangelo	69	Director
Andrew K. Rooke	55	Director
Michael J. Ryan	33	Director
John N. Spencer, Jr.	71	Director
Peter G. Piferi	52	Chief Operating Officer
David W. Carlson	47	Chief Financial Officer
Carol J. Barbre	50	Vice President, Product Management
John T. Keane	45	Vice President, Sales
Michael M. Moore	39	Vice President, Operations
Oscar L. Thomas	41	Vice President, Business Affairs and Secretary

Kimble L. Jenkins joined our Board of Directors in September 2002 and presently serves as our Chairman. Mr. Jenkins has served as our President since January 2003, and he has also served as our Chief Executive Officer since September 2004. Mr. Jenkins served in those offices on a part-time basis until May 2008, at which time Mr. Jenkins began serving as our President and Chief Executive Officer on a full-time basis. Prior to May 2008, Mr. Jenkins was also a Managing Director with the investment bank Morgan Keegan & Company, Inc., where he founded that firm's Private Equity Group in 1998. Mr. Jenkins has over 20 years of experience building and working with growth stage companies. Mr. Jenkins holds a Bachelor of Arts from Brown University and a Juris Doctorate from Georgetown University Law Center. As our Chief Executive Officer, Mr. Jenkins offers unique insight and vision into our operations, our competition and the medical device industry.

Paul A. Bottomley is a founder of the company and has been a member of our Board of Directors since December 1998. Dr. Bottomley joined Johns Hopkins in 1994. Since 1997, Dr. Bottomley has served as the Director of the Division of MR Research in the Department of Radiology at Johns Hopkins. Previously, Dr. Bottomley worked at General Electric Company's Research and Development Center from 1980 to 1994 where he played a key role in the development of their MRI clinical product and was awarded the Center's highest honor, its Coolidge Medal and Fellowship, for these developments in 1990. He was awarded the Society of Magnetic Resonance in Medicine's Gold Medal for his contributions to MRI in 1989. He holds over 30 U.S. patents and has written more than 150 scientific journal publications. Dr. Bottomley also serves as a consultant to us. As a pioneer in MR research, Dr. Bottomley offers expertise in the practical application of our technologies and the commercial opportunities for our products and product candidates.

Bruce C. Conway joined our Board of Directors in May 2011. From 1992 to 2010, Mr. Conway served as a consultant for numerous early stage companies in creating and implementing individualized business strategies designed to result in a liquidity event. He has significant experience working with companies in the biomedical, alternative energy, oil and gas exploration, agriculture, water and real estate industries. Mr. Conway previously served on the board of directors for Whitehall Corporation, a publicly traded defense and electronics company prior to its acquisition by Aviation Sales Company in 1998. As a consultant to, and investor with, numerous early stage companies, Mr. Conway offers substantial expertise in the area of formation and implementation of corporate and operational strategy.

Charles E. Koob joined our Board of Directors in August 2008. From 1970 to 2008, Mr. Koob practiced competition, trade regulation and antitrust law at the law firm of Simpson Thacher & Bartlett and served as the co-head of the firm's litigation department for a portion of his tenure. For much of his career, Mr. Koob served as a strategic advisor for the boards of directors of many public companies. Mr. Koob also serves on the board of directors of MiMedx Group, Inc., a publicly traded biomedical products company, and DemeRx, Inc., a privately held biotechnology company. As a byproduct of Mr. Koob's sophisticated former legal practice, Mr. Koob offers expertise in the areas of corporate governance, contract negotiation and organizational and strategic leadership.

James K. Malernee, Jr. joined our Board of Directors in March 2010. Dr. Malernee is a cofounder of Cornerstone Research, Inc., a consulting firm specializing in analytical support to attorneys in all phases of commercial litigation and regulatory proceedings, and he currently serves as Chairman and Managing Director of that firm. Over the last twenty years with Cornerstone Research, he has directed research on complex business issues related to a wide variety of cases. In recent years, Dr. Malernee has specialized in securities matters, supervising hundreds of cases dealing with material disclosure, loss causation, insider trading, mergers and acquisitions, targeted repurchases, minority buyouts, stock trading behavior, valuation and class certification. Dr. Malernee has served as a board member and consultant to major corporations, and he has taught finance at the University of Texas at Austin and business strategy at the Stanford Graduate School of Business. Through his academic and professional pursuits, Dr. Malernee offers expertise in finance and business strategy as well as an understanding of corporate disclosure and governance practices.

Michael A. Pietrangelo joined our Board of Directors in March 2010. From 1972 through 1989, Mr. Pietrangelo was employed by Schering-Plough Corporation in various capacities including President of the Personal Care Products Group. From 1989 to 1990, he served as President and Chief Operating Officer of Western Publishing Company. From 1990 to 1994, Mr. Pietrangelo was the President and Chief Executive Officer of CLEO, Inc., a subsidiary of Gibson Greetings, Inc. From 1994 until 1998, he served as President of Johnson Products Company, a subsidiary of IVAX Corporation. Since 1998, Mr. Pietrangelo has practiced law at Pietrangelo Cook PLC. Mr. Pietrangelo is also a director of Medicis Pharmaceutical Corporation, a publicly traded pharmaceutical company, serving on the executive committee (Chair), compliance committee (Chair), and nominating and governance committee. Mr. Pietrangelo also serves on the board of directors of the American Parkinson Disease Association, a not-for-profit organization focused on serving the Parkinson's community, and Universal Insurance Holdings, Inc., a publicly traded insurance holding company. Mr. Pietrangelo currently serves as the managing partner of Theraplex Company LLC, a privately held company. As a result of his diverse professional background, Mr. Pietrangelo offers a unique combination of legal expertise and operational acumen.

Andrew K. Rooke joined our Board of Directors in July 2011. Mr. Rooke owns and manages a private trust company, which specializes in the investment management of publicly held securities and the oversight of a multitude of trust investments. Over the years, he has acquired, managed and sold a number of private companies as well as commercial real estate properties. Mr. Rooke was also previously employed by the former securities firm Kidder, Peabody & Co. With significant experience in financing, analyzing, investing in and managing investments in public and private companies, Mr. Rooke offers expertise in strategic and financial matters.

Michael J. Ryan joined our Board of Directors in May 2011. Mr. Ryan is Director of Corporate Business Development at Boston Scientific, where he leads business development activities in the field of neuromodulation. Prior to joining Boston Scientific in 2005, Mr. Ryan was a Senior Consultant at Decision Resources, providing management consulting services to the pharmaceutical and biotech industries. With his background, Mr. Ryan offers insight into the medical device industry, particularly as it relates to neurological applications.

John N. Spencer, Jr. joined our Board of Directors in March 2010. Mr. Spencer is a certified public accountant and was a partner of Ernst & Young LLP where he spent more than 38 years until his retirement in 2000. Mr. Spencer serves on the board of directors of GeoVax Labs, Inc., a publicly traded biotechnology company, and until April 2009, served on the board of directors of Firstwave Technologies, Inc., formerly a publicly traded customer relationship management software company. In addition, he serves as a consultant to various companies, primarily relating to financial accounting and reporting matters. By virtue of his experience at Ernst & Young, where he was the partner in charge of its life sciences practice for the southeastern United States, together with his continuing expertise as a director of, and a consultant to, other publicly traded and privately held companies, Mr. Spencer offers expertise in accounting, finance and the medical device industry.

Peter G. Piferi joined us in December 2006 as our Chief Operating Officer. Mr. Piferi has over 20 years of experience in the areas of product development, operations, engineering and production in the medical device industry. From March 2003 to December 2006, Mr. Piferi served as Vice President, Endovascular Technologies for Edwards Lifesciences Corporation. In addition, Mr. Piferi has served as Vice President at Kriton Medical Inc. and Orbus Medical Technologies, Inc. and as Director of Advanced Engineering at Cordis Corporation.

David W. Carlson joined us in February 2010 as Vice President, Finance and was promoted to Chief Financial Officer in April 2010. Mr. Carlson has 18 years of experience in financial leadership roles in the medical device industry. From 1999 to 2009, he served in various financial management positions as a Vice President of Finance and Senior Finance Director at Medtronic, Inc., a global leader in medical technologies. He was serving as the Corporate Controller of Sofamor Danek, Inc., a then publicly traded medical device company, when it was acquired by Medtronic, Inc. in 1999. Mr. Carlson is a certified public accountant, and was formerly an auditor for PricewaterhouseCoopers LLP.

Carol J. Barbre joined us in May 2008 as Vice President, Product Management. Ms. Barbre has 20 years of experience in the medical device industry in the areas of marketing and business development, with a focus on new medical therapies. From May 2007 to May 2008, Ms. Barbre served as Senior Director of Marketing for Edwards Lifesciences Corporation, a publicly traded medical device company. From 2002 to May 2007, Ms. Barbre served as Global Marketing Director for Bolton Medical, Inc., a privately held medical device company.

John T. Keane joined us in April 2010 as Vice President, Sales. Mr. Keane has over 20 years of sales experience in the medical device industry. From October 2006 until April 2010, Mr. Keane served as the Worldwide Director of Sales for Stereotactic Surgery, Radiosurgery, Image Guided Surgery, Brain Mapping and Service Agreements for Integra Radionics, Inc., a subsidiary of Integra Lifesciences Corporation, a publicly traded medical device manufacturer. From 2004 to 2006, Mr. Keane served as an Academic Center Representative for I-Flow Corporation, formerly a publicly traded medical device company that merged with a subsidiary of Kimberly-Clark Corporation, a publicly traded corporation, in 2009. From 1996 to 2004, Mr. Keane was the National Leader of Academic Sales Representatives at Baxter International Inc., a publicly traded global, diversified health care company.

Michael M. Moore joined us in October 2008 as Senior Director, Operations, and he was promoted to Vice President, Operations in June 2009. Mr. Moore has 19 years of experience in medical device development and product realization. From January 2003 to March 2008, he was the Chief Technical Officer for Bolton Medical, Inc. In addition, Mr. Moore previously served as Director of R&D and Operations for AVE-Peripheral Vascular, a division of Medtronic, Inc., and in different operations and product development roles at Cordis Corporation and DePuy Orthopedics, Inc.

Oscar L. Thomas joined us in April 2008 as Vice President, Business Affairs. In addition, Mr. Thomas serves as our Secretary. From January 2003 to April 2008, Mr. Thomas was a partner in the Corporate and Securities Practice Group of the law firm Bass, Berry & Sims PLC.

Board Composition

Our Board of Directors consists of nine members. In accordance with the terms of our certificate of incorporation and our bylaws, which will become effective upon the effectiveness of this registration statement, the Board of Directors will be divided into three classes, Class I, Class II and Class III, with each class serving staggered three-year terms. Upon the effectiveness of this registration statement, the members of the classes will be divided as follows:

- the Class I directors will be , and , and their term will expire at the annual meeting of stockholders to be held in 2013;

- the Class II directors will be , and , and their term will expire at the annual meeting of stockholders to be held in 2014; and
- the Class III directors will be , and , and their term will expire at the annual meeting of stockholders to be held in 2015.

Our certificate of incorporation that will become effective upon the effectiveness of this registration statement provides that the authorized number of directors may be changed only by resolution of the Board of Directors. Any additional directorships resulting from an increase in the number of directors will be distributed between the three classes so that, as nearly as possible, each class will consist of one-third of the directors. This classification of the Board of Directors may have the effect of delaying or preventing changes in our control or management.

Our directors may be removed only for cause by the affirmative vote of the holders of a majority of our voting stock.

Item 6. *Executive Compensation*

Compensation Risks

We have assessed our compensation programs and have concluded that our compensation policies and practices do not create risks that are reasonably likely to have a material adverse effect on us. Our compensation program is relatively simple and has only three material elements: base salary; annual bonus; and long-term equity compensation. Base salary represents a fixed amount of payment and therefore does not encourage any excessive risk taking. The compensation committee has determined annual bonus amounts by subjectively analyzing company and individual performance for the prior year and only rewarding individual and company performance that, in the opinion of the compensation committee, had a positive effect on stockholder value. The subjective nature of the compensation committee's determinations regarding both the award and the amount of annual bonuses and equity grants provides a significant control over the incentive of an employee to take undue risk in order to receive a larger annual bonus or equity grant. Finally, our long-term equity compensation program generally involves only the issuance of options to our employees. We believe that the equity component of our compensation program serves to align the interest of management with the interests of stockholders and does not encourage excessive risk taking. Based on the foregoing, we believe that our compensation policies and practices do not create inappropriate or unintended significant risk to the company as a whole. We also believe that our compensation arrangements provide incentives that do not encourage risk-taking beyond the organization's ability to effectively identify and manage significant risks; are compatible with effective internal controls and the risk management practices of the company; and are supported by the oversight and administration of the compensation committee with regard to executive compensation programs.

Compensation Discussion and Analysis

Introduction

Our compensation discussion and analysis discusses the total compensation for our named executive officers, and it describes our overall compensation philosophy, objectives and practices. Our compensation philosophy and objectives generally apply to all of our employees and all of our employees are eligible to participate in the main components of our compensation program: salary; annual bonus; and equity compensation. The relative value of each of these components for individual employees varies based on job role and responsibility, as well as our financial performance.

Compensation Philosophy and Objectives

Our compensation approach is necessarily tied to our stage of development. Our compensation philosophy is to offer our executive officers, including our named executive officers, compensation and benefits that meet our goals of attracting, retaining and motivating highly skilled management, which is necessary to achieve our financial and strategic objectives and create long-term value for our stockholders. Accordingly, our executive officer compensation program is designed to link compensation to corporate and individual performance and to align executive officers' interests with stockholder value creation by subjectively analyzing both corporate and individual performance in determining appropriate base salary, bonus and equity compensation awards.

We believe compensation should be determined within a framework that is intended to reward individual contribution and the achievement of company objectives. Within this overall philosophy, our objectives are to:

- attract, retain and motivate our executives by providing a total compensation program that takes into consideration our strategic business needs;
- align the financial interests of the executive officers with those of our stockholders, both in the short and long term;
- provide incentives for achieving and exceeding performance expectations; and
- appropriately reward executive officers for creating long-term stockholder value.

Each of our named executive officers is an "at-will" employee. However, some of our named executive officers have employment letters that set forth the basic terms of their employment. The compensation committee is considering the advisability of entering into formal employment agreements with of our named executive officers prior to the effectiveness of this registration statement.

On an annual basis, our compensation committee has utilized its business judgment to establish:

- base salaries for our named executive officers based on the recommendations of our Chief Executive Officer and the compensation committee's exercise of its subjective judgment;
- annual cash bonuses based on the recommendations of our Chief Executive Officer and a subjective analysis by the compensation committee of both the company's performance and each named executive officer's performance for the most recently completed fiscal year; and
- any long term equity compensation awards to the named executive officers based on the recommendations of the Chief Executive Officer and the compensation committee's exercise of its subjective judgment.

Role of Directors and Executive Officers in Setting Compensation

Prior to September 2008, we did not have a compensation committee and compensation decisions for our named executive officers were approved by our Board of Directors upon the recommendation of our Chief Executive Officer. The compensation recommendations of our Chief Executive Officer have been largely discretionary, based on our Chief Executive Officer's subjective assessment of the particular executive officer, publicly available data relating to compensation of executive officers at other medical device companies and input from our other executive officers. There is no particular mathematical formula for deriving executive compensation from these sources. As we gain experience as a public company, we expect that the specific direction, emphasis and components of our executive compensation program will continue to evolve. For example, over time, we expect to reduce our reliance upon subjective determinations made by our Chief Executive Officer in favor of a more empirically-based approach that could involve benchmarking the compensation paid to our named executive officers against peer companies that we identify and the use of clearly defined, objective targets to determine incentive compensation awards.

The compensation committee typically considers, but is not required to accept, the recommendations of our Chief Executive Officer regarding the performance and proposed base salary and bonus and equity awards for the other named executive officers, as well as himself. The compensation committee may also request the assistance of our Chief Financial Officer in evaluating the financial, accounting and tax implications of various compensation awards paid to the named executive officers. However, our Chief Financial Officer does not recommend or determine the amounts or types of compensation paid to the named executive officers. Our Chief Executive Officer and certain of our other named executive officers may attend compensation committee meetings, as requested by the compensation committee. None of our named executive officers, including our Chief Executive Officer, attend any portion of the compensation committee meetings during which his or her compensation is established and approved.

We believe that the levels of compensation we provide should be appropriate for our business needs and circumstances. To date, the compensation committee has not engaged a compensation consultant. Rather, the compensation committee and our Chief Executive Officer applied subjective discretion to make compensation decisions and they have not used a specific formula or matrix to set compensation in relation to compensation paid by other medical device companies. Our compensation committee designed our executive compensation program based on the compensation committee's general knowledge of compensation practices and the application of such knowledge to successfully attract and retain the named executive officers. Our compensation committee has not established any percentile targets for the levels of compensation provided to our named executive officers. To date, the compensation committee has not performed reviews of our compensation programs with those of similarly-situated companies, nor has it engaged in benchmarking of compensation paid to our named executive officers. Our historical approach has been to consider compensation practices and relevant factors rather than establishing compensation at specific benchmark percentiles. This enabled us to respond to dynamics in the labor market and provided us with flexibility in maintaining and enhancing our named executive officers' engagement, focus, motivation and enthusiasm for our future. However, as mentioned above, we expect to build some of these objective practices into our compensation approach over time.

The amount of past compensation, including annual discretionary bonus awards, and amounts realizable from prior stock option awards, is generally not a significant factor in the compensation committee's considerations, because these awards would have been earned based on prior years' performances or granted in connection with a named executive officer's initial hire.

Our named executive officers are not subject to mandated stock ownership or stock retention guidelines. It is the belief of the compensation committee that the equity component of our executive compensation program ensures that our named executive officers are also owners and those components work to align the named executive officers' goals with the best interests of stockholders.

Elements of Our Executive Compensation Program

The principal elements of our executive compensation program have been base salary, a discretionary cash bonus and long-term equity compensation in the form of stock options. Each of these compensation elements satisfies one or more of our compensation objectives.

We have not adopted any policies with respect to long-term versus currently-paid compensation, but feel that both elements are necessary for achieving our compensation objectives. Currently-paid compensation provides financial stability for each of our named executive officers and an immediate reward for short-term company and individual performance, while long-term compensation rewards achievement of strategic long-term objectives and contributes toward overall stockholder value. Similarly, while we have not adopted any policies with respect to cash versus equity compensation, we feel that it is important to encourage or provide for a meaningful amount of equity ownership by our named executive officers as to help align their interests with those of stockholders, one of our compensation objectives. We combine the compensation elements for each named executive officer in a manner that the compensation committee believes, in its discretion and judgment, is consistent with the executive's contributions to our company and our overall goals with respect to executive compensation.

Base Salary

We believe that base salary is an important component of compensation as it provides a degree of financial stability for our named executive officers and is critical to recruiting and retaining our named executive officers. Base salary is also designed to recognize the scope of responsibilities placed on each named executive officer and reward each executive for his or her unique leadership skills, management experience and contributions. We make a subjective determination of base salary after considering such factors collectively.

Annual Cash Bonuses

Our cash bonus compensation is designed to motivate executives to achieve superior performance in their areas of responsibility. To date, we have awarded only discretionary annual cash bonuses based upon a subjective evaluation of corporate and individual performance by the compensation committee or, prior to its creation, our Board of Directors.

Long-Term Equity Compensation

We grant stock options to our named executive officers, as we believe that such grants further our compensation objectives of aligning the interests of our named executive officers with those of our stockholders, encouraging long-term performance, and providing a simple and easy-to-understand form of equity compensation that promotes executive retention. We view such grants both as incentives for future performance and as compensation for past accomplishments.

We generally have used stock options, rather than other forms of long-term incentives, because they create value for the executive only if stockholder value is increased through an increased share price. Our Board of Directors determined the exercise price based on internal or third-party valuation reports. In the future, the exercise price of stock options will be the fair market value of our common stock on the grant date. We have made discretionary grants of equity compensation, from time to time, as determined by the Board of Directors or after its creation, the compensation committee, taking into consideration such factors as individual performance and market conditions. The timing of any such equity grants was determined based on achievement by the named executive officer, and not any effort to time the grants in coordination with changes in our stock price.

Stock Ownership Guidelines

We currently do not have stock ownership guidelines.

Perquisites and Other Benefits

As a general matter, we do not intend to offer perquisites or other benefits to any executive officer, including the named executive officers, with an aggregate value in excess of $10,000, because we believe we can provide better incentives for desired performance with compensation in the forms described above. We recognize that, from time to time, it may be appropriate to provide some perquisites or other benefits in order to attract, motivate and retain our executives, with any such decision to be reviewed and approved by the compensation committee as needed.

Our named executive officers are eligible to participate in standard employee benefit plans, including medical, dental, vision, life and any other employee benefit or insurance plan made available to employees. We maintain a 401(k) plan, which is intended to be a tax-qualified defined contribution plan under Section 401(k) of the Internal Revenue Code, or the Code. In general, all of our U.S. employees are eligible to participate in this plan. The 401(k) plan includes a salary deferral arrangement pursuant to which participants may elect to reduce their current compensation by up to 90% or the statutory limit, $16,500 in 2010, whichever is less, and have the amount of the reduction contributed to the 401(k) plan. We made no matching contributions during 2010; however, we may add this benefit in the future for all employees.

Analysis of 2010 Compensation for Named Executive Officers

Base Salary

The 2010 salaries for our named executive officers were established as follows:

- The base salary of Mr. Kimble L. Jenkins, our President and Chief Executive Officer, remained unchanged at $325,000 per year.

- The base salary of John C. Thomas, Jr., who served as our Chief Financial Officer for a portion of 2010, remained unchanged at $100,000 per year. Mr. Thomas was a part-time employee and he ceased serving as our Chief Financial Officer on April 23, 2010.
- Mr. David W. Carlson became an employee in February 2010. Mr. Carlson initially served as our Vice President, Finance, and he became our Chief Financial Officer in April 2010. The compensation committee set Mr. Carlson's base salary at $225,000 based on negotiations between Mr. Carlson and Mr. Jenkins.
- The base salary of Mr. Peter G. Piferi, our Chief Operating Officer, remained unchanged at $250,000 per year.
- The salary of Mr. Oscar L. Thomas, our Vice President, Business Affairs, remained unchanged at $175,000 per year. Mr. Thomas is also entitled to receive guaranteed bonus payments equal to $12,500 per calendar quarter in accordance with the initial terms of his hiring. Since those bonus payments are guaranteed, they are considered to be part of Mr. Thomas' base salary, which totals $225,000 per year.
- The base salary of Mr. Michael M. Moore, our Vice President, Operations, remained unchanged at $175,000 per year.

However, effective October 1, 2010, Messrs. Jenkins, Carlson, Piferi and Oscar Thomas voluntarily agreed to reduce their salaries temporarily to conserve cash for our operations. Taking into account the salary reductions, the base salaries paid to each of our named executive officers in 2010 were as follows:

Named Executive Officer	2010 Base Salary Paid
Kimble L. Jenkins	$308,750
David W. Carlson	179,327
Peter G. Piferi	241,667
Oscar L. Thomas	212,500
Michael M. Moore	175,000
John C. Thomas	33,333

Annual Cash Bonuses

No annual cash bonuses were paid to our named executive officers for 2010.

Long-Term Equity Compensation

In December 2010, our compensation committee approved the grant of options to our named executive officers as follows:

Named Executive Officer	Options Granted[(1)]
Kimble L. Jenkins	670,000
David W. Carlson	340,000
Peter G. Piferi	565,000
Oscar L. Thomas	470,000
Michael M. Moore	112,500

(1) See "Executive Compensation – Grants of Plan-Based Awards" for additional information regarding these option grants. In December 2010, John C. Thomas, Jr. received an option grant in connection with his service as a director. See "Executive Compensation–Grants of Plan-Based Awards" for additional information regarding the option grant to Mr. John Thomas.

The stock option grants were based upon recommendations made to the compensation committee by Mr. Jenkins. Mr. Jenkins described the performance of Messrs. Carlson, Piferi, Oscar Thomas and Moore to the compensation committee and made a recommendation with respect to their option grants, as well as his own. After subjectively evaluating each named executive officer's individual performance, the compensation committee awarded the stock options to our named executive officers.

Effect of Accounting and Tax Treatment on Compensation Decisions

In the review and establishment of our compensation programs, we consider the anticipated accounting and tax implications to us and our executives. While we consider the applicable accounting and tax treatment, these factors alone are not dispositive, and we also consider the cash and non-cash impact of the programs and whether a program is consistent with our overall compensation philosophy and objectives.

Section 162(m) of the Code imposes a limit on the amount of compensation that we may deduct in any one year with respect to covered employees, unless specific and detailed criteria are satisfied. Performance-based compensation, as defined in the Code, is fully deductible if the programs are approved by stockholders and meet other requirements. In general, we have determined that we will not seek to limit executive compensation so that all of such compensation is deductible under Section 162(m). However, from time to time, we monitor whether it might be in our interests to structure our compensation programs to satisfy the requirements of Section 162(m). We seek to maintain flexibility in compensating our executives in a manner designed to promote our corporate goals and, as a result, our compensation committee has not adopted a policy requiring all compensation to be deductible. Our compensation committee will continue to assess the impact of Section 162(m) on our compensation practices and determine what further action, if any, is appropriate.

Conclusion

The compensation committee believes that our executive leadership is a key element to our success and that the compensation package offered to our named executive officers is a key element in attracting and retaining the appropriate personnel.

The Board of Directors and, since its creation, the compensation committee each believes it has maintained compensation for our named executive officers at levels that are reflective of the talent and success of the individuals being compensated, and with the inclusion of additional compensation directly tied to performance, the compensation committee believes executive compensation will be sufficiently comparable to our industry peers to allow us to retain our key personnel at costs which are appropriate for us.

The compensation committee will continue to develop, analyze and review its methods for aligning executive officers' long-term compensation with the benefits generated for stockholders. The compensation committee believes the idea of creating ownership helps align management's interests with the interests of stockholders. The compensation committee has no pre-determined timeline for implementing new or ongoing long-term incentive plans. New plans are reviewed, discussed and implemented as the compensation committee feels it is necessary or appropriate as a measure to incent, retain and reward our named executive officers.

Summary Compensation Table

The following table shows the compensation awarded or paid to, or earned by, our Chief Executive Officer, our current and former Chief Financial Officer, and our three other most highly compensated executive officers for the years ended December 31, 2010, 2009 and 2008. We refer to these executive officers in this registration statement as our "named executive officers".

Name and Principal Position	Year	Salary ($)	Bonus ($)	Option Awards ($)[1]	All Other Compensation ($)[2]	Total ($)
Kimble L. Jenkins	2010	$308,750	$ —	$556,100[3]	$ 6,527	$871,377[4]
Chief Executive Officer and President	2009	325,000	110,000	192,060[5]	5,355	632,415[5]
	2008	291,667	75,000	12,900	3,005	382,572
David W. Carlson	2010	179,327	—	282,200[6]	5,084	466,611[7]
Chief Financial Officer	2009	—	—	—	—	—
	2008	—	—	—	—	—
Peter G. Piferi	2010	241,667	—	468,950[8]	3,355	713,972[9]
Chief Operating Officer	2009	250,000	100,000	—	2,860	352,860
	2008	250,000	75,000	—	2,609	327,609
Oscar L. Thomas	2010	212,500	—	390,100[10]	5,757	608,357[11]
Vice President, Business Affairs	2009	225,000	80,000	—	5,355	310,355
	2008	156,426	25,375	120,000	3,005	304,806
Michael M. Moore	2010	175,000	—	93,375[12]	170	268,545[13]
Vice President, Operations	2009	173,750	48,500	—	260	222,510
	2008	37,548	23,500	21,300	12	82,360
John C. Thomas, Jr.	2010	33,333	—	41,500[14]	45,625[15]	120,458
Former Chief Financial Officer	2009	91,667	40,000	8,100	—	139,767
	2008	40,000	18,000	12,900	—	70,900

(1) These amounts do not represent cash compensation paid to the named individual. These non-cash amounts represent only the aggregate grant date fair value of the option awards as computed in accordance with ASC Topic 718. For a discussion of the assumptions made in the valuation of the awards, see the discussion under "Management's Discussion and Analysis of Financial Condition and Results of Operations–Critical Accounting Policies and Significant Judgments and Estimates–Share-based Compensation" and note 2 to the financial statements included elsewhere in this registration statement.

(2) Except as otherwise indicated for John C. Thomas, Jr., these amounts consist of the group medical, life and disability premiums that we paid.

(3) Does not represent cash compensation. Represents only the aggregate grant date fair value in accordance with ASC Topic 718 for options to purchase an aggregate of 670,000 shares of our common stock issued to Mr. Jenkins.

(4) Of this amount, the cash compensation paid to Mr. Jenkins totaled only $308,750.

(5) In September 2004, Mr. Jenkins purchased 500,000 shares of our common stock, which he paid for by delivering to us a non-recourse promissory note. In December 2009, we filed a registration statement for a planned initial public offering of our common stock. Section 402(a) of the Sarbanes-Oxley Act required that the note be repaid prior to the filing of that registration statement. Our Board of Directors formed a special committee of independent directors to review and evaluate any potential transaction with Mr. Jenkins with respect to his loan. The special committee approved, and our Board of Directors ratified, a transaction pursuant to which, on December 22, 2009, Mr. Jenkins sold us 66,652 shares of common stock valued at $9.64 per share and we issued to Mr. Jenkins an option to purchase 66,652 shares of common stock with an exercise price of $9.64 per share. Our Board of Directors determined that the fair market value of our common stock as of December 22, 2009 was $9.64 per share. We paid most of the stock purchase price for Mr. Jenkins' shares by cancelling Mr. Jenkins' promissory note and we paid the remaining portion of approximately $47,833 in cash. See "Certain Relationships and Related Party Transactions–Related Person Transactions." The purpose of the transaction was to satisfy Mr. Jenkins' promissory note to enable us to file our registration statement for the planned initial public offering while maintaining as closely as possible the original economics of Mr. Jenkins' loan transaction. The December 22, 2009 stock option we issued to Mr. Jenkins, when computed in accordance with ASC Topic 718, resulted in $183,960 of non-cash compensation to Mr. Jenkins.

(6) Does not represent cash compensation. Represents only the aggregate grant date fair value in accordance with ASC Topic 718 for options to purchase an aggregate of 340,000 shares of our common stock issued to Mr. Carlson.

(7) Of this amount, the cash compensation paid to Mr. Carlson totaled only $179,327.

(8) Does not represent cash compensation. Represents only the aggregate grant date fair value in accordance with ASC Topic 718 for options to purchase an aggregate of 565,000 shares of our common stock issued to Mr. Piferi.

(9) Of this amount, the cash compensation paid to Mr. Piferi totaled only $241,667.

(10) Does not represent cash compensation. Represents only the aggregate grant date fair value in accordance with ASC Topic 718 for options to purchase an aggregate of 470,000 shares of our common stock issued to Mr. Thomas.

(11) Of this amount, the cash compensation paid to Mr. Thomas totaled only $212,500.

(12) Does not represent cash compensation. Represents only the aggregate grant date fair value in accordance with ASC Topic

718 for options to purchase an aggregate of 112,500 shares of our common stock issued to Mr. Moore.

(13) Of this amount, the cash compensation paid to Mr. Moore totaled only $175,000.

(14) Does not represent cash compensation. Represents only the aggregate grant date fair value in accordance with ASC Topic 718 for options to purchase an aggregate of 50,000 shares of our common stock issued to Mr. Thomas in connection with his service as a director.

(15) This amount reflects: (a) severance we paid to Mr. Thomas pursuant to a separation agreement ($39,875); and (b) fees earned by Mr. Thomas in connection with his service as a director ($5,750) after he ceased serving as our Chief Financial Officer.

Grants of Plan-Based Awards

The table below sets forth information concerning grants of plan-based awards in 2010 to our named executive officers.

Name	Grant Date	All Other Option Awards: Number of Securities Underlying Options	Exercise Price Of Option Awards[1]	Grant Date Fair Value of Option Awards[2]
Kimble L. Jenkins	December 13, 2010	509,200[3]	$ 1.80	$422,636
	December 13, 2010	160,800[4]	$ 1.80	133,464
David W. Carlson	December 13, 2010	258,400[3]	$ 1.80	214,472
	December 13, 2010	81,600[4]	$ 1.80	67,728
Peter G. Piferi	December 13, 2010	429,400[3]	$ 1.80	356,402
	December 13, 2010	135,600[4]	$ 1.80	112,548
Oscar L. Thomas	December 13, 2010	357,200[3]	$ 1.80	296,476
	December 13, 2010	112,800[4]	$ 1.80	93,624
Michael M. Moore	December 13, 2010	112,500[3]	$ 1.80	93,375
John C. Thomas, Jr.	December 13. 2010	38,000[3]	$ 1.80	31,540
	December 13, 2010	12,000[4]	$ 1.80	9,960

(1) The exercise price of each stock option granted to our named executive officers is at least equal to the fair market value of one share of the underlying common stock on the grant date.

(2) These amounts do not represent cash compensation paid to the named individual. These non-cash amounts represent only the aggregate grant date fair value of the option awards as computed in accordance with ASC Topic 718. For a discussion of the assumptions made in the valuation of the awards, see the discussion under "Management's Discussion and Analysis of Financial Condition and Results of Operations–Critical Accounting Policies and Significant Judgments and Estimates–Share-based Compensation" and note 2 to the financial statements included elsewhere in this registration statement.

(3) The shares subject to this option vest ratably on the first, second and third anniversaries of the grant date, December 13, 2011, December 13, 2012 and December 13, 2013.

(4) The shares subject to this option vest ratably on the first, second and third anniversaries of the grant date, December 13, 2011, December 13, 2012 and December 13, 2013, provided that no shares vest until such time as we have closed a target equity financing, which is defined as one or more equity financing transactions that results in cumulative gross proceeds of at least $10 million.

The stock options granted to Messrs. Jenkins, Carlson, Piferi, Oscar Thomas and John Thomas were granted under our 2010 Non-Qualified Stock Option Plan. The stock options granted to Mr. Moore were granted under our 2010 Incentive Compensation Plan. The compensation committee, which administers our 2010 Non-Qualified Stock Option Plan and our 2010 Incentive Compensation Plan, has general authority to accelerate, extend, or otherwise modify the benefits under the stock options in certain circumstances within the overall plan and other limitations. The compensation committee has no present intention to exercise that authority with respect to these stock options.

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Outstanding Equity Awards at December 31, 2010

The table below sets forth information regarding the outstanding equity awards held by our named executive officers at December 31, 2010.

	Option Awards			
Name	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Option Exercise Price ($)	Option Expiration Date
Kimble L. Jenkins	96,625(1)	— (1)	$ 3.20	December 1, 2011
	5,000(2)	— (2)	3.20	March 28, 2017
	2,500(3)	— (3)	9.64	September 16, 2018
	2,500(4)	— (4)	9.64	November 8, 2018
	2,500(5)	— (5)	9.64	December 10, 2019
	22,217(6)	44,435(6)	9.64	September 1, 2013
	— (7)	509,200(7)	1.80	December 13, 2020
	— (8)	160,800(8)	1.80	December 13, 2020
David W. Carlson	— (7)	258,400(7)	1.80	December 13, 2020
	— (8)	81,600(8)	1.80	December 13, 2020
Peter G. Piferi	— (7)	429,400(7)	1.80	December 13, 2020
	— (8)	135,600(8)	1.80	December 13, 2020
Oscar L. Thomas	— (7)	357,200(7)	1.80	December 13, 2020
	— (8)	112,800(8)	1.80	December 13, 2020
Michael M. Moore	5,000(9)	2,500(9)	9.64	November 7, 2018
	— (7)	112,500(7)	1.80	December 13, 2020
John C. Thomas, Jr.	100,000(10)	—	0.88	April 12, 2014
	5,000(2)	—	3.20	March 28, 2017
	2,500(3)	—	9.64	September 16, 2018
	2,500(4)	—	9.64	November 8, 2018
	2,500(5)	—	9.64	December 10, 2019
	— (7)	38,000(7)	1.80	December 13, 2020
	— (8)	12,000(8)	1.80	December 13, 2020

(1) The warrant was immediately exercisable on the date of grant, December 1, 2006.

(2) The vesting of shares subject to this option occurred on the date of grant, March 28, 2007.

(3) The vesting of shares subject to this option occurred on the date of grant, September 16, 2008.

(4) The vesting of shares subject to this option occurred on the first anniversary of the date of grant, November 8, 2009.

(5) The vesting of shares subject to this option occurred on April 22, 2010, which was the day immediately preceding the 2010 annual meeting of our stockholders.

(6) One-third of the shares subject to this option vested on the first anniversary of the grant date, December 22, 2010. The remaining shares subject to this option vest ratably on the second and third anniversaries of the grant date, December 22, 2011 and December 22, 2012.

(7) The shares subject to this option vest ratably on the first, second and third anniversaries of the grant date, December 13, 2011, December 13, 2012 and December 13, 2013.

(8) The shares subject to this option vest ratably on the first, second and third anniversaries of the grant date, December 13, 2011, December 13, 2012 and December 13, 2013, provided that no shares vest until such time as we have closed a target equity financing, which is defined as one or more equity financing transactions that results in cumulative gross proceeds of at least $10 million.

(9) Two-thirds of the shares subject to this option vested ratably on the first and second anniversaries of the grant date, November 7, 2009 and November 7, 2010. The remaining shares subject to this option vest on the third anniversary of the grant date, November 7, 2011.

(10) The vesting of shares subject to this option occurred on the date of grant, April 12, 2004.

Option Exercises

None of our named executive officers exercised stock options in 2010.

Employment Agreements

Each of our named executive officers is an "at-will" employee. However, some of our named executive officers have employment letters that set forth the basic terms of their employment. The compensation committee is considering the advisability of entering into formal employment agreements with of our named executive officers prior to the effectiveness of this registration statement.

Potential Payments Upon Change of Control

Name	Benefit	Change of Control
Kimble L. Jenkins	Stock option acceleration(1)	—
David W. Carlson	Stock option acceleration(1)	—
Peter G. Piferi	Stock option acceleration(1)	—
Oscar L. Thomas	Stock option acceleration(1)	—
Michael M. Moore	Stock option acceleration(1)	—

(1) Assumes change of control effective as of December 31, 2010 and excludes vested options and stock held as of such date. Stock option acceleration is calculated as the intrinsic value of the unvested options on December 31, 2010. The intrinsic value is calculated as the difference between the market value of our common stock as of December 31, 2010, and the exercise price of the stock option. The fair market value as of December 31, 2010, is deemed to have been $1.80 per share. There was no public market for our common stock in 2010.

For purposes of these benefits, a change of control is deemed to occur, in general, if there is: (1) a change in our ownership; (2) a change in our effective control; or (3) a change in the ownership of a substantial portion of our assets. For purposes of this definition, a change in our ownership will occur on the date on which any one person, or more than one person acting as a group, acquires ownership of our stock that, together with stock already held by such person or group, constitutes more than 50% of the total fair market value or total voting power of our stock. A change in our effective control will occur on the date on which either (i) a person, or more than one person acting as a group, acquires ownership of our stock possessing 30% or more of the total voting power of our stock, taking into account all such stock acquired during the 12-month period ending on the date of the most recent acquisition, or (ii) a majority of the members of our Board of Directors is replaced during any 12-month period by directors whose appointment or election is not endorsed by a majority of the members of our Board of Directors prior to the date of the appointment or election. A change in the ownership of a substantial portion of our assets will occur on the date on which any one person, or more than one person acting as a group, other than a person or group of persons that is related to us, acquires assets from us that have a total gross fair market value equal to or more than 40% of the total gross fair market value of all of our assets immediately prior to such acquisition or acquisitions, taking into account all such assets acquired during the 12-month period ending on the date of the most recent acquisition.

John C. Thomas, Jr. Separation Agreement

In April 2010, we entered into a separation agreement with Mr. John C. Thomas, Jr., who previously served as of Chief Financial Officer. Under the separation agreement, Mr. Thomas ceased to be our employee, we agreed to pay Mr. Thomas severance totaling $87,000, and Mr. Thomas agreed to consult and cooperate with us in connection with the orderly transition of his business responsibilities to our new Chief Financial Officer.

2010 Director Compensation

The following table sets forth information with respect to the compensation of our non-employee directors in 2010.

Name	Fees Earned or Paid in Cash ($)	Option Awards ($)(1)	All Other Compensation ($)	Total ($)
Lenox D. Baker(2)	$ 7,792	$41,500	$ —	$ 49,292
Paul A. Bottomley	11,750	41,500	60,000(3)	113,250
Charles E. Koob	11,855	41,500	—	53,355
James K. Malernee, Jr.	9,375	41,500	—	50,875
Wendelin C. Manners(4)	7,250	—	—	7,250
Michael A. Pietrangelo	10,750	41,500	—	52,250
John N. Spencer, Jr.	11,980	41,500	—	53,480
John C. Thomas, Jr(5)	5,750	41,500	—	47,250

(1) These amounts do not represent cash compensation paid to the named individual. These non-cash amounts represent the aggregate grant date fair value of such options as computed in accordance with ASC Topic 718. For a discussion of the assumptions made in the valuation of the awards, see the discussion under "Management's Discussion and Analysis of Financial Condition and Results of Operations–Critical Accounting Policies and Significant Judgments and Estimates–Share-based Compensation" and note 2 to the financial statements included elsewhere in this registration statement.

(2) In connection with his retirement as a director, Dr. Baker did not stand for re-election to the Board of Directors at our 2011 annual meeting of stockholders which was held on May 13, 2011.

(3) This amount was compensation paid under Dr. Bottomley's consulting agreement.

(4) Ms. Maners resigned from our Board of Directors on October 12, 2010. Ms. Maners' resignation as a director was in connection with her departure from Boston Scientific.

(5) Mr. Thomas ceased serving as our Chief Financial Officer in April 2010. In June 2011, Mr. Thomas, who had been a director since April 2004, made the decision to step down from our Board of Directors. Accordingly, Mr. Thomas submitted his resignation from our Board of Directors effective June 27, 2011.

Benefit Plans

1998 Stock Option Plan

We adopted the 1998 Stock Option Plan on June 24, 1998 to enable us to attract, retain and motivate our officers, directors, employees and consultants. Of the 375,000 shares of common stock that were eligible for issuance pursuant to awards made under this plan, 287,500 shares of common stock were subject to outstanding options as of September 30, 2011. As of such date, the outstanding options had a weighted average exercise price of $0.89 per share and had expiration dates ranging from April 12, 2014 to October 21, 2014. We terminated this plan, effective June 24, 2008, with respect to future grants such that no new options may be awarded under this plan.

2007 Stock Incentive Plan

We adopted the 2007 Stock Incentive Plan on March 28, 2007 to enable us to attract, retain and motivate our officers, directors, employees and consultants. Of the 625,000 shares of common stock that were eligible for issuance pursuant to awards made under this plan, 129,875 shares of common stock were subject to options outstanding as of September 30, 2011. As of such date, the outstanding options had a weighted average exercise price of $6.77 per share and had expiration dates ranging from March 28, 2017 to December 10, 2019. Although this plan remains in effect and options under the plan remain outstanding, we ceased making awards under the plan upon the adoption of our 2010 Incentive Compensation Plan.

2010 Equity Plans

We adopted our 2010 Incentive Compensation Plan on April 23, 2010, and we adopted our 2010 Non-Qualified Stock Option Plan on December 13, 2010. The principal purpose of both plans was to attract, retain and motivate selected employees, consultants and directors through the granting of stock-based compensation awards.

Of the 1,250,000 shares of common stock that were eligible for issuance pursuant to awards made under the 2010 Incentive Compensation Plan, 824,950 shares of common stock were subject to options outstanding as of September 30, 2011. As of such date, the outstanding options had exercise prices of $1.80 per share and had expiration dates of December 13, 2020. Of the 2,565,675 shares of common stock that were eligible for issuance pursuant to awards made under the 2010 Non-Qualified Stock Option Plan, 2,371,000 shares of common stock were subject to options outstanding as of September 30, 2011. As of such date, the outstanding options had exercise prices of $1.80 per share and had expiration dates of December 13, 2020. Although these plans remain in effect and options under the plans remain outstanding, we will cease making awards under these plans as of the adoption and effectiveness of our 2012 Incentive Compensation Plan.

2012 Incentive Compensation Plan

We intend to adopt a 2012 Incentive Compensation Plan, or the 2012 Plan. The principal purpose of the 2012 Plan is to attract, retain and motivate selected employees, consultants and directors through the granting of stock-based compensation awards and cash-based performance bonus awards. The 2012 Plan is also designed to permit us to make cash-based awards and equity-based awards intended to qualify as "performance-based compensation" under Section 162(m) of the Internal Revenue Code of 1986, as amended, or the Code.

The following summary is qualified in its entirety by reference to the text of the 2012 Plan, which is filed as an exhibit to this registration statement.

Eligibility. Awards may be granted under the 2012 Plan to officers, directors (including non-employee directors) and other employees of our company or any of our subsidiaries or other affiliates, to any individual who is an advisor, consultant or other provider of services to us or any of our subsidiaries or other affiliates and to any other individuals who are approved by our Board of Directors as eligible to participate in the plan. Only our employees or those of any of our subsidiaries are eligible to receive incentive stock options.

Administration, Amendment and Termination. Our compensation committee will have the power and authority to administer the 2012 Plan. The compensation committee will have the authority to interpret the terms and intent of the 2012 Plan, determine eligibility for and terms of awards for participants and make all other determinations necessary or advisable for the administration of the 2012 Plan. To the extent permitted by law, our compensation committee may delegate authority under the 2012 Plan to our Chief Executive Officer or to our other executive officers under conditions and limitations the compensation committee may establish.

The compensation committee may amend, suspend or terminate the 2012 Plan at any time with respect to any shares of common stock as to which awards have not been made. No such action may amend the 2012 Plan without the approval of stockholders if the amendment is required to be submitted for stockholder approval by applicable law, rule or regulation.

Awards. Awards under the 2012 Plan may be made in the form of: options, SARs, stock awards, restricted share units, cash bonuses or other incentive award granted under the 2012 Plan, whether singly, in combination, or in tandem. Any of the foregoing awards may be made subject to attainment of performance goals over any applicable performance period.

Shares Subject to the Plan. The aggregate number of shares of our common stock that may be issued initially pursuant to awards under the 2012 Plan is shares. The maximum number of shares that may be issued pursuant to the exercise of incentive stock options under the 2012 Plan is . Shares issued under the 2012 Plan may be authorized but unissued shares or treasury shares. Any shares covered by an award, or portion of an award, granted under the 2012 Plan that is forfeited or canceled, expires or is settled in cash will be deemed not to have been issued for purposes of determining the maximum number of shares available for issuance under the plan.

Adjustment of Shares Subject to 2012 Plan. In the event of certain changes in our capitalization, the compensation committee will adjust, among other award terms, the number and kind of shares or property that may be delivered in connection with awards and the exercise price, grant price or purchase price relating to any award in such manner as the compensation committee determines to be necessary to prevent dilution or enlargement of the rights of participants.

Effect of Change of Control. Upon the occurrence of a change of control, the compensation committee may:

- accelerate, vest or cause the restrictions to lapse with respect to all or any portion of an award under the 2012 Plan;
- cancel such awards for fair value (as determined by the compensation committee);
- provide for the issuance of substitute awards that will substantially preserve the otherwise applicable terms of any affected awards previously granted under the 2012 Plan, as determined by the compensation committee; or
- provide that for a period of at least 10 days prior to the change of control, option awards will be exercisable as to all shares of common stock subject thereto and that upon the occurrence of the change of control, such awards will terminate and be of no further force or effect.

Corporate Performance Objectives. Section 162(m) of the Code limits public companies to an annual deduction for federal income tax purposes of $1,000,000 for compensation paid to their Chief Executive Officer and, based on recent IRS interpretation, the three most highly compensated executive officers determined at the end of each year. Performance-based compensation is excluded from this limitation. The 2012 Plan is designed to permit the compensation committee to grant awards that qualify as performance-based for purposes of satisfying the conditions of Section 162(m) at such time as the 2012 Plan becomes subject to Section 162(m).

Key Personnel Incentive Program

We have adopted the Key Personnel Incentive Program, or the program, to provide a key employee and consultant with the opportunity to receive incentive bonus payments based on future performance of services to the company or upon a consummation of a sale transaction, as defined in the program. The compensation committee of our Board of Directors is responsible for administering the program, and the only participants in the program are Paul A. Bottomley and Parag Karmarkar. The program will terminate on the earlier of December 31, 2015 or the occurrence of a sale transaction.

Service Bonuses

Until the occurrence of a sale transaction, each participant will be entitled to receive semi-annual service bonuses beginning on June 30, 2012 and continuing through December 31, 2015 if the participant continues to provide services to us as our consultant or employee as of the respective payment dates. Pursuant to their awards, Dr. Bottomley and Mr. Karmarkar would receive service bonuses totaling up to $1,700,000 and $1,000,000, respectively, payable in eight equal semi-annual installments. If the participant's consultancy or employment is (i) terminated due to the participant's death or disability, or (ii) involuntarily terminated by us other than for cause, as defined in the program, then the participant will be deemed vested, as of the termination date, in all future service bonus payments, and we will pay that aggregate amount no later than March 15 of the year following the year in which the termination occurred.

Bonus Upon a Sale Transaction

In the event of a sale transaction, each of the participants will be entitled to receive a bonus payment under the program if the participant continues to provide services to us as our consultant or employee as of the date of the transaction. Mr. Karmarkar would receive a bonus equal to $1,000,000, less any service bonus payments made to Mr. Karmarkar as described above. Dr. Bottomley would receive a bonus equal to (i) $1,000,000, plus (ii) 1.4% of the amount by which the "net proceeds" from the sale transaction exceed $50,000,000, but not to exceed $700,000, less (iii) any service bonus payments made to Dr. Bottomley as described above. Following a sale transaction, neither participant will be entitled to receive any further service bonuses.

For purposes of the program, the "net proceeds" from a sale transaction will be the portion of the aggregate cash and non-cash consideration paid or payable in connection with the consummation of the sale transaction that is distributed, or otherwise available for distribution, to holders of our common stock.

Cardiac EP Business Participation Plan

We have adopted the Cardiac EP Business Participation Plan, or the plan, to enable us to provide a key product development advisor and consultant with financial rewards in the event that we sell our business operations relating to catheter-based MRI-guided cardiac ablation to treat cardiac arrhythmias, which we refer to as our cardiac EP business operations. The cardiac EP business operations include our operations relating to the ClearTrace system for MRI-guided cardiac ablation to treat cardiac arrhythmias, but it does not include our operations relating to our ClearPoint system or any other product or product candidate. The sole participant in the plan is Dr. Nassir F. Marrouche.

In the event that we sell our cardiac EP business operations, whether on a stand-alone basis or as part of the sale of our entire company, the participant will receive a payment under the plan equal to (i) the transaction value paid for or allocated to the cardiac EP business operations in the sale, multiplied by (ii) the participant's "participation interest" at the time of the sale. The participant was initially awarded a participation interest of 6.6%. Pursuant to the terms of the plan, that percentage interest is equitably reduced from time to time to take into account equity financing transactions in which we issue shares of our common stock or securities convertible into shares of our common stock in exchange for cash proceeds. As of September 30, 2011, the participant's participation interest was 6.6%. However, the participant's participation interest will be appropriately reduced to take into account the shares of common stock issuable in connection with conversions upon the effectiveness of this registration statement. The plan will terminate on June 2, 2025.

401(k) Plan

We offer a 401(k) Plan pursuant to Section 401(k) of the Code. All full time United States employees are eligible to participate in the plan. The plan permits pretax contributions by participants not to exceed annual amounts allowable under the Code. Participants are fully vested in their contributions.

Limitations on Directors' Liability and Indemnification Agreements

As permitted by Delaware law, we have adopted provisions in our certificate of incorporation and bylaws, both of which will become effective upon the effectiveness of this registration statement, that limit or eliminate the personal liability of directors for a breach of their fiduciary duty of care as a director. The duty of care generally requires that, when acting on behalf of the corporation, a director exercise an informed business judgment based on all material information reasonably available to him or her. 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;
- act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- act related to unlawful stock repurchases, redemptions or other distributions or payments of dividends; or
- transaction from which the director derived an improper personal benefit.

These limitations of liability do not limit or eliminate our rights or any stockholder's rights to seek non-monetary relief, such as injunctive relief or rescission. These provisions will not alter a director's liability under federal securities laws. Our certificate of incorporation that will become effective upon the effectiveness of this registration statement also authorizes us to indemnify our officers, directors and other agents to the fullest extent permitted under Delaware law.

As permitted by Delaware law, our bylaws also provide that:

- we will indemnify our directors, officers, employees and other agents to the fullest extent permitted by law;
- we may advance expenses to our directors, officers, employees and other agents in connection with a legal proceeding to the fullest extent permitted by law; and
- the rights provided in our bylaws are not exclusive.

We believe that indemnification under our bylaws covers at least negligence and gross negligence on the part of indemnified parties. Our bylaws also permit us to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in connection with their services to us, regardless of whether our bylaws permit such indemnification. We have obtained such insurance.

In addition to the indemnification provided for in our certificate of incorporation and bylaws, we have entered into separate indemnification agreements with each of our directors and executive officers. These indemnification agreements may require us, among other things, to indemnify our directors and officers for some expenses, including attorneys' fees, judgments, fines and settlement amounts incurred by a director or officer in any action or proceeding arising out of his or her service as one of our directors or officers, or any of our subsidiaries or any other company or enterprise to which the person provides services at our request. We believe that these provisions and agreements are necessary to attract and retain qualified individuals to serve as directors and officers. There is no pending litigation or proceeding involving any of our directors or officers to which indemnification is required or permitted, and we are not aware of any threatened litigation or proceeding that may result in a claim for indemnification.

Item 7. *Certain Relationships and Related Transactions, and Director Independence*

Policies and Procedures for Related Person Transactions

Prior to the effectiveness of this registration statement, we will adopt a related person transactions policy, to be effective upon effectiveness of this registration statement, pursuant to which our executive officers, directors and principal stockholders, including their immediate family members, are not permitted to enter into a related person transaction with us without the consent of our audit committee. Any request for us to enter into a transaction with an executive officer, director, principal stockholder or any of such persons' immediate family members, in which the amount involved exceeds the lesser of $120,000 or 1% of the average of our total assets at year end for the last two completed fiscal years, must be presented to our audit committee for review, consideration and approval. All of our directors, executive officers and employees are required to report to our audit committee any such related person transaction. In approving or rejecting the proposed agreement, our audit committee will take into account, among other factors it deems appropriate, whether the proposed related person transaction is on terms no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances, the extent of the person's interest in the transaction and, if applicable, the impact on a director's independence. After consideration of these and other factors, the audit committee may approve or reject the transaction. Under the policy, if we should discover related person transactions that have not been approved, the audit committee will be notified and will determine the appropriate action, including ratification, rescission or amendment of the transaction.

Related Person Transactions

The following is a description of transactions since January 1, 2008 to which we have been a party, in which the amount involved in the transaction exceeds $46,000, which is 1% of the average of our total assets at year end for our last two completed fiscal years, and in which any of our executive officers, directors and principal stockholders, including their immediate family members, had or will have a direct or indirect material interest.

In September 2004, Mr. Jenkins, our Chief Executive Officer, purchased 500,000 shares of our common stock for an aggregate purchase price of $480,000. Mr. Jenkins paid the purchase price by delivering to us a non-recourse promissory note in the principal amount of $480,000, and Mr. Jenkins pledged the purchased shares as security for the note. The note was amended and restated on September 30, 2008 to extend the maturity date. As of December

22, 2009, the outstanding balance on the note was $594,687 (including $114,687 of accrued interest). In December 2009, we filed a registration statement for a planned initial public offering of our common stock. Section 402(a) of the Sarbanes-Oxley Act required that Mr. Jenkin's note be repaid prior to the filing of that registration statement. Our Board of Directors formed a special committee of independent directors to review and evaluate any potential transaction with Mr. Jenkins with respect to his loan. The special committee approved, and our Board of Directors ratified, a transaction pursuant to which, on December 22, 2009, Mr. Jenkins sold us 66,652 shares of common stock valued at $9.64 per share and we issued to Mr. Jenkins an option to purchase 66,652 shares of common stock with an exercise price of $9.64 per share. Our Board of Directors determined that the fair market value of our common stock as of December 22, 2009 was $9.64 per share. We paid a portion of the stock purchase price, approximately $594,687, by cancelling Mr. Jenkins' promissory note and the remainder, approximately $47,833, was paid in cash. The purpose of the transaction was to satisfy Mr. Jenkins' promissory note to enable us to file of our registration statement for the planned initial public offering while maintaining as closely as possible the original economics of Mr. Jenkins' loan transaction.

In November 2010, we issued an aggregate of 10,714,286 units in a private offering in which we received gross proceeds of approximately $3,000,000. We issued the units to existing stockholders and other existing investors. Each unit consisted of a junior secured note and one share of our common stock. We issued 10,714,286 shares of common stock and junior secured notes in the aggregate principal amount of approximately $3,000,000. The notes mature 10 years from the date of issuance and accrue interest at the rate of 3.5% per year. The notes are secured by a security interest in all of our assets. All outstanding principal and interest on the notes is due in a single payment upon maturity. Four of our executive officers, Kimble L. Jenkins, David W. Carlson, Peter G. Piferi and Oscar L. Thomas, purchased an aggregate of 882,726 units in the offering for $247,164. In addition, three of our non-employee directors, Paul A. Bottomley, Charles E. Koob and John C. Thomas, Jr., also purchased an aggregate of 567,203 units for $158,816 in the offering. Five other non-employee directors had advanced a total of $190,000 to the company in anticipation of the offering. However, due to the investment allocations for the offering, those five non-employee directors were not able to purchase units. We returned all funds advanced by the five non-employee directors without interest.

In June through September 2011, we issued unsecured convertible notes in the aggregate principal amount of $1,310,000 to five of our directors, Bruce C. Conway, Charles E. Koob, James K. Malernee, Jr., Michael A. Pietrangelo, John N. Spencer, Jr., and an entity controlled by another director, Andrew K. Rooke. The note holders also received warrants to purchase shares of our common stock. The notes mature two years from the date of issuance, unless earlier converted, and accrue interest at the rate of 15% per year. The warrants were immediately exercisable, have a term of five years, and have an exercise price of $0.01 per share. Upon the effectiveness of this registration statement, all principal and accrued interest on the notes will automatically convert into shares of our common stock at a conversion price of $0.60 per share.

Dr. Paul Bottomley, one of our directors, serves as a consultant to the company. Under his agreement, Dr. Bottomley's consulting fee is $60,000 per year.

In addition to the disclosure above, the terms of the Key Personnel Incentive Plan, which is more fully described in the section entitled "Benefit Plans—Key Personnel Incentive Plan", is incorporated and restated herein.

Third Amended and Restated Investors Rights' Agreement

Pursuant to our Third Amended and Restated Investors Rights' Agreement, or Rights Agreement, certain of our stockholders and their affiliates and transferees have registration rights. For more information concerning the Rights Agreement and other registration rights we have granted, please see "Description of Capital Stock—Registration Rights."

Indemnification Agreements

We have entered into separate indemnification agreements with each of our directors and executive officers, in addition to the indemnification provided for in our certificate of incorporation and bylaws. See "Management—Limitations on Directors' Liability and Indemnification Agreements".

Board Independence

We have not applied to list our securities on a national securities exchange or an inter-dealer quotation system which has requirements that a majority of our Board of Directors be independent. However, for purposes of determining independence, we have adopted the provisions of Nasdaq Marketplace Rule 5605. Our Board of Directors undertook a review of the composition of our Board of Directors and its committees and the independence of each director. Based upon information requested from and provided by each director concerning his or her background, employment and affiliations, including family relationships, our Board of Directors has determined that none of Drs. Bottomley or Malernee or Messrs. Conway, Koob, Pietrangelo, Rooke, Ryan or Spencer, representing eight of our nine directors, has a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of these directors is "independent" as that term is defined under Rule 5605(a)(2) of the Nasdaq Marketplace Rules. In making such determination, our Board of Directors considered the relationships that each such director has with us and all other facts and circumstances the Board of Directors deemed relevant in determining independence, including the beneficial ownership of our capital stock by each director.

Item 8. ***Legal Proceedings***

In the ordinary course of our business, we may be subject to various claims, pending and potential legal actions for damages, investigations relating to governmental laws and regulations and other matters arising out of the normal conduct of our business. We are not aware of any material pending legal proceedings to which we are a party or of which any of our properties is the subject.

Item 9. ***Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters***

Market Information

There is no established public trading market for our common stock.

Holders

As of November 30, 2011, we had 16,084,981 shares of common stock outstanding and 7,965,000 shares of preferred stock outstanding that are convertible into 7,965,000 shares of common stock upon the effectiveness of this registration statement. As of November 30, 2011, we also had convertible notes in the aggregate principal amount of approximately $5.9 million outstanding that are convertible into 8,207,596 shares of common stock upon the effectiveness of this registration statement. As of November 30, 2011, we had approximately 550 stockholders, assuming the conversion of all outstanding shares of our preferred stock, as well as convertible notes in the aggregate principal amount of approximately $5.9 million, into shares of our common stock upon the effectiveness of this registration statement. In addition, as of November 30, 2011, options and warrants to purchase 5,200,963 shares of common stock were issued and outstanding, as were convertible notes in the aggregate principal amount of approximately $6.2 million that do not automatically convert into shares of common stock upon the effectiveness of this registration statement.

Dividends

We have never declared or paid cash dividends on our capital stock. We currently intend to retain all future earnings for the operation and expansion of our business and, therefore, do not anticipate declaring or paying cash dividends in the foreseeable future. The payment of dividends will be at the discretion of our Board of Directors and will depend on our results of operations, capital requirements, financial condition, prospects, contractual arrangements, any limitations on payments of dividends present in any of our future debt agreements and other factors our Board of Directors may deem relevant.

Equity Compensation Plan Information

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders	1,300,825	$ 2.29	366,550
Equity compensation plans not approved by security holders	2,395,000	$ 1.80	170,675
Total	3,695,825	$ 1.97	537,225

Item 10. ***Recent Sales of Unregistered Securities***

The following sets forth information regarding all unregistered securities sold since December 31, 2007:

1. We granted stock options to employees, consultants and directors to purchase an aggregate of 184,125 shares of common stock under our 2007 Stock Incentive Plan, 851,450 shares of common stock under our 2010 Incentive Compensation Plan, and 2,395,000 shares of common stock under our 2010 Non-Qualified Stock Option Plan. The issuance of these options was exempt from registration under Section 4(2) of the Securities Act, as a sale not involving a public offering, or pursuant to Rule 701 under the Securities Act.

2. On December 22, 2009, we issued to Mr. Jenkins an option to purchase 66,652 shares of our common stock at an exercise price of $9.64 per share. The issuance of this option was exempt from registration under 4(2) of the Securities Act, as a sale not involving a public offering.

3. During 2009, Boston Scientific loaned us $3,500,000 pursuant to the terms of three convertible promissory notes. Interest on the loans accrues at 10% per annum and compounds annually. The Boston Scientific loans are secured by a security interest in all of our assets. Each loan was originally scheduled to mature on the second anniversary of the date on which the funds were advanced. However, the maturity dates of the loans have been extended through January 16, 2012, as we and Boston Scientific negotiate a longer term extension. Under the loan terms, we are required to prepay all or a portion of the loans upon the consummation of any qualified financing, which is any equity financing in which shares of our preferred stock are issued in exchange for cash proceeds. Upon consummation of a qualified financing from Medtronic, Inc., St. Jude Medical, Inc., or Johnson & Johnson, or any of their respective subsidiaries or affiliates, up to 100% of the cash proceeds from the qualified financing must be used to prepay the outstanding amount of the loans. Upon consummation of a qualified financing from any other investor, up to 25% of the cash proceeds from such qualified financing must be applied by us to prepay the outstanding amount of the loans. We can prepay each loan at any time prior to its respective maturity date. At the option of Boston Scientific, the loans are convertible at any time into one share of a new series of our preferred stock for every $8.00 outstanding under the loans at the time of conversion. The shares of the new series of preferred stock issuable upon such an optional conversion by Boston Scientific would have rights, preferences and privileges substantially similar to our Series A Convertible Preferred Stock, except that the liquidation preference for the new series of preferred stock would be $8.00 per share. In addition, in the event we conduct a qualified financing, Boston Scientific may elect to convert the loans into shares of the series of preferred stock that we issue in the qualified financing, based on a conversion price equal to the lowest price paid by investors in the qualified financing for a share of preferred stock. In the event Boston Scientific has not converted the loans into shares of preferred stock prior to the time we consummate an initial public offering of shares of our common stock in which we receive gross cash proceeds of at least $20 million, Boston Scientific will lose its right to convert the loans into equity.

4. In March 2010, we issued 10% senior unsecured convertible notes in the aggregate principal amount of approximately $4.1 million to 50 accredited investors in a private placement. The notes automatically convert into shares of our common stock upon the closing of an initial public offering of shares of our common stock at the lesser of $8.00 per share or 80% of the public offering price. In addition, subject to prior maturity, prepayment and/or certain adjustments, holders of the notes may convert the outstanding principal amount of their notes into shares of our common stock at any time, based on a conversion price of $8.00 per share. The bridge notes mature two years from the date of issuance, unless earlier converted, and accrue interest at the rate of 10% per year. When issued, the notes did not provide for conversion into shares of our common stock upon the effectiveness of this registration statement. However, as of December 23, 2011, holders of approximately $3.4 million in principal amount of the notes have amended their notes to provide for the automatic conversion of their notes, including the principal and all accrued interest, into shares of our common stock upon the effectiveness of this registration statement, based on a conversion price of $1.00 per share. In connection with the financing transaction in which the notes were originally issued, we engaged Gilford Securities Incorporated to serve as our placement agent. As placement agent, Gilford Securities Incorporated received a cash fee of approximately $285,000 and a warrant exercisable for 25,444 shares of our common stock at a price equal to the lesser of $8.00 per share or 80% of the public offering price in an initial public offering.

5. In November 2010, we issued an aggregate of 10,714,286 units in a private placement and received gross proceeds of approximately $3,000,000. We issued the units to existing stockholders and other existing investors. Each unit consisted of a junior secured note and one share of our common stock. We issued 10,714,286 shares of common stock and junior secured notes in the aggregate principal amount of $3,000,000. The notes mature 10 years from the date of issuance and accrue interest at the rate of 3.5% per annum. The notes are secured by a security interest in all of our assets. The notes are not convertible into shares of our common stock or any other securities. All outstanding principal and interest on the notes will be due in a single payment upon maturity.

6. In April 2011, we issued a 10% subordinated secured convertible promissory note in the principal amount of $2,000,000 to Brainlab. The note matures in April 2016, unless earlier converted, and it accrues interest at the rate of 10% per year. All outstanding principal and interest on the note will be due in a single payment upon maturity. In the event we close an equity financing in which we issue shares of our preferred stock and receive at least $10,000,000 in net proceeds, the note will automatically convert into the shares of preferred stock that are issued in the financing, based on the lower of the price paid by investors in the financing or $0.60 per share, if the number of shares to be issued upon conversion represents at least 10% of our outstanding shares of stock on a fully diluted basis. If the number of shares that would be issued upon conversion represents less than 10% of our outstanding shares of stock on a fully diluted basis, the note will convert into the shares of preferred stock that are issued in the financing, based on the lower of the price paid by investors in the financing or $0.60 per share, only upon Brainlab's election to convert.

7. In June through September 2011, we issued unsecured convertible notes in the aggregate principal amount of $1,310,000 to six non-employee directors. The note holders also received warrants to purchase shares of common stock. The notes mature two years from the date of issuance, unless earlier converted, and accrue interest at the rate of 15% per year. The warrants were immediately exercisable, have a term of five years, and have an exercise price of $0.01 per share. When issued, the notes provided for conversion into shares of our common stock (i) upon consummation of an initial public offering, of shares of our common stock, based on a conversion price equal at to 60% of the public offering price, or (ii) upon consummation of a reverse merger of our company into a publicly held shell company, based on a conversion price equal to 60% of the fair market value of our common stock at the time of the merger. The notes were subsequently amended to provide that the principal and all accrued interest under the notes will automatically convert into shares of our common stock upon the effectiveness of this registration statement, based on a conversion price of $0.60 per share

8. In October 2011, we began a private placement of our securities in which we are offering units, with each unit consisting of a 10% secured convertible note in the principal amount of $100,000 and a warrant to purchase 50,000 shares of our common stock. The notes mature three years from the date of issuance, unless earlier converted, and accrue interest at 10% per year. The notes are secured by a security interest in all our assets. The

notes, including the principal and all accrued interest, convert automatically into shares of our common stock upon the effectiveness of this registration statement, based on a conversion price of $0.60 per share. Likewise, a note holder may elect at any time to convert the note into shares of our common stock, based on a conversion price of $0.60 per share. The warrants are immediately exercisable, have a term of five years, and have an exercise price of $0.75 per share. As of December 23, 2011, we have received gross proceeds of $1,625,000 in connection with this financing, or the unit offering. The placement agent for the unit offering will receive a cash fee equal to 10% of the gross proceeds, as well as a warrant to purchase that number of shares of our common stock equal to 8% of the number of shares of our common stock issuable upon conversion of the notes and exercise of the warrants sold in the offering, at an exercise price of $0.75 per share.

We claimed exemption from registration under the Securities Act for the sales and issuances of securities in the transactions described in paragraphs (3) through (8) by virtue of Section 4(2) of the Securities Act and/or Rule 506 of Regulation D. Such sales and issuances did not involve any public offering, were made without general solicitation or advertising and each purchaser was a sophisticated investor with access to all relevant information necessary to evaluate the investment and represented to us that the shares were being acquired for investment.

Item 11. *Description of Registrant's Securities to be Registered*

Common Stock

As of September 30, 2011, we had 70,000,000 authorized shares of common stock, $0.01 par value per share. Under our certificate of incorporation that will become effective upon the effectiveness of this registration statement, we will have 125,000,000 authorized shares of common stock, $0.01 par value per share.

Voting Rights

Each holder of our common stock is entitled to one vote for each share on all matters submitted to a vote of the stockholders, including the election of directors. Under our certificate of incorporation and bylaws, our stockholders will not have cumulative voting rights. Because of this, the holders of a majority of the shares of common stock entitled to vote in any election of directors can elect all of the directors standing for election, if they should so choose.

Dividends

Subject to preferences that may be applicable to any then outstanding preferred stock, holders of common stock are entitled to receive ratably those dividends, if any, as may be declared from time to time by the Board of Directors out of legally available funds.

Liquidation

In the event of our liquidation, dissolution or winding up, holders of common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities and the satisfaction of any liquidation preference granted to the holders of any outstanding shares of preferred stock.

Rights and Preferences

Holders of common stock have no preemptive, conversion or subscription rights, and there are no redemption or sinking fund provisions applicable to the common stock. The rights, preferences and privileges of the holders of common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock that we may designate in the future.

Fully Paid and Nonassessable

All of our outstanding shares of common stock are fully paid and nonassessable.

Preferred Stock

Under our certificate of incorporation that will become effective upon the effectiveness of this registration statement, we will have 20,000,000 authorized shares of preferred stock, $0.01 par value per share. The Board of Directors will have the authority, without further action by the stockholders, to issue up to that number of shares of preferred stock in one or more series, to establish from time to time the number of shares to be included in each such series, to fix the rights, preferences and privileges of the shares of each wholly unissued series and any qualifications, limitations or restrictions thereon, and to increase or decrease the number of shares of any such series, but not below the number of shares of such series then outstanding. The Board of Directors may authorize the issuance of preferred stock with voting or conversion rights that could adversely affect the voting power or other rights of the holders of the common stock. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, have the effect of delaying, deferring or preventing a change in control of MRI Interventions and may adversely affect the market price of the common stock and the voting and other rights of the holders of common stock. Upon the effectiveness of this registration statement, no shares of preferred stock will be issued or outstanding.

Registration Rights

Rights Agreement

In 1998 shortly following our formation, some of our initial investors entered into an investor rights agreement with us, which, among other things, provided demand and piggyback registration rights. We amended the investor rights agreement from time to time thereafter to extend the registration rights under the investor rights agreement to new investors. The investor rights agreement was most recently amended in 2006 in connection with a preferred stock offering, and it remains in place as the Rights Agreement.

Demand and Form S-3 Registration Rights

Pursuant to the Rights Agreement, at any time beginning six months after the consummation of the initial public offering of shares of our common stock, the holders of approximately 11,800,000 shares of our common stock, or registrable shares, will have the right to require us to register the registrable shares under the Securities Act under specified circumstances. We will not be required to effect a demand registration for 120 days following the effectiveness of a registration statement relating to an underwritten public offering of our securities. Under specified circumstances, we also have the right to defer filing of a requested registration statement for a period of not more than 120 days, which right may not be exercised more than twice during any period of 12 consecutive months. These registration rights are subject to additional conditions and limitations, including the right of the underwriters to limit the number of shares included in any such registration under certain circumstances.

If we are eligible to file a registration statement on Form S-3, each holder of registrable shares of our common stock has the right to demand that we file additional registration statements, including a shelf registration statement, for such holders on Form S-3. We will not be required to effect more than four demand registrations in total, of which no more than two may be required to be effected by us at any time after the second anniversary of this offering and then only on Form S-3.

Piggyback Registration Rights

Pursuant to the Rights Agreement, at any time beginning six months after the consummation of the initial public offering of shares of our common stock, whenever we propose to file a registration statement under the Securities Act, other than with respect to a registration related to employee benefit plans, debt securities, or corporate reorganizations, the holders of registrable shares are entitled to notice of the registration and have the right to include their registrable shares in such a registration. As of September 30, 2010, the holders of approximately 11,800,000 shares of our common stock and common stock issuable upon conversion of our preferred stock would have been entitled to notice of the registration and would have been entitled to include their shares of common stock in the registration statement. The underwriters of any underwritten offering will have the right to limit the number of shares having registration rights to be included in the registration statement.

Rule 144 Transfers

Despite the demand and piggyback registration rights described above, we will not be obligated to register any holder's registrable shares pursuant to the Rights Agreement to the extent such holder can sell all of such holder's registrable shares pursuant to Rule 144 promulgated under the Securities Act in a single transaction without registration or any other restrictions.

Additional Piggyback Registration Rights

Whenever we propose to file a registration statement under the Securities Act in connection with the secondary offering of shares of our common stock by any of our stockholders, the holders of the notes and warrants issued in the unit offering, or any shares of common stock issued upon conversion of the notes or exercise of the warrants, will be entitled to notice of the registration and will have the right to include their shares of common stock issued or issuable upon conversion of the notes or exercise of the warrants in the registration. The underwriters of any underwritten offering will have the right to limit the number of shares having registration rights to be included in the registration statement.

Expenses of Registration

We are required to pay all expenses relating to any demand or piggyback registration, other than underwriting discounts and commissions.

Delaware Anti-Takeover Law and Certain Provisions of our Certificate of Incorporation and Bylaws

Delaware Law

We are governed by Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a public Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner. A "business combination" includes mergers, asset sales or other transactions resulting in a financial benefit to the stockholder. An "interested stockholder" is a person who, together with affiliates and associates, owns, or within three years, did own, 15% or more of the corporation's outstanding voting stock. These provisions may have the effect of delaying, deferring or preventing a change in our control.

Certificate of Incorporation and Bylaw Provisions

Our certificate of incorporation that will become effective upon the effectiveness of this registration statement:

- provides for a staggered Board of Directors;
- permits our Board of Directors to issue shares of preferred stock, with any rights, preferences and privileges as they may designate, including the right to approve an acquisition or other change in our control;
- provides that the authorized number of directors may be changed only by resolution of the Board of Directors;
- provides that all vacancies, including newly created directorships, may, except as otherwise required by law, be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum;
- requires that any action to be taken by our stockholders must be effected at a duly called annual or special meeting of stockholders and not be taken by written consent;

- provides that stockholders seeking to present proposals before a meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide notice in writing in a timely manner, and also specify requirements as to the form and content of a stockholder's notice;
- does not provide for cumulative voting rights (therefore allowing the holders of a majority of the shares of common stock entitled to vote in any election of directors to elect all of the directors standing for election, if they should so choose);
- provides that special meetings of our stockholders may be called only by the chairman of the Board of Directors, our Chief Executive Officer or by the Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors; and
- provides that stockholders will be permitted to amend our amended and restated bylaws only upon receiving at least 66 2/3% of the votes entitled to be cast by holders of all outstanding shares then entitled to vote generally in the election of directors, voting together as a single class.

These and other provisions contained in our certificate of incorporation and bylaws could delay or discourage some types of transactions involving an actual or potential change in our control or change in our management, including transactions in which stockholders might otherwise receive a premium for their shares over then current prices, and may limit the ability of stockholders to remove current management or approve transactions that stockholders may deem to be in their best interests and, therefore, could adversely affect the price of our common stock.

Item 12. ***Indemnification of Directors and Officers***

Our certificate of incorporation, which will become effective upon the effectiveness of this registration statement, contains provisions permitted under Delaware law relating to the liability of directors. These provisions eliminate a director's personal liability for monetary damages resulting from a breach of fiduciary duty, except in circumstances involving wrongful acts, such as any:

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

These provisions do not limit or eliminate our rights or any stockholder's rights to seek non-monetary relief, such as an injunction or rescission, in the event of a breach of director's fiduciary duty. These provisions will not alter a director's liability under federal securities laws.

As permitted by Section 145 of the Delaware General Corporation Law, our bylaws, which will become effective upon the effectiveness of this registration statement, require us to indemnify our directors and executive officers to the fullest extent not prohibited by the Delaware law. We may limit the extent of such indemnification by individual contracts with our directors and executive officers. Further, we may decline to indemnify any director or executive officer in connection with any proceeding initiated by such person or any proceeding by such person against us or our directors, officers, employees or other agents, unless such indemnification is expressly required to be made by law or the proceeding was authorized by our Board of Directors.

We have entered into indemnity agreements with each of our current directors and certain of our executive officers to give such directors and officers additional contractual assurances regarding the scope of the indemnification set forth in our certificate of incorporation and bylaws and to provide additional procedural protections. At present, there is no pending litigation or proceeding involving any of our directors, officers or employees for which indemnification is sought, nor are we aware of any threatened litigation that may result in claims for indemnification.

We have the power to indemnify our other officers, employees and other agents, as permitted by Delaware law, but we are not required to do so.

We maintain a directors' and officers' insurance and company reimbursement policy. The policy insures directors and officers against unindemnified losses arising from certain wrongful acts in their capacities as directors and officers and reimburses us for those losses against which we have lawfully indemnified the directors and officers. The policy contains various exclusions and limitations.

Reference is made to the following documents filed as exhibits to this registration statement regarding relevant indemnification provisions described above and elsewhere herein:

Exhibit Document	Number
Form of Amended and Restated Certificate of Incorporation	3.3
Form of Amended and Restated Bylaws	3.4
Third Amended and Restated Investor Rights' Agreement dated September 20, 2006	3.5
Form of Indemnification Agreement	10.8

Item 13. ***Financial Statements and Supplementary Data***

Our financial statements appear on pages F-1 through F-61 of this registration statement.

Item 14. ***Changes in and Disagreements with Accountants on Accounting and Financial Disclosure***

We have not had a change in our independent registered public accounting firm during its last two fiscal years or through the date of this filing. We have not had any disagreements with our current public accounting firm during the last two fiscal years or through the date of this filing on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreement, if not resolved to the satisfaction of the public accounting firm, would have caused it to make reference to the subject matter of the disagreement in connection with its report on the registrant's financial statements.

Item 15. ***Financial Statements and Exhibits***

(a) FinancialStatements

Our financial statements appear on pages F-1 through F-61 of this registration statement.

(b) Exhibits

Number	Description
3.1	Amended and Restated Certificate of Incorporation, as amended
3.2	By-laws, as amended
3.3*	Form of Amended and Restated Certificate of Incorporation of MRI Interventions, Inc. to be effective upon the effectiveness of this registration statement
3.4*	Form of Amended and Restated Bylaws of MRI Interventions, Inc. to become effective upon the effectiveness of this registration statement
3.5	Third Amended and Restated Investor Rights' Agreement dated September 20, 2006
3.6	Certificate of Designation, Preferences and Rights of Series A Convertible Preferred Stock, as amended
3.7	Form of Subscription Agreement for 10% Secured Convertible Promissory Note Due 2014

4.1	Reference is made to Exhibits 3.1, 3.2, 3.3, 3.4, 3.5, 3.6 and 3.7
4.2*	Specimen of Common Stock Certificate
4.3	Form of 10% Senior Unsecured Convertible Note Due 2012
4.4	Form of Junior Secured Promissory Note Due 2020, as amended by that certain Omnibus Amendment dated as of April 5, 2011, as further amended by that certain Second Omnibus Amendment dated as of October 14, 2011
4.5	10% Subordinated Secured Convertible Note Due 2016 issued to Brainlab AG, as amended
4.6	Form of Unsecured Convertible Promissory Note Due 2013, as amended
4.7	Form of 10% Secured Convertible Promissory Note Due 2014
4.8	Form of Amendment to 10% Senior Unsecured Convertible Note Due 2012
10.1	1998 Stock Option Plan
10.2	2007 Stock Incentive Plan
10.3	Amended and Restated Key Personnel Incentive Program
10.4	2010 Incentive Compensation Plan
10.5	2010 Non-Qualified Stock Option Plan
10.6	Junior Security Agreement by and between MRI Interventions, Inc. and Landmark Community Bank, in its capacity as collateral agent, dated as of November 5, 2010, as amended by that certain First Amendment dated April 5, 2011, and as further amended by that certain Second Amendment dated October 14, 2011
10.7	Security Agreement by and between MRI Interventions, Inc. and Landmark Community Bank, in its capacity as collateral agent, dated as of October 14,2011
10.8	Form of Indemnification Agreement
10.9†	License Agreement by and between SurgiVision, Inc. and The Johns Hopkins University entered into on or around June 20, 1998, as amended by that certain Amendment to License Agreement dated as of January 15, 2000, and as further amended by that certain Addendum to License Agreement entered into on or around December 7, 2004
10.10†	License Agreement by and between SurgiVision, Inc. and The Johns Hopkins University entered into on or around December 7, 2006
10.11†	Technology License Agreement dated as of December 30, 2005 by and between SurgiVision, Inc. and Boston Scientific Neuromodulation Corporation (formerly known as Advanced Bionics Corporation), as amended by that certain Omnibus Amendment dated June 30, 2007, as further amended by that certain Omnibus Amendment #2 dated March 19, 2008
10.12†	System and Lead Development and Transfer Agreement dated as of December 30, 2005 by and between SurgiVision, Inc. and Boston Scientific Neuromodulation Corporation (formerly known as Advanced Bionics Corporation), as amended by that certain Amendment No. 1 dated May 31, 2006, as further amended by that certain Omnibus Amendment dated June 30, 2007, as further amended by that certain Omnibus Amendment #2 dated March 19, 2008

10.13†	Technology License Agreement dated as of March 19, 2008 by and between SurgiVision, Inc. and Cardiac Pacemakers, Inc.
10.14†	Development Agreement dated as of March 19, 2008 by and between SurgiVision, Inc. and Cardiac Pacemakers, Inc.
10.15†	Cooperation and Development Agreement, dated as of May 4, 2009, by and between SurgiVision, Inc. and Siemens Aktiengesellschaft, Healthcare Sector
10.16*	Consulting Agreement with Dr. Paul Bottomley
10.17†	Co-Development and Distribution Agreement dated as of April 5, 2011 by and between SurgiVision, Inc. and Brainlab AG, as amended by that certain First Amendment dated as of July 18, 2011
10.18†	Master Security Agreement dated April 5, 2011 by and between SurgiVision, Inc. and Brainlab AG
10.19†	Patent License Agreement – Nonexclusive entered into on or around April 27, 2009 by and between SurgiVision, Inc. and National Institutes of Health
10.20†	Master Services and Licensing Agreement dated as of July 20, 2007 by and between SurgiVision, Inc. and Cedara Software Corp., as amended by that certain First Amendment dated January 18, 2011
10.21†	Exclusive License Agreement entered into on or around June 30, 2008 by and between SurgiVision, Inc. and The Johns Hopkins University
10.22†	Exclusive License Agreement entered into on or around June 30, 2008 by and between SurgiVision, Inc. and The Johns Hopkins University
10.23†	Exclusive License Agreement entered into on or around June 30, 2008 by and between SurgiVision, Inc. and The Johns Hopkins University
10.24	Loan Agreement dated as of October 16, 2009 by and between SurgiVision, Inc. and Boston Scientific Corporation
10.25†	Patent Security Agreement dated as of October 16, 2009 by and between SurgiVision, Inc. and Boston Scientific Corporation
10.26†	Research Agreement by and between SurgiVision, Inc. and The University of Utah entered into on or around July 2, 2007, as amended by that certain First Amendment to the Research Agreement entered into on or around January 8, 2008, as further amended by that certain Second Amendment to the Research Agreement dated April 24, 2009, as further amended by that certain Third Amendment to the Research Agreement dated May 1, 2009, as further amended by that certain Fourth Amendment to the Research Agreement entered into on or around February 25, 2010, as further amended by that certain Fifth Amendment to the Research Agreement dated December 31, 2010, and as further amended by that certain Sixth Amendment to the Research Agreement dated November 28, 2011
10.27	Lease Agreement, dated as of April 21, 2008, by and between Shaw Investment Company, LLC and Surgi-Vision, Inc., as amended by that certain Amendment to Lease dated January 20, 2011
10.28	Separation Agreement, dated as of April 30, 2010, by and between John Thomas and SurgiVision, Inc.

10.29	SurgiVision, Inc. Cardiac EP Business Participation Plan
10.30	Cardiac EP Business Participation Plan Award Agreement, dated June 3, 2010, by and between SurgiVision, Inc. and Nassir F. Marrouche
10.31	Amended and Restated Key Personnel Incentive Award Agreement, dated June 2, 2010, by and between SurgiVision, Inc. and Paul A. Bottomley
10.32	Key Personnel Incentive Award Agreement, dated June 2, 2010, by and between SurgiVision, Inc. and Paul A. Bottomley
10.33	Amended and Restated Key Personnel Incentive Award Agreement, dated June 2, 2010, by and between SurgiVision, Inc. and Parag V. Karmarkar
10.34*	MRI Interventions, Inc. 2012 Incentive Compensation Plan
10.35*	MRI Interventions, Inc. 2012 Incentive Compensation Plan Form of Incentive Stock Option Agreement
10.36*	MRI Interventions, Inc. 2012 Incentive Compensation Plan Form of Non-Qualified Stock Option Agreement

* To be filed by amendment.

† Confidential treatment requested under 17 C.F.R. §§200.80(b)(4) and 230.406. The confidential portions of this exhibit have been omitted and are marked accordingly. The confidential portions have been filed separately with the Securities and Exchange Commission pursuant to the confidential treatment request.

MRI INTERVENTIONS, INC.

Financial Statements

Index to Financial Statements

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of
MRI Interventions, Inc.

We have audited the accompanying balance sheets of MRI Interventions, Inc., a Delaware corporation (the "Company"), as of December 31, 2010 and 2009, and the related statements of operations, stockholders' equity (deficit) and cash flows for the years ended December 31, 2010, 2009 and 2008. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with standards of the Public Company Accounting Oversight Board (United States of America). Those standards require that we plan and perform the audit 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 purposes 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 accompanying financial statements referred to above present fairly, in all material respects, the financial position of MRI Interventions, Inc. as of December 31, 2010 and 2009 and the results of its operations and its cash flows for the years ended December 31, 2010, 2009 and 2008 in conformity with accounting principles generally accepted in the United States of America.

The accompanying financial statements have been prepared assuming the Company will continue as a going concern. As discussed in Note 3 to the financial statements, the Company incurred net losses during the three years ended December 31, 2010 of approximately $22,043,000 and had an accumulated stockholders' deficit at December 31, 2010 of approximately $51,477,000 and will require additional financing to fund the continued development of products subject to its technologies. The availability of such financing cannot be assured. These conditions raise substantial doubt about the Company's ability to continue as a going concern. Management's plans with regard to these matters are described in Note 3. The financial statements do not include any adjustments with respect to the possible future effects on the recoverability and classification of assets or the amounts and classification of liabilities that might result from the outcome of this uncertainty.

/s/ Cherry, Bekaert & Holland, L.L.P.
Tampa, Florida

December 28, 2011

MRI INTERVENTIONS, INC.

Balance Sheets

	December 31, 2010	December 31, 2009
ASSETS		
Current Assets		
Cash and cash equivalents	$ 1,577,314	$ 2,569,129
Accounts receivable	31,540	—
Inventory	1,610,442	569,350
Prepaids and other current assets	16,540	55,027
Total current assets	3,235,836	3,193,506
Property and equipment, net	979,509	992,158
Deferred costs	263,495	366,503
Licenses, net	45,000	63,000
Other assets	39,001	58,521
Total assets	$ 4,562,841	$ 4,673,688
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Current liabilities		
Accounts payable	$ 3,495,283	$ 473,484
Accrued compensation	124,792	539,865
Accrued interest	754,820	53,973
Other accrued liabilities	2,079,574	650,027
Income taxes payable	—	49,250
Derivative liability	—	1,227,500
Related party deferred revenue	2,600,000	2,600,000
Total current liabilities	9,054,469	5,594,099
Related party deferred revenue	3,996,374	6,596,374
Other accrued liabilities (Note 11)	278,060	—
Related party BSC convertible notes payable, net of unamortized discount (2010, $653,236; 2009, $1,129,000)	2,846,764	2,371,000
2010 unsecured convertible notes payable, net of unamortized discount of $571,275	3,499,725	—
2010 junior secured notes payable, net of unamortized discount of $2,775,300	224,700	—
Total liabilities	19,900,092	14,561,473
Commitments and contingencies (Notes 2, 5, 11 and 12)	—	—
Stockholders' deficit		
Series A convertible preferred stock; $.01 par value; 8,000,000 authorized and 7,965,000 shares issued and outstanding	7,965,000	7,965,000
Common stock, $.01 par value; 70,000,000 shares authorized; 16,185,820 (2010) and 5,455,110 (2009) issued; 15,859,990 (2010) and 5,129,280 (2009) outstanding	161,858	54,551
Additional paid-in capital	29,692,324	25,794,862
Treasury stock, at cost, 325,830 common shares	(1,679,234)	(1,679,234)
Accumulated deficit	(51,477,199)	(42,022,964)
Total stockholders' deficit	(15,337,251)	(9,887,785)
Total liabilities and stockholders' deficit	$ 4,562,841	$ 4,673,688

See notes to financial statements.

MRI INTERVENTIONS, INC.

Statements of Operations

	Years Ended December 31,		
	2010	2009	2008
Revenues:			
Related party license revenue	$ 2,600,000	$ 2,600,000	$ 1,950,000
Product revenues	69,450	—	—
Total revenues	2,669,450	2,600,000	1,950,000
Costs and operating expenses:			
Cost of product revenues	16,314	—	—
Research and development	5,681,031	6,067,617	4,258,492
Selling, general, and administrative (Note 12)	4,698,786	3,595,917	2,920,311
Costs of withdrawn IPO (Note 2)	1,788,609	—	—
Total costs and operating expenses	12,184,740	9,663,534	7,178,803
Operating loss	(9,515,290)	(7,063,534)	(5,228,803)
Other income (expense):			
Gain on change in fair value of derivative liability	1,227,500	—	—
Other income, net (Note 2)	413,623	—	—
Interest income	10,403	106,197	193,756
Interest expense	(1,590,471)	(152,473)	(394,738)
Loss before taxes	(9,454,235)	(7,109,810)	(5,429,785)
Income tax expense	—	49,250	—
Net loss	$ (9,454,235)	$(7,159,060)	$(5,429,785)
Net loss per share attributable to common stockholders:			
Basic and diluted	$ (1.40)	$ (1.34)	$ (1.04)
Weighted average shares outstanding:			
Basic	6,773,714	5,336,633	5,245,081

See notes to financial statements.

MRI INTERVENTIONS, INC.

Statements of Stockholders' Equity (Deficit)
Years Ended December 31, 2010, 2009, and 2008

	Convertible Preferred Stock Series A		Common Stock		Paid in Capital	Treasury	Due from	Accumulated	
	Shares	Amount	Shares	Amount	Amount	Stock	Stockholders	Deficit	Total
Balances, January 1, 2008	7,965,000	$7,965,000	5,033,817	$ 50,338	$24,039,925	$ —	$ (551,961)	$ (29,434,119)	$ 2,069,183
Employee share-based compensation	—	—	—	—	117,900	—	—	—	117,900
Accrued interest on note receivable	—	—	—	—	—	—	(21,659)	—	(21,659)
Conversion of convertible note payable	—	—	417,960	4,180	1,495,820	—	—	—	1,500,000
Net loss for the year	—	—	—	—	—	—	—	(5,429,785)	(5,429,785)
Balances, December 31, 2008	7,965,000	7,965,000	5,451,777	54,518	25,653,645	—	(573,620)	(34,863,904)	(1,764,361)
Employee share-based compensation	—	—	—	—	130,587	—	—	—	130,587
Accrued interest on note receivable	—	—	—	—	—	—	(57,779)	—	(57,779)
Purchase of treasury stock for cash	—	—	(129,962)	—	—	(547,835)	—	—	(547,835)
Issuance of note receivable, stockholder	—	—	—	—	—	—	(500,000)	—	(500,000)
Options exercised for cash	—	—	3,333	33	10,630	—	—	—	10,663
Purchases of treasury stock through cancellation of notes and accrued interest	—	—	(195,868)	—	—	(1,131,399)	1,131,399	—	—
Net loss for the year	—	—	—	—	—	—	—	(7,159,060)	(7,159,060)
Balances, December 31, 2009	7,965,000	7,965,000	5,129,280	54,551	25,794,862	(1,679,234)	—	(42,022,964)	(9,887,785)
Employee share-based compensation	—	—	—	—	245,462	—	—	—	245,462
Fair value of conversion feature of senior unsecured convertible notes payable	—	—	—	—	834,555	—	—	—	834,555
Warrants issued in connection with senior unsecured convertible notes payable	—	—	—	—	120,218	—	—	—	120,218
Elimination of fractional shares resulting from the reverse stock split	—	—	(103)	(1)	(514)	—	—	—	(515)
Issuance of common stock in payment of director fees	—	—	16,527	165	29,584	—	—	—	29,749
Issuance of common stock in connection with the sale of unit securities	—	—	10,714,286	107,143	2,668,157	—	—	—	2,775,300
Net loss for the year	—	—	—	—	—	—	—	(9,454,235)	(9,454,235)
Balances, December 31, 2010	7,965,000	$7,965,000	15,859,990	$161,858	$29,692,324	$(1,679,234)	$ —	$ (51,477,199)	$(15,337,251)

See notes to financial statements.

MRI INTERVENTIONS, INC.

Statements of Cash Flows

	Years Ended December 31,		
	2010	2009	2008
Cash flows from operating activities			
Net loss	$(9,454,235)	$(7,159,060)	$ (5,429,785)
Adjustments to reconcile net loss to net cash flows from operating activities:			
Depreciation and license amortization	266,223	168,710	84,484
Expenses paid through the issuance of common stock	29,749	—	—
Share-based compensation	245,462	130,587	117,900
Gain on change in fair value of derivative liability	(1,227,500)	—	—
Amortization of debt issuance costs and original issue discount	889,624	98,500	394,738
Write-off of costs of withdrawn IPO	1,788,609	—	—
Increase (decrease) in cash resulting from changes in:			
Accounts receivable	(31,540)	—	—
Inventory	(1,041,092)	(569,350)	—
Prepaids and other current assets	38,487	(25,270)	(29,757)
Deposits	19,520	4,775	(24,226)
Accounts payable and accrued expenses	3,543,310	418,970	603,975
Accrued interest on notes receivable, stockholder	—	(57,779)	(21,659)
Related party deferred revenue	(2,600,000)	(2,488,725)	11,560,099
Net cash flows from operating activities	(7,533,383)	(9,478,642)	7,255,769
Cash flows from investing activities:			
Purchases of property and equipment	(235,574)	(282,362)	(856,782)
Purchase of licenses	—	—	(90,000)
Net cash flows from investing activities	(235,574)	(282,362)	(946,782)
Cash flows from financing activities:			
Purchase of treasury stock for cash	—	(547,835)	—
Issuance of note receivable, stockholder	—	(500,000)	—
Deferred offering costs paid	—	(53,496)	—
Proceeds from related party convertible notes	—	3,500,000	—
Proceeds from 2010 unsecured convertible notes, net of issuance costs	3,777,142	—	—
Proceeds from sale of unit securities	3,000,000	—	—
Proceeds from option exercises	—	10,663	—
Net cash flows from financing activities	6,777,142	2,409,332	—
Net change in cash and cash equivalents	(991,815)	(7,351,672)	6,308,987
Cash and cash equivalents, beginning of year	2,569,129	9,920,801	3,611,814
Cash and cash equivalents, end of year	$ 1,577,314	$ 2,569,129	$ 9,920,801
SUPPLEMENTAL CASH FLOW INFORMATION			
Cash paid for:			
Income taxes	$ 49,250	$ —	$ —
Interest	$ —	$ —	$ —

See notes to financial statements.

MRI INTERVENTIONS, INC.

Statements of Cash Flows (continued)

NON-CASH TRANSACTIONS

* In 2008, convertible notes payable of $1,500,000 were converted into 417,960 shares of common stock.
* In December 2009, related party notes receivable and accrued interest in the amount of $1,131,399 were cancelled in exchange for 195,868 shares of treasury stock.
* At December 31, 2009, deferred offering costs in the amount of $313,007 were included in accrued expenses.
* In March 2010, warrants (recorded as deferred financing costs and additional paid-in capital) were issued with a fair value of $120,218 to the placement agent in connection with the sale of the senior unsecured convertible notes.

See notes to financial statements.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

1. Formation and Nature of Business

MRI Interventions, Inc. (the "Company"), formerly SurgiVision, Inc., was formed on March 12, 1998. The Company registered its name change with the state of Delaware in May 2011 where the Company is incorporated.

The Company operates in the medical device industry and is focused on the development and commercialization of technology that enables physicians to see inside the brain and heart using direct, intra-procedural magnetic resonance imaging, or MRI guidance, while performing minimally invasive surgical procedures. Prior to 2008, the Company was a development stage entity.

The Company's ClearPoint system, an integrated system comprised of reusable equipment, software, and disposable products, is designed to allow minimally invasive procedures in the brain to be performed in an MRI suite. In June 2010, the Company received 510(k) clearance from the Food and Drug Administration, or the FDA, to market the ClearPoint system in the United States for general neurological interventional procedures. The Company's ClearTrace system is a product candidate that is designed to allow catheter-based minimally invasive procedures in the heart to be performed in an MRI suite. The Company has also licensed certain technologies (see Note 5) to affiliates of Boston Scientific Corporation ("BSC) under the Company's SafeLead Development Program, the purpose of which is to incorporate the Company's MRI-safety technologies into BSC's implantable leads for cardiac and neurological applications.

2. Summary of Significant Accounting Policies

Basis of Presentation and Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States 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. Actual results could differ from those estimates.

The Company effectuated a 1-for-4 reverse stock split in July 2010. Accordingly, all share and per share amounts for all periods presented in these financial statements and notes thereto have been adjusted retroactively (see Note 9).

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

Concentration of Credit Risk

The Company places its cash and cash equivalents on deposit with financial institutions in the United States. On November 9, 2010, the Federal Deposit Insurance Corporation ("FDIC") issued a Final Rule implementing section 343 of the Dodd-Frank Wall Street Reform and Consumer Protection Act that provides for unlimited insurance coverage of noninterest-bearing transaction accounts. Beginning December 31, 2010, through December 31, 2012, all noninterest-bearing transaction accounts are fully insured, regardless of the balance of the account, at all FDIC-insured institutions. The unlimited insurance coverage is available to all depositors, including consumers, businesses, and government entities. This unlimited coverage is separate from, and in addition to, the $250,000 insurance coverage provided to a depositor's other deposit accounts held at an FDIC-insured institution.

The Company's bank deposits exceeded FDIC insured levels by $85,349 at December 31, 2010, based on specified coverage.

Receivables at December 31, 2010 and all product revenues for 2010 relate to sales to two customers. These two customers are hospitals located in the United States. The Company may perform credit evaluations of its customers' financial condition and, generally, requires no collateral from its customers. The Company will provide an allowance for doubtful accounts when collections become doubtful but has not experienced any credit losses to date.

Cash and Cash Equivalents

Cash and cash equivalents include all highly liquid investments with an original maturity of three months or less.

Fair Value Measurements

The Company measures certain financial assets and liabilities at fair value on a recurring basis, including its derivative liability. Generally accepted accounting principles for fair value measurement provide a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets and liabilities ("Level 1") and the lowest priority to unobservable inputs ("Level 3").

The Company measures the fair value of its derivative liability (see Note 6) on a recurring basis using Level 3 inputs.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

The following table summarizes liabilities measured at fair value on a recurring basis:

	Fair Value Measurements Using			
	Level 1	Level 2	Level 3	Total
Liabilities:				
Derivative liability, Note 6 (December 31, 2009)	$ —	$ —	$1,227,500	$1,227,500
Derivative liability, Note 6 (December 31, 2010)	$ —	$ —	$ —	$ —

The following table summarizes changes in Level 3 Liabilities measured at fair value on a recurring basis:

	Level 3 Liabilities
Balance as of December 31, 2008	$ —
Issuance of derivative liability, Note 6	1,227,500
Balance as of December 31, 2009	1,227,500
Gain on change in fair value	1,227,500
Balance as of December 31, 2010	$ —

Carrying amounts of the Company's cash and cash equivalents, accounts receivable and accounts payable and accrued liabilities approximate fair value due to their short maturities.

The fair value of the Company's notes payable differ from their carrying value primarily as the result of certain unamortized debt discounts that have been recorded as it relates to those debt instruments as well as a less than market contract interest rate associated with the junior secured notes payable (see Notes 6, 7, and 8). The fair values of all outstanding notes payable other than the 2010 junior secured notes payable were determined to be equal to the face value of the notes payable as the contractual interest rate approximated the market interest rate. The contractual interest rate on the 2011 junior secured notes payable is 3.5% per year, and the Company determined the fair value of these notes by discounting the face value utilizing a 10% estimated market interest rate over the term of the notes. The carrying values and estimated fair values of notes payable are as follows at December 31, 2010:

	Carrying Value	Estimated Fair Value
Related party convertible notes payable	$ 2,846,764	$3,500,000
Senior unsecured convertible notes payable	3,499,725	4,071,000
Junior secured notes payable	224,700	1,561,000

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

Inventory

Inventory is carried at the lower of cost (first-in, first-out ("FIFO") method) or net realizable value. All items included in inventory relate to the Company's ClearPoint system. The Company periodically reviews its inventory for obsolete items and provides a reserve upon identification of potential obsolete items.

Inventory consists of the following as of December 31:

	2010	2009
Work in process	$ 662,988	$394,350
Software (Note 11)	664,300	175,000
Finished Goods	283,154	—
	$1,610,442	$569,350

Property and Equipment

Property and equipment are recorded at cost and are depreciated on a straight-line basis over their estimated useful lives, principally five to seven years. Leasehold improvements are depreciated on a straight line basis over the lesser of their estimated useful lives or the life of the related lease.

Licenses

Licenses are recorded at cost and are amortized using the straight-line method over their estimated useful lives. The carrying value of licenses at December 31, 2010 and 2009 was $45,000 and $63,000, respectively, net of accumulated amortization of $45,000, and $27,000 at those respective dates. Future amortization under licenses is expected to be approximately $18,000 annually through June 2013. One of the licenses contains a requirement to pay the licensor an additional $40,000 upon the issuance of a certain patent. The license arrangements also require certain minimum royalty payments to the licensor.

Future minimum royalty payments are as follows:

Years Ending December 31,	
2011	$ 70,000
2012	70,000
2013	95,000
2014	95,000
2015	95,000
Thereafter	1,105,000
	$1,530,000

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

Royalty payment amounts may be greater than the above amounts based on the negotiated royalty rates. If the Company sublicenses the intellectual property that is licensed from the licensor and the Company receives any royalty payment under or with respect to such sublicense, the Company is obligated to pay the licensor an agreed upon percentage of any such payment(s). Under the terms of these license agreements, the Company is required to reimburse the licensor for all costs associated with patent filing, prosecution and maintenance as well as expenses related to enforcing the related patent rights. The Company may terminate these license agreements for any reason, upon giving the licensor either 60 or 90 days' written notice, depending on the agreement. One of the licenses is cancelable by the licensor if, by the fourth anniversary of the effective date (June 30, 2012), there have been no commercial sales of a product subject to the license.

Impairment of Long-Lived Assets

The Company evaluates the recoverability of its long-lived assets (finite-lived intangible assets and property and equipment) whenever events or changes in circumstances indicate that the carrying amount of such assets may not be fully recoverable. When this occurs, the expected undiscounted future cash flows are compared to the net book value of the related assets. If the net book value of the related assets exceeds the undiscounted expected future cash flows of the assets, the carrying amount would be reduced to the present value of the expected future cash flows and an impairment loss would be recognized. The Company has not recorded any impairment losses to date.

Revenue Recognition

The Company's revenues arise from: (1) the sale of ClearPoint system reusable equipment and software, including associated installation services; (2) sales of ClearPoint disposable products; and (3) license and development arrangements. The Company recognizes revenue, in accordance with Accounting Standards Codification ("ASC") 605-10-S99, Revenue Recognition, when persuasive evidence of an arrangement exists, the fee is fixed or determinable, collection of the fee is probable and delivery has occurred. For all sales, the Company requires either a signed purchase agreement or a binding purchase order as evidence of an arrangement.

(1) *Sale of ClearPoint system reusable components* —Revenues related to ClearPoint system sales are recognized upon installation of the system and the completion of training of at least one of the customer's physicians, which typically occurs concurrently with the ClearPoint system installation. There have been no ClearPoint system sales as of December 31, 2010.

(2) *Sales of ClearPoint disposable products*— Revenues from the sale of ClearPoint disposable products utilized in ClearPoint procedures, which occur after a ClearPoint installation is completed for a given customer, are recognized at the time risk of loss passes, which is generally at shipping point or the customer's location, based on the specific terms with that customer. All of the Company's 2010 product revenues are comprised of ClearPoint disposable products.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

(3) *License and development arrangements*— The Company analyzes revenue recognition on an agreement by agreement basis as discussed below.

- *Related Party Revenue Recognition under BSC Neuro Agreement (Note 5)*—The Company analyzed whether the components of the arrangement represent separate units of accounting as defined by Accounting Principles Generally Accepted in the United States ("GAAP"). Application of these standards requires subjective determinations and requires management to make judgments about the value of the individual elements and whether delivered elements are separable from the other aspects of the contractual relationship. The Company determined it does not have clear and objective evidence of fair value of the various elements of the agreement and, therefore, under GAAP regarding Multiple-Element Arrangements, the deliverables are being treated as one unit of accounting.

  This agreement requires the achievement of specified milestones in the development of an MRI-safe implantable lead by December 31, 2012. If the milestones are not achieved by that date and this failure is not the result of BSC Neuro's failure to reasonably cooperate with the Company in pursuing the milestones, the Company will be required to repay BSC Neuro certain amounts, including any development expenses and milestone payments previously made to the Company under this agreement and any patent prosecution costs incurred by BSC Neuro with respect to the intellectual property licensed under this agreement. The existence of this provision indicates the sales price is not fixed or determinable and all monies which have been or will be received prior to December 31, 2012 have and will be deferred until such time. If the repayment obligations are not triggered as of December 31, 2012, the related party deferred revenue related to this contract will be recognized over the estimated period of continuing involvement. If the repayment obligations are triggered as of December 31, 2012, the related party deferred revenue related to this contract will be repaid to BSC Neuro.

  The agreement includes research and development service performance requirements. The Company has recorded deferred research and development services revenue along with the related costs (charged to expense) on a gross basis since the Company is obligated and bears all credit risk with respect to the cost of providing the services.

  Future product royalty income related to the agreement will be recognized as the related products are sold and amounts are due to the Company.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

- *Related Party Revenue Recognition under BSC Cardiac Agreement (Note 5)*—The Company analyzed whether the components of the arrangement represent separate units of accounting as defined by GAAP. Application of these standards requires management to make subjective judgments about the value of the individual elements and whether delivered elements are separable from the other aspects of the contractual relationship. The Company determined it does not have clear and objective evidence of fair value of the various elements of the agreement and, therefore, under GAAP regarding Multiple-Element Arrangements, the deliverables are being treated as one unit of accounting.

  The Company defers recognition of non-refundable upfront license fees if there are continuing performance obligations without which the technology, know-how, rights, products or services conveyed in conjunction with the non-refundable fees have no utility to the licensee that could be considered separate and independent of the Company's performance under other elements of the arrangement. Since the Company has continuing involvement through research and development services that is required because the Company's know-how and expertise related to the technology are proprietary to the Company, such upfront fees are deferred and recognized over the estimated period of continuing involvement on a straight line basis.

  Amounts to be received related to substantive, performance-based milestones in research and development arrangements are recognized upon receipt in accordance with the Company's revenue recognition policy.

  Future product royalty income related to the agreement will be recognized as the related products are sold and amounts are due to the Company.

Research and Development Costs

Costs related to research, design and development of products are charged to research and development expense as incurred. These costs include direct salary costs for research and development personnel, costs for materials used in research and development activities and costs for outside services.

Costs of Withdrawn IPO

During 2010 the Company withdrew its registration statement filed with the U.S. Securities and Exchange Commission for an initial public offering ("IPO") of shares of the Company's common stock. Costs which had been deferred during 2009 totaling $366,503 and costs incurred during 2010 related to the IPO effort are recorded as costs of withdrawn IPO in the statement of operations for the year ended December 31, 2010.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

Other Income (Expense)

During 2010 the Company recorded other income related grants received under the Qualifying Therapeutic Discovery Project program administered under section 48D of the Internal Revenue Code. The other income recorded related to the grants was of $415,615, which is net of expenses paid to a service firm that assisted the Company in completing the grant applications.

Income Taxes

Deferred income tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective income tax bases. Such assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect of a change in tax rates is recognized in the period that includes the enactment date.

Due to uncertainty surrounding realization of the deferred income tax assets in future periods, the Company has recorded a 100% valuation allowance against its net deferred tax assets. If it is determined in the future that it is more likely than not that any deferred income tax assets are realizable, the valuation allowance will be reduced.

Management has evaluated the effect of guidance provided by GAAP regarding accounting for uncertainty in income taxes. In that regard, management has evaluated all tax positions that could have a significant effect on the financial statements and determined the Company has no uncertain tax positions at December 31, 2010 or 2009. The Company's returns after 2006 remain open for examination.

Net Loss Per Share

The Company calculated net loss per share in accordance with ASC 260, Earnings per Share. Basic earnings per share ("EPS") is calculated by dividing the net income or loss attributable to common stockholders by the weighted average number of common shares outstanding for the period, without consideration for common stock equivalents. Diluted EPS is computed by dividing the net income or loss attributable to common stockholders by the weighted average number of common shares outstanding for the period plus the weighted average number of dilutive common stock equivalents outstanding for the period determined using the treasury stock method. For all periods presented, diluted net loss per share is the same as basic net loss per share. The following table sets forth potential shares of common stock that are not included in the calculation of diluted net loss per share because to do so would be anti-dilutive as of the end of each period presented:

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

	Years Ended December 31,		
	2010	2009	2008
Stock options	3,762,477	669,777	599,875
Warrants	435,986	410,542	828,501
Convertible preferred shares	1,991,250	1,994,250	1,991,250
Shares under convertible note agreements	997,678	444,247	—
	7,187,391	3,518,816	3,419,626

Share-Based Compensation

The Company accounts for compensation for all arrangements under which employees and others receive shares of stock or equity instruments (including options and warrants) in accordance with Financial Accounting Standards Board ("FASB") ASC Topic 718 "Compensation – Stock Compensation", or ASC Topic 718. Under ASC Topic 718, the fair value of each award is estimated and amortized as compensation expense over the requisite service period. The fair value of the Company's share-based options and warrants is estimated on the grant date using the Black-Scholes valuation model. This valuation model requires the input of highly subjective assumptions, including the expected stock price volatility and estimated option term. To estimate the expected term, the Company utilizes the "simplified" method for "plain vanilla" options as discussed within the Securities and Exchange Commission's Staff Accounting Bulletin 107, or SAB 107. The Company believes that all factors listed within SAB 107 as pre-requisites for utilizing the simplified method are true for the Company and for the Company's share-based compensation arrangements. The Company intends to utilize the simplified method for the foreseeable future until more detailed information about exercise behavior becomes available.

The Company utilizes risk-free interest rates based on a zero-coupon U.S. treasury instrument, the term of which is consistent with the expected term of the stock options. The Company has not paid and does not anticipate paying cash dividends on its shares of common stock; therefore, the expected dividend yield is assumed to be zero.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

Fair Value Determination of Privately-Held Equity Securities

The fair values of the common stock as well as the common stock underlying options and warrants granted as compensation, or issued in connection with the settlement of liabilities, were estimated by management, with input from a third-party valuation specialist.

Determining the fair value of stock requires making complex and subjective judgments. The Company has used the income approach, the market approach, and the probability weighted expected return method to estimate the value of the enterprise for the dates on which securities are issued/granted and outstanding. The income approach was based on estimated future cash flows that utilized the Company's forecasts of revenue and costs. The assumptions underlying the revenue and cost estimates are consistent with the Company's business plan. The market approach was based on recent sales of the Company's common stock in privately negotiated transactions between stockholders or the anticipated initial public offering price of the Company's common stock. Once the Company began the process of preparing for its initial public offering of common stock, the Company began to utilize the probability weighted expected return method, which is based on identifying the most likely liquidity events for the Company, the probability of each occurring, and the equity values for each after applying different percentages to the likelihood of the different values assigned to each anticipated outcome of those events. Once the Company's initial public offering was withdrawn in the third quarter of 2010, the Company thereafter used the income and market approaches previously discussed. The assumptions used in each of the different valuation methods take into account certain discounts such as selecting the appropriate discount rate and control and lack of marketability discounts. The discount rates used in these valuations ranged from 22% to 35%. The discounts for lack of marketability ranged from 15% to 35% and the discount for lack of control ranged from 20% to 30%. If different discount rates or lack of marketability and control discounts had been used, the valuations would have been different. The enterprise value under each valuation method was allocated to preferred and common shares taking into account the enterprise value available to all stockholders and allocating that value among the various classes of stock based on the rights, privileges, and preferences of the respective classes in order to provide an estimate of the fair value of a share of the Company's common stock. There is inherent uncertainty in these estimates.

Derivative Financial Instruments

The Company accounts for derivative instruments in accordance with ASC Topic 815, which establishes accounting and reporting standards for derivative instruments and hedging activities, including certain derivative instruments embedded in other financial instruments or contracts and requires recording of all derivatives on the balance sheet at their fair values (Note 6). Changes in the fair values of derivatives are recorded each period as gains or losses in the statement of operations unless the derivatives qualify for hedge accounting. At December 31, 2010 and 2009, the Company did not have any derivative instruments that were designated as hedges.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

New Accounting Pronouncements

In October 2009, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update No. 2009-13 ("ASU 2009-13"), which addresses the accounting for multiple-deliverable arrangements to enable vendors to account for products or services (deliverables) separately rather than as a combined unit. ASU 2009-13 is effective prospectively for revenue arrangements entered into or materially modified beginning in fiscal years on or after June 15, 2010. The adoption of this standard had no material impact on the Company's financial statements.

In January 2010, the FASB released Accounting Standards Update No. 2010-06 ("ASU 2010-06"), Fair Value Measurements and Disclosures (Topic 820): Improving Disclosures about Fair Value Measurement. The update requires the Company to (a) disclose significant transfers in and out of Levels One and Two, in addition to transfers in and out of Level Three and (b) separately disclose purchases, sales, issuances, and settlements of our Level Three securities. Additionally, ASU 2010-06 clarifies the information we currently disclose regarding our valuation techniques, inputs used in those valuation models, and the level of detail at which fair value disclosures should be provided. ASU 2010-06 is effective for interim and annual reporting periods beginning after December 15, 2009, except for the disaggregation of the Level Three activity, which is effective for interim and annual periods beginning after December 15, 2010. The Company adopted ASU 2010-06 as of January 1, 2010 (with the exception of disaggregation of Level Three activity) with no material impact on its financial statements. See Note 2 for discussion of fair value.

In April 2010, the FASB issued Accounting Standards Update No. 2010-17 ("ASU 2010-17") which provided guidance on defining a milestone and determining when it may be appropriate to apply the milestone method of revenue recognition for research or development transactions. ASU 2010-17 is effective prospectively for milestones achieved in fiscal years and interim periods within those years, beginning in fiscal years on or after June 15, 2010. The Company has adopted this standard and prospectively adjusted its revenue recognition policy to apply the milestone method of revenue recognition for research and development contracts.

In June 2011, the FASB issued new guidance regarding the presentation of comprehensive income. The new guidance requires the presentation of the total of comprehensive income, the components of net income and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements, eliminating the option to present other comprehensive income as part of the statement of stockholders' equity. The new guidance also requires presentation of adjustments for items that are reclassified from other comprehensive income to net income in both net income and other comprehensive income. Public entities are required to apply this guidance for fiscal years and interim periods within those years, beginning after December 15, 2011. Nonpublic entities should begin applying these requirements for fiscal years ending after December 15, 2012, and interim and annual periods thereafter. The Company does not believe the adoption of this guidance will have a material impact on its results of operations or financial position.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

2. Summary of Significant Accounting Policies (continued)

In May 2011, the FASB issued additional guidance on fair value measurements. The updated guidance provides a consistent definition of fair value and aligns the fair value measurement and disclosure requirements between U.S. GAAP and International Financial Reporting Standards ("IFRS"), amends certain guidance primarily related to fair value measurements for financial instruments, and enhances disclosure requirements particularly for Level 3 fair value measurements. The guidance is effective prospectively for fiscal years beginning after December 15, 2011 and interim periods within those years. Early adoption is permitted. We do not expect the adoption of this guidance will have a significant impact on the Company's financial statements.

3. Liquidity and Management's Plans

The accompanying financial statements have been prepared assuming the Company will continue as a going concern. For the years ended December 31, 2010, 2009 and 2008, the Company incurred net losses of $9,454,235, $7,159,060, and $5,429,785, respectively, and the cumulative net loss since the Company's inception through December 31, 2010 is $51,477,199. In view of these matters, the ability of the Company to continue as a going concern is dependent upon the Company's ability to generate additional financing sufficient to support its research and development activities, obtain future regulatory clearances or approvals, commercialize its developed products, and ultimately to generate revenue sufficient to cover all costs. Since inception, the Company has financed its activities principally from the sale of equity securities, borrowings, and license arrangements. The Company intends to finance its future development activities and its working capital needs largely from borrowings (Note 12) and from the sale of equity securities until funds provided by operations are sufficient to fund working capital requirements. There can be no assurance that the Company will be successful at achieving its financing goals on reasonable commercial terms, if at all, or if it will generate revenues sufficient to cover its costs.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

4. Property and Equipment

Property and equipment consist of the following:

	December 31,	
	2010	2009
Equipment	$ 906,485	$ 884,591
Furniture and fixtures	106,053	112,984
Leasehold improvements	157,236	157,236
Computer equipment and software	103,150	100,687
Loaned systems	173,870	—
	1,446,794	1,255,498
Less accumulated depreciation and amortization	(467,285)	(263,340)
Total property and equipment, net	$ 979,509	$ 992,158

Depreciation and amortization expense for the years ended December 31, 2010, 2009, and 2008 was $246,331, $150,710, and $71,928, respectively.

The Company may loan a ClearPoint system comprised of reusable equipment and software to a customer. Any such customer uses the loaned ClearPoint system to perform procedures using ClearPoint disposable products which are purchased from the Company. Accordingly, the $173,870 of loaned systems at September 30, 2011 represents the historical cost of ClearPoint reusable equipment and software transferred from inventory to property and equipment. Depreciation on loaned ClearPoint systems is computed using the straight-line method based on an estimated useful life of five years. At December 31, 2010, no depreciation expense had been recorded on loaned systems as these systems had been shipped to customers, but were not yet installed.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

5. Related Party License Agreements

License and development agreements have been entered into with affiliates of BSC. Because an affiliate of BSC is a stockholder and has a representative on the Company's board of directors, management has deemed all transactions with BSC and its affiliates to be of a related party nature.

BSC Neuro Agreement

On December 30, 2005, the Company entered into definitive license and development agreements (collectively, as amended, the "BSC Neuro Agreement") with Advanced Bionics Corporation, an affiliate of BSC. Advanced Bionics Corporation subsequently changed its name to Boston Scientific Neuromodulation Corporation ("BSC Neuro"). Under the BSC Neuro Agreement, the Company granted BSC Neuro an exclusive commercial license with respect to certain of the Company's owned and licensed intellectual property, in the neuromodulation field, to make, use, import, lease and sell neuro-related leads, neuro-related lead extensions, and neuro-related lead-type devices, such as implantable pulse generators. The Company has continuing research and development obligations pursuant to the BSC Neuro Agreement with respect to the development of MRI-compatible and MRI-safe implantable neuromodulation leads.

Under the BSC Neuro Agreement, in addition to prospective royalty payments on net sales of licensed products, the Company could receive up to $1,600,000 in future milestone-based payments associated with successful development and regulatory approval of the leads. The Company did not receive any up-front license payments pursuant to this agreement. In addition, the Company could receive over $500,000 in incentive payments for incremental development work BSC Neuro may request. This agreement requires specified milestones in the development of an MRI-safe implantable lead to be achieved by December 31, 2012. If the milestones are not achieved by that date and this failure is not the result of BSC Neuro's failure to reasonably cooperate with the Company in pursuing the milestones, the Company will be required to repay BSC Neuro certain amounts, including any development expenses and milestone payments previously made to the Company under this agreement and any patent prosecution costs incurred by BSC Neuro with respect to the intellectual property licensed under this agreement. As of December 31, 2010, the Company had received approximately $750,000 of payments from BSC Neuro which would be subject to the repayment obligation described above. In addition, the Company would be responsible to reimburse BSC Neuro for out of pocket costs incurred by BSC Neuro in prosecuting patent applications and maintaining issued patents for the licensed technologies. As discussed in Note 2, Revenue Recognition, all amounts received have been recorded as deferred revenue.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

5. Related Party License Agreements (continued)

BSC Cardiac Agreement

Effective March 19, 2008, the Company entered into definitive license and development agreements (collectively the "BSC Cardiac Agreement") with Cardiac Pacemakers, Inc. ("BSC Cardiac"), an affiliate of Boston Scientific Corporation. Under the BSC Cardiac Agreement, the Company granted BSC Cardiac an exclusive commercial license with respect to certain of the Company's owned and licensed intellectual property rights, in the field of implantable medical leads for cardiac applications, to make, have made, use, promote, market, import, distribute, lease, sell, offer for sale and commercialize products in the licensed field of use. The Company is required to continue to investigate the feasibility of its technology and, upon successful completion of feasibility studies, to work with BSC Cardiac to develop this technology for different types of MRI-compatible and MRI-safe implantable cardiac leads.

Pursuant to the BSC Cardiac Agreement, in addition to prospective royalty payments on net sales of licensed products, the Company received non-refundable licensing fees totaling $13,000,000 in 2008, and the Company could receive up to $20,000,000 in future milestone-based payments associated with the successful development and regulatory approval of the implantable cardiac leads, subject to certain patents being issued on patent applications licensed to BSC Cardiac. The Company initially recorded the payment as deferred revenue and is recognizing revenue over the five year estimated period of continuing involvement (see Note 2, Revenue Recognition). The Company determined the five year estimated period of continuing involvement based upon the Company's internal development plan and projected timeline for the different implantable cardiac leads. The Company reevaluates it's estimated remaining period of continuing involvement at each reporting period, and any changes would be incorporated into the determination of revenue recognition on a prospective basis.

Except as set forth below, the licensing provisions of the BSC Cardiac Agreement will terminate upon the expiration of the last issued patent that is licensed under the agreement, and the development provisions of the BSC Cardiac Agreement will expire upon FDA approval of a design for each of the different lead types described in the agreement. BSC Cardiac has the one-time option, within 60 days after successful completion of the first cardiac lead feasibility study, to cease further development work and to terminate the provisions of the BSC Cardiac Agreement. If BSC Cardiac elects to exercise its option under the BSC Cardiac Agreement to terminate further development efforts, the license the Company granted to BSC Cardiac will automatically become non-exclusive with respect to certain of the intellectual property, other intellectual property will be removed from the scope of the license and revert to the Company, and BSC Cardiac will not be obligated to pay the Company any future royalties on net sales of products containing intellectual property that remains subject to the non-exclusive license. Likewise, any unachieved future milestone-based payments will not be due to the Company.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
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5. Related Party License Agreements (continued)

Remaining related party deferred revenue is presently expected to be recognized as revenue as follows:

Years Ending December 31,	
2011	$2,600,000
2012	2,600,000
2013	1,396,374
	$6,596,374

6. Related Party Notes Payable

Related Party Convertible Notes Payable (BSC)

On October 16, 2009, the Company entered into a convertible note payable arrangement with BSC. During October, November and December of 2009, the Company borrowed an aggregate of $3,500,000 from BSC under this arrangement. These borrowings bear interest at 10% per annum and mature on the second anniversary of the date on which the funds were advanced (October through December 2009 – however, see Note 10 regarding modification of these terms).

The Company will be required to prepay all or a portion of the convertible notes payable (the "BSC Notes") upon the consummation of any qualified financing, which is defined as any equity financing in which shares of the Company's preferred stock are issued in exchange for cash proceeds. Upon consummation of a qualified financing from Medtronic, Inc., St. Jude Medical, Inc., or Johnson & Johnson, or any of their respective subsidiaries or affiliates, up to 100% of the cash proceeds from such qualified financing must be used to prepay the outstanding principal and accrued interest of the BSC Notes. Upon consummation of a qualified financing from any other investor, up to 25% of the cash proceeds from such qualified financing must be applied by the Company to prepay the outstanding principal and accrued interest of the BSC Notes. The Company can prepay the BSC Notes at any time.

The principal and interest outstanding on each of the BSC Notes is convertible, at the option of the holder, at any time prior to the earlier of the maturity date or the consummation of a qualified initial public offering (a bona fide first underwritten public offering of the Company's common stock on a firm commitment basis in which the aggregate gross proceeds received by the Company at the public offering price equals or exceeds $20,000,000) into one share of the Company's preferred stock at a conversion price equal to the lower of $8.00 per share, or the price per share paid by investors in a future preferred stock financing conducted by the Company prior to the qualified public offering. The BSC Notes are secured by a first priority security interest in all of the Company's assets.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
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6. Related Party Notes Payable (continued)

The Company analyzed the terms of the conversion feature of the BSC Notes under ASC Topic 815 and determined, based upon the conversion price reset provision, that the conversion feature should be accounted for as a derivative liability (see Note 2, Fair Value Measurements). Under this guidance the conversion feature was initially measured at fair value upon the issuance of the BSC Notes and will be adjusted to the current fair value at the end of each reporting period. Changes in fair value will be recorded as other income (expense) in the related statement of operations. The Company calculated the fair value of this derivative liability utilizing the Black-Scholes pricing model. The assumptions used in calculating the fair value of the derivative liability using this model as of the transaction date and December 31, 2010 were as follows:

	December 31, 2010	Transaction Date
Dividend yield	0%	0%
Expected volatility	44.84%	38.28%
Risk free interest rate	0.61%	1.14%
Expected remaining term	0.75 years	2 years
Common stock price	$ 1.80	$ 9.64

There was no adjustment of the derivative liability of $1,227,500 at December 31, 2009 because the change in its fair value from the transaction date was insignificant. At December 31, 2010, the fair value of the derivative liability was $0 (using Level 3 Inputs). Accordingly, the $1,227,500 decrease in fair value during the year ended December 31, 2010 was recorded as a gain in the 2010 statement of operations.

The proceeds from the transaction were allocated as follows:

Financial Instrument:	
Related party convertible notes payable	$2,272,500
Derivative liability	1,227,500
	$3,500,000

The discount on the related party convertible notes payable is amortized through charges to interest expense based upon the effective interest method through the date of maturity. The unamortized discount at December 31, 2010 was $653,236.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
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6. Related Party Notes Payable (continued)

Related Party Convertible Notes Payable (BSC Neuro)

During December 2005, BSC Neuro advanced the Company $1,500,000 in the form of a convertible promissory note. The original maturity date of this note was December 31, 2007 or, if earlier, the expiration of a stipulated period of negotiations between BSC Neuro and the Company following the completion of certain product development work by the Company (the "Negotiation Period").

The calculation of BSC Neuro's conversion option under the note depended on whether BSC Neuro and the Company entered into a license agreement with respect to certain Company technology (the "Subsequent License"). If BSC Neuro and the Company did not enter into the Subsequent License, then the note was convertible into 10% of the Company's fully diluted common shares (all outstanding common stock, all outstanding preferred stock convertible into shares of common stock, all warrants and options to acquire shares of common stock (vested and unvested) and all shares of common stock issuable under the Company's equity compensation plans). If BSC Neuro and the Company did enter into the Subsequent License, then the note was convertible into 5% of the Company's fully diluted common shares. There was no beneficial conversion feature associated with this transaction.

The note was amended on June 30, 2007, wherein the maturity date was extended to June 30, 2008 or, if earlier, the expiration of the Negotiation Period. The lender's conversion option was then fixed at 5% of the Company's fully diluted common shares. However, if at the time of conversion BSC Neuro and the Company had not entered into the Subsequent License, the Company was also required to issue BSC Neuro a warrant to purchase an additional 5% of the Company's fully diluted common shares at an exercise price of $0.04 per share. Such warrant would only be exercisable if BSC Neuro and the Company did not enter into the Subsequent License by the end of the Negotiation Period. The conversion option under the amended note was substantially the same as the conversion option under the original note.

The June 30, 2007 amendment was evaluated to determine if it qualified for debt extinguishment accounting. Based on the analysis performed, there was no debt extinguishment recorded as the fair value of the pre-amendment and post-amendment cash flows related to the notes did not differ by more than 10%. The fair value of the aforementioned $0.04 warrant of approximately $790,000 was recorded as a debt discount on the date of amendment and amortized through interest expense through the extended maturity date (June 30, 2008).

On June 30, 2008, BSC Neuro exercised its conversion option and converted the note in full into 417,960 shares of common stock. Upon conversion, BSC Neuro and the Company did not enter into the Subsequent License. Therefore, the number of shares subject to the aforementioned warrant was fixed at 417,960. The Negotiation Period expired during 2009, and BSC Neuro and the Company did not enter into the Subsequent License. BSC Neuro did not exercise the warrant and it expired in May 2009.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
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7. 2010 Unsecured Convertible Notes Payable

In March 2010, the Company issued 10% senior unsecured convertible notes (the "March 2010 Notes") in the aggregate principal amount of $4,071,000. The March 2010 Notes contain a mandatory conversion feature upon the closing of an initial public offering of the Company's common stock that will automatically convert the March 2010 Notes into shares of the Company's common stock at the lesser of $8.00 per share or 80% of the offering price, subject to a minimum $4.00 per share conversion price. In addition, holders of the March 2010 Notes may convert the outstanding principal amount of their March 2010 Notes into shares of the Company's common stock at any time, based on a conversion price of $8.00 per share, subject to certain adjustments. The March 2010 Notes mature two years from the date of issuance, unless earlier converted, and accrue interest at the rate of 10% per annum. All accrued interest will be paid in cash upon the earlier to occur of maturity or conversion and will not be converted into shares of the Company's common stock.

The Company applied the guidance in ASC 815-40, "Derivatives and Hedging Contracts in an Entity's Own Equity," in determining that the conversion features of the March 2010 Notes did not require derivative liability accounting treatment. The Company relied upon guidance in ASC 470-20, "Debt with Conversion and Other Options," in determining that the non-mandatory conversion feature represented a beneficial conversion feature ("BCF") that should be recorded as equity based on its intrinsic value. Upon the issuance of the March 2010 Notes, the intrinsic value of the BCF was $834,555 which represents the difference between the estimated fair value at the date of issuance of $9.64 per common share and the conversion price of $8.00 per share multiplied by the number of conversion shares. This BCF was recorded as debt discount, which is being amortized to interest expense using the effective interest method over the term of the March 2010 Notes.

The Company incurred approximately $293,000 of costs related to the issuance of the March 2010 Notes, comprised of placement agent commissions and legal fees. In addition, warrants with a five year term were issued to the placement agent exercisable for 25,444 shares of the Company's common stock at a price equal to the lesser of $8.00 per share or 80% of the offering price in the Company's initial public offering, subject to a minimum $4.00 per share conversion price. The estimated fair value of the placement agent warrants at the date of issuance was $120,218 (Note 8). The total costs incurred in connection with the issuance of the March 2010 Notes of approximately $413,000 were capitalized as deferred financing costs and are being amortized using the effective interest method over the term of the March 2010 Notes. The unamortized balance at December 31, 2010 was $263,495.

See Note 12 regarding the December 2011 modification of the conversion provisions for certain of these notes.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
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8. 2010 Junior Secured Notes Payable

In November 2010, the Company issued an aggregate of 10,714,286 units and received proceeds of $3,000,000. The units were issued to existing stockholders of the Company and existing holders of other Company securities. Each unit consists of a junior secured note, and one share of the Company's common stock. The Company issued 10,714,286 shares of common stock and junior secured notes in the aggregate principal amount of $3,000,000. The notes mature 10 years from the date of issuance and accrue interest at the rate of 3.5% per annum. The notes are secured by a security interest in the assets of the Company. This security interest is junior to that of the security interests associated with the BSC Notes. All outstanding principal and interest on the notes will be due and payable in a single payment upon maturity.

Under guidance in ASC 470, the Company allocated the $3,000,000 in proceeds from the sale of the units proportionately between the junior secured notes and the shares of common stock issued based on their relative fair values with $2,775,300 being recorded as equity. The junior secured notes were recorded at the principal amount of $3,000,000 less a discount of $2,775,300. This discount will be amortized to interest expense over the 10 year term of the notes using the effective interest method. The fair value of the notes was estimated based on an assumed market interest rate for notes of similar terms and risk. The fair value of the Company's common stock was estimated by management using a market approach, with input from a third-party valuation specialist.

Four officers of the Company purchased an aggregate of 882,726 units in the offering for $247,164. In addition, three non-employee directors of the Company also purchased an aggregate of 567,203 units for $158,816 in the offering.

Five other non-employee directors had advanced a total of $190,000 to the Company in anticipation of the offering. However, due to the investment allocations for the offering, these five non-employee directors were not able to purchase units. All funds advanced to the Company by the five non-employee directors were returned, without interest, $90,000 of which was returned prior to December 31, 2010 and $100,000 of which was returned in January 2011. This $100,000 is included in other accrued liabilities at December 31, 2010.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

9. Stockholders' Equity

Reverse Stock Split

On April 23, 2010, the stockholders approved an amendment to the Company's certificate of incorporation giving the Board of Directors (the "Board") the discretion to effectuate a reverse split of the shares of the Company's common stock (the "Reverse Split"). On June 14, 2010, a duly authorized committee of the Board approved a 1-for-4 Reverse Split. On July 13, 2010, an amendment was filed to the Company's certificate of incorporation consummating the Reverse Split. The Reverse Split did not change the number of authorized shares or the par value of the Company's common stock. In connection with the Reverse Split, the Company's Series A Convertible Preferred Stock, outstanding convertible notes and outstanding options and warrants were adjusted so that the number of shares of common stock issuable upon their conversion or exercise was decreased proportionately, and the conversion or exercise price was increased proportionately. Accordingly, all share and per share amounts for all periods presented in these financial statements and notes thereto have been adjusted retroactively, where applicable, to reflect the Reverse Split.

Series A Preferred Stock

In 2006, the Company issued 7,965,000 shares of Series A Convertible Preferred Stock for net proceeds of $7,335,787 ($7,965,000 net of $629,213 in transaction expenses). Additionally, the placement agent received detachable warrants to acquire up to 141,500 shares of the Company's common stock at $4.00 per share with a fair value of $28,696 on the date of issuance. The warrants expire on December 31, 2011. The holders of the Series A Convertible Preferred Stock have the following rights and privileges:

Voting. Each holder of Series A Convertible Preferred Stock is entitled to vote on all matters presented to holders of common stock, with each holder entitled to the number of votes equal to the number of shares of common stock into which his or her shares of Series A Convertible Preferred Stock could be converted.

Dividend Rights. There is no dividend rate on the Series A Convertible Preferred Stock; however, the Company will pay holders of Series A Convertible Preferred Stock any dividend it declares with respect to the common stock on an as converted basis.

Conversion. The holders of Series A Convertible Preferred Stock have the right to convert such shares, at any time, into shares of common stock. The current conversion rate of the Series A Convertible Preferred Stock is 1-for-4, subject to further adjustment for certain corporate events, including stock splits, stock dividends, and recapitalizations. The Series A Convertible Preferred Stock automatically converts into common stock at the then applicable conversion rate upon the closing of an initial public offering or the consent of holders of a majority of the outstanding shares of the Series A Convertible Preferred Stock.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

9. Stockholders' Equity (continued)

Liquidation. In the event of the liquidation, dissolution or winding-up of the Company, the holders of Series A Convertible Preferred Stock would be entitled to receive $1.00 per share before any liquidation distributions may be paid to holders of the Company's common stock.

Redemption. Shares of Series A Convertible Preferred Stock are not redeemable by the Company.

Registration Rights Agreement

The Company has an agreement with many of its current stockholders pursuant to which the Company has granted those stockholders certain registration rights. The stockholders who are parties to the agreement generally have two demand registration rights, which rights become effective as of the date that is six months after the Company's initial public offering (as such these registration rights are contingent upon the successful completion of an initial public offering). A requisite percentage of holders is required to exercise a demand registration right, and certain other restrictions apply. Stockholders also have the right to participate on a "piggyback basis" in certain registrations by the Company under the Securities Act of 1933, subject to certain restrictions, including underwriter holdbacks.

Stock Incentive Plans

At December 31, 2010, the Company has four share-based compensation plans (a "1998 Plan", a "2007 Plan", and two "2010 Plans", and referred to collectively herein as the "Plans"). The Plans provide for the granting of share-based awards, such as incentive and non-qualified stock options, to employees, directors, consultants and advisors. One of the 2010 Plans also provides for cash-based awards. Awards may be subject to a vesting schedule as set forth in each individual award agreement. The Company terminated the 1998 Plan, effective June 24, 2008, with respect to future grants such that no new options may be awarded under the 1998 Plan on or after June 24, 2008. Upon adoption of the 2010 Plans, the Company also ceased making awards under its 2007 Plan. A total of 3,815,675 shares of the Company's common stock have been reserved for issuance under the 2010 Plans. At December 31, 2010, 3,246,450 awards have been issued under the 2010 Plans.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

9. Stockholders' Equity (continued)

Activity with respect to stock options issued by the Company is summarized as follows:

	Options Outstanding	Options Exercisable	Range of Exercise Price	Weighted-average Exercise price per share	Intrinsic Value[1]
Balance at January 1, 2008	451,250		$0.88 - $24.00	$ 2.20	$ 331,500
Options exercisable at January 1, 2008		361,250	0.88 - 24.00	$ 1.96	331,500
Options granted	154,875		6.04 - 9.64	7.84	
Options cancelled or forfeited	(6,250)		6.00	6.00	
Balance at December 31, 2008	599,875		0.88 - 24.00	3.62	3,742,700
Options exercisable at December 31, 2008		432,083	0.88 - 24.00	2.70	3,133,667
Options granted	93,402		9.64	9.64	
Options exercised	(3,333)		3.20	3.20	
Options cancelled or forfeited	(20,167)		1.64 - 20.00	9.60	
Balance at December 31, 2009	669,777		0.88 - 24.00	4.28	3,694,400
Options exercisable at December 31, 2009		483,364	0.88 - 24.00	2.78	3,424,333
Options granted	3,246,450		1.80	1.80	
Options cancelled or forfeited	(153,750)				
Balance at December 31, 2010	3,762,477		0.88 - 24.00	2.11	262,500
Options exercisable at December 31, 2010		411,529	0.88 - 24.00	2.68	262,500

(1) Intrinsic value is calculated as the estimated fair value of the Company's stock at the end of the related period less the option exercise price of in-the-money options.

(2) All options granted during the years ended December 31, 2009 and 2010 were granted with exercise prices of $9.64 and $1.80 per share, respectively, which was deemed to be the fair market value of the Company's stock on the date of grant.

The following table summarizes information about stock options at December 31, 2010:

	Options Outstanding			Options Exercisable	
Range of Exercise Prices	Number Outstanding	Weighted - Average Remaining Contractual Life	Weighted - Average Exercise Price	Number Exercisable	Weighted - Average Exercise Price
$0.88 -3.20	3,593,950	9.37	$ 1.75	347,500	$ 1.29
6.04 -9.64	163,527	5.81	9.33	59,029	9.06
24.00	5,000	0.50	24.00	5,000	24.00
	3,762,477	9.20	2.11	411,529	2.68

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

9. Stockholders' Equity (continued)

The following table summarizes information about stock options at December 31, 2009:

	Options Outstanding			Options Exercisable	
Range of Exercise Prices	Number Outstanding	Weighted - Average Remaining Contractual Life	Weighted - Average Exercise Price	Number Exercisable	Weighted - Average Exercise Price
$0.88 -3.20	427,500	5.30	$ 1.64	414,167	$ 1.59
6.04 -9.64	234,777	7.30	8.46	61,697	8.15
24.00	7,500	1.00	24.00	7,500	24.00
	669,777	5.95	4.28	483,364	2.78

The weighted-average grant date fair value of options granted during the years ended December 31, 2009 and 2010 are $2.83 and $0.83, respectively. A summary of the status of the Company's nonvested stock options during the years ended December 31, 2008, 2009, and 2010 is presented below:

Nonvested Stock Options	Shares	Weighted - Average Grant Date Fair Value
Nonvested January 1, 2008	90,000	$ 0.40
Granted	116,125	0.56
Vested	(38,333)	0.10
Nonvested December 31, 2008	167,792	0.42
Granted	93,402	2.83
Forfeited/cancelled	(7,250)	2.84
Vested	(67,531)	1.14
Nonvested December 31, 2009	186,413	$ 0.60
Granted	3,246,450	0.83
Forfeited	(41,667)	1.92
Vested	(40,248)	1.94
Nonvested December 31, 2010	3,350,948	$ 0.89

As of December 31, 2010 there was a total of approximately $2,803,000 of unrecognized compensation cost related to share-based compensation arrangements granted under the Plans. That cost is expected to be recognized over a weighted-average period of approximately 2.8 years.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

9. Stockholders' Equity (continued)

The assumptions used in calculating the fair value using the Black-Scholes option-pricing model are set forth in the following table for options issued by the Company in 2010, 2009, and 2008:

	Year Ended December 31,		
	2010	2009	2008
Dividend yield	0%	0%	0%
Expected Volatility	44.81%	23.45% to 38.28%	24.45% to 26.44%
Risk free Interest rates	2.36%	1.48% to 2.43%	2.56% to 3.03%
Expected term	6.0 years	3.25 to 5.75 years	5 to 5.75 years

Warrants

Warrants have been issued for terms of up to five years.

Common Stock warrants issued, expired, and outstanding during the years ended December 31, 2008, 2009 and 2010 are as follows:

	Shares	Weighted - Average Exercise Price
Warrants outstanding at January 1, 2008	828,502	$ 1.74
Warrants expired during 2009	(417,960)	0.04
Warrants outstanding at December 31, 2009	410,542	0.42
Warrants issued during 2010	25,444	5.60
Warrants outstanding at December 31, 2010	435,986	3.60

The assumptions used in calculating the fair value of warrants utilizing the Black-Scholes pricing model for warrants issued in 2010 are a dividend yield of 0%, expected volatility of 45.98%, a risk free interest rate of 2.6%, and an expected term of 5 years.

Other Stock Transactions with Related Parties

- During January 2009, the Company loaned $500,000 under an 8% note receivable to a stockholder with an original maturity date in July 2010. The note was collateralized by 125,000 shares of the Company's common stock owned by the stockholder. In addition, during January 2009, the Company purchased 125,000 shares of the Company's common stock from that same stockholder for $500,000 in cash (accounted for as a treasury stock purchase). During December 2009, the Company purchased 134,178 additional shares of the Company's common stock from this stockholder in exchange for cancellation of the aforementioned $500,000 note receivable plus $36,712 of accrued interest thereon.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

9. Stockholders' Equity (continued)

- The Company had a note receivable from its Chief Executive Officer ("CEO") related to the sale of common stock. The note bore interest at 4.5%. Interest income related to this note was approximately $21,000 for each of the years ended December 31, 2009 and 2008. On December 22, 2009, the Company purchased 66,652 shares of common stock from the CEO, for an aggregate purchase price of $642,525. The Company paid a portion of the aggregate purchase price ($594,687) by cancelling the aforementioned promissory note plus accrued interest, with the remainder paid in cash. Also, on December 22, 2009, the Company issued to the CEO options to purchase 66,652 shares of its common stock at an exercise price of $9.64 per share, which represented the estimated fair market value per share.

10. Income Taxes

The Company had no income tax expense for the years ended December 31, 2010 and 2008 and recorded income tax expense of $49,250 for the year ended December 31, 2009 related to state income taxes which could not be offset by net operating loss carryforwards. As the Company has incurred net operating losses, it has recognized valuation allowances for all deferred income tax assets. The tax effect of temporary differences and net operating losses that give rise to components of deferred tax assets and liabilities consist of the following:

	December 31,	
	2010	2009
Deferred tax assets (liabilities):		
Property and equipment	$ (193,617)	$ (202,296)
Deferred revenue	2,503,984	3,207,620
Accrued expenses	1,518,400	439,965
Other	297,309	60,139
Net operating loss carryforwards	14,758,835	11,591,052
	18,884,911	15,096,480
Less valuation allowance	(18,884,911)	(15,096,480)
	$ —	$ —

The Company has a cumulative federal net operating loss of approximately $38,900,000 as of December 31, 2010. Under Section 382 and 383 of the Internal Revenue Code, if an ownership change occurs with respect to a "loss corporation", as defined, there are annual limitations on the amount of the net operating loss and other deductions which are available to the Company. The Company has not determined whether such ownership change has occurred. However, given the equity transactions in which the Company has engaged, the Company believes that the use of the net operating losses shown as deferred tax assets will be significantly limited.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

11. Commitments

Leases

The Company leases office space in Maryland, California and Tennessee under non-cancellable operating leases. Leases expire in 2011, 2012 and 2014.

Future minimum lease payments under non-cancellable operating leases are as follows:

Years Ending December 31,	
2011	$168,659
2012	137,571
2013	62,272
2014	58,399
Total minimum payments	$426,901

Rent expense under all operating leases was approximately $181,000, $190,000 and $107,000 for the years ended December 31, 2010, 2009, and 2008, respectively.

Co-Development Agreement

The Company has entered into a co-development agreement whereby it is required to pay up to approximately $2,476,000 in milestone-based payments for software development to be used in conjunction with products being developed by the Company. The software, upon completion, will be owned by the co-developer and sold through licenses. The co-developer will pay the Company a fixed amount per license sold by the co-developer until the Company recoups its investment in the software. The Company's remaining milestone-based payments under the co-development agreement at December 31, 2010 totaled approximately $2,026,000, which is expected to be paid in installments over the period in which the development work is performed. At December 31, 2010, the Company's accounts payable balance includes approximately $717,000 related to these milestones.

Shared Research Agreements

The Company has entered into research agreements with certain universities whereby the Company has committed to pay certain research-related expenses. At December 31, 2010, the Company's other accounts payable and accrued liabilities includes approximately $730,000 related to these agreements. As of December 31, 2010 the Company is committed to pay additional amounts aggregating approximately $875,000, which will be payable at various dates through January 2012.

Software License Agreement

The Company is obligated under a master services and license agreement to purchase a minimum number of licenses for software code that is incorporated in the Company's ClearPoint system software. The minimum future purchase obligation is $87,500 per calendar quarter in 2012, 2013 and 2014, with an aggregate commitment totaling $1,050,000. The cost of each license will be charged to cost of sales as each ClearPoint system is sold or amortized over a five year period for licenses used in loaned systems.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

11. Commitments (continued)

Cardiac EP Business Participation Plan

In June 2010, the Company adopted a plan that provides a key product development advisor and consultant with financial rewards in the event that the Company sells its business operations relating to catheter-based MRI-guided cardiac ablation to treat cardiac arrhythmias, which the Company refers to as its cardiac EP operations. In the event that the Company sells its cardiac EP operations, whether on a stand-alone basis or as part of the sale of the Company, the participant will receive a payment under the plan equal to (i) the transaction value paid for or allocated to the cardiac EP operations in the sale, multiplied by (ii) the participant's "participation interest" at the time of the sale. The participant was initially awarded a participation interest of 6.6%, which interest is still the same at December 31, 2010. However, that percentage interest will be equitably reduced from time to time to take into account future equity financing transactions in which the Company issues shares of its common stock, or securities convertible into shares of its common stock, in exchange for cash proceeds. The plan will terminate in June 2025.

Key Personnel Incentive Program

In June 2010, the Company amended its Key Personnel Incentive Program, which provides a key employee and a key consultant, who is also a non-employee director of the Company, with the opportunity to receive incentive bonus payments based on the performance of future services to the Company or upon a consummation of a transaction involving the sale of the Company. In the event of a sale transaction, each participant will receive a bonus payment under the program if the participant continues to provide services to the Company as its employee or consultant as of the date of the transaction. Until the occurrence of a sale transaction, each participant will be entitled to receive semi-annual service bonuses beginning in June 2012 and continuing through December 2015, if the participant continues to provide services to the Company as its employee or consultant as of the respective scheduled payment dates. Pursuant to their awards, the two participants would receive service bonuses totaling up to $1,700,000 and $1,000,000, respectively, payable in eight equal semi-annual installments. At December 31, 2010, the Company has approximately $278,000 accrued related to this program as a long-term liability in other accrued liabilities.

If the participant's employment or consultancy is (i) terminated due to the participant's death or disability, or (ii) involuntarily terminated by the Company other than for cause, then the participant will be deemed vested, as of the termination date, in all future scheduled service bonus payments, and the Company will be required to pay that aggregate amount no later than March 15 of the year following the year in which the termination occurred. If the participant's employment or consultancy is involuntarily terminated by the Company for cause, or if the participant voluntarily terminates his employment or consultancy, the participant thereafter will not be entitled to any payments under the program. The program will terminate on the earlier of December 31, 2015 or the occurrence of a transaction involving the sale of the Company.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

12. Subsequent Events

Legal Settlement

On April 22, 2010, SurgiVision Consultants, Inc. and Guy M. Kezirian, or the plaintiffs, filed a lawsuit against the Company in the United States District Court, Central District of California, alleging trademark infringement, unfair competition, trademark dilution and violation of the Anti-Cybersquatting Protection Act, all relating to the Company's use of its SURGI-VISION and SURGIVISION trademarks and the Company's www.surgivision.com domain name. On February 16, 2011, the parties entered into a settlement agreement which resulted in the dismissal of the litigation. Pursuant to the settlement agreement, the Company agreed to discontinue use of any form of the SURGIVISION name and agreed to pay the plaintiffs $425,000 for reimbursement of out of pocket legal expenses incurred by the plaintiffs in connection with the litigation. The Company has accrued the full amount of the settlement at December 31, 2010 as selling, general and administrative expenses and the liability is included in other accrued liabilities. The $425,000 is payable in twelve equal monthly installments of $35,417 beginning in March of 2011.

Convertible Note Payable and Strategic Agreement

In April 2011, the Company issued a $2,000,000 subordinated secured convertible promissory note ("April 2011 Note") to a medical device co-development partner ("Strategic Partner"). The April 2011 Note matures in April 2016, unless earlier converted, and it accrues interest at the rate of 10% per annum. The April 2011 Note is secured by a second priority security interest in the assets of the Company. In the event the Company closes an equity financing in which it issues shares of its preferred stock and receives at least $10,000,000 in net proceeds, the April 2011 Note will automatically convert into the shares of preferred stock that are issued in the financing, based on the lower of the price paid by investors in the financing or $0.60 per share, if the number of shares to be issued upon conversion represents at least 10% of the Company's outstanding shares of stock on a fully diluted basis. If the number of shares that would be issued upon conversion represents less than 10% of the Company's outstanding shares of stock on a fully diluted basis, the holder of the April 2011 note will convert into the shares of preferred stock that are issued in the financing, based on the lower of the price paid by investors in the financing or $0.60 per share, only upon the Strategic Partner's election to convert.

Concurrent with the issuance of the April 2011 Note, the Company and the Strategic Partner entered into a Co-Development and Distribution Agreement pursuant to which the Company appointed the Strategic Partner as the exclusive distributor of the ClearPoint system in the neurological drug delivery field and a non-exclusive distributor of the ClearPoint system for other neurological applications. In addition, the Company and the Strategic Partner will work together to integrate the Company's ClearPoint product line into the Strategic Partner's interventional MRI product line, particularly for a neurological drug delivery application.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

12. Subsequent Events (continued)

Related Party Unsecured Convertible Notes

In June through September 2011, the Company issued unsecured convertible notes in the aggregate principal amount of $1,310,000 to six non-employee directors of the Company. The note holders also received common stock warrants. The notes mature two years from the date of issuance, unless earlier converted, and accrue interest at the rate of 15% per annum. The warrants vest immediately, have a term of five years, and have an exercise price of $0.01 per share. Upon consummation of an initial public offering of shares of the Company's common stock, the notes will automatically convert into shares of the Company's common stock at 60% of the public offering price. In addition, if the Company completes a reverse merger transaction with a public shell company and thereafter closes an equity financing that results in gross proceeds of at least $5,000,000, the notes will convert into the shares of stock that are issued in the financing at a conversion price equal to 60% of the price paid by investors in the financing.

Planned Filing of Form 10 Registration Statement

In December 2011, the Company intends to file a Form 10 registration statement with the Securities and Exchange Commission to register the Company's common stock as a class of equity securities under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Upon the effectiveness of the Form 10 registration statement, the Company would become a public reporting company subject to the periodic reporting requirements of the Exchange Act.

Modification of Terms of the Unsecured Convertible Notes Payable (Note 7)

In November and December of 2011, the majority of the holders of the March 2010 Notes agreed to a change in the conversion terms of their notes. When issued, the March 2010 Notes did not provide for conversion into shares of the Company's common stock upon the effectiveness of a registration statement filed under the Exchange Act, such as a Form 10 registration statement. However, as of December 23, 2011, holders of $3,381,000 in principal amount of the March 2010 Notes have amended their notes to provide for the automatic conversion of their notes, including the principal and all accrued interest, into shares of the Company's common stock upon the effectiveness of the Company's Form 10 registration statement, based on a conversion price of $1.00 per share.

Modification to Terms of Related Party BSC Notes Payable (Note 6)

The maturity dates of the BSC Notes have been extended through January 16, 2012, as the Company and BSC negotiate a longer term extension of the BSC Notes.

MRI INTERVENTIONS, INC.

Notes to Financial Statements
December 31, 2010 and 2009 and the Years Ended December 31, 2010, 2009 and 2008

12. Subsequent Events (continued)

Private Placement

In October 2011, the Company began a private placement of it securities in which the Company is offering units, with each unit consisting of a 10% secured convertible note in the principal amount of $100,000 and a warrant to purchase 50,000 shares of the Company's common stock. The notes mature three years from the date of issuance, unless earlier converted, and accrue interest at 10% per year. The notes are secured by a security interest in the assets of the Company. The notes, including the principal and all accrued interest, will convert automatically into shares of the Company's common stock upon the effectiveness of a Form 10 registration statement filed under the Exchange Act, based on a conversion price of $0.60 per share. In addition, a note holder may elect at any time to convert the note into shares of the Company's common stock, based on a conversion price of $0.60 per share. The warrants are immediately vested, have a term of five years, and have an exercise price of $0.75 per share. As of December 27, 2011, in its unit offering the Company had issued notes in the aggregate principal amount of $1,625,000. The Company's placement agent for the unit offering will receive a cash fee equal to 10% of the gross proceeds, as well as a warrant to purchase that number of shares of the Company's common stock equal to 8% of the number of shares of common stock issuable upon conversion of the notes and exercise of the warrants sold in the offering, at an exercise price of $0.75 per share.

MRI INTERVENTIONS, INC.

Condensed Balance Sheets

	September 30, 2011 (unaudited)	December 31, 2010
ASSETS		
Current Assets		
Cash and cash equivalents	$ 70,096	$ 1,577,314
Accounts receivable	230,077	31,540
Inventory	1,221,267	1,610,442
Prepaid expenses and other current assets	6,702	16,540
Total current assets	1,528,142	3,235,836
Property and equipment, net	1,108,916	979,509
Deferred costs	105,581	263,495
Licenses, net	31,500	45,000
Other assets	19,001	39,001
Total assets	$ 2,793,140	$ 4,562,841
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Current liabilities		
Accounts payable	$ 4,349,120	$ 3,495,283
Accrued compensation	243,917	124,792
Accrued interest	1,556,997	754,820
Other accrued liabilities	1,961,419	2,079,574
Related party deferred revenue	2,600,000	2,600,000
Related party BSC convertible notes payable, net of unamortized discount of $85,777 and $653,235 at September 30, 2011 and December 31, 2010, respectively	3,414,223	2,846,764
2010 unsecured convertible notes payable, net of unamortized discount of $246,634	3,824,366	—
Total current liabilities	17,950,042	11,901,233
Related party deferred revenue	2,046,374	3,996,374
Other accrued liabilities	303,248	278,060
2010 unsecured convertible notes payable, net of unamortized discount of $571,275	—	3,499,725
Related party 2011 unsecured convertible notes payable,net of unamortized discount of $466,836	843,164	—
2011 junior secured note payable	2,000,000	—
2010 junior secured notes payable, net of unamortized discount of $2,802,483 and $2,775,300 at September 30, 2011 and December 31, 2010, respectively	197,517	224,700
Total liabilities	23,340,345	19,900,092
Stockholders' deficit		
Series A convertible preferred stock; $.01 par value; 8,000,000 authorized and 7,965,000 shares issued and outstanding	7,965,000	7,965,000
Common stock, $.01 par value; 70,000,000 shares authorized; 16,410,820 (2011) and 16,185,820 (2010) issued; 16,084,990 (2011) and 15,859,990 (2010) outstanding	164,108	161,858
Additional paid-in capital	30,935,626	29,692,324
Treasury stock, at cost, 325,830 common shares	(1,679,234)	(1,679,234)
Accumulated deficit	(57,932,705)	(51,477,199)
Total stockholders' deficit	(20,547,205)	(15,337,251)
Total liabilities and stockholders' deficit	$ 2,793,140	$ 4,562,841

See notes to condensed financial statements.

MRI INTERVENTIONS, INC.

Condensed Statements of Operations
(unaudited)

	Nine Months Ended September 30,	
	2011	2010
Revenues:		
Related party license revenue	$ 1,950,000	$ 1,950,000
Product revenues	703,983	10,017
Total revenues	2,653,983	1,960,017
Costs and operating expenses:		
Cost of product revenues	421,357	2,125
Research and development	3,133,635	4,588,534
Selling, general, and administrative	3,709,120	3,065,746
Costs of withdrawn IPO	—	1,788,609
Total costs and operating expenses	7,264,112	9,445,014
Operating loss	(4,610,129)	(7,484,997)
Other income (expense):		
Gain on change in fair value of derivative liability	—	1,163,675
Other expense, net	(2,431)	—
Interest income	3,218	7,081
Interest expense	(1,846,164)	(1,083,193)
Net loss	$ (6,455,506)	$ (7,397,434)
Net loss per share attributable to common stockholders:		
Basic and diluted	$ (0.41)	$ (1.44)
Weighted average shares outstanding:		
Basic and diluted	15,919,249	5,129,250

See notes to condensed financial statements.

MRI INTERVENTIONS, INC.

Condensed Statement of Stockholders' Deficit
Nine Months Ended September 30, 2011 (unaudited)

	Convertible Preferred Stock Series A		Common Stock		Additional Paid-in	Treasury	Accumulated	
	Shares	Amount	Shares	Amount	Amount	Stock	Deficit	Total
Balances, January 1, 2011	7,965,000	$7,965,000	15,859,990	$161,858	$29,692,324	$(1,679,234)	$ (51,477,199)	$(15,337,251)
Employee share-based compensation	—	—	—	—	757,200	—	—	757,200
Warrants issued in connection with senior unsecured convertible notes payable	—	—	—	—	486,102	—	—	486,102
Proceeds from exercise of warrants	—	—	225,000	2,250	—	—	—	2,250
Net loss for the nine months ended September 30, 2011	—	—	—	—	—	—	(6,455,506)	(6,455,506)
Balances, September 30, 2011	7,965,000	$7,965,000	16,084,990	$164,108	$30,935,626	$(1,679,234)	$ (57,932,705)	$(20,547,205)

See notes to condensed financial statements.

MRI INTERVENTIONS, INC.

Condensed Statements of Cash Flows
(unaudited)

	Nine Months Ended September 30,	
	2011	2010
Cash flows from operating activities		
Net loss	$ (6,455,506)	$ (7,397,434)
Adjustments to reconcile net loss to net cash flows from operating activities:		
Depreciation and license amortization	249,203	192,348
Share-based compensation	757,200	167,276
Gain on change in fair value of derivative liability	—	(1,163,675)
Amortization of debt issuance costs and original issue discount	1,042,097	597,128
Write-off of costs of withdrawn IPO	—	1,788,609
Increase (decrease) in cash resulting from changes in:		
Accounts receivable	(198,537)	—
Inventory	40,720	(992,968)
Prepaid expenses and other current assets	9,838	(29,919)
Deposits	20,000	(32,999)
Accounts payable and accrued expenses	1,682,172	2,609,700
Related party deferred revenue	(1,950,000)	(1,950,000)
Net cash flows from operating activities	(4,802,813)	(6,211,934)
Cash flows from investing activities:		
Purchases of property and equipment	(16,655)	(59,362)
Net cash flows from investing activities	(16,655)	(59,362)
Cash flows from financing activities:		
Proceeds from 2010 unsecured convertible notes payable, net of issuance costs	—	3,777,142
Proceeds from related party 2011 unsecured convertible notes payable and common stock warrants	1,310,000	—
Proceeds from 2011 junior secured note payable	2,000,000	—
Proceeds from warrant exercises	2,250	—
Net cash flows from financing activities	3,312,250	3,777,142
Net change in cash and cash equivalents	(1,507,218)	(2,494,154)
Cash and cash equivalents, beginning of period	1,577,314	2,569,129
Cash and cash equivalents, end of period	$ 70,096	$ 74,975
SUPPLEMENTAL CASH FLOW INFORMATION		
Cash paid for:		
Income taxes	$ —	$ 49,250
Interest	—	—

See notes to condensed financial statements.

MRI INTERVENTIONS, INC.

Condensed Statements of Cash Flows (continued)
(unaudited)

NON-CASH TRANSACTIONS:

- In March 2010, warrants (recorded as deferred financing costs and additional paid-in capital) were issued with a fair value of $120,218 to the placement agent in connection with the sale of the senior unsecured convertible notes.
- During the nine months ended September 30, 2011, warrants with a fair value of $486,102 (recorded as deferred financing costs and additional paid-in capital) were issued in connection with the issuance of convertible notes.
- During the nine months ended September 30, 2011, inventory with a cost of $348,455 was transferred to loaned systems which is a component of property and equipment.

See notes to condensed financial statements.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

1. Organization and Basis of Presentation

MRI Interventions, Inc. (the "Company"), formerly SurgiVision, Inc., was formed on March 12, 1998. The Company registered its name change with the state of Delaware in May 2011 where the Company is incorporated. The Company operates in the medical device industry and is focused on the development and commercialization of technology that enables physicians to see inside the brain and heart using direct, intra-procedural magnetic resonance imaging, or MRI guidance, while performing minimally invasive surgical procedures.

Basis of Presentation

In the opinion of management, the accompanying unaudited condensed financial statements ("condensed financial statements") have been prepared on a basis consistent with the Company's December 31, 2010 audited financial statements and include all adjustments, consisting of only normal recurring adjustments, necessary to fairly state the information set forth herein. The condensed financial statements have been prepared in accordance with the rules for interim financial information of the Securities and Exchange Commission (the "SEC") and, therefore, omit certain information and footnote disclosure necessary to present the statements in accordance with accounting principles generally accepted in the United States ("GAAP"). The accompanying condensed December 31, 2010 balance sheet has been derived from the audited financial statements at that date, but does not include all information and footnotes required by GAAP in the U.S. for complete financial statements. The results of operations for the nine months ended September 30, 2011 may not be indicative of the results to be expected for the entire year or any future periods.

Liquidity and Management's Plans

The accompanying financial statements have been prepared assuming the Company will continue as a going concern. For the nine month period ended September 30, 2011 and the years ended December 31, 2010 and 2009, the Company incurred net losses of $6,455,506, $9,454,235, and $7,159,060, respectively, and the cumulative net loss since the Company's inception through September 30, 2011 is $57,932,705, which has resulted in a negative working capital position of $16,421,900 at September 30, 2011. In view of these matters, the ability of the Company to continue as a going concern is dependent upon its ability to generate additional financing sufficient to commercialize its developed products, support its research and development activities and obtain future regulatory clearances or approvals, and ultimately to generate revenue sufficient to cover all costs. Since inception, the Company has financed its activities principally from the sale of equity securities, borrowings, and license arrangements. The Company intends to finance its future commercialization and development activities and its working capital needs largely from borrowings and from the sale of equity securities until funds provided by operations are sufficient to meet working capital requirements. There can be no assurance that the Company will be successful at achieving its financing goals on reasonable commercial terms, if at all, or if it will generate revenues sufficient to cover its costs.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

2. Summary of Significant Accounting Policies

Fair Value Measurements

The Company measures certain financial assets and liabilities at fair value on a recurring basis, including its derivative liability. Generally accepted accounting principles for fair value measurement provide a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to quoted prices in active markets for identical assets and liabilities ("Level 1") and the lowest priority to unobservable inputs ("Level 3").

The Company measures the fair value of its derivative liability (see Note 6) on a recurring basis using Level 3 inputs. The fair value of the Company's derivative liability was $0 at September 30, 2011 and December 31, 2010.

Carrying amounts of the Company's cash and cash equivalents, accounts receivable and accounts payable and accrued liabilities approximate their fair values due to their short maturities.

The fair values of the Company's notes payable differ from their carrying values primarily as the result of certain unamortized debt discounts that have been recorded as it relates to those debt instruments as well as a less than market contract interest rate associated with the 2010 junior secured notes payable issued by the Company in 2010. The fair values of all outstanding notes payable other than the 2010 junior secured notes payable were determined to be equal to the face value of the notes payable as the contractual interest rate approximated the market interest rate. The contractual interest rate on the 2011 junior secured notes payable is 3.5% per year, and the Company determined the fair value of these notes by discounting the face value utilizing a 10% estimated market interest rate over the term of the notes. The carrying values and estimated fair values of notes payable are as follows at September 30, 2011:

	Carrying Value	Estimated Fair Value
Related party BSC convertible notes payable	$3,414,223	$3,500,000
2010 unsecured convertible notes payable	3,824,366	4,071,000
2010 junior secured notes payable	197,517	1,704,583
2011 related party unsecured convertible notes payable	843,164	1,310,000
2011 junior secured note payable	2,000,000	2,000,000

Inventory

Inventory is carried at the lower of cost (first-in, first-out method) or net realizable value. All items included in inventory relate to the Company's ClearPoint system. The Company periodically reviews its inventory for obsolete items and provides a reserve upon identification of potential obsolete items.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

2. Summary of Significant Accounting Policies (continued)

Property and Equipment

Property and equipment are recorded at cost and are depreciated on a straight-line basis over their estimated useful lives, principally five to seven years. Leasehold improvements are depreciated on a straight-line basis over the lesser of their estimated useful lives or the life of the related lease.

Revenue Recognition

The Company's revenues arise from: (1) the sale of ClearPoint system reusable components, including associated installation services; (2) sales of ClearPoint disposable products; and (3) license and development arrangements. The Company recognizes revenue, in accordance with Accounting Standards Codification ("ASC") 605-10-S99, Revenue Recognition, when persuasive evidence of an arrangement exists, the fee is fixed or determinable, collection of the fee is probable and risk of loss has transferred to the customer. For all sales, the Company requires either a purchase agreement or a purchase order as evidence of an arrangement.

(1) *Sale of ClearPoint system reusable components* – Revenues related to ClearPoint system sales are recognized upon installation of the system and the completion of training of at least one of the customer's physicians, which typically occurs concurrently with the ClearPoint system installation.

(2) *Sales of ClearPoint disposable products* – Revenues from the sale of ClearPoint disposable products utilized in procedures performed using the ClearPoint system, which occurs after the system installation is completed for a given customer, are recognized at the time risk of loss passes, which is generally at shipping point or the customer's location, based on the specific terms with that customer.

(3) *License and development arrangements* – The Company analyzes revenue recognition on an agreement by agreement basis as discussed below.

- *Related Party Revenue Recognition under BSC Neuro Agreement (Note 5)*—The Company analyzed whether the components of the arrangement represent separate units of accounting as defined by GAAP. Application of these standards requires subjective determinations and requires management to make judgments about the value of the individual elements and whether delivered elements are separable from the other aspects of the contractual relationship. The Company determined it does not have clear and objective evidence of fair value of the various elements of the agreement and, therefore, under GAAP regarding Multiple-Element Arrangements, the deliverables are being treated as one unit of accounting.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

2. Summary of Significant Accounting Policies (continued)

This agreement requires the achievement of specified milestones in the development of an MRI-safe implantable lead by December 31, 2012. If the milestones are not achieved by that date and this failure is not the result of BSC Neuro's failure to reasonably cooperate with the Company in pursuing the milestones, the Company will be required to repay BSC Neuro certain amounts, including any development expenses and milestone payments previously made to the Company under this agreement and any patent prosecution costs incurred by BSC Neuro with respect to the intellectual property licensed under this agreement. The existence of this provision indicates the sales price is not fixed or determinable and all monies which have been or will be received prior to December 31, 2012 have and will be deferred until such time. If the repayment obligations are not triggered as of December 31, 2012, the related party deferred revenue related to this contract will be recognized over the estimated period of continuing involvement. If the repayment obligations are triggered as of December 31, 2012, the related party deferred revenue related to this contract will be repaid to BSC Neuro.

The agreement includes research and development service performance requirements. The Company has recorded deferred research and development services revenue along with the related costs (charged to expense) on a gross basis since the Company is obligated and bears all credit risk with respect to the cost of providing the services.

Future product royalty income related to the agreement will be recognized as the related products are sold and amounts are due to the Company.

- *Related Party Revenue Recognition under BSC Cardiac Agreement (Note 5)*—The Company analyzed whether the components of the arrangement represent separate units of accounting as defined by GAAP. Application of these standards requires management to make subjective judgments about the value of the individual elements and whether delivered elements are separable from the other aspects of the contractual relationship. The Company determined it does not have clear and objective evidence of fair value of the various elements of the agreement and, therefore, under GAAP regarding Multiple-Element Arrangements, the deliverables are being treated as one unit of accounting.

  The Company defers recognition of non-refundable upfront license fees if there are continuing performance obligations without which the technology, know-how, rights, products or services conveyed in conjunction with the non-refundable fees have no utility to the licensee that could be considered separate and independent of the Company's performance under other elements of the arrangement. Since the Company has continuing involvement through research and development services that is required because the Company's know-how and expertise related to the technology are proprietary to the Company, such upfront fees are deferred and recognized over the estimated period of continuing involvement on a straight line basis.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

2. Summary of Significant Accounting Policies (continued)

Amounts to be received related to substantive, performance-based milestones in research and development arrangements are recognized upon receipt in accordance with the Company's revenue recognition policy.

Future product royalty income related to the agreement will be recognized as the related products are sold and amounts are due to the Company.

Costs of Withdrawn IPO

In December 2009, the Company filed a registration statement with the SEC relating to the initial public offering ("IPO") of shares of the Company's common stock. In September 2010 the Company made the decision to withdraw its registration statement and to cancel the planned IPO. Costs which had been deferred during 2009 totaling $366,503 and costs incurred during 2010 related to the IPO effort are recorded as costs of withdrawn IPO in the statement of operations for the nine months ended September 30, 2010.

Net Loss Per Share

The Company calculated net loss per share in accordance with ASC 260, Earnings per Share. Basic earnings per share ("EPS") is calculated by dividing the net income or loss attributable to common stockholders by the weighted average number of common shares outstanding for the period, without consideration for common stock equivalents. Diluted EPS is computed by dividing the net income or loss attributable to common stockholders by the weighted average number of common shares outstanding for the period plus the weighted average number of dilutive common stock equivalents outstanding for the period determined using the treasury stock method. For all periods presented, diluted net loss per share is the same as basic net loss per share. The following table sets forth potential shares of common stock issuable that are not included in the calculation of diluted net loss per share because to do so would be anti-dilutive as of the end of each period presented:

	September 30,	
	2011	2010
Stock options	3,687,477	667,277
Warrants	1,520,986	435,986
Convertible preferred shares	1,991,250	1,991,250
Shares under convertible note agreements	4,529,043	985,844
	11,728,756	4,080,357

This table excludes shares issuable under convertible note agreements where the conversion terms are contingent upon a future event related to the Company becoming a public reporting entity (see Note 9).

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

2. Summary of Significant Accounting Policies (continued)

Share-Based Compensation

The Company accounts for compensation for all arrangements under which employees and others receive shares of stock or other equity instruments (including options and warrants) in accordance with ASC Topic 718 "Compensation – Stock Compensation", or ASC Topic 718. Under ASC Topic 718, the fair value of each award is estimated and amortized as compensation expense over the requisite service period. The fair value of the Company's share-based options and warrants is estimated on the grant date using the Black-Scholes valuation model. This valuation model requires the input of highly subjective assumptions, including the expected stock, stock price volatility and estimated option term. To estimate the expected term, the Company utilizes the "simplified" method for "plain vanilla" options as discussed within the Securities and Exchange Commission's Staff Accounting Bulletin 107, or SAB 107. The Company believes that all factors listed within SAB 107 as pre-requisites for utilizing the simplified method are true for the Company and for the Company's share-based compensation arrangements. The Company intends to utilize the simplified method for the foreseeable future until more detailed information about exercise behavior becomes available.

The Company utilizes risk-free interest rates based on a zero-coupon U.S. treasury instrument, the term of which is consistent with the expected term of the stock options. The Company has not paid and does not anticipate paying cash dividends on its shares of common stock; therefore, the expected dividend yield is assumed to be zero.

No stock options were granted by the Company during the nine months ended September 30, 2011. During the nine months ended September 30, 2011 and 2010, stock-based compensation expense was $757,200 and $167,276, respectively. The Company records stock-based compensation expense on a straight-line basis over the vesting period. As of September 30, 2011, there was unrecognized compensation expense of $2,056,772 related to outstanding stock options which is expected to be recognized over a weighted average period of approximately 2.1 years.

Fair Value Determination of Privately-Held Equity Securities

The fair values of the common stock, as well as the common stock underlying options and warrants, granted as compensation, or issued in connection with the settlement of liabilities, were estimated by management, with input from a third-party valuation specialist.

Determining the fair value of stock requires making complex and subjective judgments. The Company has used the income approach, the market approach, and the probability weighted expected return method to estimate the value of the enterprise for the dates on which securities are issued/granted and outstanding. The income approach was based on estimated future cash flows that utilized the Company's forecasts of revenue and costs. The assumptions underlying the revenue and cost estimates are consistent with the Company's business plan. The market approach was based on recent sales of the Company's common stock in privately negotiated transactions between

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

2. Summary of Significant Accounting Policies (continued)

stockholders or the once anticipated IPO price of the Company's common stock. Once the Company began the process of preparing for its IPO, the Company began to utilize the probability weighted expected return method, which was based on identifying the most likely liquidity events for the Company, the probability of each occurring, and the equity values for each after applying different percentages to the likelihood of the different values assigned to each anticipated outcome of those events. Once the Company's planned IPO was withdrawn in the third quarter of 2010, the Company thereafter used the income and market approaches previously discussed. The assumptions used in each of the different valuation methods take into account certain discounts such as selecting the appropriate discount rate and control and lack of marketability discounts. The discount rates used in these valuations ranged from 22% to 35%. The discounts for lack of marketability ranged from 15% to 35% and the discount for lack of control ranged from 20% to 30%. If different discount rates or lack of marketability and control discounts had been used, the valuations would have been different. The enterprise value under each valuation method was allocated to preferred and common shares taking into account the enterprise value available to all stockholders and allocating that value among the various classes of stock based on the rights, privileges, and preferences of the respective classes in order to provide an estimate of the fair value of a share of the Company's common stock. There is inherent uncertainty in these estimates.

Recent Accounting Pronouncements

In May 2011, the Financial Accounting Standards Board, or FASB, issued additional guidance on fair value measurements. The updated guidance provides a consistent definition of fair value and aligns the fair value measurement and disclosure requirements between U.S. GAAP and International Financial Reporting Standards, or IFRS, amends certain guidance primarily related to fair value measurements for financial instruments, and enhances disclosure requirements particularly for Level 3 fair value measurements. The guidance is effective prospectively for fiscal years beginning after December 15, 2011 and interim periods within those years. Early adoption is permitted. The Company does not expect the adoption of this guidance will have a material impact on our financial statements.

In June 2011, the FASB issued new accounting guidance related to the presentation of comprehensive income that increases comparability between U.S. GAAP and International Financial Reporting Standards. This guidance will require companies to present the components of net income and other comprehensive income either as one continuous statement or as two consecutive statements, eliminating the option to present components of other comprehensive income as part of the statement of changes in stockholders' equity. Public entities are required to apply this guidance for fiscal years and interim periods within those years, beginning after December 15, 2011. Nonpublic entities should begin applying these requirements for fiscal years ending after December 15, 2012, and interim and annual periods thereafter. The Company does not believe the adoption of this guidance will have a material impact on its results of operations or financial position.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

3. Inventory

Inventory consists of the following:

	September 30, 2011	December 31, 2010
Work in process	$ 555,332	$ 662,988
Software	537,000	664,300
Finished goods	128,935	283,154
	$1,221,267	$1,610,442

4. Property and Equipment

Property and equipment consist of the following:

	September 30, 2011	December 31, 2010
Equipment	$ 924,806	$ 906,485
Furniture and fixtures	106,055	106,053
Leasehold improvements	157,236	157,236
Computer equipment and software	101,482	103,150
Loaned systems	522,325	173,870
	1,811,904	1,446,794
Less accumulated depreciation and amortization	(702,988)	(467,285)
Total property and equipment, net	$1,108,916	$ 979,509

Depreciation and software amortization expense for the nine months ended September 30, 2011 and 2010, was $236,536, and $178,848, respectively.

The Company may loan the reusable equipment and software components of a ClearPoint system to a customer. Any such customer uses the loaned ClearPoint system to perform procedures using ClearPoint disposable products which are purchased from the Company. Accordingly, the $522,325 of loaned systems at September 30, 2011 represents the historical cost of ClearPoint reusable equipment and software transferred from inventory to property and equipment. Depreciation on loaned ClearPoint systems is computed using the straight-line method based on an estimated useful life of five years. At September 30, 2011, accumulated depreciation on loaned systems was $38,961.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

5. Related Party License Agreements

License and development agreements have been entered into with affiliates of Boston Scientific Corporation ("BSC"). Because an affiliate of BSC is a stockholder and has a representative on the Company's board of directors, management has deemed all transactions with BSC and its affiliates to be of a related party nature.

BSC Neuro Agreement

On December 30, 2005, the Company entered into definitive license and development agreements (collectively, as amended, the "BSC Neuro Agreement") with Advanced Bionics Corporation, an affiliate of BSC. Advanced Bionics Corporation subsequently changed its name to Boston Scientific Neuromodulation Corporation ("BSC Neuro"). Under the BSC Neuro Agreement, the Company granted BSC Neuro an exclusive commercial license with respect to certain of the Company's owned and licensed intellectual property, in the neuromodulation field, to make, use, import, lease and sell neuro-related leads, neuro-related lead extensions, and neuro-related lead-type devices, such as implantable pulse generators. The Company has continuing research and development obligations pursuant to the BSC Neuro Agreement with respect to the development of MRI-compatible and MRI-safe implantable neuromodulation leads.

Under the BSC Neuro Agreement, in addition to prospective royalty payments on net sales of licensed products, the Company could receive up to $1,600,000 in future milestone-based payments associated with successful development and regulatory approval of the leads. The Company did not receive any up-front license payments pursuant to this agreement. In addition, the Company could receive over $500,000 in incentive payments for incremental development work BSC Neuro may request. This agreement requires specified milestones in the development of an MRI-safe implantable lead to be achieved by December 31, 2012. If the milestones are not achieved by that date and this failure is not the result of BSC Neuro's failure to reasonably cooperate with the Company in pursuing the milestones, the Company will be required to repay BSC Neuro certain amounts, including any development expenses and milestone payments previously made to the Company under this agreement and any patent prosecution costs incurred by BSC Neuro with respect to the intellectual property licensed under this agreement. As of September 30, 2011, the Company had received approximately $750,000 of payments from BSC Neuro which would be subject to the repayment obligation described above. In addition, the Company would be responsible to reimburse BSC Neuro for out of pocket costs incurred by BSC Neuro in prosecuting patent applications and maintaining issued patents for the licensed technologies. As discussed in Note 2, Revenue Recognition, all amounts received have been recorded as deferred revenue.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

5. Related Party License Agreements (continued)

BSC Cardiac Agreement

Effective March 19, 2008, the Company entered into definitive license and development agreements (collectively the "BSC Cardiac Agreement") with Cardiac Pacemakers, Inc. ("BSC Cardiac"), an affiliate of BSC. Under the BSC Cardiac Agreement, the Company granted BSC Cardiac an exclusive commercial license with respect to certain of the Company's owned and licensed intellectual property rights, in the field of implantable medical leads for cardiac applications, to make, have made, use, promote, market, import, distribute, lease, sell, offer for sale and commercialize products in the licensed field of use. The Company is required to continue to investigate the feasibility of its technology and, upon successful completion of feasibility studies, to work with BSC Cardiac to develop this technology for different types of MRI-compatible and MRI-safe implantable cardiac leads.

Pursuant to the BSC Cardiac Agreement, in addition to prospective royalty payments on net sales of licensed products, the Company received non-refundable licensing fees totaling $13,000,000 in 2008, and the Company could receive up to $20,000,000 in future milestone-based payments associated with the successful development and regulatory approval of the implantable cardiac leads, subject to certain patents being issued on patent applications licensed to BSC Cardiac. The Company initially recorded the payment as deferred revenue and is recognizing revenue over the five year estimated period of continuing involvement (see Note 2, Revenue Recognition). The Company determined the five year estimated period of continuing involvement based upon the Company's internal development plan and projected timeline for the different implantable cardiac leads. The Company reevaluates it's estimated remaining period of continuing involvement at each reporting period, and any changes would be incorporated into the determination of revenue recognition on a prospective basis.

Except as set forth below, the licensing provisions of the BSC Cardiac Agreement will terminate upon the expiration of the last issued patent that is licensed under the agreement, and the development provisions of the BSC Cardiac Agreement will expire upon FDA approval of a design for each of the different lead types described in the agreement. BSC Cardiac has the one-time option, within 60 days after successful completion of the first cardiac lead feasibility study, to cease further development work and to terminate the provisions of the BSC Cardiac Agreement. If BSC Cardiac elects to exercise its option under the BSC Cardiac Agreement to terminate further development efforts, the license the Company granted to BSC Cardiac will automatically become non-exclusive with respect to certain of the intellectual property, other intellectual property will be removed from the scope of the license and revert to the Company, and BSC Cardiac will not be obligated to pay the Company any future royalties on net sales of products containing intellectual property that remains subject to the non-exclusive license. Likewise, any unachieved future milestone-based payments will not be due to the Company.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

5. Related Party License Agreements (continued)

Remaining related party deferred revenue is presently expected to be recognized as revenue as follows:

Years ending December 31, (except as noted below)	
2011 (October through December)	$ 650,000
2012	2,600,000
2013	1,396,374
	$4,646,374

6. Related Party Notes Payable

BSC Convertible Notes Payable

In October 2009, the Company entered into a convertible note payable arrangement with BSC. During October, November and December of 2009, the Company borrowed an aggregate of $3,500,000 from BSC under this arrangement. These borrowings bear interest at 10% per year and mature on the second anniversary of the date on which the funds were advanced (October through December 2011 – however, see Note 10 regarding modification of these terms).

The Company will be required to prepay all or a portion of the convertible notes payable (the "BSC Notes") upon the consummation of any qualified financing, which is defined as any equity financing in which shares of the Company's preferred stock are issued in exchange for cash proceeds. Upon consummation of a qualified financing from Medtronic, Inc., St. Jude Medical, Inc., or Johnson & Johnson, or any of their respective subsidiaries or affiliates, up to 100% of the cash proceeds from such qualified financing must be used to prepay the outstanding principal and accrued interest of the BSC Notes. Upon consummation of a qualified financing from any other investor, up to 25% of the cash proceeds from such qualified financing must be applied by the Company to prepay the outstanding principal and accrued interest of the BSC Notes. The Company can prepay the BSC Notes at any time.

The principal and interest outstanding on each of the BSC Notes is convertible, at the option of the holder, at any time prior to the earlier of the maturity date or the consummation of a qualified initial public offering (a bona fide first underwritten public offering of the Company's common stock on a firm commitment basis in which the aggregate gross proceeds received by the Company at the public offering price equals or exceeds $20,000,000) into one share of the Company's preferred stock at a conversion price equal to the lower of $8.00 per share, or the price per share paid by investors in a future preferred stock financing conducted by the Company prior to the qualified initial public offering. The BSC Notes are secured by a first priority security interest in all of the Company's assets.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

6. Related Party Notes Payable (continued)

The Company analyzed the terms of the conversion feature of the BSC Notes under ASC Topic 815 and determined, based upon the conversion price reset provision that the conversion feature should be accounted for as a derivative liability (see Note 2, Fair Value Measurements). Under this guidance the conversion feature was initially measured at fair value upon the issuance of the BSC Notes and has been adjusted to the current fair value at the end of each reporting period. Changes in fair value are recorded as other income (expense) in the related statement of operations. The Company calculated the fair value of this derivative liability utilizing the Black-Scholes pricing model. The assumptions used in calculating the fair value of the derivative liability using this model as of the transaction date and September 30, 2011 were as follows:

	September 30, 2011	Transaction Date
Dividend yield	0%	0%
Expected volatility	42.64%	38.28%
Risk free interest rate	0.25%	1.14%
Expected remaining term	0.15 years	2 years
Common stock price	$ 0.60	$ 9.64

On the transaction date, the fair value of the derivative liability was $1,227,500. At December 31, 2010 (and thereafter), the fair value of the derivative liability was $0 (using Level 3 Inputs). The $1,163,675 decrease in fair value during the nine months ended September 30, 2010 was recorded as a gain in the statement of operations.

The proceeds from the transaction were allocated as follows:

Financial Instrument:	
Related party convertible notes payable	$2,272,500
Derivative liability	1,227,500
	$3,500,000

The discount on the BSC Notes is being amortized through charges to interest expense based upon the effective interest method through the date of maturity. The unamortized discount at September 30, 2011 was $85,777.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

6. Related Party Notes Payable (continued)

2011 Unsecured Convertible Notes Payable

In June through September 2011, the Company issued unsecured convertible notes (the "Summer 2011 Notes") in the aggregate amount of $1,310,000 to six non-employee directors of the Company. The note holders also received common stock warrants. The Summer 2011 Notes mature two years from the date of issuance, unless earlier converted, and accrue interest at 15% per year. The warrants vest immediately, have a term of five years, and have an exercise price of $0.01 per share. Upon consummation of an initial public offering of shares of the Company's common stock, the Summer 2011 Notes will convert automatically into shares of the Company's common stock at a conversion price equal to 60% of the public offering price. In the event the Company consummates a reverse merger of the Company into a public shell company, the holders of the Summer 2011 Notes may convert their notes into shares of the Company's common stock based on a conversion price equal to 60% of the fair market value of the Company's common stock at the time of the merger. In addition, if the Company completes a reverse merger transaction with a public shell company and thereafter closes an equity financing that results in gross proceeds of at least $5,000,000, the Summer 2011 Notes will convert automatically, to the extent not previously converted, into the shares of stock that are issued in the financing at a conversion price equal to 60% of the price paid by investors in the financing. The Summer 2011 Notes were amended in December 2011 to provide that the principal and all accrued interest under the notes will automatically convert into shares of the Company's common stock upon the effectiveness of a Form 10 registration statement filed with the SEC based on a conversion price of $0.60 per share.

The Company analyzed the terms of the warrants based on the provisions of ASC Topic 480 and determined that they qualified for equity accounting. Under guidance in ASC 470, the Company allocated the $1,310,000 in proceeds proportionately between the Summer 2011 Notes and the common stock warrants issued based on their relative fair values. The relative fair value of the common stock warrants of $486,102 was recorded as additional paid in capital. The Summer 2011 Notes were recorded at the principal amount of $1,310,000 less a discount of $486,102. This discount is being amortized to interest expense over the term of the Summer 2011 Notes using the effective interest method. The fair value of the notes was estimated based on an assumed market interest rate for notes of similar terms and risk. The fair value of the $0.01 common stock warrants was determined by using the Black-Scholes pricing model. The assumptions used in calculating the fair value of the warrants were a dividend yield of 0%, expected volatility of approximately 43%, risk free interest rates between 0.21% and 0.45%, an expected term of 2 years, and the price of the Company's common stock to be $0.60. The Company determined the fair value of its common stock to be $0.60 per share at each of the dates the warrants were issued. Therefore the fair value of each common stock warrant was equal to $0.59, or the fair value of the Company's common stock less the exercise price of the warrant.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

7. 2010 Unsecured Convertible Notes Payable

In March 2010, the Company issued 10% senior unsecured convertible notes (the "March 2010 Notes") in the aggregate principal amount of $4,071,000. The March 2010 Notes contain a mandatory conversion feature upon the closing of an initial public offering of the Company's common stock that will automatically convert the March 2010 Notes into shares of the Company's common stock at the lesser of $8.00 per share or 80% of the offering price, subject to a minimum $4.00 per share conversion price. In addition, holders of the March 2010 Notes may convert the outstanding principal amount of their March 2010 Notes into shares of the Company's common stock at any time, based on a conversion price of $8.00 per share, subject to certain adjustments. The March 2010 Notes mature two years from the date of issuance, unless earlier converted, and accrue interest at the rate of 10% per year. All accrued interest will be paid in cash upon the earlier to occur of maturity or conversion and will not be converted into shares of the Company's common stock.

The Company applied the guidance in ASC 815-40, "Derivatives and Hedging Contracts in an Entity's Own Equity," in determining that the conversion features of the March 2010 Notes did not require derivative liability accounting treatment. The Company relied upon guidance in ASC 470-20, "Debt with Conversion and Other Options," in determining that the non-mandatory conversion feature represented a beneficial conversion feature ("BCF") that should be recorded as equity based on its intrinsic value. Upon the issuance of the March 2010 Notes, the intrinsic value of the BCF was $834,555 which represents the difference between the estimated fair value at the date of issuance of $9.64 per common share and the conversion price of $8.00 per share multiplied by the number of conversion shares. This BCF was recorded as debt discount, which is being amortized to interest expense using the effective interest method over the term of the March 2010 Notes.

The Company incurred approximately $293,000 of costs related to the issuance of the March 2010 Notes, comprised of placement agent commissions and legal fees. In addition, warrants with a five year term were issued to the placement agent exercisable for 25,444 shares of the Company's common stock at a price equal to the lesser of $8.00 per share or 80% of the offering price in the Company's initial public offering, subject to a minimum $4.00 per share conversion price. The estimated fair value of the placement agent warrants at the date of issuance was $120,218. The total costs incurred in connection with the issuance of the March 2010 Notes of approximately $413,000 were capitalized as deferred financing costs and are being amortized using the effective interest method over the term of the March 2010 Notes. The unamortized balance at September 30, 2011, which is included in deferred costs, is $103,690.

See Note 10 regarding the December 2011 modification of the conversion provisions for certain of these notes.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

8. 2010 Junior Secured Notes Payable

In November 2010, the Company issued an aggregate of 10,714,286 units in a private placement and received proceeds of $3,000,000. Each unit consisted of a junior secured note and one share of the Company's common stock. The units were sold to existing stockholders and holders of other Company securities. The Company issued 10,714,286 shares of common stock and junior secured notes in the aggregate principal amount of $3,000,000. The notes mature 10 years from the date of issuance and accrue interest at the rate of 3.5% per year. The notes are secured by a security interest in the assets of the Company. This security interest is junior to that of the security interests associated with the BSC Notes (Note 6) and the April 2011 Note (Note 9). The 2010 Unit Offering notes are not convertible into shares of the Company's common stock or any other Company securities. All outstanding principal and interest on the notes will be due and payable in a single payment upon maturity.

Under guidance in ASC 470, the Company allocated the $3,000,000 in proceeds from the sale of the units proportionately between the junior secured notes and the shares of common stock issued based on their relative fair values with $2,775,300 being recorded as equity. The junior secured notes were recorded at the principal amount of $3,000,000 less a discount of $2,775,300. This discount is being amortized to interest expense over the 10 year term of the notes using the effective interest method. The fair value of the notes was estimated based on an assumed market interest rate for notes of similar terms and risk. The fair value of the Company's common stock was estimated by management using a market approach, with input from a third-party valuation specialist.

Four officers of the Company purchased an aggregate of 882,726 units in the offering for $247,164. In addition, three non-employee directors of the Company also purchased an aggregate of 567,203 units for $158,816 in the offering.

Five other non-employee directors had advanced a total of $190,000 to the Company in anticipation of the offering. However, due to the investment allocations for the offering, these five non-employee directors were not able to purchase units. All funds advanced to the Company by the five non-employee directors were returned, without interest, $90,000 of which was returned prior to December 31, 2010 and $100,000 of which was returned in January 2011. This $100,000 is included in other accrued current liabilities at December 31, 2010.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

9. 2011 Junior Secured Convertible Note Payable and Strategic Agreement

In April 2011, the Company issued a $2,000,000 subordinated secured convertible note ("April 2011 Note") to a medical device co-development partner ("Strategic Partner"). The April 2011 Note matures in April 2016, unless earlier converted, and it accrues interest at the rate of 10% per year. Interest is payable at maturity if the note is not converted. The April 2011 Note is secured by a security interest in the assets of the Company subordinate to the security interest associated with the BSC Notes (Note 6). In the event the Company closes a qualified financing, which is defined as an equity financing in which the Company issues shares of its preferred stock and receives at least $10,000,000 in net proceeds, the principal and accrued interest of the April 2011 Note will automatically convert into shares of preferred stock that are issued in the qualified financing if the number of shares to be issued upon conversion represents at least 10% of the Company's outstanding shares of stock on a fully diluted basis. If the number of shares that would be issued upon conversion represents less than 10% of the Company's outstanding shares of stock on a fully diluted basis, the conversion would be at the Strategic Partner's election. Under the original terms, the Strategic Partner had the right to accelerate the maturity date of the April 2011 Note if the Company did not consummate a qualified financing within 180 days of the issuance of the note. The terms of the April 2011 Note were amended in September 2011 to extend the timeline within which to complete a qualified financing from 180 days to 360 days (April 2012). In addition, the terms of the April 2011 Note were amended in September 2011 to establish a maximum conversion price of $0.60 per share. Accordingly, the conversion price under the April 2011 Note will be the lesser of the price paid by investors in a qualified financing or $0.60 per share (again, contingent upon the completion of a qualified preferred stock financing).

Concurrent with the issuance of the April 2011 Note, the Company and the Strategic Partner entered into a Co-Development and Distribution Agreement pursuant to which the Company appointed the Strategic Partner as the exclusive distributor of the Company's ClearPoint system products in the neurological drug delivery field and a non-exclusive distributor of the Company's ClearPoint system products for other neurological applications. In connection with the Co-Development and Distribution Agreement, the Company is obligated to perform a limited amount of training and support functions. In addition, under the Co-Development and Distribution Agreement, the Company licensed certain ClearPoint system technology to the Strategic Partner and will work together to potentially integrate the Company's ClearPoint product line into the Strategic Partner's interventional MRI product line, particularly for a neurological drug delivery application.

Relying upon guidance in ASC 605-25, the Company analyzed whether the deliverables of the agreement represent separate units of accounting. Application of these standards requires subjective determinations and requires management to make judgments about the value of the individual elements and whether delivered elements are separable from the other aspects of the contractual relationship. The Company determined that the April 2011 Note was the only the element of the arrangement that had standalone value to the Strategic Partner separate from the other elements; thus, the Company accounted for arrangement in two units of accounting. The distribution, license, service, and support elements of the arrangement did not have value to the Strategic Partner on an individual basis, but together these elements

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

9. 2011 Junior Secured Convertible Note Payable and Strategic Agreement (continued)

did have value to the Strategic Partner and, therefore, represent a unit of accounting. The Company applied the relative selling price method to determine the relative value to associate with each unit of accounting. The method establishes a hierarchy of factors to consider when determining relative selling price which are use of vendor specific objective evidence if it exists, third-party evidence of selling price, or lastly, management's best estimate of the selling price. Because of the unique nature of the rights conveyed, there was no vendor specific objective evidence or third party evidence of relative selling price. Therefore, Company was required to use its best estimate of the relative selling price of the deliverables comprising each unit of accounting. The Company determined the relative selling price of the unit of accounting associated distribution, license, service, and support elements to be zero as the Company would have conveyed these rights and assumed these obligations in exchange for the potential benefits from leveraging the distribution function of the Strategic Partner (i.e. sales to the Strategic Partner are expected to yield similar net profits to those the Company generates on its direct customer sales). The other unit of accounting is comprised of the April 2011 Note with its junior security interest. The conversion feature associated with the note was not accorded any accounting treatment since this a contingent feature completely subject to the completion of a qualified financing, which is not considered to be within the Company's control. Therefore, the full $2,000,000 in cash proceeds has been recorded as a liability related to the April 2011 Note .

10. Subsequent Events

Planned Filing of Form 10 Registration Statement

In December 2011, the Company intends to file a Form 10 registration statement with the Securities and Exchange Commission to register the Company's common stock as a class of equity securities under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Upon the effectiveness of the Form 10 registration statement, the Company would become a public reporting company subject to the periodic reporting requirements of the Exchange Act.

Modification of Terms of 2010 Unsecured Convertible Notes Payable (Note 7)

Subsequent to September 30, 2011, the majority of the holders of the March 2010 Notes agreed to a change in the conversion terms of their notes. When issued, the March 2010 Notes did not provide for conversion into shares of the Company's common stock upon the effectiveness of a registration statement filed under the Exchange Act, such as a Form 10 registration statement. However, as of December 27, 2011, holders of $3,381,000 in principal amount of the March 2010 Notes have amended their notes to provide for the automatic conversion of their notes, including the principal and all accrued interest, into shares of the Company's common stock upon the effectiveness of the Company's Form 10 registration statement, based on a conversion price of $1.00 per share.

MRI INTERVENTIONS, INC.

Notes to Condensed Financial Statements
September 30, 2011
(Unaudited)

10. Subsequent Events (continued)

Modification to Terms of Related Party BSC Notes Payable (Note 6)

The maturity dates of the BSC Notes have been extended through January 16, 2012, as the Company and BSC negotiate a longer term extension of the BSC Notes.

Private Placement

In October 2011, the Company began a private placement of it securities in which the Company is offering units, with each unit consisting of a 10% secured convertible note in the principal amount of $100,000 and a warrant to purchase 50,000 shares of the Company's common stock. The notes mature three years from the date of issuance, unless earlier converted, and accrue interest at 10% per year. The notes are secured by a security interest in the assets of the Company. The notes, including the principal and all accrued interest, will convert automatically into shares of the Company's common stock upon the effectiveness of a Form 10 registration statement filed under the Exchange Act, based on a conversion price of $0.60 per share. In addition, a note holder may elect at any time to convert the note into shares of the Company's common stock, based on a conversion price of $0.60 per share. The warrants are immediately vested, have a term of five years, and have an exercise price of $0.75 per share. As of December 27, 2011, in its unit offering the Company had issued notes in the aggregate principal amount of $1,625,000. The Company's placement agent for the unit offering will receive a cash fee equal to 10% of the gross proceeds, as well as a warrant to purchase that number of shares of the Company's common stock equal to 8% of the number of shares of common stock issuable upon conversion of the notes and exercise of the warrants sold in the offering, at an exercise price of $0.75 per share.

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SIGNATURES

Pursuant to the requirements of the Section 12 of the Securities Exchange Act of 1934, MRI Interventions, Inc. has duly caused this Registration Statement on Form 10 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Memphis, State of Tennessee, on the 28th day of December, 2011.

MRI Interventions, Inc.

By: /S/ KIMBLE L. JENKINS

Kimble L. Jenkins
Chief Executive Officer
(principal executive officer)

Exhibit 3.1

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF SURGI-VISION, INC.

(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)

Surgi-Vision, Inc., a Delaware corporation, hereby certifies as follows:

1. The name of the corporation is Surgi-Vision, Inc. (the "Corporation"). The date of filing of the original Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware was March 12, 1998.

2. An Amended and Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on April 28, 2004.

3. The Amended and Restated Certificate of Incorporation of the Corporation filed on April 28, 2004, is hereby amended as set forth in the Amended and Restated Certificate of Incorporation set forth below.

4. This Amended and Restated Certificate of Incorporation amends, restates and integrates the provisions of the Amended and Restated Certificate of Incorporation of the Corporation and has been duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.

5. Pursuant to Section 228(a) of the General Corporation Law of the State of Delaware, the holders of outstanding shares of the Corporation having no less than the minimum number of votes that would be necessary to authorize or take such actions at a meeting at which all shares entitled to vote thereon were present and voted, consented to the adoption of the aforesaid amendments without a meeting, without a vote and without prior notice and that written notice of the taking of such actions has been given in accordance with Section 228(e) of the General Corporation Law of the State of Delaware.

6. The text of the Amended and Restated Certificate of Incorporation of the Corporation is hereby amended and restated to read in its entirety as follows:

ARTICLE I
NAME

The name of the corporation (hereinafter called the "Corporation") is Surgi-Vision, Inc.

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:02 PM 07/06/2004
FILED 12:02 PM 07/06/2004
SRV 040493784 - 2870717 FILE

ARTICLE II
REGISTERED OFFICE

The address of the registered office of the Corporation in the State of Delaware is 1220 N. Market St., Suite 606, Wilmington, DE 19801, County of New Castle. The registered agent is American Incorporators Ltd. whose address is the same as above.

ARTICLE III
PURPOSES

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE IV
AUTHORIZED STOCK

The total number of shares of all classes of capital stock which the Corporation has the authority to issue is 50,000,000 shares, consisting of (i) 40,000,000 shares of Common Stock, par value $.01 per share (the "Common Stock") and (ii) 10,000,000 shares of Preferred Stock par value $.01 per share (the "Preferred Stock"). The following is a statement of the relative powers, designations, preferences, special rights, privileges, qualifications, limitations, restrictions and other matters pertaining to the Common Stock and the Preferred Stock.

A. COMMON STOCK.

1. General. The voting dividend and liquidation and other rights of the holders of the Common Stock are expressly made subject to and qualified by the rights of the holders of any series of Preferred Stock

2. Voting Rights.

(a) The holders of record of the Common Stock are entitled to one vote per share on all matters to be voted on by the Corporation's stockholders, subject to the voting rights of holders of any outstanding shares of any series of Preferred Stock.

(b) Notwithstanding any other provision hereof, the Corporation shall not (i) enter into any merger or consolidation with or into Dara BioSciences, Inc. or any Affiliate (as defined below) of Dara BioSciences, Inc., or (ii) sell, lease, exchange, license, transfer or otherwise dispose of all or substantially all of the property, assets or business of the Corporation to Dara BioSciences, Inc. or any Affiliate of Dara BioSciences, Inc. (each of clause (i) and clause (ii), a "Dara Business Combination"), without first obtaining the approval by vote or written consent, in the manner provided by law, of persons holding at least 75% of the total votes of all classes of the capital stock of the Corporation entitled to vote at all meetings of the stockholders of the Corporation, voting together as a single class. For purposes hereof, "Affiliate" means, with respect to any person, (1) any person who directly or indirectly is in control of, is controlled by, or is under common control with, such person and (2) any person who is a director or officer of such person or of any person described in clause (1) above. The provisions of this Section 2(b)

may not be altered, amended or repealed without first obtaining the approval by vote or written consent, in the manner provided by law, of such persons necessary to approve a Dara Business Combination.

3. Dividends. Dividends may be declared and paid on the Common Stock from funds lawfully available therefor if, as and when determined by the Board of Directors of the Corporation in their sole discretion, subject to provisions of law, any provision of this Certificate of Incorporation, as amended from time to time, and subject to the rights and preferences of any shares of Preferred Stock authorized, issued and outstanding hereunder.

4. Liquidation. Upon the dissolution, liquidation or winding up of the Corporation, whether voluntary or involuntary, holders of record of the Common Stock will be entitled to receive pro rata all assets of the Corporation available for distribution to its stockholders, subject, however, to the liquidation rights of the holders of Preferred Stock authorized, issued and outstanding hereunder.

B. PREFERRED STOCK.

The Preferred Stock may be issued from time to time in one or more series. The Board of Directors is authorized, subject to any limitations prescribed by law, to provide for the issuance of shares of Preferred Stock in series, and by filing a certificate pursuant to the applicable law of the State of Delaware (such certificate being hereafter referred to as a "Preferred Stock Designation"), 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 any qualifications, limitations or restrictions thereof. In the event that at any time the Board of Directors shall have established and designated one or more series of Preferred Stock consisting of a number of shares less than all of the authorized number of shares of Preferred Stock, the remaining authorized shares of Preferred Stock shall be deemed to be shares of an undesignated series of Preferred Stock unless and until designated by the Board of Directors as being part of a series previously established or a new series then being established by the Board of Directors. Notwithstanding the fixing of the number of shares constituting a particular series, the Board of Directors may at any time thereafter authorize an increase or decrease in the number of shares of any such series except as set forth in the Preferred Stock Designation for such series. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status of authorized undesignated Preferred Stock unless and until designated by the Board of Directors as being a part of a series previously established or a new series then being established by the Board of Directors.

ARTICLE V
EXISTENCE

The Corporation is to have perpetual existence.

ARTICLE VI
DIRECTORS; BY-LAWS

For the management of the business and for the conduct of the affairs of the Corporation, and in further definition and not in limitation of the powers of the Corporation and of its directors and of its stockholders or any class thereof, as the case may be, conferred by the State of Delaware, it is further provided that:

(a) The management of the business and the conduct of the affairs of the Corporation shall be vested in its Board of Directors. The number of directors which shall constitute the whole Board of Directors shall be fixed by, or in the manner provided in, the By-Laws. The phrase "whole Board" and the phrase "total number of directors" shall be deemed to have the same meaning, to wit, the total number of directors which the Corporation would have if there were no vacancies or unfilled newly created directorships. No election of directors need be by written ballot.

(b) After the original or other By-Laws of the Corporation have been adopted, amended or repealed, as the case may be, in accordance with the provisions of Section 109 of the General Corporation Law of the State of Delaware, and, after the Corporation has received any payment for any of its stock, the power to adopt, amend or repeal the By-Laws of the Corporation may be exercised by the Board of Directors of the Corporation.

(c) The books of the Corporation may be kept at such place within or without the State of Delaware as the By-Laws of the Corporation may provide or as may be designated from time to time by the Board of Directors of the Corporation.

ARTICLE VII
INDEMNIFICATION

The Corporation shall, to the fullest extent permitted by Section 145 of the General Corporation Law of the State of Delaware, as the same may be amended and supplemented from time to time, indemnify and advance expenses to (i) its directors and officers and (ii) any person who, while a director or officer of the Corporation, at the request of the Corporation is or was serving as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, from and against any and all of the expenses, liabilities, or other matters referred to in or covered by said section as amended or supplemented (or any successor), provided, however, that except with respect to proceedings to enforce rights to indemnification or advancement of expenses, the Corporation shall not be required to indemnify or advance expenses to any director or officer in connection with a proceeding (or part thereof) initiated by such director or officer unless such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. The Corporation, by action of its Board of Directors, may provide indemnification or advance expenses to employees and agents of the Corporation or other persons (if such employees, agents or other persons are not entitled to indemnification and/or advancement of expenses pursuant to clauses (i) and (ii) above of this Article) only on such terms and conditions and to the extent determined by the Board of Directors in its sole and absolute discretion. The indemnification provided for herein shall not be deemed exclusive of

any other rights to which those indemnified may be entitled under any By-Law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in their official capacity and as to action in another capacity while holding such office, and 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.

ARTICLE VIII
LIMITATION OF LIABILITY

No director of this Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director except to the extent that exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as in effect at the time such liability or limitation thereof is determined. No amendment, modification or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment, modification or repeal.

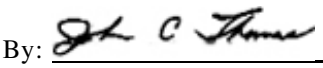
ARTICLE IX
AMENDMENT

Subject to the voting or consent rights of holders of outstanding shares of any series of Preferred Stock, from time to time any of the provisions of this Amended and Restated Certificate of Incorporation may be amended, altered or repealed, and other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted in the manner and at the time prescribed by said laws, and all rights at any time conferred upon the stockholders of the Corporation by this Amended and Restated Certificate of Incorporation are granted subject to the provisions of this Article.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be signed this 28 day of May, 2004

SURGI-VISION, INC.

By: 

John C. Thomas
Secretary and Chief Financial Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 03:19 PM 05/31/2007
FILED 03:16 PM 05/31/2007
SRV 070653929 - 2870717 FILE

CERTIFICATE OF AMENDMENT
TO
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
SURGI-VISION, INC.

(Pursuant to Section 242 of the General
Corporation Law of the State of Delaware)

SURGI-VISION, INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "DGCL"), DOES HEREBY CERTIFY;

FIRST: That the name of the corporation is Surgi-Vision, Inc. (the "Corporation").

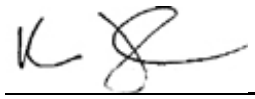
SECOND: That the Amended and Restated Certificate of Incorporation of the Corporation is amended by deleting the first sentence of Article IV thereof and substituting the following in its place:

"The total number of shares of all classes of capital stock which the Corporation has the authority to issue is 70,000,000 shares, consisting of (i) 50,000,000 shares of Common Stock, par value $.01 per share (the "Common Stock") and (ii) 20,000,000 shares of Preferred Stock, par value $.01 per share (the "Preferred Stock")."

THIRD: That this amendment to the Amended and Restated Certificate of Incorporation of the Corporation has been duly adopted in accordance with Section 242 of the DGCL.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its duly authorized officer on this 30th day of May, 2007.

SURGI-VISION, INC.

By: 
Name: Kimble L. Jenkins
Title: President

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:30 AM 11/12/2008
FILED 11:30 AM 11/12/2008
SRV 081112571 - 2870717 FILE

CERTIFICATE OF AMENDMENT
TO
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
SURGI-VISION, INC.

(Pursuant to Section 242 of the General
Corporation Law of the State of Delaware)

SURGI-VISION, INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "DGCL"), DOES HEREBY CERTIFY:

FIRST: That the name of the corporation is Surgi-Vision, Inc.

SECOND: That the Amended and Restated Certificate of Incorporation of Surgi-Vision, Inc. is amended by deleting Article I thereof and substituting the following in its place:

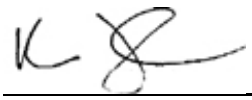
ARTICLE I
NAME

The name of the corporation (hereinafter called the "Corporation") is SurgiVision, Inc.

THIRD: That this amendment to the Amended and Restated Certificate of Incorporation of Surgi-Vision, Inc. has been duly adopted in accordance with Section 242 of the DGCL.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its duly authorized officer on this 11th day of November, 2008.

SURGI-VISION, INC.

By: 
Name: Kimble L. Jenkins
Title: President & CEO

State of Delaware
Secretary of State
Division of Corporations
Delivered 06:00 PM 12/14/2009
FILED 06:00 PM 12/14/2009
SRV 091097915 - 2870717 FILE

CERTIFICATE OF AMENDMENT
TO
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
SURGIVISION, INC.

(Pursuant to Section 242 of the General
Corporation Law of the State of Delaware)

SURGIVISION, INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "DGCL"), DOES HEREBY CERTIFY:

FIRST: That the name of the corporation is SurgiVision, Inc. (the "Corporation").

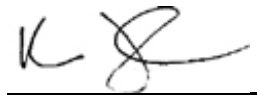
SECOND: That the Amended and Restated Certificate of Incorporation of the Corporation is amended by deleting the first sentence of Article IV thereof and substituting the following in its place:

"The total number of shares of all classes of capital stock which the Corporation has the authority to issue is 100,000,000 shares, consisting of (i) 70,000,000 shares of Common Stock, par value $.01 per share (the "Common Stock") and (ii) 30,000,000 shares of Preferred Stock, par value $.01 per share (the "Preferred Stock")."

THIRD: That this amendment to the Amended and Restated Certificate of Incorporation of the Corporation has been duly adopted in accordance with Section 242 of the DGCL.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its duly authorized officer on this 14th day of December, 2009.

SURGIVISION, INC.

By: 
Name: Kimble L. Jenkins
Title: CEO & President

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:14 AM
07/13/2010
FILED 11:14 AM 07/13/2010
SRV 100736069 - 2870717
FILE

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
SURGIVISION, INC.

(Pursuant to Section 242 of the General Corporation Law of the State of Delaware)

SURGIVISION, INC., a corporation duly organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify:

FIRST: The Amended and Restated Certificate of Incorporation of the Corporation, as amended, is hereby amended by deleting the first paragraph of Article IV thereof in its entirety and inserting the following in lieu thereof:

"The total number of shares of all classes of capital stock which the Corporation has the authority to issue is 100,000,000 shares, consisting of (i) 70,000,000 shares of Common Stock, par value $.01 per share (the "Common Stock") and (ii) 30,000,000 shares of Preferred Stock, par value $.01 per share (the "Preferred Stock"). Upon this Certificate of Amendment becoming effective pursuant to the General Corporation Law of the State of Delaware (the "Effective Time"), the shares of Common Stock issued and outstanding or held in treasury immediately prior to the Effective Time (the "Old Common Stock") shall be reclassified as and converted into a different number of shares of Common Stock (the "New Common Stock") such that each four (4) shares of Old Common Stock shall, at the Effective Time, be automatically reclassified as and converted into one share of New Common Stock. From and after the Effective Time, certificates representing the Old Common Stock shall represent the number of whole shares of New Common Stock into which such Old Common Stock shall have been reclassified pursuant to this Certificate of Amendment. No fractional shares of Common Stock shall be issued as a result of such reclassification and combination. In lieu of any fractional shares to which the stockholder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then fair value of the Common Stock as determined in good faith by the Board of Directors of the Corporation. The following is a statement of the relative powers, designations, preferences, special rights, privileges, qualifications, limitations, restrictions and other matters pertaining to the Common Stock and Preferred Stock."

SECOND: The foregoing amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said Corporation has caused this Certificate of Amendment to be signed this 12th day of July, 2010.

SURGIVISION, INC.

By: /s/ Kimble L. Jenkins
Kimble L. Jenkins
Chief Executive Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 01:00 PM
05/13/2011
FILED 01:00 PM 05/13/2011
SRV 110543415 - 2870717
FILE

CERTIFICATE OF AMENDMENT
TO
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
SURGIVISION, INC.

(Pursuant to Section 242 of the General
Corporation Law of the State of Delaware)

SURGIVISION, INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "DGCL"), DOES HEREBY CERTIFY:

FIRST: That the name of the corporation is SurgiVision. Inc.

SECOND: That the Amended and Restated Certificate of Incorporation of SurgiVision. Inc. is amended by deleting Article I thereof and substituting the following in its place:

ARTICLE I
NAME

The name of the corporation (hereinafter called the "Corporation") is MRI Interventions, Inc.

THIRD: That this amendment to the Amended and Restated Certificate of Incorporation of SurgiVision. Inc. has been duly adopted in accordance with Section 242 of the DGCL.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its duly authorized officer on this 13th day of May, 2011.

SURGIVISION, INC.

By: /s/ Kimble L. Jenkins
Name: Kimble L. Jenkins
Title: President &CEO

Exhibit 3.2

BY-LAWS
OF
SURGI-VISION
(a Delaware corporation)

ARTICLE I
Offices

The Corporation shall at all times maintain a registered office in the State of Delaware and a registered agent at that address but may have other offices located in or outside of the State of Delaware as the Board of Directors may from time to time determine.

ARTICLE II
Stockholder's Meetings

2.1 Places of Meetings. All meetings of stockholders shall be held at such place or places in or outside of the State of Delaware as the Board of Directors may from time to time determine or as may be designated in the notice of meeting or waiver of notice thereof, subject to any provisions of the laws of the State of Delaware.

2.2 Annual Meetings. The annual meeting of stockholders for the election of directors and the transaction of such other business as may properly come before the meeting shall be held on such date and at such time as may be designated from time to time by the Board of Directors. If the annual meeting is not held on the date designated, it may be held as soon thereafter as convenient and shall be called the annual meeting. Written notice of the time and place of the annual meeting shall be given by mail to each stockholder entitled to vote thereat at his address as it appears on the records of the Corporation not less than ten (10) nor more than sixty (60) days prior to the scheduled date thereof, unless such notice is waived as provided by Article IX of these By-laws.

2.3 Special Meetings. Special meetings of stockholders may be called at any time by the Board of Directors or the Chairman of the Board of Directors stating the specific purpose or purposes thereof. Written notice of the time, place and specific purposes of such meeting shall be given by mail to each stockholder entitled to vote thereat at his address as it appears on the records of the Corporation not less than ten (10) nor more than sixty (60) days prior to the scheduled date

thereof, unless such notice is waived as provided in Article IX of these By-laws.

2.4 Voting. At all meetings of stockholders, each stockholder entitled to vote on the record date as determined under Article VI, Section 6.3 of these By-laws or, if not so determined, as prescribed under the laws of the State of Delaware, shall be entitled to one vote for each share of stock standing of record in his name, subject to any restrictions or qualifications set forth in the Certificate of Incorporation or any amendment thereto.

2.5 Quorum. At any meeting of stockholders, a majority of the number of shares of stock outstanding and entitled to vote thereat, present in person or by proxy, shall constitute a Quorum, but a smaller interest may adjourn any meeting from time to time, and the meeting may be held as adjourned without further notice, subject to such limitation as may be imposed under the laws of the State of Delaware. When a quorum is present at any meeting, a majority of the number of shares of stock entitled to vote present thereat shall decide any question brought before such meeting unless the question is one upon which a different vote is required by express provision of the laws of the State of Delaware, the Certificate of Incorporation or these By-laws, in which case such express provision shall govern.

2.6 List of Stockholders. At least ten (10) days before every meeting, a complete list of the stockholders entitled Go vote at the meeting, arranged in alphabetical order and showing the address of ad the number of shares registered in the name of each stockholder, shall be prepared by the Secretary or the transfer agent in charge of the stock ledger of the Corporation. Such list shall be open for examination by any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. The stock ledger shall be the only evidence as to who are the stockholders entitled to examine such list or the books of the Corporation or to vote in person or by proxy at such meeting.

2.7 Action without Meeting. Any action required by the laws of the State of Delaware to be taken at any annual or special meeting of stockholders, or any action which may be taken at any annual or special meeting of stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by shareholders 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 of the shareholders having a right to vote thereon were present and voted.

ARTICLE III
Board of Directors

3.1 Powers. The business and affairs of the Corporation shall be carried on by or under the direction of the Board of Directors, which shall have all the powers authorized by the laws of the State of Delaware, subject to such limitations as may be provided by the Certificate of Incorporation or these By-laws.

3.2 Number and Qualification. The number of directors shall be not less than one (1) and not more than seven (7), the exact number within such minimum and maximum limits to be fixed and determined from time to time by resolution of a majority of the Board of Directors. Each director shall serve until the election and qualification of his successor or until his earlier resignation or removal as provided in the Certificate of Incorporation or these By-laws. In case of an increase in the number of directors between elections by the stockholders, the additional directorships shall be considered vacancies and shall be filled in the manner prescribed in Article V of these By-laws. Directors need not be stockholders.

3.3 Compensation. The Board of Directors, or a committee thereof, may from time to time by resolution authorize the payment of fees or other compensation to the directors for services as such to the Corporation, including, but not limited to, fees for attendance at all meetings of the Board of Directors or any committee thereof, and determine the amount of such fees and compensation.

3.4 Quorum. At any meeting of the Board of Directors, a quorum shall be one-half (1/2) of the then authorized number of

directors, but not less than three (3) directors. When a quorum is present at any meeting, a majority of the number of Directors present thereat shall decide any question brought before such meeting.

3.5 Meetings. Meetings of the Board of Directors may be held either in or outside of the State of Delaware.

The Board of Directors shall, at the close of each annual meeting of stockholders and without further notice other than these By-laws, if a quorum of directors is then present or as soon thereafter as may be convenient, hold a regular meeting for the election of officers and the transaction of any other business.

The Board of Directors may from time to time provide for the holding of regular meetings with or without notice and may fix the times and places at which such meetings are to be held. Meetings other than regular meetings may be called at any time by the Chairman of the Board of Directors or the President and must be called by the Secretary or an Assistant Secretary upon the request of a majority of the members of the Board of Directors.

Notice of each meeting, other than a regular meeting (unless required by the Board of Directors), shall be given to each director (i) by mailing the same to each director at his residence or business address at least ten (10) days before the meeting; (ii) by sending the same by overnight courier to each director at his residence or business address at least three business days before the meeting; (iii) by facsimile transmission at his business facsimile number and telephonic confirmation of receipt at least two (2) business days before the meeting; or (iv) by delivering the same to him personally or by telephone or telegraph at least two (2) business days before the meeting. In case of exigency, the Chairman of the Board of Directors, the President or the Secretary shall prescribe a shorter notice to be given personally or by telephone, telegraph, cable, facsimile transmission or wireless to all or any one or more of the directors at their respective residences or places of business.

Notice of any meeting shall state the time and place of such meeting, but need not state the purposes thereof unless otherwise required by the laws of the State of Delaware, the Certificate of Incorporation or the Board of Directors.

3.6 Committees. The Board of Directors may, by resolution adopted by a majority of the whole Board of Directors,

provide for committees of two or more directors and shall elect the members thereof to serve at the pleasure of the Board of Directors and may designate one of such members to act as chairman. The Board of Directors may at any time change the membership of each committee, fill vacancies in it, authorize the committee to fill vacancies in such committee, designate alternate members to replace any absent or disqualified members at any meeting of such committee, or dissolve it. Each such committee shall have the powers and perform such duties, not inconsistent with law, as may be assigned to it by the Board of Directors. Each Committee may determine its rules of procedure and the notice to be given of its meeting. A majority of the members of each committee shall constitute a quorum.

3.7 Conference Telephone Meetings. Any one or more members of the Board of Directors or any committee thereof may participate in a meeting by means of a conference telephone or similar communication 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 such meeting.

3.8 Action Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee.

ARTICLE IV
Officers

4.1 Titles and Election. The officers of the Corporation shall be the President, one or more Vice Presidents, the Secretary and the Treasurer. The officers of the Corporation shall initially be elected as soon as convenient by the Board of Directors and thereafter, in the absence of earlier resignations or removals, shall be elected at the first meeting of the Board of Directors following each annual meeting of stockholders. Each officer shall hold office at the pleasure of the Board of Directors except as may otherwise be approved by the Board of Directors, or until his earlier resignation, removal under these By-laws or other termination of his employment. Any person may hold more than one office if the duties can be consistently performed by the same person.

The Board of Directors, in its discretion, may also at any time elect or appoint a Chairman of the Board of Directors, Assistant Secretaries and Assistant Treasurers and such other officers as it may deem advisable, each of whom shall hold office at the pleasure of the Board of Directors, except as may otherwise be approved by the Board of Directors, or until his earlier resignation, removal or other termination of employment, and shall have such authority and shall perform such duties as may be prescribed or determined from time to time by the Board of Directors or, in case of officers other than the Chairman of the Board of Directors, if not prescribed or determined by the Board of Directors, as the President or the then senior executive officer may prescribe or determine.

4.2 Duties. Subject to such extension, limitations, and other provisions as the Board of Directors may from time to time prescribe or determine, the following officers shall have the following powers and duties:

(a) Chairman of the Board of Directors. The Chairman of the Board of Directors, if one is elected, shall be a director and, when present, shall preside at all meetings of the stockholders and of the Board of Directors and shall be charged with general supervision of the management and policy of the Corporation and shall have such other powers and perform such other duties as the Board of Directors may prescribe from time to time.

(b) President. The President shall exercise the powers and authority and perform all of the duties commonly incident to his office, shall in the absence of the Chairman of the Board of Directors preside at all meetings of the stockholders and of the Board of Directors if he is a director, and shall perform such other duties as the Board of Directors shall specify from time to time. The President or a Vice President, or any officer specifically authorized by the Board of Directors, shall sign all certificates for shares, bonds, debentures, promissory notes, deeds and contracts of the Corporation.

(c) Chief Executive Officer. The Chief Executive Officer shall have general and active management power and authority over the business of the Corporation, shall see that all orders and resolutions of the Board of Directors are carried into effect and shall perform any and all other duties prescribed by the Board of Directors. Either the President or the Chairman of the Board of Directors may be

Chief Executive Officer. In the absence of a resolution by the Board of Directors that the Chairman of the Board of Directors shall be the Chief Executive Officer, the President shall be the Chief Executive Officer.

(d) Vice Presidents. The Vice President or Vice Presidents shall perform such duties as may be assigned to them from time to time by the Board of Directors or by the President if the Board of Directors does not do so. In the absence or disability of the President, the Vice Presidents in order of seniority may, unless otherwise determined by the Board of Directors, exercise the powers and perform the duties pertaining to the office of President.

(e) Secretary. The Secretary, or in his absence an Assistant Secretary, shall keep the minutes of all meetings of stockholders and of the Board of Directors and any committee thereof, give and serve all notices, attend to such correspondence as may be assigned to him, keep in safe custody the seal of the Corporation, and affix such seal to all such instruments properly executed as may require it, and shall perform all of the duties commonly incident to his office and shall have such other duties and powers as may be prescribed or determined from time to time by the Board of Directors or by the President if the Board of Directors does not do so.

(f) Treasurer. The Treasurer, subject to the order of the Board of Directors, shall have the care and custody of the monies, funds, and securities of the Corporation (other than his own bond, if any, which shall be in the custody of the President), shall maintain the general accounting books/accounting records and forms of the Corporation and shall have, under the supervision of the Board of Directors, all the powers and duties commonly incident to his office. In addition to the foregoing, the Treasurer shall have such duties as may be prescribed or determined from time to time by the Board of Directors or by the President if the board of Directors does not do so.

4.3 Delegation of Authority. The Board of Directors may at any time delegate the powers and duties of any officer for the time being to any other officer, director or employee.

4.4 Compensation. The compensation of the officers of the Corporation shall be fixed by the Board of Directors or a committee thereof, and the fact that any officer is a director

shall not preclude him from receiving compensation or from voting upon the resolution providing the same.

ARTICLE V
Resignations, Vacancies and Removals

5.1 Resignations. Any director or officer may resign at any time by giving written notice thereof to the Board of Directors, the President or the Secretary. Any such resignation shall take effect at the time specified therein or, if the time be not specified, upon receipt thereof; and unless otherwise specified therein, the acceptance of any resignation shall not be necessary to make it effective.

5.2 Vacancies.

(a) Directors. Any vacancy in the board of Directors caused by reason of death, incapacity, resignation, removal, increase in the authorized number of directors or otherwise, shall be filled by a majority vote of the remaining directors though less than a quorum, or by the sole remaining director. Any director so filling such a vacancy shall serve until the next annual meeting of stockholders and until election and qualification of his successor or until his earlier resignation or removal.

(b) Officers. The Board of Directs may, at any time or from time to time fill any vacancy among the officers of the Corporation.

5.3 Removals.

(a) Directors. The entire Board of Directors, or any individual member thereof, may be removed, with or without cause, by the holders of a majority of the shares of capital stock then entitled to vote at an election of directors.

(b) Officers. Subject to the provisions of any validly existing agreement, the Board of Directors may at any meeting remove from office any officer, with or without cause, and may appoint a successor.

ARTICLE VI
Capital Stock

6.1 Certificates of Stock. Every stockholder shall be entitled to a certificate or certificates for shares of the capital stock of the Corporation in such form as may be prescribed or authorized by the Board of Directors, duly numbered and setting forth the number and kind of shares represented thereby. Such certificates shall be signed by the Chairman of the Board of Directors, or by the President or a Vice President and by the Treasurer or an Assistant Treasurer or by the Secretary or an Assistant Secretary. Any or all of such signatures may be in facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on a certificate has ceased to be such transfer agent or registrar before the certificate has been issued, such certificate may nevertheless be issued and delivered by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

6.2 Transfer of Stock. Shares of the capital stock of the Corporation shall be transferable only upon the books of the Corporation upon the surrender of the certificate or certificates properly assigned and endorsed for transfer. If the Corporation has a transfer agent or registrar acting on its behalf, the signature of any officer or representative thereof may be in facsimile.

The Board of Directors may appoint a transfer agent and one or more co-transfer agents and a registrar and one or more co-registrars and may make or authorize such agents to make all such rules and regulations deemed expedient concerning the issuance, transfer and registration of shares of stock.

6.3 Dates. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or 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 of Directors may fix in advance a record date which, in the case of a meeting, shall not be less than ten (10) nor more than sixty (60) days prior to the scheduled date of such meeting and which, in the case of any other action, shall be not more than sixty (60) days prior to any such action permitted by the laws of the

State of Delaware. 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, however, that the Board of Directors may fix a new record date for the adjourned meeting.

6.4 Lost Certificates. In case of loss or mutilation or destruction of a stock certificate, a duplicate certificate may be issued upon such terms as may be determined or authorized by the Board of Directors or by the President if the Board of Directors does not do so.

ARTICLE VII
Fiscal Year, Bank Deposits, Checks, Etc.

7.1 Fiscal Year. The fiscal year of the Corporation shall be the calendar year unless otherwise fixed by resolution of the Board of Directors.

7.2 Bank Deposit, Checks, Etc. The funds of the Corporation shall be deposited in the name of the Corporation or of any division thereof in such banks or trust companies in the United States or elsewhere as may be designated from time to time by the Board of Directors, or by such officer or officers as the Board of Directors may authorize to make such designations. All checks, drafts or other orders for the withdrawal of funds from any bank account shall be signed by such person or persons as may be designated from time to time by the Board of Directors. The signatures on checks, drafts or other orders for the withdrawal of funds may be in facsimile if authorized in the designation.

ARTICLE VIII
Books and Records

8.1 Place of Keeping Books. The books and records of the Corporation may be kept outside of the State of Delaware.

8.2 Examination of Books. Except as may otherwise be provided by the laws of the State of Delaware, the Certificate of Incorporation or these By-laws, the Board of Directors shall have the power to determine from time to time whether and to what extent and at what times and places and under what conditions any of the accounts, records and books of the Corporation are to be open to the inspection of any stockholder. No stockholder shall have any right to inspect any account or book or document of the

Corporation except as prescribed by law or authorized by express resolution of the stockholders or of the Board of Directors.

ARTICLE IX
Notices

9.1 Requirements of Notice. Whenever notice is required to be given by statute, the Certificate of Incorporation or these By-laws, it shall not mean personal notice unless so specified, but such notice may be given in writing by depositing the same in a post office, letter box, or mail chute postage prepaid and addressed to the Person to whom such notice is directed at the address of such person on the records of the Corporation, and such notice shall be deemed given at the time when the same shall be thus mailed.

9.2 Waiver. Any stockholder, director or officer may, in writing or by telegram or cable, at any time waive any notice or other formality required by statute, the Certificate of Incorporation or these By-laws. Such waiver of notice, whether given before or after any meeting or action, shall be deemed equivalent to notice. Presence of a stockholder either in person or by proxy at any meeting of stockholders and presence or any director at any meeting of the Board of Directors shall constitute a waiver of such notice as may be required by any statute, the Certificate of Incorporation or these By-laws.

ARTICLE X
Seal

The corporate seal of the Corporation shall be in such form as the Board of Directors shall determine from time to time and may consist of a facsimile thereof or the words “Corporate Seal” or “Seal” enclosed in parentheses.

ARTICLE XI
Powers of attorney

The Board of Directors may authorize one or more of the officers of the Corporation to execute powers of attorney delegating to named representatives or agents power to represent or act on behalf of the Corporation, with or without power of substitution. In the absence of any action by the Board of Directors, any officer of the Corporation may execute for and on

behalf of the Corporation waivers of notice of meetings of stockholders and proxies for such meetings of any company in which the Corporation may hold voting securities.

ARTICLE XII
Indemnification of Directors, Officers and Employees

12.1 Action Other Than by or in the Right of the Corporation. Subject to Section 12.3 hereof, the Corporation shall indemnify 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, and whether external or internal to the Corporation (other than a judicial action or suit brought by or in the right of the Corporation) by reason of the fact that he is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise (all such persons being referred to hereafter as an "Agent"), against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or 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 he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe that his conduct was unlawful.

12.2 Action by or in the Right of the Corporation. Subject to Section 12.3 hereof, the Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed judicial action or suit brought by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was an Agent against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, 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 Corporation 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 of such expenses which the Court of Chancery or other such court shall deem proper.

12.3 Determination of Right of Indemnification. Any indemnification under Sections 12.1 or 12.2 hereof (unless ordered by a court shall be made by the Corporation unless a determination is reasonably and promptly made (i) by the Board of Directors by a majority vote of a quorum consisting of directors who are or were not parties to such action, suit or Proceeding, or (ii) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (iii) by the stockholders, that such person acted in bad faith and in a manner that such person did not believe to be in or not opposed to the best interests of the Corporation, or, with respect to any criminal proceeding, that such person believed or had reasonable cause to believe that his conduct was unlawful.

12.4 Indemnification Against Expenses of Successful Party. Notwithstanding the other provisions of this Article XII, to the extent that an Agent has been successful on the merits or otherwise, including the dismissal or an action without prejudice or the settlement of an action without admission of liability, in defense of any proceeding or in defense of any claim, issue or matter therein, such Agent shall be indemnified against all expenses (including attorneys' tees) actually and reasonably incurred by him in connection therewith.

12.5 Advances of Expenses. Except as limited by Section 12.6 hereof, expenses incurred in defending or investigating any action, suit, proceeding or investigation shall be paid by the Corporation in advance of the final disposition of such matter, if the Agent shall undertake to repay such amount in the event that it is ultimately determined, as provided herein, that such person is not entitled to indemnification. However, no advance shall be made by the Corporation if a determination is reasonably and promptly made by the Board of Directors by a majority vote of a quorum of disinterested directors, or (if such a quorum is not obtainable or, even if obtainable, a quorum of disinterested directors so directs) by independent legal counsel

in a written opinion, that, based upon the facts known to the Board of Directors or counsel at the time such determination is made, such person acted in bad faith and in a manner that such person did not believe to be in or not opposed to the best interests of the Corporation, or, with respect to any criminal proceeding, that such person believed or had reasonable cause to believe his conduct was unlawful. In no event shall any advance be made in instances where the Board of Directors or independent legal counsel reasonably determines that such person deliberately breached his duty to the Corporation or its stockholders.

12.6 Right of Agent to Indemnification Upon Application; Procedure upon Application. Any indemnification under Sections 12.1, 12.2, and 12.4 hereof, or advance under Section 12.5 hereof, shall be made promptly and in any event within 45 days, upon the written request of the Agent, unless with respect to applications under Sections 12.2, 12.3, or 12.5 hereof, a determination is reasonably and promptly made by the Board of Directors by a majority vote of a quorum disinterested directors that such Agent acted in a manner set forth in such Sections as to justify the Corporation's not indemnifying or making an advance to the Agent. In the event no quorum of disinterested directors is obtainable, the Board of Directors shall promptly direct that independent legal counsel shall decide whether the Agent acted in the manner set forth in such Sections as to justify the Corporation's not indemnifying or making an advance to the Agent. The right to indemnification or advances as granted by this Article XII shall be enforceable by the Agent in any court of competent jurisdiction if the Board of Directors or independent legal counsel denies the claim, in whole or in part, or no disposition of such claim is made within 45 days. The Agent's expenses incurred in connection with successfully establishing his right to indemnification, in whole or in part, in any such proceeding shall also be indemnified by the Corporation.

12.7 Other Rights and Remedies. The indemnification provided by this Article XII shall not be deemed exclusive of any other rights to which an Agent seeking indemnification may be entitled under any agreement, vote of stockholders or disinterested directors, court order or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. It is the policy of the Corporation that indemnification of Agents shall be made to the fullest extent permitted by law. All rights to indemnification under this Article XII shall be deemed to be proved by a contract between the Corporation and the Agent who serves in such capacity

at any time while these By-laws and other relevant provisions of the General Corporation Law of the State of Delaware and other applicable law, if any, are in effect. Any repeal or modification thereof shall not affect any rights or obligations then existing.

12.8 Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was an Agent against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article XII.

12.9 Indemnity Fund. Upon resolution adopted by the Board of Directors, the Corporation may establish a trust or other designated account, grant a security interest or use other means (including, without limitation, a letter of credit), to ensure the payment of certain of its obligations arising under this Article XII and/or agreements which may be entered into between the Corporation and its officers and directors from time to time.

12.10 Indemnification of Other Persons. The provisions of this Article XII shall not be deemed to preclude the indemnification of any person who is not an Agent but whom the Corporation has the power or obligation to indemnify under the provisions of the General Corporation Law of the State of Delaware or otherwise. The Corporation may, in its sole discretion, indemnify an employee, trustee or other agent as permitted by the General Corporation Law of the State of Delaware. The Corporation shall indemnify an employee, trustee or other agent where required by law.

12.11 Survival of Indemnification. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article XII shall continue as to a person who has ceased to be an Agent and shall inure to the benefit of the heirs, executors and administrators of such Agent.

12.12 Savings Clause. If this Article XII or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each Agent against expenses including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether internal or external, including a grand jury proceeding and an action or

suit brought by or in the right of the Corporation, to the full extent permitted by any applicable portion of this Article XII that shall not have been invalidated, or by any other applicable law.

12.13 Certain Definitions. For purposes of this Article XII, references to "the Corporation" shall include, in addition to the resulting or surviving 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 to indemnity its directors, officers and 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 this Article XII with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued; references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed a person with respect to any employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director or officer of the Corporation which imposes duties on, or involves services by, such director or officer with respect to any employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he 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 Corporation" as referred to in this Article XII.

ARTICLE XIII
Amendments

These bylaws may be amended by majority vote of the Board of Directors of the Corporation or by majority vote of the shareholders, provided that the shareholders may provide by resolution that any bylaw provision repealed, amended, adopted or altered by them may not be repealed, amended, adopted or altered by the Board of Directors.

Adopted March, 1998

AMENDMENT TO
BYLAWS OF
SURGI-VISION INC.

THIS AMENDMENT TO BYLAWS OF SURGI-VISION, INC. (the "Amendment") is effective as of March 29, 2000.

Pursuant to Resolutions adopted by written consent of all of the members of the board of directors of Surgi-Vision, Inc. (the "Corporation"), the Bylaws of the Corporation are hereby amended as follows:

1. Article 3, Section 3.2 of the Bylaws is deleted in its entirety and the following is inserted in lieu thereof:

   3.2 Number and Qualification. The number of directors shall not be less than one (1) and not more than ten (10), the exact number within such minimum and maximum limits to be fixed and determined from time to time by resolution of the majority of the Board of Directors. Each director shall serve until the election and qualification of his successor or until his earlier resignation or removal as provided in the Certificate of Incorporation or these By-laws. In case of an increase in the number of directors between elections by the stockholders, the additional directorships shall be considered vacancies and shall be filled in the manner prescribed in Article V of these By-laws. Directors need not be stockholders.

2. Except as amended herein, the Bylaws shall remain in full force and effect.

AMENDMENT TO
THE BY-LAWS OF
SURGIVISION, INC.

The By-Laws of SurgiVision, Inc. are hereby amended as follows:

1. Article II, Section 2.2 of the By-Laws is amended by deleting the third sentence thereof and substituting the following therefor:

"Written notice of the annual meeting stating the date, time and place of the meeting shall be mailed, postage prepaid, or otherwise delivered to each stockholder entitled to vote thereat at such address as appears on the records of stockholders of the Corporation, at least ten (10) days, but not more than sixty (60) days, prior to the meeting date."

2. Article II, Section 2.3 of the By-Laws is amended by deleting the second sentence thereof and substituting the following therefor:

"Written notice of each special meeting stating the date, time and place of the meeting shall be mailed, postage prepaid, or otherwise delivered to each stockholder entitled to vote thereat at such address as appears on the records of stockholders of the Corporation, at least ten (10) days, but not more than sixty (60) days, prior to the meeting date. In addition, notice of any special meeting shall state the purpose or purposes for which the meeting is called."

3. Article IX, Section 9.1 of the By-Laws is amended by deleting such section in its entirety and substituting the following therefor:

"9.1 Requirements of Notice. Whenever notice is required to be given to any director, officer or stockholder under any of the provisions of the law, the Certificate of Incorporation or these By-Laws, it shall not be construed to require personal notice, but such notice may be given in writing by depositing the same in the United States mail, postage prepaid, or by telegram, teletype, facsimile transmission, electronic mail (e-mail) or other form of wire or wireless communication or by private carrier addressed to such stockholder at such address as appears on the Corporation's current record of stockholders, and addressed to such director or officer at such address as appears on the records of the Corporation. If mailed as provided above, notice to a stockholder shall be deemed to be effective at the time when it is deposited in the mail."

AS ADOPTED BY THE BOARD OF DIRECTORS ON DECEMBER 9, 2009.

Exhibit 3.5

THIRD AMENDED AND RESTATED INVESTOR RIGHTS' AGREEMENT

This THIRD AMENDED AND RESTATED INVESTOR RIGHTS' AGREEMENT is made this 20th day of September, 2006, by and among SURGI-VISION, INC., a Delaware corporation ("Company"), DARA BIOSCIENCES, INC., a Delaware corporation ("Dara"), certain holders of the Company's Common Stock, par value $0.01 per share (the "Common Stock"), who are set forth on Schedule 1 hereto (the "Initial Investors," and together with Dara, the "Common Investors"), and the investors set forth on Schedule 2 hereto (the "Series A Investors").

WHEREAS, Company and the Common Investors are parties to that certain Second Amended and Restated Investor Rights' Agreement dated as of April 30, 2004 (the "Prior Agreement"); and

WHEREAS, Company has agreed to sell and issue to the Series A Investors, and the Series A Investors have agreed to purchase, shares of the Series A Preferred Stock; and

WHEREAS, Company has agreed to grant certain registration rights with respect to the shares of Common Stock issuable upon conversion of the Series A Preferred Stock issued to the Series A Investors; and

WHEREAS, Company, Dara and certain other Common Investors (collectively owning a sufficient number of shares of Registrable Securities (as defined in the Prior Agreement) to effect the amendment of the Prior Agreement in compliance with Section 11(d) thereof) now desire to further amend and restate the Prior Agreement in its entirety pursuant to Section 11(d) thereof as set forth herein, such that this Agreement shall supersede the Prior Agreement in its entirety;

NOW THEREFORE, in consideration of the recitals and the mutual promises and covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

Section 1. Definitions. The following terms have the meanings set forth below:

"Affiliate" means, with respect to any Person, (i) any Person who directly or indirectly is in control of, is controlled by or is under common control with, such Person and (ii) any person who is a director or officer of such Person or of any Person described in clause (i) above.

"Agreement" means this Third Amended and Restated Investor Rights' Agreement, including all amendments, modifications and supplements and any exhibits or schedules to any of the foregoing.

"Business Day" means each Monday, Tuesday, Wednesday, Thursday, and Friday that is not a day on which banking institutions in the city of New York are authorized or obligated by law or executive order to close.

"Common Investors" has the meaning set forth in the recitals.

"Common Stock" has the meaning set forth in the preface.

"Company" has the meaning set forth in the recitals.

"Conversion Shares" means shares of Common Stock issued or issuable upon conversion of the Series A Preferred Stock.

"Dara" has the meaning set forth in the preface.

"Demand Registration" has the meaning set forth in Section 2(a).

"Demanding Security Holders" has the meaning set forth in Section 3(a).

"Electing Holder" has the meaning set forth in Section 2(a).

"Holder" means a holder of Registrable Securities.

"Initial Investors" has the meaning set forth in the preface.

"Initial Public Offering" means the first underwritten public offering of the Common Stock for the account of the Company pursuant to a registration statement filed under the Securities Act.

"Initial Public Offering Date" means the date of the effectiveness of the registration statement with respect to the Initial Public Offering.

"Investors" has the meaning set forth in the preface.

"NASD" means the National Association of Securities Dealers, Inc., or any successor corporation thereto.

"Person" means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit corporation, entity or government (whether federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof).

"Prior Agreement" has the meaning set forth in the recitals.

"Registrable Securities" means (i) the shares of Common Stock held by any Common Investors, (ii) the Conversion Shares, (iii) any shares of Common Stock issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of the securities described in (i) and (ii) above, and (iv) all other shares of Common Stock otherwise hereafter acquired by Dara or which Dara hereafter obtains the right to acquire. As to any particular Registrable Securities, once issued such securities shall cease to be Registrable Securities when (i) a registration statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities have been disposed of in accordance with such registration statement, (ii) they shall have been disposed of pursuant to Rule 144 of the Securities Act, or (iii) they shall have ceased to be outstanding.

"Requesting Holder" has the meaning set forth in Section 2(a).

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Series A Investors" has the meaning set forth in the preface.

"Series A Preferred Stock" means the Company's Series A Convertible Preferred Stock, par value $0.01 per share.

Section 2. Required Registration. (a) After receipt of a written request from one or more Holders (a "Requesting Holder") requesting that Company effect a registration under the Securities Act covering at least (i) thirty percent (30%) of the Registrable Securities issuable upon conversion of the Series A Preferred Stock, (ii) thirty percent (30%) of the aggregate of the Registrable Securities held by the Initial Investors or any transferee thereof, (iii) thirty percent (30%) of aggregate of the Registrable Securities held by Dara or any transferee thereof, or (iv) such Registrable Securities having a minimum anticipated aggregate offering price of at least $5,000,000, and, with respect to (i), (ii), (iii), and (iv) specifying the intended method or methods of disposition of such Registrable Securities, Company shall promptly notify all Holders in writing of the receipt of such request and each such Holder (an "Electing Holder"), in lieu of exercising its rights under Section 3 may elect (by written notice sent to Company within fifteen (15) Business Days from the date of such Holder's receipt of the aforementioned Company's notice) to have Registrable Securities included in such registration pursuant to this Section 2, (a "Demand Registration"). Thereupon Company will, as expeditiously as is reasonably possible, but in any event within ninety (90) days following receipt of a written request pursuant to the preceding sentence, use its best efforts to effect the registration under the Securities Act of all shares of Registrable Securities which the Requesting Holders and the Electing Holders have elected to include for sale, all to the extent required to permit the disposition (in accordance with the intended method or methods thereof, as aforesaid) of such Registrable Securities; provided, however, that Company shall not be required to effect more than two (2) Demand Registrations unless Company shall be eligible at any time to file a registration statement on Form S-3 (or other comparable or successor short form) under the Securities Act, in which event Company shall not be required to effect more than four (4) Demand Registrations in total (no more than two (2) of which may be required to be effected by Company at any time after the second anniversary of Company's Initial Public Offering Date and only on Form S-3). The rights of Holders under this Section 2 shall terminate upon the second anniversary of Company's Initial Public Offering Date unless Company shall become eligible at any time to file a registration statement on Form S-3 (or other comparable or successor short form) under the Securities Act. The rights of Holders under this Section 2 shall not become effective until the date that is six (6) months after Initial Public Offering Date. A registration will not be deemed to be a Demand Registration for purposes of the foregoing Demand Registration limits (i) until the registration statement relating to such registration (A) has become effective under the Securities Act and (B) has remained effective for a period of at least 120 days (or such shorter period in which all Registrable Securities of the Holders included in such registration have actually been sold); provided that such registration shall not be deemed to be a Demand Registration if after it becomes effective (x) such registration statement is interfered with by any stop order, injunction

or other order or requirement of the SEC or other Governmental Authority and (y) less than seventy-five percent (75%) of the Registrable Securities included in such registration statement have been sold thereunder; or (ii) if the offering size is reduced pursuant to the advice of the managing underwriter in accordance with Section 2(b) such that (A) less than fifty percent (50%) of the Registrable Securities sought to be included in such registration are included or (B) the aggregate number of Registrable Securities included in such registration and any prior Demand Registration is less than sixty-six and two-thirds percent (66 2/3%) of the aggregate number of Registrable Securities sought to be included in such registration and the Registrable Securities which were sought to be included in such prior Demand-Registration. A registration will be deemed to be a Demand Registration for purposes of the Demand Registration limits if it is withdrawn at the request of the Requesting Holders unless Company is reimbursed by the Requesting Holders for all reasonable out-of-pocket expenses incurred by Company in connection therewith.

(b) Neither Company nor any Electing Holders shall have the right to include any securities in the Demand Registration unless (i) such securities are of the same class as the Registrable Securities included in such registration and (ii) if any of the Registrable Securities covered by such registration are sold in an underwritten offering, Company and such Electing Holders, as applicable, agree in writing to sell their securities on the same terms and conditions as apply to the Registrable Securities being sold. If any of the Registrable Securities are to be sold in an underwritten offering and the managing underwriter shall have advised Company or any Requesting Holder that, in its opinion, the inclusion of any securities of Company or any Electing Holders would materially and adversely affect the distribution of the securities to be included in the Demand Registration by the Requesting Holders, then Company shall limit the number of securities to be included in the Demand Registration to the maximum amount which can be marketed without materially and adversely affecting the distribution of the securities to be included by the Requesting Holders in the Demand Registration and shall register in the Demand Registration (A) first, all shares of Registrable Securities, if any, for which Dara or any of its transferees thereof as Requesting Holders or Electing Holders have requested registration pursuant to Section 2(a) allocated, if necessary, on a *pro rata* basis, (B), second, all shares of Registrable Securities for which any Requesting Holders other than Dara or any of its transferees thereof have requested registration pursuant to Section 2(a) (allocated, if necessary, on a *pro rata* basis), (C) third, all Registrable Securities requested to be included by the Electing Holders other than Dara or any of its transferees thereof (allocated, if necessary, on a *pro rata* basis), and (D) fourth, all securities proposed to be included by Company in the Demand Registration.

Section 3. Incidental Registration. (a) If Company at any time proposes to file on its behalf or on behalf of any of its security holders (the "Demanding Security Holders") a registration statement under the Securities Act on any form (other than a registration statement on Form S-4 or S-8 or any successor form for securities to be offered in a transaction of the type referred to in Rule 145 under the Securities Act or to employees of Company pursuant to any employee benefit plan, respectively) for the general registration of securities, it will give written notice to all Holders at least thirty (30) days before the initial filing with the SEC of such registration statement, which notice shall set forth the intended method of disposition of the securities proposed to be registered by Company. The notice shall offer to include in such filing the aggregate number of shares of Registrable Securities as such Holders may request. Each Holder desiring to have Registrable Securities registered under this Section 3 shall advise

Company in writing within fifteen (15) Business Days after the date of receipt of such offer from Company, setting forth the amount of such Registrable Securities for which registration is requested. Company shall thereupon include in such filing the number of shares of Registrable Securities for which registration is so requested, subject to Section 3(b), and shall use its best efforts to effect registration under the Securities Act of such shares. The rights of Holders under this Section 3 shall not become effective until the date that is six (6) months after the Initial Public Offering Date.

(b) The Holders of Registrable Securities shall not have the right to include any Registrable Securities in such filing unless (i) such Registrable Securities are of the same class as the securities included in such registration and (ii) if any of the securities covered by such registration are sold in an underwritten offering, the Holders of Registrable Securities agree in writing to sell their Registrable Securities on the same terms and conditions as apply to the securities being sold by Company and the Demanding Security Holders. If the managing underwriter of a proposed public offering shall advise Company in writing that, in its opinion, the inclusion of the Registrable Securities requested to be included in the registration concurrently with the securities being registered by Company or the Demanding Security Holders would materially and adversely affect the distribution of such securities by Company or the Demanding Security Holders, then the amount of securities to be included in the registration shall be reduced to the maximum amount which can be marketed without materially and adversely affecting the distribution of the securities to be included by Company or the Demanding Security Holders in such registration and Company shall register (A) first, such securities, if any, which Company proposes to sell in such registration and (B) second, Registrable Securities which are sought to be included in such registration by the Holders and such other securities which are sought to be included by the Demanding Security Holders allocated, if necessary, on a *pro rata* basis. Except as otherwise provided in Section 5, all expenses of such registration shall be borne by Company.

Section 4. Registration Procedures. In connection with Company's registration obligations pursuant to Section 2 or 3, Company will, as expeditiously as possible:

(a) prepare and file with the SEC a registration statement with respect to such securities and use its best efforts to cause such registration statement to be declared and to remain effective for a period of time required for the disposition of such securities by the Holders thereof, but not to exceed 120 days;

(b) after the filing of the registration statement, promptly notify each Holder holding Registrable Securities covered by such registration statement of any stop order issued or threatened by the SEC or any state securities commission under state blue sky laws and take all reasonable actions required to prevent the entry of such stop order or to remove it if entered;

(c) prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the sale or other disposition of all securities covered by such registration statement until the earlier of such time as all of such securities have been disposed of in a public offering and the expiration of 120 days;

(d) furnish to the selling security holders such number of copies of a summary prospectus or other prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents, as such selling security holders may reasonably request;

(e) immediately notify each Holder holding such Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the occurrence of an event requiring the preparation of a supplement or amendment to such prospectus so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading;

(f) use its best efforts to register or qualify the securities covered by such registration statement under such other securities or blue sky laws of such jurisdictions within the United States and Puerto Rico as each holder of such securities shall reasonably request (provided, however, that Company shall not be obligated to (i) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this paragraph (f), (ii) subject itself to taxation in any such jurisdiction or (iii) consent to general service of process in any such jurisdiction) and take such other acts and do such other things as may be reasonably required of it to enable such Holder to consummate the disposition in such jurisdiction of the securities covered by such registration statement;

(g) furnish, at the request of any Requesting Holder, on the date that such shares of Registrable Securities are delivered to the underwriters for sale pursuant to such registration or, if such Registrable Securities are not being sold through underwriters, on the date that the registration statement with respect to such shares of Registrable Securities becomes effective (1) an opinion, dated such date, of the independent counsel representing Company for the purposes of such registration, in customary form and covering matters of the type customarily covered in such legal opinions and (2) a comfort letter, dated such date, from the independent certified public accountants of Company, in a customary form and covering matters of the type customarily covered by such comfort letters and as the underwriters or the Requesting Holders shall reasonably request;

(h) enter into customary agreements (including an underwriting agreement in customary form) and take such other actions as are reasonably required in order to expedite or facilitate the disposition of such Registrable Securities; and

(i) otherwise use its best efforts to comply with all applicable rules and regulations of the SEC, and make available to its security holders as soon as reasonably practicable but not later than eighteen (18) months after the effective date of the registration statement, an earnings statement covering the period of at least twelve (12) months beginning with the first full month after the effective date of such registration statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act.

It shall be a condition precedent to the obligation of Company to take any action pursuant to this Agreement in respect of the securities which are to be registered at the request of any

Holder that such Holder shall furnish to Company such information regarding the securities held by such Holder and the intended method of disposition thereof as Company shall reasonably request and as shall be required in connection with the action taken by Company.

Section 5. Expenses. All expenses incurred in complying with this Agreement, including, without limitation, all registration and filing fees (including all expenses incident to filing with the NASD), printing, messenger, telephone and delivery expenses, customary fees and disbursements of underwriters except as set forth below, fees and disbursements of counsel for Company, the reasonable fees and expenses of not more than one firm of attorneys for the selling security holders (selected by those holding a majority of the Registrable Securities being registered), expenses of any special audits or "cold comfort" letters incident to or required by any such registration, expenses of complying with the securities or blue sky laws of any jurisdiction pursuant to Section 4(f) and fees and expenses of any other Person retained by Company, shall be paid by Company, except that Company shall not be liable for any fees, discounts or commissions to any underwriter attributable to the securities sold by such Holder or any fees or disbursements of counsel for any underwriter.

Section 6. Holdback Agreements. Unless the managing underwriter otherwise agrees, Company (i) shall not effect any public or private sale or distribution of its equity securities, or any securities convertible into or exchangeable or exercisable for such securities, during the seven (7) days prior to and the 180 days after the effective date of the registration statement filed in connection with Section 2 or 3 of this Agreement (or for such shorter period of time as is sufficient and appropriate, in the opinion of such managing underwriter, in order to complete the sale and distribution of the securities included in such registration) except as part of such underwritten registration and except pursuant to registrations on Form S-4 or Form S-8 promulgated by the SEC or any successor or similar forms thereto and (ii) shall cause each holder of its equity securities, or of any securities convertible into or exchangeable or exercisable for such securities, in each case purchased from Company at any time after the date of this Agreement (other than in an Initial Public Offering), that is an executive officer or director of Company or holds or has the right to acquire five percent (5%) or more of the outstanding equity securities of Company (including securities exchangeable for or convertible into such securities) to agree not to effect any such public sale or distribution of such securities (including a sale under Rule 144) during such period except as part of such underwritten registration.

Section 7. Indemnification and Contribution. (a) In the event of any registration of any Registrable Securities under the Securities Act pursuant to this Agreement, Company shall indemnify and hold harmless the Holder of such Registrable Securities, such Holder's Affiliates and each underwriter who participated in the offering of such Registrable Securities and each other Person, if any, who controls such Holder, Holder's Affiliate or underwriter within the meaning of the Securities Act, against any losses, claims, damages, liabilities or expenses, to which such Holder, Holder's Affiliate or controlling Person may become subject under the Securities Act or any other applicable law, insofar as such losses, claims, damages, liabilities or expenses, (or actions in respect thereof) arise out of or are based upon (i) any alleged untrue statement of any material fact, in light of the circumstances in which it was made, contained, on the effective date thereof, in any registration statement under which such securities were registered under the Securities Act, any preliminary prospectus or final prospectus contained therein, or any amendment or supplement thereto, or (ii) any alleged omission to state therein a

material fact required to be stated or necessary to make the statements therein not misleading, in light of the circumstances in which they were made, except insofar as such losses, claims, damages, liabilities or expenses are caused by any such actual or alleged untrue statement or omission so made in strict conformity with information furnished in writing to Company by such Holder or on such Holder's behalf expressly for use therein; provided that with respect to any actual or alleged untrue statement or actual or alleged omission made in any preliminary prospectus, or in any prospectus, as the case may be, the indemnity agreement contained in this paragraph shall not apply to the extent that any such loss, claim, damage, liability or expense results from the fact that a current copy of the prospectus (or, in the case of a prospectus, the prospectus as amended or supplemented) was not sent or given to the Person asserting any such loss, claim, damage or liability at or prior to the written confirmation of the sale of the Registrable Securities concerned to such Person if it is determined that Company has provided such prospectus to such Holder in a timely manner prior to such sale and it was the responsibility of such Holder under the Securities Act to provide such Person with a current copy of the prospectus (or such amended or supplemented prospectus, as the case may be) and such current copy of the prospectus (or such amendment or supplemented prospectus, as the case may be) would have cured the defect giving rise to such loss, claim, damage or liability.

(b) In connection with any registration statement in which a Holder is participating, such Holder will, severally but not jointly, indemnify and hold harmless Company, its directors and officers and each Person, if any, who controls Company within the meaning of the Securities Act against any losses, claims, damages, liabilities or expenses to which Company or any such director or officer other Person may become subject, insofar as such losses, claims, damages, liabilities or expenses (or actions in respect thereof) arise out of or are based upon (i) information in writing furnished to Company by such Holder expressly for use in (and such information is contained in) any registration statement under which securities were registered under the Securities Act at the request of such Holder, any preliminary prospectus or final prospectus contained therein or any amendment or supplement thereto, or (ii) the fact that a current copy of the prospectus (or, in the case of a prospectus, the prospectus as amended or supplemented) was not sent or given to the Person asserting any such loss, claim, damage, liability or expense at or prior to the written confirmation of the sale of the Registrable Securities with respect to such Person if it is determined that it was the responsibility of such Holder to provide such Person with a current copy of the prospectus (or such amended or supplemented prospectus, as the case may be) and such current copy of the prospectus (or such amendment or supplemented prospectus, as the case may be) would have cured the defect giving rise to such loss, claim, damage, liability or expenses. Notwithstanding the provisions of this paragraph (b) or paragraph (c) below, no Holder shall be required to indemnify any Person pursuant to this Section 7 or to contribute pursuant to paragraph (c) below in an amount in excess of the amount of the aggregate net proceeds received by such Holder in connection with any such registration under the Securities Act.

(c) If the indemnification provided for in this Section 7 from the indemnifying party is unavailable to an indemnified party hereunder in respect of any losses, claims, damages, liabilities or expenses referred to therein, then the indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative benefit and relative fault of the indemnifying party and

indemnified parties in connection with the actions which resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations. The relative benefit and relative fault of such indemnifying party and indemnified parties shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, has been made by, or relates to information supplied by, such indemnifying party or indemnified parties, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action. The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include any legal or other fees or expenses reasonably incurred by such party in connection with any investigation or proceeding.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 7(c) were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

Section 8. Certain Limitations on Registration Rights. Notwithstanding the other provisions of this Agreement:

(a) Company shall not be obligated to register the Registrable Securities of any Holder if, in the opinion of counsel to Company reasonably satisfactory to the Holder and its counsel, the sale or other disposition of such Holder's Registrable Securities may be effected in the manner proposed by such Holder without registering such Registrable Securities under the Securities Act;

(b) Company shall not be obligated to register the Registrable Securities of any Holder pursuant to Section 2(a) if Company has had a registration statement, under which such Holder had a right to have its Registrable Securities included pursuant to Section 2 or 3, declared effective within six (6) months prior to the date of the request pursuant to Section 2(a); provided, however, that if any Holder elected to have shares of its Registrable Securities included under such registration statement but some or all of such shares were excluded then such six-month period shall be reduced to three (3) months; and

(c) Company shall have the right to delay the filing or effectiveness of a registration statement required pursuant to Section 2(a) hereof not more than twice during any twelve month period aggregating not more than 120 days, in the event that (i) Company would, in accordance with the advice of its counsel, be required to disclose in the prospectus information not otherwise then required by law to be publicly disclosed and (ii) in the judgment of Company's Board of Directors, there is a reasonable likelihood that such disclosure, or any other action to be taken in connection with the prospectus, would materially and adversely affect any existing or prospective material business situation, transaction or negotiation or otherwise materially and adversely affect Company.

Section 9. Selection of Managing Underwriters. The managing underwriter or underwriters for any offering of Registrable Securities pursuant to a Demand Registration shall be selected by Company and shall be nationally recognized firms that are reasonably acceptable to the holders of a majority of the shares being so registered.

Section 10. Restrictions on Certain Transfers. (a) Each of the Holders, except for Dara and any of its transferees thereof, agrees not to make any disposition of all or any portion of the Registrable Securities unless and until the transferee has agreed in writing for the benefit of Company to be bound by the terms of this Agreement and:

(i) There is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement; or

(ii) (x) The Holder shall have notified Company of the proposed disposition and shall have furnished Company with a detailed statement of the circumstances surrounding the proposed disposition, and (y) if reasonably requested by Company, the Holder shall have furnished Company with an opinion of counsel, reasonably satisfactory to Company, that such disposition will not require registration of such shares under the Securities Act. It is agreed that Company will not unreasonably require opinions of counsel for transactions made pursuant to Rule 144.

(iii) Notwithstanding the provisions of paragraphs (i) and (ii) above, no such registration statement or opinion of counsel shall be necessary for a transfer by a Holder which is (x) a partnership to its partners or retired partners in accordance with partnership interests, or (y) to the Holder's family member or trust for the benefit of an individual Holder, provided the transferee agrees in writing to be subject to the terms of this Agreement to the same extent as if he were an original Holder hereunder, or (z) by The Johns Hopkins University in accordance with its equity distribution policy, a copy of which has been provided to the Company.

(b) Each certificate representing Registrable Securities shall be stamped or otherwise imprinted with a legend substantially similar to the following (in addition to any legend required under applicable state securities laws or as provided elsewhere):

> THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "ACT") AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER THE ACT OR, IN THE OPINION OF COUNSEL OR BASED ON OTHER WRITTEN EVIDENCE IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS IN COMPLIANCE THEREWITH.

(c) Company shall be obligated to reissue promptly unlegended certificates at the request of any Holder thereof if the Holder shall have obtained an opinion of counsel (which counsel may be counsel to Company) reasonably acceptable to Company to the effect that the securities proposed to be disposed of may lawfully be so disposed of without registration, qualification or legend.

(d) Any legend endorsed on an instrument pursuant to applicable state securities laws and the stop-transfer instructions with respect to such securities shall be removed upon receipt by Company of an order of the appropriate blue sky authority authorizing such removal.

Section 11. Miscellaneous.

(a) No Inconsistent Agreements. Company will not hereafter enter into any agreement with respect to its securities which is inconsistent with the rights granted to the Holders in this Agreement. Without limiting the generality of the foregoing, from and after the date of this Agreement, Company shall not, without the prior written consent of Dara, enter into any agreement with any holder or prospective holder of any securities of Company which would allow such holder or prospective holder to include such securities in any registration filed under Section 2 or 3 hereof, unless under the terms of such agreement, such holder or prospective holder may include such securities in any such registration only to the extent that the inclusion of his, securities will not reduce the amount of the Registrable Securities of the Holders which is included. Company has not previously entered into any agreement with respect to any of its securities granting any registration rights to any person, except as set forth or described in this Agreement (including the recitals hereto).

(b) [Intentionally Omitted]

(c) Remedies. Each Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Agreement and hereby agrees to waive the defense in any action for specific performance that a remedy at law would be adequate. In any action or proceeding brought to enforce any provision of this Agreement or where any provision hereof is validly asserted as a defense, the successful party shall be entitled to recover reasonable attorneys' fees in addition to any other available remedy.

(d) Amendment; Waiver. The provisions of this Agreement may not be amended, and waivers or consents to departure from such provisions may not be given, unless Company has obtained the prior written consent of Holders of at least sixty-six and 2/3 percent (66 2/3%) of the then outstanding Registrable Securities, which in any event shall include Dara as long as it is a Holder. No failure or delay by any party in exercising any right, power or privilege under this Agreement shall operate as a waiver of such right, power or privilege nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. Except as otherwise provided in this Agreement, the rights and remedies provided under this Agreement shall be cumulative and not exclusive of any rights or remedies provided by law. Notwithstanding any provision of this Agreement to the contrary, Company may, from time to time, and without the consent of any Holders, amend Schedule 2 attached to this Agreement to include additional investors who hereafter purchase shares of Series A Preferred Stock from Company.

(e) Notices. All notices and communications to be given or made by any party under this Agreement shall be in writing and delivered by hand-delivery, registered first class mail (return receipt requested), facsimile, or air courier guaranteeing overnight delivery, addressed as follows, or to such other Person or address as the party named below may designate by notice:

(i) If to any Holder, at its last known address appearing on the books of Company maintained for such purpose.

(ii) If to Company, to: Surgi-Vision, Inc.
200 North Cobb Parkway
Suite 140
Marietta, Georgia 30062
Attention: John C. Thomas. Jr.
Fax: (770) 424-8236

Each such notice or other communication shall be deemed to have been duly given or served on the date on which personally delivered, with receipt acknowledged, telecopied and confirmed by telecopy answerback, or five (5) Business Days after the same shall have been deposited with the United States mail.

(f) Merger or Consolidation of Company. If Company is a party to any merger, consolidation or other transaction pursuant to which the Registrable Securities are converted into or exchanged for securities or the right to receive securities of any other Person, the issuer of such securities shall assume all obligations of Company under this Agreement. Company will not effect any merger, consolidation or other transaction as described in the immediately preceding sentence unless such other Person complies with this paragraph (f).

(g) Binding Effects; Benefits. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns including any person to whom Registrable Securities are transferred and no other Person shall have any right, benefit or obligation under this Agreement; provided, however, that the rights to cause Company to register Registrable Securities pursuant to Sections 2(a) and 3(a) hereunder may not be assigned by a Holder unless the assignee or transferee acquires at least twenty-five thousand (25,000) shares of Registrable Securities (as adjusted for stock splits, consolidations and combinations).

(h) Section and Other Headings. The Section and other headings in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement.

(i) Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Delaware without regard to the conflict of law principles of such state. Each of the parties irrevocably elects as the sole judicial forum for, and consents to the jurisdiction of, the courts of the United States of America for the State of Delaware and the State of Delaware, in connection with the adjudication of any matter arising under or in connection with this Agreement, and waives any objection to such jurisdiction or

venue that it may have. Service of process on the parties in any action arising out of or relating to this Agreement shall be effective if mailed to the parties in accordance with Section 11(e) of this Agreement. The parties hereto waive all right to trial by jury in any action, suit or proceeding to enforce or defend any rights or remedies under this Agreement.

(j) Severability. If one or more provisions of this Agreement are held to be unenforceable to any extent under applicable law, such provision shall be interpreted as if it were written so as to be enforceable to the maximum extent permitted by law so as to effectuate the parties' intent to the maximum extent, and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms to the maximum extent permitted by law.

(k) Entire Agreement. This Agreement constitute the entire understanding of the parties with respect to the subject matter of such documents and supersede all prior agreements and understandings, both written and oral, of the parties with respect to the subject matter of such documents.

(l) Counterparts. This Agreement, may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same document.

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IN WITNESS WHEREOF, the parties have executed this Third Amended and Restated Investor Rights' Agreement as of the date first above written.

SURGI-VISION, INC.

By: _____
Name: JOHN C. THOMAS JR.
Title: CHIEF FINANCIAL OFFICER

DARA BIOSCIENCES, INC.

By: _____
Name: RICHARD A. FRANCO
Title: PRESIDENT

[Signatures of Initial Investors and Series A Investors are set forth on the following pages]

Exhibit 3.6

State of Delaware
Secretary of State
Division of Corporations
Delivered 01:28 PM 09/20/2006
FILED 01:17 PM 09/20/2006
SRV 060866788 - 2870717 FILE

CERTIFICATE OF DESIGNATION, PREFERENCES,
AND RIGHTS OF
SERIES A CONVERTIBLE PREFERRED STOCK
OF
SURGI-VISION, INC.

SURGI-VISION, INC., a Delaware corporation (the "Corporation"), DOES HEREBY CERTIFY:

That pursuant to authority conferred on the Board of Directors of the Corporation by the Amended and Restated Certificate of Incorporation of the Corporation and pursuant to the provisions of Section 151 of Title 8 of the Delaware Code, the Board of Directors, at meeting held on September 6, 2006, adopted a resolution providing for the designation, preferences and relative, participating, optional or other rights, and qualifications, limitations or restrictions thereof, of Eight Million (8,000,000) shares of the Corporation's Preferred Stock, par value $0.01 per share, which resolution is as follows:

RESOLVED: That pursuant to the authority granted to and vested in the Board of Directors in accordance with the provisions of the Amended and Restated Certificate of Incorporation of the Corporation, the Board of Directors hereby designates a series of Preferred Stock of the Corporation, par value $0.01 per share (the "Preferred Stock"), consisting of 8,000,000 shares of the authorized and unissued Preferred Stock, as Series A Convertible Preferred Stock, and hereby fixes such designation and number of shares, and the powers, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof as set forth below, and that the officers of the Corporation (and each acting singly) are hereby authorized, empowered and directed to file with the Secretary of State of the State of Delaware a Certificate of Designation, Preferences, and Rights of the Series A Convertible Preferred Stock, as such officer or officers shall deem necessary or advisable to carry out the purposes of this Resolution.

Series A Convertible Preferred Stock. The preferences, privileges and restrictions granted to or imposed upon the Corporation's Series A Convertible Preferred Stock, par value $0.01 per share, or the holders thereof, are as follows:

1. Designation and Amount. The shares of such series shall be designated as "Series A Convertible Preferred Stock" (the "Series A Preferred Stock") and the number of shares constituting the Series A Preferred Stock shall be Eight Million (8,000,000). Subject to Section 8 below, such number of shares may be increased or decreased by resolution of the Board of Directors or the Committee, provided, however, that no decrease shall reduce the number of shares of Series A Preferred Stock to a number less than the number of shares then outstanding.

2. Dividends. No dividend whatsoever shall be paid or declared on account of any common stock of the Corporation, par value $0.01 per share (the "Common Stock"), unless an equivalent additional dividend is simultaneously paid on each outstanding share of Series A Preferred Stock based on the number of shares of Common Stock into which it is then convertible. No funds shall be paid into or set aside or made available for a sinking fund for the purchase, redemption or acquisition of any shares of Common Stock.

3. Liquidation Rights of Series A Preferred Stock.

(a) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets and funds of the Corporation available for distribution to stockholders shall be distributed as follows:

(i) First, each holder of shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, whether such assets are capital, surplus or earnings, before any payment or declaration and setting apart for payment of any amount shall be made in respect of any shares of Common Stock or any share of any other class or series of the Corporation's preferred stock ranking junior to the Series A Preferred Stock with respect to the payment of dividends or distribution of assets and liquidation, dissolution or winding up of the Corporation, an amount per share of Series A Preferred Stock equal to (A) any declared and unpaid dividends with respect to such share plus (B) $1.00 per share (the "Liquidation Preference") (subject to equitable adjustment in the event of any stock dividend, stock split, combination, reorganization, recapitalization, reclassification, or other similar event affecting such shares of Series A Preferred Stock).

(ii) If upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed among the holders of Series A Preferred Stock shall be insufficient to permit the payment to such stockholders of the full preferential amounts aforesaid, then the entire assets of the Corporation to be distributed shall be distributed ratably among the holders of Series A Preferred Stock based on the full amount of Liquidation Preference for the number of shares of Series A Preferred Stock held by each holder.

(iii) After payment to the holders of Series A Preferred Stock of the amounts set forth in Section 3(a)(i) hereof, the entire remaining assets and funds of the Corporation legally available for distribution, if any, shall be distributed among the holders of any other capital stock of the Corporation entitled to a preference over the Common Stock in accordance with the terms thereof and, thereafter, to the holders of Common Stock.

The merger or consolidation of the Corporation into or with another corporation in which the stockholders of the Corporation shall own less than fifty percent (50%) of the voting securities of the surviving corporation or the sale, transfer or other disposition (but not including a transfer or disposition by pledge or mortgage to a bona fide lender) of all or substantially all of the assets of the Corporation shall be deemed to be a liquidation, dissolution or winding up of the Corporation as those terms are used in this Section 3.

(b) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the Corporation shall, within ten (10) days after the date the Board of Directors approves such action, or twenty (20) days prior to any stockholders' meeting called to approve such action, or twenty (20) days after the commencement of any involuntary proceeding, whichever is earlier, give each holder of shares of Series A Preferred Stock written notice of the proposed action. Such written notice shall describe the material terms and conditions of such proposed action, including a description of the stock, cash and property to be received by the holders of shares of Series A Preferred Stock upon consummation of the proposed action and the date of delivery thereof. If any material change in the facts set forth in the initial notice shall occur, the Corporation shall promptly give written notice to each holder of shares of Series A Preferred Stock of such material change.

(c) The Corporation shall not consummate any voluntary or involuntary liquidation, dissolution or winding up of the Corporation before the expiration of thirty (30) days after the mailing of

the initial written notice or ten (10) days after the mailing of any subsequent written notice, whichever is later, provided that any such 30-day or 10-day period may be shortened upon the written consent of the holders of a majority of the outstanding shares of Series A Preferred Stock.

(d) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation which will involve the distribution of assets other than cash, the Corporation shall promptly engage an independent appraiser to determine the value of the assets to be distributed to the holders of shares of Series A Preferred Stock and the holders of shares of Common Stock (it being understood that with respect to the valuation of securities, the Corporation shall engage such appraiser as shall be approved by the holders of a majority of shares of the Corporation's outstanding Series A Preferred Stock), provided that the requirement to engage an independent appraiser may be waived upon the written consent of the holders of a majority of the outstanding shares of Series A Preferred Stock. The Corporation shall, upon receipt of such appraiser's valuation, give prompt written notice to each holder of shares of Series A Preferred Stock of the appraiser's valuation.

4. Voting Rights and Related Provisions.

(a) So long as any of the Series A Preferred Stock is outstanding, each share of Series A Preferred Stock shall entitle the holder thereof to vote on all matters voted on by the holders of Common Stock, voting together as a single class with other shares entitled to vote at all meetings of the stockholders of the Corporation. With respect to any such vote, each share of Series A Preferred Stock shall entitle the holder thereof to cast the number of votes equal to the number of whole shares of Common Stock into which such shares of Series A Preferred Stock are then convertible (the "Conversion Shares"). Such right may be exercised at any annual meeting or special meeting, or pursuant to any written consent of stockholders.

(b) So long as any shares of Series A Preferred Stock are outstanding. the Corporation shall not, without first obtaining the approval by vote or written consent, in the manner provided by law, of the holders of at least a majority of the total number of shares of Series A Preferred Stock outstanding:

(i) amend the Corporation's Certificate of Incorporation or this Certificate of Designation so as to adversely change the rights of the holders of the Series A Preferred Stock; or

(ii) authorize any transaction involving a compulsory share exchange or other recapitalization (but excluding any transaction involving the merger or reorganization of the Corporation or a sale of substantially all of the stock or assets of the Corporation, the result of which is that the holders of a majority of the Corporation's outstanding equity securities before such transaction do not continue to hold a majority of the outstanding equity securities of the surviving corporation (an "Acquisition Transaction")) whereby the Series A Preferred Stock is converted into other securities, cash or property.

5. Series A Conversion.

(a) Conversion Rights. The holders of Series A Preferred Stock shall have conversion rights as follows:

(i) Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for the Series A Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing $1.00 by the Series A Conversion Price (as defined below) in effect at the time of conversion. The "Series A Conversion Price" at which shares of Common Stock shall be deliverable upon conversion of the Series A Preferred Stock shall initially be $1.00 and shall be

subject to adjustment as hereinafter provided.

(ii) Each share of Series A Preferred Stock shall automatically be converted into shares of Common Stock, based upon the then effective Series A Conversion Price, upon the earlier of (i) the time the consents of holders of at least a majority (more than 50.0%) of the outstanding Series A Preferred Stock to such conversion are obtained, (ii) the closing of a firm commitment underwritten public offering pursuant to an effective registration statement on Form S-1 (or a successor or comparable form) under the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder, covering the offer and sale of Common Stock for the account of the Corporation to the public; or (iii) the closing of an Acquisition Transaction. In the event of such consent or such a public offering or Acquisition Transaction, the person(s) entitled to receive the Common Stock issuable upon such conversion of the Series A Preferred Stock shall not be deemed to have converted such Series A Preferred Stock until the time the requisite consents are obtained or until immediately prior to the closing of such transaction, as applicable, at which time the Series A Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless certificates evidencing such shares of Series A Preferred Stock being converted are either delivered to the Corporation or its transfer agent, as hereinafter provided, or the holder notifies the Corporation or any transfer agent, as hereinafter provided, that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection therewith.

(iii) The holder of any shares of Series A Preferred Stock may exercise the conversion rights by delivering to the Corporation during regular business hours, at the office of any transfer agent of the Corporation for the Series A Preferred Stock, or at the principal office of the Corporation or at such other place as may be designated by the Corporation, the certificate or certificates for the shares to be converted, duly endorsed for transfer to the Corporation (if required by it), accompanied or preceded by written notice stating that the holder elects to convert such shares into shares of Common Stock, conversion shall be deemed to have been effected on the date when such delivery is made (the "Conversion Date"). As promptly as practicable thereafter the Corporation shall issue and deliver to or upon the written order of such holder, at such office or other place designated by the Corporation, a certificate or certificates for the number of shares of Common Stock, to which such holder is entitled. The holder shall be deemed to have become a stockholder of record of such shares of Common Stock issued or issuable upon conversion of the Series A Preferred Stock on the applicable Conversion Date unless the transfer books of the Corporation are closed on the date, in which event it shall be deemed to have become a stockholder of record on the next succeeding date on which the transfer books are open, but the Conversion Price shall be that in effect on the Conversion Date. Upon conversion of only a portion of the number of shares of Series A Preferred Stock represented by a certificate surrendered for conversion, the Corporation shall issue and deliver to or upon the written order of the holder of the certificate so surrendered for conversion, at the expense of the Corporation, a new certificate covering the number of shares of Series A Preferred Stock representing the unconverted portion of the certificate so surrendered.

(iv) The Corporation shall pay any and all issue and other taxes that may be payable in respect of any issue or delivery of shares of Common Stock on conversion of the Series A Preferred Stock pursuant hereto. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the Series A Preferred Stock so converted were registered, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Corporation the amount of any such tax, or has established, to the satisfaction of the Corporation, that

such tax has been paid.

(v) The Corporation shall at all times reserve and keep available, out of its authorized but unissued Common Stock, solely for the purpose of effecting the conversion of the Series A Preferred Stock, the full number of shares of Common Stock deliverable upon the conversion of all Series A Preferred Stock from time to time outstanding. The Corporation shall from time to time (subject to obtaining necessary board of directors and stockholder approval), in accordance with the laws of the State of Delaware. increase the authorized amount of its Common Stock if at any time the authorized number of shares of its Common Stock remaining unissued shall not be sufficient to permit the conversion of all of the shares of Series A Preferred Stock at the time outstanding.

(vi) If any shares of Common Stock to be reserved for the purpose of conversion of shares of Series A Preferred Stock require registration or listing with, or approval of, any governmental authority, stock exchange or other regulatory body under any federal or state law or regulation or otherwise, before such shares may be validly issued or delivered upon conversion, the Corporation will in good faith and as expeditiously as possible endeavor to secure such registration, listing or approval, as the case may be.

(vii) All shares of Common Stock which may be issued upon conversion of the shares of Series A Preferred Stock will upon issuance by the Corporation be validly issued, fully paid and non-assessable and free from all taxes, liens and charges with respect to the issuance thereof.

(viii) In case;

(A) the Corporation shall take a record of the holders of its capital stock for the purpose of entitling them to receive a dividend, or any other distribution, payable otherwise than in cash or to subscribe for or purchase any shares of stock of any class or to receive any other rights; or

(B) of any capital reorganization of the Corporation, reclassification of the capital stock of the Corporation (other than a subdivision or combination of its outstanding shares of Common Stock), consolidation or merger of the Corporation with or into another corporation or conveyance of all or substantially all of the assets of the Corporation to another corporation; or

(C) of the voluntary or involuntary dissolution, liquidation or winding up of the Corporation;

then, and in any such case, the Corporation shall cause to be mailed to the transfer agent for the Series A Preferred Stock, and to the holders of record of the outstanding Series A Preferred Stock at the address of record of such stockholder as set forth on the Corporation's books, at least thirty (30) days prior to the date hereinafter specified, a notice, stating the material terms of the proposed transaction and the date on which (x) a record is to be taken for the purpose of such dividend, distribution or rights, or (y) such reclassification, reorganization, consolidation, merger, conveyance, dissolution, liquidation or winding up to take place and the date, if any to be fixed as of which holders of capital stock of record shall be entitled to exchange their shares of capital stock for securities or other property deliverable upon such reclassification, reorganization, consolidation, merger, conveyance, dissolution, liquidation or winding up; provided, however, that such 30 day-notice period may be reduced upon the written consent of the holders of at least a majority of the outstanding shares of the Series A Preferred Stock.

(ix) No fractional share shall be issued upon the conversion of any share or shares of Series A Preferred Stock. All shares of Common Stock (including fractions thereof) issuable upon

conversion of more than one share of Series A Preferred Stock by a holder thereof shall be aggregated for purposes of determining whether the conversion would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion would result in the issuance of a fraction of a share of Common Stock, the total number of shares of Common Stock issuable upon conversion shall be rounded down to the nearest whole number of shares.

(b) The Series A Conversion Price from time to time in effect shall be subject to adjustment from time to time as follows:

(i) In case the Corporation shall at any time subdivide the outstanding shares of Common Stock, or shall declare or pay, without consideration, a dividend on its outstanding Common Stock payable in Common Stock, the Series A Conversion Price in effect immediately prior to such subdivision or the issuance of such dividend shall be proportionately decreased, and in case the Corporation shall at any time combine the outstanding shares of Common Stock, the Series A Conversion Price in effect immediately prior to such combination shall be proportionately increased, effective at the close of business on the date of such subdivision, dividend or combination, as the case may be.

(ii) In case the Corporation shall at any time after the issuance of the Series A Convertible Preferred Stock sell shares of Common Stock at a price per share less than the then existing Series A Conversion Price, the Series A Conversion Price shall be adjusted to equal the price at which the Corporation sold such shares of Common Stock; provided, however, that the foregoing adjustment shall not apply with respect to shares of Common Stock issued or issuable (A) upon exercise or conversion of any options, warrants, notes or other securities of the Corporation outstanding prior to the issuance of shares of Series A Preferred Stock, (B) to officers, directors or employees of, or consultants to, the Corporation pursuant to plans or agreements on terms approved by the Board of Directors, or (C) pursuant to the preceding clause (b)(i).

(iii) Subject to the right of the Corporation to amend this Certificate of Designation upon obtaining necessary approvals required by this Certificate of Designation and applicable law, the Corporation will not, by amendment of its Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 5 and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights of the holders of Series A Preferred Stock against impairment.

(iv) Upon the occurrence of each adjustment or readjustment of the Series A Conversion Price pursuant to this Section 5, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof, and shall prepare and furnish to each holder of Series A Preferred Stock affected thereby a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series A Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment or readjustment, (B) the Series A Conversion Price of such series at the time in effect, and (C) the number of shares of Common Stock and the amount, if any. of other property which at the time would be received upon the conversion of his shares.

6. Certain Covenants. Any registered holder of Series A Preferred Stock may proceed to protect and enforce its rights and the rights of such holders by any available remedy by proceeding at law or in equity to protect and enforce any such rights, whether for the specific enforcement of any provision

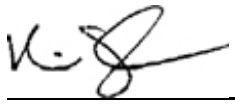
in this Certificate of Designation or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

7. Notices. All notices to the Corporation permitted hereunder shall be in writing and delivered by hand-delivery, registered first class mail (return receipt requested), facsimile, or air courier guaranteeing overnight delivery, addressed to the principal office of the Corporation or to such other address at which the principal office of the Corporation is located and as to which notice thereof is similarly given to the holders of the Series A Preferred Stock at their addresses appearing on the books of the Corporation, or to such other address as the holders may designate by notice.

8. No Reissuance. Any shares of Series A Preferred Stock repurchased by the Corporation or converted pursuant to Section 5 will be canceled and will not under any circumstances be reissued, sold or transferred and the Corporation may from time to time take such appropriate action as may be necessary to reduce the number of authorized shares of Series A Preferred Stock accordingly.

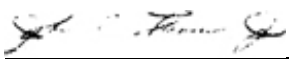
IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designation to be signed by and attested by its duly authorized officers on this 6th day of September, 2006.

SURGI-VISION, INC.

By: 

Name: Kimble L. Jenkins
Title: President

ATTEST:



John C. Thomas, Jr., Secretary

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:19 AM 10/21/2010
FILED 10:17 AM 10/21/2010
SRV 101015153 - 2870717 FILE

CERTIFICATE OF AMENDMENT
TO
CERTIFICATE OF DESIGNATION, PREFERENCES AND RIGHTS
OF SERIES A CONVERTIBLE PREFERRED STOCK
OF
SURGIVISION, INC.

SURGIVISION, INC., a Delaware corporation, does hereby certify:

1. The name of the Corporation is SurgiVision, Inc.

2. The Certificate of Designation. Preferences, and Rights of Series A Convertible Preferred Stock of the Corporation is hereby amended by deleting Section 5(b)(ii) thereof and substituting the following new Section 5(h)(ii) in its place:

(ii) In case the Corporation shall at any time after the issuance of the Series A Preferred Stock sell shares of Common Stock at a price per share less than the then existing Series A Conversion Price, the Series A Conversion Price shall be adjusted to equal the price at which the Corporation sold such shares of Common Stock; provided, however, that the foregoing adjustment shall not apply with respect to shares of Common Stock issued or issuable (A) upon exercise or conversion of any options, warrants, notes or other securities of the Corporation outstanding prior to the issuance of shares of Series A Preferred Stock, (B) to officers, directors or employees of, or consultants or advisors to the Corporation pursuant to plans or agreements on terms approved by the Board of Directors or a duly authorized committee thereof, (C) pursuant to the preceding clause (b)(i), (D) in connection with sponsored research, collaboration, technology license, development, OEM, distribution, marketing or other similar agreements or strategic partnerships approved by the Board of Directors or a duly authorized committee thereof, or (E) with the consent of the holders of at least a majority of the total number of shares of Series A Preferred Stock then outstanding.

3. The Board of Directors of the Corporation approved this Certificate of Amendment ("Amended Certificate") at a meeting held on October 4, 2010.

4. The holders of a majority of the outstanding shares of Series A Convertible Preferred Stock approved this Amended Certificate by written consent effective as of October 7, 2010.

IN WITNESS WHEREOF, the undersigned has executed this Amended Certificate as of the 20th day of October, 2010.

SURGIVISION, INC.

By: /s/ Kimble L. Jenkins
Kimble L. Jenkins
President & CEO

Exhibit 3.7

MRI INTERVENTIONS, INC.
SUBSCRIPTION AGREEMENT

To be completed in full by each Investor. In this Subscription Agreement, the Investor is referred to as "Subscriber."

THIS SUBSCRIPTION AGREEMENT (this "Subscription Agreement"), when and if accepted by **MRI INTERVENTIONS, INC.**, a Delaware corporation (the "Company") shall constitute a subscription for units (the "Units") by the undersigned Subscriber. Each Unit consists of a 10% secured convertible promissory note ("Note") in the principal amount of $100,000 and a warrant ("Warrant") to purchase 50,000 shares of the Company's common stock. The Units are described in detail in the Private Placement Memorandum provided by the Company concerning this offering (as amended, restated and/or supplemented from time to time, the "PPM").

This Subscription Agreement (including all Appendices) must be completed in its entirety by Subscriber and, by the execution hereof, Subscriber acknowledges that he/she/it understands that the Company is relying upon the accuracy and completeness hereof in complying with its obligations under applicable securities laws and this Subscription Agreement. Subject to the terms and conditions hereof, Subscriber hereby tenders this Subscription Agreement for the number of Units set forth on the signature page hereto together with payment for the number of Units subscribed.

A. Subscriber Representations and Covenants

Subscriber, as evidenced by the execution of this Subscription Agreement, represents, warrants and covenants to the Company that:

1. Subscriber has such knowledge and experience in business and financial matters, or competent professional advice concerning the Company, that Subscriber is capable of evaluating the merits and risks of the prospective investment in the Units. Subscriber has read and understands the PPM and has received all additional information from the Company that Subscriber has requested in order to fully evaluate the merits and risks of the prospective investment in the Units.

2. Subscriber has had and continues to have the opportunity personally or through his/her/its advisors, if any, to obtain from the Company any additional information, to the extent possessed or obtainable without unreasonable effort and expense, necessary to evaluate the merits and risks of this proposed investment, and Subscriber has concluded, based on the information presented, his/her/its own understanding of investments of this nature and of this investment in particular, and the advice of such advisors as Subscriber has deemed appropriate, that Subscriber wishes to subscribe for the aggregate amount of Units indicated on the signature page hereof.

3. Subscriber understands that the Unit(s) being acquired pursuant hereto have not been registered under the Securities Act of 1933 (the "Securities Act"), or under the other securities laws of any state, and, therefore, that he/she/it must bear the economic risk of the investment for an indefinite period of time as the Note, the Warrant and any securities issuable upon conversion or exercise thereof cannot be sold or offered for sale unless subsequently so registered or an exemption from registration is available. Subscriber also understands that there is no market for the resale of the Note, the Warrant or any securities issuable upon conversion or exercise thereof, and that none may develop.

4. Subscriber understands that the Note, the Warrant and any certificates evidencing any securities issuable upon conversion or exercise thereof will bear a restrictive legend, and that the records of the Company will indicate the restrictions on transferability and sale noted in Section 3 above. In the event the Company determines to accept this Subscription Agreement, Subscriber agrees that he/she/it will not dispose of any of the Note, the Warrant or any securities issuable upon conversion or exercise thereof unless and until either (i) counsel for the Company shall have determined that such disposition is permissible under, and does not violate, the Securities Act and the rules and regulations of the Securities and Exchange Commission ("SEC"), and any applicable state securities laws, or (ii) the securities have been validly registered under the Securities Act and any applicable state securities laws.

5. Subscriber is acquiring the Unit(s) solely for investment for his/her/its own account and not with a view to, or for resale in connection with, the distribution or other disposition thereof, and Subscriber has no present agreement, understanding, intent or arrangement to subdivide, sell, assign or transfer any part or all of the Unit(s), or any interest therein, to any other person. Subscriber further represents that he/she/it has sufficient and adequate means to provide for his/her/its current needs and personal contingencies and has no need for liquidity with respect to the investment in the Company contemplated hereby.

6. If Subscriber is a corporation, partnership, limited liability company, trust of other entity, (a) Subscriber is duly organized, validly existing and in good standing under the jurisdiction of its organization, (b) Subscriber has all requisite power and authority to own, lease and operate its properties, to carry on its business as currently being conducted, to enter into this Subscription Agreement and to perform its obligations hereunder, (c) Subscriber has not been formed, reformed or recapitalized for the specific purpose of acquiring the Units offered, and (d) the execution, delivery and performance by Subscriber of this Subscription Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action on the part of Subscriber.

7. Subscriber understands and agrees that this Subscription Agreement is subject to each of the following terms and conditions:

(a) the Company has the right to accept or reject this Subscription Agreement, in whole or in part, for any reason, without being obligated to specify any cause for its action whatsoever;

(b) any Units issued and delivered on account of this Subscription Agreement will be issued in the name of and delivered only to the Subscriber; and

(c) this Subscription Agreement may not be terminated or revoked by Subscriber without the prior written consent of the Company, except as provided under applicable law.

8. Subscriber understands that an investment in the Units involves very significant risks. Subscriber further understands that (a) an investment in the Units is highly speculative, (b) the Company will require significant additional financing in order to continue its business, and such additional financing may not be available to the Company, and (c) the Company has not been profitable and may never achieve or sustain profitability. Subscriber is capable of bearing the economic risks of an investment in the Units, including the possibility of a complete loss of Subscriber's investment.

9. In connection with this Subscription Agreement, Subscriber provides herewith the Subscriber Information Schedule attached hereto as Appendix 1, setting forth certain information for the sole use of the Company and its counsel. The information Subscriber is providing to the Company is correct and complete.

10. Subscriber understands and intends that the Company will rely upon the representations, warranties and covenants made by him/her/it in this Subscription Agreement and related documents and that the Company is fully entitled to rely upon each and all of the same without further inquiry. Subscriber agrees to indemnify and hold the Company harmless from any loss or expense incurred by the Company by reason of Subscriber's breach or the Company's reliance hereupon.

11. Other than the PPM, Subscriber has not been furnished any offering literature and no representations have been made to him/her/it by any person in connection with an investment in the Units. Specifically, Subscriber acknowledges that no person has represented, directly or indirectly, the amount, percentage or type of profit or loss to be realized, if any, from an investment in the Units.

12. Subscriber agrees that, except as provided by applicable law, he/she/it cannot cancel, terminate or revoke this Subscription Agreement or any agreement made hereunder without the prior consent of the Company and that this Subscription Agreement shall survive Subscriber's death or disability.

13. By execution of this Subscription Agreement, the Subscriber hereby agrees that he/she/ it will not, directly or indirectly, offer, sell, solicit an offer to buy, make any short sale, pledge, grant any option to purchase, contract to sell, or otherwise transfer or dispose of (each a "Transfer") any shares of common stock of the Company (including, without limitation, shares of common stock of the Company which may be deemed to be beneficially owned by Subscriber in accordance with SEC rules and regulations) or any securities convertible into or exercisable or exchangeable for such common stock or, in any manner, transfer all or a portion of the economic consequences associated with the ownership of any of the foregoing securities (including, without limitation, by way of equity swap, hedging or any other form of derivative transaction), in each case for the period ending 180 days from the date a registration statement filed by the Company in connection with a public offering of shares of its common stock is declared effective by the SEC. Subscriber further agrees to enter into any agreement confirming such market stand-off arrangement as may be reasonably and customarily requested by the Company in connection with such initial public offering.

14. By execution of this Subscription Agreement, Subscriber irrevocably consents and agrees to the terms of that certain Security Agreement that was provided with the PPM. Without in any way limiting the generality of the foregoing, Subscriber (a) irrevocably consents to the Company's selection of the "Collateral Agent" to serve in such capacity under the Security Agreement, (b) irrevocably consents to the appointment of the Collateral Agent under the Security Agreement, and (c) authorizes the Collateral Agent to execute and deliver the Security Agreement and to perform its obligations and exercise its rights thereunder in accordance therewith. Subscriber expressly acknowledges and agrees that, in doing so, the Collateral Agent is not responsible for the terms or contents of such Security Agreement, or for the validity or enforceability thereof, or the sufficiency thereof for any purpose.

15. Subscriber acknowledges and agrees that the Note will be subordinated in all respects, including in right of payment, to certain indebtedness owed by the Company to Boston Scientific Corporation (the "BSC Debt") and that Subscriber will not be entitled to receive any payment from the Company under the Note until the BSC Debt has been discharged in full. Subscriber authorizes the Collateral Agent, on Subscriber's behalf, to take such action as may be necessary or appropriate to further effectuate such subordination, including, without limitation, the execution and delivery of a subordination agreement with Boston Scientific Corporation, and Subscriber appoints the Collateral Agent his/her/its attorney-in-fact for any and all such purposes. Notwithstanding the foregoing, at the Company's request, Subscriber agrees to execute and deliver to the Company a counterpart signature page to any such subordination agreement in favor of Boston Scientific Corporation.

16. Subscriber acknowledges that the Note will rank equally and ratably with certain indebtedness owed by the Company to Brainlab AG (the "Brainlab Debt"). Subscriber authorizes the Collateral Agent, on Subscriber's behalf, to take such action as may be necessary or appropriate to effectuate the ranking of the Note relative to the Brainlab Debt, including, without limitation, the execution and delivery of an intercreditor agreement with Brainlab AG, and Subscriber appoints the Collateral Agent his/her/its attorney-in-fact for any and all such purposes.

17. Subscriber has not engaged, consented to nor authorized any broker, finder or other similar intermediary to act on such Subscriber's behalf in connection with the transactions contemplated by this Subscription Agreement. Subscriber shall indemnify and hold the Company harmless from and against any fees, commissions or other payments owing to any such person acting on behalf of Subscriber in connection with the transactions contemplated by this Subscription Agreement.

B. Representations of the Company

The Company, upon its acceptance of this Subscription Agreement, represents and warrants and to Subscriber that:

1. The Company is a corporation duly incorporated, validly existing and in good standing under the laws of Delaware and is duly licensed or qualified to transact business as a foreign corporation and is in good standing in each jurisdiction in which the nature of the business transacted by it or the character of the properties owned or leased by it requires such licensing or qualification, except where the failure to be so licensed or qualified would not have a material adverse effect on the business or assets of the Company. The Company has the corporate power and authority to own and hold its properties and to carry on its business as now conducted, to execute, deliver and perform this Subscription Agreement and to issue, sell and deliver the Units.

2. The execution and delivery by the Company of this Subscription Agreement, the performance by the Company of its obligations hereunder and the issuance, sale and delivery of the Units have been duly authorized by all requisite corporate action and will not violate any provision of law, any order of any court or other agency of government, the Certificate of Incorporation of the Company, as amended, or the Bylaws of the Company, as amended, and will not result in a violation of any provision of any indenture, agreement or other instrument to which the Company, or any of its properties or assets is bound, or conflict with, result in a material breach of or constitute (with due notice or lapse of time or both) a

default under any such indenture, agreement or other instrument, the result of any of which would have a material adverse effect on the business of the Company. The issuance, sale or delivery of the Units is not subject to any preemptive right of stockholders of the Company that has not been waived or to any right of first refusal or other right in favor of any person that has not been waived.

3. This Subscription Agreement has been duly executed and delivered by the Company and constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' and contracting parties' rights generally and except as enforceability may be subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). The Note and the Warrant, when executed and delivered in accordance with this Subscription Agreement, will constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' and contracting parties' rights generally and except as enforceability may be subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

4. Subject to the accuracy of the representations and warranties of the Subscriber set forth herein, no consent or approval of or other action by any Federal, state or other governmental agency or instrumentality is or will be necessary for the valid execution, delivery and performance by the Company of this Subscription Agreement or the issuance, sale and delivery of the Units.

5. The Company has reserved (a) shares of its common stock for issuance upon exercise of the Warrant (the "Warrant Shares") and (b) shares of its common stock for issuance upon conversion of the Note (the "Note Shares"). Such Warrant Shares, when issued in accordance with the terms of the Warrant, will be duly authorized, validly issued and outstanding, fully paid and non-assessable. Such Note Shares, when issued in accordance with the terms of the Note, will be duly authorized, validly issued and outstanding, fully paid and non-assessable.

6. The Company has a total authorized capitalization consisting of (a) 70,000,000 shares of common stock, $.01 par value per share, of which 16,084,981 shares are outstanding, and (b) 30,000,000 shares of preferred stock, $.01 par value per share, of which 8,000,000 shares have been designated as Series A Convertible Preferred Stock, and of which 7,965,000 shares of Series A Convertible Preferred Stock are outstanding. The capitalization of the Company is as set forth in the PPM. All the outstanding shares of capital stock of the Company have been duly authorized, are validly issued and are fully paid and non-assessable. Except as otherwise set forth the PPM, no options, warrants, subscriptions or purchase rights of any nature to acquire from the Company shares of capital stock or other securities are authorized, issued or outstanding.

7. The Company (a) is not in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company, nor has the Company received written notice of a claim that it is in default under or that it is in violation of, any material agreement of the Company (whether or not such default or violation has been waived), (b) is not in violation of any order of which the Company has been made aware in writing of any court, arbitrator or governmental body having jurisdiction over the Company or its properties or assets, or (c) is not in violation

of, or in receipt of written notice that it is in violation of, any statute, rule or regulation of any governmental authority applicable to the Company, except in each case as would not have or reasonably be expected to have, individually or in the aggregate, a material adverse effect on the business of the Company.

8. To the best of the Company's knowledge, the Company owns or possesses adequate licenses or other rights to use all patents, patent applications, trademarks, trademark applications, service marks, service mark applications, trade names, copyrights, manufacturing process, formulae, trade secrets, customer lists and know how that are necessary for the conduct of the Company's business as presently conducted (such intellectual property, and the rights thereto, are collectively referred to as the "Company Intellectual Property"), and no claim is pending or, to the best of the Company's knowledge, threatened to the effect that the operations of the Company infringe upon or conflict with the asserted rights of any other person under any Company Intellectual Property.

9. Subject to considerations of confidentiality, trade secrets and proprietary information, the Company has made available to the Subscriber all the information reasonably available to the Company that the Subscriber has requested for deciding whether to acquire Units. The PPM does not contain any untrue statement of a material fact nor does the PPM omit to state a material fact necessary in order to make the statements contained therein not misleading in light of the circumstances under which they were made.

C. Grant of Piggyback Registration Rights

1. If the Company proposes to register any shares of its common stock under the Securities Act in connection with the secondary offering of such securities by stockholders of the Company, the Company will, at such time, promptly give Subscriber notice of such registration. Upon the request of Subscriber given within ten (10) days after such notice is given by the Company, the Company will, subject to the provisions of Section C.2 below, cause to be registered all of the Registrable Securities (as defined below) that Subscriber has requested to be included in such registration. The Company will have the right to terminate or withdraw any registration initiated by it under this Section C.1 before the effective date of such registration, whether or not Subscriber has elected to include Registrable Securities in such registration. The expenses (other than Selling Expenses (as defined below)) of such withdrawn registration will be borne by the Company in accordance with Section C.3 below.

2. In connection with any offering involving an underwriting of shares of the Company's common stock pursuant to Section C.1 above, the Company will not be required to include any of the Subscriber's Registrable Securities in such underwriting unless the Subscriber accepts the terms of the underwriting as agreed upon between the Company and its underwriters, and then only in such quantity as the underwriters in their sole discretion determine will not jeopardize the success of the offering by the Company. If the total number of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the number of securities to be sold that the underwriters in their reasonable discretion determine is compatible with the success of the offering, then the Company will be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters and the Company in their sole discretion determine will not jeopardize the success of the offering. If the underwriters determine that less than all of the securities, including Registrable Securities, requested by stockholders to be registered can be included in such offering, then the Registrable Securities that are included in such offering will be allocated among the selling stockholders in proportion (as nearly as practicable to) the number of securities owned by each selling stockholder originally proposed to be included in such offering or in such other proportions as will mutually be agreed to by all such selling stockholders.

3. All expenses (other than Selling Expenses) incurred in connection with registrations pursuant to this Section C, including all registration, filing, and qualification fees, printers' and accounting fees, and fees and disbursements of counsel for the Company will be borne and paid by the Company. All Selling Expenses relating to Subscriber's Registrable Securities registered pursuant to this Section C will be borne and paid by Subscriber.

4. For purposes of this Section C, the following terms will have the following respective meanings:

"Registrable Securities" means (a) the shares of the Company's common stock issued or issuable upon conversion of the Note, (b) the shares of the Company's common stock issued or issuable upon exercise of the Warrant, and (c) any shares of the capital stock of the Company or its successor issued or issuable with respect to such shares.

"Selling Expenses" means all underwriting discounts, selling commissions, and stock transfer taxes applicable to the sale of Subscriber's Registrable Securities, and fees and disbursements of counsel for Subscriber.

D. Miscellaneous

1. This Subscription Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and may be amended only by a writing executed by all parties.

2. This Subscription Agreement and the rights, interests and obligations hereunder are not transferable or assignable by Subscriber.

3. This Subscription Agreement shall be binding upon and inure to the benefit of the parties hereto, and each of their respective legal representatives, successors and permitted assigns.

4. This Subscription Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one instrument.

5. Each reference in this Subscription Agreement to a particular statute or regulation, or a provision thereof, shall be deemed to refer to such statute or regulation, or provision thereof, or to any similar or superseding statute or regulation, or provision thereof, as is from time to time in effect.

6. The representations, warranties and covenants of Subscriber contained herein shall survive any closing of the purchase and sale of Units contemplated hereby.

7. All notices or other communications given or made hereunder shall be in writing and shall be mailed by certified or registered mail, hand delivered or delivered by next business day courier. Any notice to the Company must be mailed or delivered to the principal place of business of the Company or at such other address as the Company may specify in a notice sent to Subscriber. Any notice to Subscriber must be mailed or delivered to the address set forth on the signature page to this Subscription Agreement or

to such other address as Subscriber may hereafter notify the Company of in writing. Notices will be effective on the date three days after the date of mailing or, if hand delivered or delivered by next day business courier, on the date of delivery, provided, however, that notices to the Company will be effective upon receipt.

8. Notwithstanding the place where this Subscription Agreement may be executed by any of the parties hereto, the parties agree that the terms and provisions hereof shall be construed in accordance with and governed by the laws of the State of Delaware, without regard to the conflict of law provisions.

[The next page is the Subscription Agreement Signature Page]

SUBSCRIPTION AGREEMENT SIGNATURE PAGE

NUMBER OF UNITS* SUBSCRIBED: _____
(Indicate the total number of Units you wish to purchase)

* *Each Unit consists of a 10% secured convertible promissory note in the principal amount of $100,000 and a warrant to purchase 50,000 shares of the Company's common stock*

TOTAL SUBSCRIPTION AMOUNT: _____
(Number of Units you indicate above x $100,000 per Unit)

If Subscriber is an INDIVIDUAL, or if purchased as JOINT TENANTS, as TENANTS IN COMMON or as COMMUNITY PROPERTY:

Print Name(s)

Social Security Number(s)

Signature(s) of Subscriber(s)

Signature(s) of Subscriber(s)

Address:

Date

If Subscriber is a PARTNERSHIP, CORPORATION, LLC or TRUST:

Names of Entity

Federal Taxpayer ID Number

By:
Name:
Title:

State of Organization

Address:

Date

[TO BE EXECUTED BY THE COMPANY ONLY]

ACCEPTANCE

This Subscription Agreement is hereby accepted by the Company with respect to the purchase of _____ Unit(s)*.

* Each Unit consists of a 10% secured convertible promissory note in the principal amount of $100,000 and a warrant to purchase 50,000 shares of the Company's common stock.

Date: _____, 2011

MRI INTERVENTIONS, INC.

By: _____
Name: _____
Title: _____

Exhibit 4.3

THIS CONVERTIBLE PROMISSORY NOTE AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR UNDER THE SECURITIES LAWS OF ANY STATE. THIS CONVERTIBLE PROMISSORY NOTE HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO THE DISTRIBUTION THEREOF. THIS CONVERTIBLE PROMISSORY NOTE AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND REGISTRATION OR QUALIFICATION UNDER APPLICABLE STATE SECURITIES LAWS OR AN OPINION OF COUNSEL THAT SUCH PROPOSED TRANSFER DOES NOT VIOLATE THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

SURGIVISION, INC.

10% SENIOR UNSECURED
CONVERTIBLE NOTE DUE 2012

US $_____ _____, 2010

FOR VALUE RECEIVED, the undersigned, **SURGIVISION, INC.**, a Delaware corporation (the "Company"), hereby promises to pay to the order of _____, or his assigns (collectively, the "Holder"), the principal amount of _____ Dollars (US $_____), together with accrued and unpaid interest thereon as described herein.

1. Definitions. In addition to the terms defined elsewhere in this Note, the following terms have the meanings indicated:

"Business Day" means any day other than a Saturday, Sunday or other day on which banks in Memphis, Tennessee are required to be closed.

"Conversion Date" means the date a Conversion Notice is delivered to the Company.

"Conversion Notice" means a written notice in the form attached hereto as Exhibit A.

"Conversion Price" means (1) with respect to an optional conversion pursuant to Section 5(a), $2.00, subject to adjustment from time to time pursuant to Section 7; and (2) with respect to a mandatory conversion pursuant to Section 5(b), the lesser of: (A) $2.00, subject to adjustment from time to time pursuant to Section 7, or (B) 80% of the public offering price of our common stock in our initial public offering, provided, however, in no event shall the Conversion Price determined pursuant to this clause (2) be less than $1.00, subject to adjustment from time to time pursuant to Section 7.

"Person" means any individual or entity.

2. Principal Amount. The principal amount represented by this Convertible Promissory Note (this "Note") is _____ (US $_____).

3. Interest. The unpaid principal balance from time to time outstanding hereunder shall bear interest from the date hereof until paid in full at a fixed rate of ten percent (10.0%) per annum. Interest will accrue on this Note from and including its original issuance date on the basis of a 360-day year consisting of twelve 30 day months.

4. Payment of Principal and Interest. Subject to earlier payment or conversion as provided for elsewhere in this Note, the Company shall pay to the Holder the entire unpaid principal amount and all unpaid accrued interest under this Note in full on March 10, 2012 (the "Maturity Date"). If this Note is converted into Common Stock, all accrued but unpaid interest shall be due and payable in cash as of the Conversion Date. Principal and interest due hereunder shall be paid in lawful money of the United States of America in immediately available federal funds or the equivalent at the address of the Holder set forth in Section 8 below or at such other address as the Holder may designate. All payments made hereunder shall first be applied to interest then due and payable and any excess payment shall then be applied to reduce the principal amount. Upon payment in full of all principal and interest payable hereunder, the Holder shall surrender this Note to the Company for cancellation.

5. Conversion into Common Stock

(a) At the Option of the Holder. All or any portion of the principal amount of this Note shall be convertible into shares of our common stock, $.01 par value per share (the "Common Stock"), at the option of the Holder, at any time and from time to time from and after the date hereof. The number of shares of Common Stock issuable upon any conversion pursuant to this Section 5(a) shall equal the outstanding principal amount of this Note to be converted divided by the Conversion Price on the Conversion Date. The Holder shall effect conversions under this Section 5(a) by delivering to the Company a conversion notice in substantially the form attached hereto as Exhibit A (the "Conversion Notice"). If the Holder is converting less than all of the principal amount of this Note, the Company shall honor such conversion to the extent permissible hereunder and shall promptly deliver to the Holder a schedule indicating the principal amount that has not been converted.

(b) Mandatory Conversion. Simultaneous with the closing of the initial underwritten public offering of the Company's Common Stock pursuant to an effective registration statement under the Securities Act, the entire outstanding principal amount of this Note shall automatically be converted into Common Stock. The number of shares of Common Stock issuable upon a conversion pursuant to this Section 5(b) shall equal the outstanding principal amount of this Note to be converted divided by the Conversion Price on the Conversion Date.

(c) Reservation of Shares. The Company covenants that it will at all times reserve and keep available out of its authorized but unissued and otherwise unreserved Common Stock, solely for the purpose of enabling it to issue shares of Common Stock as required hereunder, the number of shares of Common Stock which are then issuable and deliverable upon the conversion of this entire Note (taking into account the adjustments set forth in Section 7),

free from preemptive rights or any other contingent purchase rights of Persons other than the Holder. The Company covenants that all shares of Common Stock so issuable and deliverable shall, upon issuance in accordance with the terms hereof, be duly and validly authorized and issued and fully paid and nonassessable.

6. Mechanics of Conversion.

(a) Upon conversion of this Note, the Company shall, as soon as practicable (but in no event later than five (5) Business Days after the Conversion Date) issue or cause to be issued and cause to be delivered to or upon the written order of the Holder and in such name or names as the Holder may designate a certificate for the shares of Common Stock issuable upon such conversion, with such restrictive legends as deemed necessary by the Company. The Holder, or any Person so designated by the Holder to receive shares of Common Stock, shall be deemed to have become holder of record of such shares of Common Stock as of the Conversion Date.

(b) The Holder shall be required to deliver the original Note in order to effect a conversion hereunder. Upon surrender of this Note following one or more partial conversions, the Company shall promptly deliver to the Holder a new note representing the remaining outstanding principal amount.

(c) The Company's obligations to issue and deliver shares of Common Stock upon conversion of this Note in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any set-off, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder or any other Person of any obligation to the Company or any violation or alleged violation of law by the Holder or any other Person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to the Holder in connection with the issuance of such shares of Common Stock.

(d) No Fractional Shares. The Company shall not issue or cause to be issued fractional shares of Common Stock on conversion of this Note. If any fraction of a share of Common Stock would, except for the provisions of this Section 6(d), be issuable upon conversion of this Note, the number of shares of Common Stock to be issued will be rounded up to the nearest whole share.

7. Certain Adjustments. The Conversion Price is subject to adjustment from time to time as set forth in this Section 7.

(a) Stock Dividends and Splits. If the Company, at any time while this Note is outstanding, (i) pays a stock dividend on its Common Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Common Stock, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, or (iii) combines outstanding shares of Common Stock into a smaller number of shares, then in each such case the Conversion Price shall be appropriately and equitably adjusted to reflect such event. To the extent that any dividend, subdivision or combination is reflected in the determination of

Conversion Price in accordance with clause (2)(B) in the definition of Conversion Price, no additional adjustment shall be made pursuant to this Section 7(a). Any adjustment made pursuant to Section 7(a)(i) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to Section 7(a)(ii) or Section 7(a)(iii) shall become effective immediately after the effective date of such subdivision or combination.

(b) Calculations. All calculations under this Section 7 shall be made to the nearest cent or the nearest 1/100th of a share, as applicable. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company.

(c) Notice of Adjustments. Upon the occurrence of each adjustment pursuant to this Section 7, the Company, at its expense, will promptly compute such adjustment in accordance with the terms hereof and prepare and deliver to the Holder a certificate describing in reasonable detail such adjustment and the transactions giving rise thereto, including all facts upon which such adjustment is based.

(d) Notice of Corporate Events. If the Company: (i) declares a dividend or any other distribution of cash, securities or other property in respect of its Common Stock, including without limitation any granting of rights or warrants to subscribe for or purchase any capital stock of the Company; (ii) authorizes or approves, enters into any agreement contemplating, or solicits stockholder approval for, any merger, consolidation or similar transaction in which the Company is not the surviving entity; or (iii) authorizes the voluntary dissolution, liquidation or winding up of the affairs of the Company, then the Company shall deliver to the Holder a notice describing the material terms and conditions of such transaction, at least ten (10) Business Days prior to the applicable record or effective date on which a Person would need to hold Common Stock in order to participate in or vote with respect to such transaction, and the Company will take all steps reasonably necessary in order to insure that the Holder is given the practical opportunity to convert this Note prior to such time so as to participate in or vote with respect to such transaction; provided, however, that the failure to deliver such notice or any defect therein shall not affect the validity of the corporate action required to be described in such notice.

8. Notices. All notices and other communications required or permitted hereunder to be given to a party to this Note shall be in writing and shall be faxed, mailed by registered or certified mail postage prepaid, delivered by a national overnight delivery service, or otherwise delivered by hand, electronically (including by email) or by messenger, addressed to such party's address as set forth below:

if to the Company: SurgiVision, Inc.
Attention: Vice President, Business Affairs
One Commerce Square, Ste 2550
Memphis TN 38103
Facsimile: (901) 522-9400

with a copy to:
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
Attention: Robert J. DelPriore
165 Madison Avenue, Ste. 2000
Memphis, TN 38107
Facsimile: (901) 577-4271

if to the Holder: _____
_____
_____

or such other address with respect to a party as such party shall notify each other party in writing as above provided. Any notice sent in accordance with this Section 8 shall be effective upon the earlier of: (i) if mailed, seven Business Days after mailing; (ii) if sent by messenger, upon delivery; (iii) if sent by a nationally recognized overnight delivery service, one Business Day after having been dispatched; (iv) if sent via fax, upon transmission and electronic confirmation of transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and electronic confirmation of transmission (provided, however, that any notice of change of address shall only be valid upon receipt); (v) if sent by electronic mail, upon transmission and notice by telephone of such transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and notice by telephone; and (vi) upon the actual receipt thereof.

9. Default and Remedies.

(a) An "Event of Default" under this Note shall mean the occurrence of any of the following events:

(i) If the Company shall fail to make when due the payment of the principal amount or interest as required by this Note, whether at the due date thereof or by acceleration thereof or otherwise; or

(ii) The commencement by the Company of any bankruptcy, insolvency, receivership or similar proceedings under any federal or applicable state law; or the commencement against the Company of any bankruptcy, insolvency, receivership or similar proceeding under any federal or applicable state law by creditors of the Company or other similar law of any jurisdiction, provided, that such proceeding shall not be deemed an Event of Default if such proceeding is dismissed within ninety (90) days of commencement.

(b) Upon and during the continuation of an Event of Default, the Holder may declare the outstanding principal amount, and all accrued and unpaid interest on the principal amount, immediately due and payable, and such amount shall be collectible immediately or at any time after such Event of Default. The rights and remedies provided by this Note shall be cumulative, and shall be in addition to, and not exclusive of, any other rights and remedies available at law or in equity.

10. Assignability. Neither party may assign this Note without the prior consent of the other party. No such assignment shall constitute a novation or release of the Company of the obligations hereof or from any liability to the Holder.

11. Usury Laws. It is the intention of the Company and the Holder to conform strictly to all applicable usury laws now or hereafter in force, and any interest payable under this Note shall be subject to reduction to an amount that is the maximum legal amount allowed under the applicable usury laws as now or hereafter construed by the courts having jurisdiction over such matters. The aggregate of all interest (whether designated as interest, service charges, points or otherwise) contracted for, chargeable, or receivable under this Note shall under no circumstances exceed the maximum legal rate upon the principal amount remaining unpaid from time to time. If such interest does exceed the maximum legal rate, it shall be deemed a mistake and such excess shall be canceled automatically and, if theretofore paid, rebated to the Company or credited on the principal amount, or if this Note has been repaid, then such excess shall be rebated to the Company.

12. Miscellaneous.

(a) Any amendment hereto or waiver of any provision hereof must be in writing and signed by both the Company and the Holder.

(b) Wherever in this Note reference is made to the Company or the Holder, such reference shall be deemed to include, as applicable, a reference to their respective permitted successors and assigns, and the provisions of this Note shall be binding upon and shall inure to the benefit of such permitted successors and assigns.

(c) This Note shall in all respects be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of law principles of any jurisdiction to the contrary.

(d) The captions of the Sections of this Note are inserted solely for ease of reference and shall not be considered in the interpretation or construction of this Note.

(e) The Holder, by acceptance of this Note, hereby represents and warrants that this Note has been acquired by the Holder for investment only and not for resale or distribution hereof. The Holder, by acceptance of this Note, further understands, covenants and agrees that the Company is under no obligation and has made no commitment to provide for registration of this Note or shares of Common Stock issuable upon conversion of this Note under the Securities Act or applicable state securities laws.

(f) The Company waives presentment, notice and demand, notice of protest, notice of demand and dishonor, and notice of nonpayment of this Note.

(g) In the event that any provision of this Note is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any such provision which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision of this Note. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder, to realize on any collateral or any other security for such obligations, or to enforce a judgment or other court ruling in favor of the Holder. THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY.

(h) No delay in the exercise of any right or remedy of any party hereto shall operate as a waiver thereof, and no single or partial exercise of any such right or remedy shall preclude other or future exercise thereof or the exercise of any other right or remedy.

(i) It is expressly understood and agreed by the parties hereto that if it is necessary to enforce payment of this Note through the engagement or efforts of an attorney or by suit, the Company shall pay reasonable attorneys' fees, expenses of counsel, and other costs of collection actually incurred by the Holder.

(j) The Company may not prepay this Note, in whole or in part, without the prior written consent of the Holder.

(k) This Note may be executed in counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Note.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company has executed, acknowledged and delivered this Note as of the day and year first above written.

SURGIVISION, INC.

By:_____

Printed:_____

Title:_____

ACCEPTED AND AGREED, this _____ day of _____, 2010:

_____

Exhibit A

FORM OF CONVERSION NOTICE

(To be executed by the Holder in order to convert Note)

The undersigned hereby elects to convert the specified principal amount of Convertible Note (the "Note") into shares of common stock, $0.01 (the "Common Stock"), of SurgiVision, Inc., a Delaware corporation, according to the conditions hereof, as of the date written below.

Date to Effect Conversion

Principal Amount owned prior to conversion

Principal amount of Note to be converted

Number of shares of Common Stock to be Issued

Applicable Conversion Price

Principal amount of Note owned subsequent to Conversion

Name of Holder

By _____

Name:
Title:

Exhibit 4.4

THIS PROMISSORY NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR UNDER THE SECURITIES LAWS OF ANY STATE. THIS PROMISSORY NOTE HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO THE DISTRIBUTION THEREOF. THIS PROMISSORY NOTE MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND REGISTRATION OR QUALIFICATION UNDER APPLICABLE STATE SECURITIES LAWS OR AN OPINION OF COUNSEL THAT SUCH PROPOSED TRANSFER DOES NOT VIOLATE THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

THIS PROMISSORY NOTE AND THE RIGHTS AND OBLIGATIONS EVIDENCED HEREBY ARE SUBORDINATE IN THE MANNER AND TO THE EXTENT SET FORTH IN SECTION 7 BELOW. THE HOLDER OF THIS INSTRUMENT, BY ITS ACCEPTANCE HEREOF, IRREVOCABLY AGREES TO BE BOUND BY SUCH PROVISIONS.

SURGIVISION, INC.
JUNIOR SECURED PROMISSORY NOTE DUE 2020

US$ _____ November 5, 2010

FOR VALUE RECEIVED, the undersigned, **SURGIVISION, INC.**, a Delaware corporation (the "Company"), hereby promises to pay to the order of _____ or its registered assigns (collectively, the "Holder") the principal amount of _____ Dollars (US $_____), together with accrued and unpaid interest thereon as described herein.

1. Definitions. In addition to the terms defined elsewhere in this Note, the following terms have the meanings indicated:

"BSC Debt" means all indebtedness, including principal and all accrued interest thereon, outstanding under those certain Secured Convertible Promissory Notes issued by the Company to Boston Scientific Corporation dated as of October 16, 2009, November 17, 2009 and December 18, 2009, respectively, in the aggregate original principal amount of $3,500,000, as such Notes may be amended and in effect from time to time.

"Business Day" means any day other than a Saturday, Sunday or other day on which banks in Memphis, Tennessee are required to be closed.

"Collateral Agent" means the collateral agent under the Security Agreement.

"Junior Notes" means, collectively, this Note and all other junior secured promissory notes issued by the Company in the same financing transaction.

"Person" means any individual or entity.

"Required Holders" means, at any time, holders of a majority in aggregate principal amount of the Junior Notes then outstanding.

"Sale Transaction" means a transaction or series of related transactions pursuant to which (a) the Company is merged, consolidated or reorganized into or with another Person, or securities of the Company are exchanged for securities of another Person, and immediately after such merger, consolidation, reorganization or exchange less than a majority of the combined voting power of the then-outstanding securities of such Person immediately after such transaction are held, directly or indirectly, in the aggregate by the holders of securities entitled to vote generally in the election of directors of the Company immediately prior to such transaction, or (b) the Company sells all or substantially all of its assets to any other Person and less than a majority of the combined voting power of the then-outstanding securities of such Person immediately after such sale are held, directly or indirectly, in the aggregate by the holders of securities entitled to vote generally in the election of directors of the Company immediately prior to such sale.

"Security Agreement" means that certain Junior Security Agreement by and between the Company and [_____], as collateral agent for the ratable benefit of the holders of the Junior Notes.

2. Principal Amount. The principal amount represented by this Junior Secured Promissory Note (this "Note") is _____ Dollars (US$_____).

3. Interest. The unpaid principal balance from time to time outstanding hereunder shall bear interest from the date hereof until paid in full at a fixed rate of three and one-half percent (3.5%) per annum. Interest will accrue on this Note from and including its original issuance date on the basis of a 360-day year consisting of twelve 30 day months.

4. Payment of Principal and Interest. Subject to earlier payment as provided for elsewhere in this Note, the Company shall pay to the Holder the entire unpaid principal amount and all unpaid accrued interest under this Note in full on the tenth (10^{th}) year anniversary of the original issuance date (the "Maturity Date"). Principal and interest due hereunder shall be paid in lawful money of the United States of America in immediately available federal funds or the equivalent at the address of the Holder set forth in Section 9 below or at such other address as the Holder may designate. All payments made hereunder shall first be applied to interest then due and payable and any excess payment shall then be applied to reduce the principal amount. Upon payment in full of all principal and interest payable hereunder, the Holder shall surrender this Note to the Company for cancellation.

5. Prepayment. Subject to the provisions of Section 7 hereof, the Company shall be permitted to prepay, without penalty or premium, all or any portion of the unpaid principal amount and/or any unpaid accrued interest under this Note at any time prior to the Maturity Date.

6. Security Interest. This Note is secured by a security interest in the Company's property and assets pursuant to the Security Agreement, to which reference is made for a description of the security for this Note.

7. Subordination. Notwithstanding any provision herein to the contrary, the Company and the Holder hereby agree that the obligations of the Company to the Holder hereunder shall be subordinated in all respects, including in right of payment, to the BSC Debt and that the Holder shall not be entitled to receive any payment from the Company hereunder until the BSC Debt has been discharged in full. The Holder, by its acceptance of this Note, authorizes the Collateral Agent on the Holder's behalf to take such action as may be necessary or appropriate to further effectuate the subordination as provided in this Section 7, including, without limitation, the execution and delivery of a Subordination Agreement with Boston Scientific Corporation dated as of the date hereof, and appoints the Collateral Agent its attorney-in-fact for any and all such purposes. The Holder of this Note, whether upon original issue or upon transfer or assignment hereof, by such Holder's acceptance hereof, agrees that this Note shall be subject to the provisions of such Subordination Agreement.

8. Default; Acceleration; Waiver.

(a) An "Event of Default" under this Note shall mean the occurrence of any of the following events:

(i) The Company shall fail to make payment of any amount as required by this Note within fifteen (15) days after the same becomes due and payable, whether at the stated Maturity Date or any accelerated date of maturity or at any other date fixed for payment;

(ii) Commencement of proceedings for the liquidation of the Company, or any other termination or winding-up of its existence or business,

(iii) Material breach by the Company of any provision of the Security Agreement, provided, that such breach shall not be deemed an Event of Default if such breach is cured prior to the thirty-first (31st) day following written notice of such breach from either the Required Holders or the Collateral Agent;

(iv) A material representation or warranty made by the Company in the Security Agreement shall prove to have been false in any material respect when made, provided, that such breach shall not be deemed an Event of Default if such breach is cured prior to the thirty-first (31st) day following the date the Company becomes aware of the factual circumstances giving rise to the breach, unless such breach has had a material impairment on the Holder's rights under this Note;

(v) Commencement by the Company of any bankruptcy, insolvency, receivership or similar proceedings under any federal or applicable state law;

(vi) Commencement against the Company of any bankruptcy, insolvency, receivership or similar proceeding under any federal or applicable state law by creditors of the Company, provided, that such proceeding shall not be deemed an Event of Default if such proceeding is dismissed within ninety (90) days of commencement; or

(vii) A default occurs under any mortgage, indenture or instrument by which there may be secured or evidenced any indebtedness for money borrowed by the Company, whether such indebtedness exists on the date of this Note or shall be created thereafter, which default (A) is caused by a failure to pay principal of or interest on such indebtedness prior to the expiration of any applicable grace period (a "Payment Default"), or (B) results in the acceleration of such indebtedness prior to its express maturity, and, in each case, the principal amount of such indebtedness, together with the principal amount of any other indebtedness for money borrowed by the Company under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates $2,000,000 or more.

(b) Subject to the Subordination Agreement, upon the occurrence of any Event of Default (other than an Event of Default as specified in Section 8(a)(v) or Section 8(a)(vi)) and so long as such Event of Default is continuing, subject to the provisions of Section 7 above, the Required Holders may, at their option and upon written notice of acceleration given to the Company, declare the entire

unpaid portion of the principal amount and all unpaid accrued interest under the Junior Notes due and payable. Subject to the Subordination Agreement, if an Event of Default specified in Section 8(a)(v) or Section 8(a)(vi) occurs and is continuing, then the entire unpaid portion of the principal amount and all unpaid accrued interest under the Junior Notes shall automatically, and without any notice or any other action on the part of the Holder or any other holders of Junior Notes, become due and payable immediately.

(c) Prior to or after any notice of acceleration given to the Company, the Required Holders may, on behalf of all holders of the Junior Notes, waive any Event of Default that has occurred hereunder and its consequences, other than an Event of Default as specified in Section 8(a)(i). Whenever any Event of Default hereunder shall have been waived as permitted by this Section 8(c), such Event of Default shall for all purposes of the Junior Notes be deemed to have been cured and to be not continuing.

(d) Subject to the provisions of Section 7 hereof, the entire unpaid principal amount and all unpaid accrued interest under this Note shall automatically, and without any declaration or any other action on the part of the Holder or any other holders of Junior Notes, become due and payable upon the consummation of a Sale Transaction by the Company.

(e) The rights and remedies provided by this Note shall be cumulative, and shall be in addition to, and not exclusive of, any other rights and remedies available at law or in equity.

9. Notices. All notices and other communications required or permitted hereunder to be given to a party to this Note shall be in writing and shall be faxed, mailed by registered or certified mail postage prepaid, delivered by a national overnight delivery service, or otherwise delivered by hand, electronically (including by email) or by messenger, addressed to such party's address as set forth below:

if to the Company: SurgiVision, Inc.
Attention: Vice President, Business Affairs
One Commerce Square, Ste 2550
Memphis TN 38103
Facsimile: (901) 522-9400

if to the Holder: _____
_____
_____
Facsimile: _____

or such other address with respect to a party as such party shall notify the other party in writing as above provided. Any notice sent in accordance with this Section 9 shall be effective upon the earlier of: (a) if mailed, seven Business Days after mailing; (b) if sent by messenger, upon delivery; (c) if sent by a nationally recognized overnight delivery service, one Business Day after having been dispatched; (d) if sent via fax, upon transmission and electronic confirmation of transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and electronic confirmation of transmission (provided, however, that any notice of change of address shall only be valid upon receipt); (e) if sent by electronic mail, upon transmission and notice by telephone of such transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and notice by telephone; and (f) upon the actual receipt thereof.

10. Assignability. Neither party may assign this Note without the prior consent of the other party. No such assignment shall constitute a novation or release of the Company of the obligations hereof or from any liability to the Holder.

11. Usury Laws. It is the intention of the Company and the Holder to conform strictly to all applicable usury laws now or hereafter in force, and any interest payable under this Note shall be subject to reduction to an amount that is the maximum legal amount allowed under the applicable usury laws as now or hereafter construed by the courts having jurisdiction over such matters. The aggregate of all interest contracted for under this Note shall under no circumstances exceed the maximum legal rate upon the principal amount remaining unpaid from time to time. If such interest does exceed the maximum legal rate, it shall be deemed a mistake and such excess shall be canceled automatically and, if theretofore paid, rebated to the Company or credited on the principal amount, or if this Note has been repaid, then such excess shall be rebated to the Company.

12. Miscellaneous.

(a) Any term of this Note may be amended or waived with the written consent of the Company and the Holder. In addition, any term of this Note may be amended or waived (including, without limitation, any Event of Default that has occurred hereunder, other than an Event of Default as specified in Section 8(a)(i)) with the written consent of the Company and the Required Holders, provided that any such amendment or waiver affects and applies to all of the Junior Notes. It shall not be necessary for the consent of the Holder or any other holder of a Junior Note to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof

(b) Wherever in this Note reference is made to the Company or the Holder, such reference shall be deemed to include, as applicable, a reference to their respective successors and permitted assigns, and the provisions of this Note shall be binding upon and shall inure to the benefit of such successors and permitted assigns.

(c) This Note shall in all respects be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of law principles of any jurisdiction to the contrary.

(d) The captions of the Sections of this Note are inserted solely for ease of reference and shall not be considered in the interpretation or construction of this Note.

(e) The Holder, by acceptance of this Note, hereby represents and warrants that this Note has been acquired by the Holder for investment only and not for resale or distribution hereof. The Holder, by acceptance of this Note, further understands, covenants and agrees that the Company is under no obligation and has made no commitment to provide for registration of this Note under the Securities Act or applicable state securities laws.

(f) The Holder, by acceptance of this Note, agrees to the terms of the Security Agreement. Without limiting the generality of the foregoing, the Holder consents to the appointment of the Collateral Agent under the Security Agreement and authorizes the Collateral Agent to execute and deliver the Security Agreement and to perform its obligations and exercise its rights thereunder in accordance therewith.

(g) The Company waives presentment, notice and demand, notice of protest, notice of demand and dishonor, and notice of nonpayment of this Note.

(h) In the event that any provision of this Note is illegal, invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any such provision which may prove illegal, invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision of this Note. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder or to enforce a judgment or other court ruling in favor of the Holder. THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY.

(i) No delay in the exercise of any right or remedy of any party hereto shall operate as a waiver thereof, and no single or partial exercise of any such right or remedy shall preclude other or future exercise thereof or the exercise of any other right or remedy.

(j) It is expressly understood and agreed by the parties hereto that if it is necessary to enforce payment of this Note through the engagement or efforts of an attorney or by suit, the Company shall pay reasonable attorneys' fees, expenses of counsel, and other costs of collection actually incurred by the Holder.

(k) This Note may be executed in counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Note.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company has executed, acknowledged and delivered this Note as of the day and year first above written.

SURGIVISION, INC.

By: _____
Name: _____
Title: _____

ACCEPTED AND AGREED, this _____ day of _____, 2010:

_____
Signature

_____
Print Name

OMNIBUS AMENDMENT TO THE
SURGIVISION, INC.
JUNIOR SECURED PROMISSORY NOTES DUE 2020

This **OMNIBUS AMENDMENT** (this "Amendment") is dated as of April 5, 2011 and is made in reference to those certain Junior Secured Promissory Notes Due 2020 (the "Junior Notes") issued by SurgiVision, Inc., a Delaware corporation (the "Company"), and payable to the registered holders thereof (each a "Holder," and collectively the "Holders").

RECITALS

WHEREAS, the Company previously issued its Junior Notes to the Holders;

WHEREAS, the Junior Notes may be amended upon the consent of Holders of a majority in aggregate principal amount of the Junior Notes then outstanding (the "Required Holders"); and

WHEREAS, the Required Holders have consented to the amendment of the Junior Notes as set forth below;

NOW, THEREFORE, each of the Junior Notes is hereby amended as set forth below:

1. Defined Terms. Capitalized terms used in this Amendment without definition shall have the same meanings ascribed to such terms in Section 1 of the Junior Notes.

2. Amendment to Section 1 (Definitions). Section 1 of the Junior Notes (Definitions) is hereby amended by adding the following new defined terms thereto:

Brainlab Debt means all indebtedness, including principal and all accrued interest thereon, outstanding that certain 10% Subordinated Secured Convertible Note Due 2016 issued by the Company to Brainlab AG. dated as of April 5, 2011, in the aggregate original principal amount of $2,000,000, as such note may be amended and in effect from time to time.

Senior Debt means the BSC Debt and/or the Brainlab Debt.

Senior Lender means Boston Scientific Corporation, so long as any BSC Debt remains outstanding, and/or Brainlab AG., so long as any Brainlab Debt remains outstanding.

3. Amendment to Section 7 (Subordination). Section 7 of the Junior Notes (Subordination) is hereby amended by deleting such Section in its entirety and substituting the following therefor:

7. Subordination. Notwithstanding any provision herein to the contrary, the Company and the Holder hereby agree that the obligations of the Company to the Holder hereunder shall be subordinated in all respects, including in right of payment, to the Senior Debt and that the Holder shall not be entitled to receive any payment from the Company hereunder until the Senior Debt has been discharged in full. The Holder, by its acceptance of this Note, authorizes the Collateral Agent on the Holder's behalf to take such action as may be necessary or appropriate to further effectuate the subordination as provided in this Section 7, including, without limitation, the execution and delivery of a

Subordination Agreement in favor of the Senior Lender, and appoints the Collateral Agent its attorney-in-fact for any and all such purposes. The Holder of this Note, whether upon original issue or upon transfer or assignment hereof, by such Holder's acceptance hereof, agrees that this Note shall be subject to the provisions of any such Subordination Agreement.

4. Miscellaneous. On and after the date hereof, reference in each of the Junior Notes to "this Note", "hereunder", "hereof", "herein" or words of like import referring to such Junior Note shall mean and be a reference to the Junior Note as amended by this Amendment. Except as expressly provided in this Amendment, all other terms, conditions and provisions of the Junior Notes shall continue in full force and effect as provided therein.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company has executed, acknowledged and delivered this Amendment as of the day and year first above written.

SURGIVISION, INC.

By: _____
Name: _____
Title: _____

SECOND OMNIBUS AMENDMENT TO THE
JUNIOR SECURED PROMISSORY NOTES DUE 2020

This **SECOND OMNIBUS AMENDMENT** (this "Second Amendment") is dated as of October 14, 2011 and is made in reference to those certain Junior Secured Promissory Notes Due 2020, as amended (the "Junior Notes"), issued by MRI Interventions, Inc. f/k/a SurgiVision, Inc., a Delaware corporation (the "Company"), and payable to the registered holders thereof (each a "Holder," and collectively the "Holders").

RECITALS

WHEREAS, the Company previously issued its Junior Notes to the Holders;

WHEREAS, the Junior Notes were previously amended pursuant to that certain Omnibus Amendment dated as of April 5, 2011;

WHEREAS, the Junior Notes may be further amended upon the consent of Holders of a majority in aggregate principal amount of the Junior Notes then outstanding (the "Required Holders"); and

WHEREAS, the Required Holders have consented to the amendment of the Junior Notes as set forth below;

NOW, THEREFORE, each of the Junior Notes is hereby amended as set forth below:

1. Defined Terms. Capitalized terms used in this Second Amendment without definition shall have the same meanings ascribed to such terms in Section 1 of the Junior Notes.

2. Amendment to Section 1 (Definitions). Section 1 of the Junior Notes (Definitions) is hereby amended by adding the following new defined terms thereto:

Bridge Debt means all indebtedness, including principal and all accrued interest thereon, outstanding under those the Bridge Notes.

Bridge Notes means those certain 10% Secured Convertible Promissory Notes Due 2014 issued by the Company, as such notes may be amended and in effect from time to time.

Bridge Note Holders means the persons in whose names the Bridge Notes are registered.

3. Amendment to Section 1 (Definitions). Section 1 of the Junior Notes (Definitions) is hereby further amended by deleting the defined terms "Senior Debt" and "Senior Lender" and substituting the following therefor:

Senior Debt means the BSC Debt, the Brainlab Debt and/or the Bridge Debt.

Senior Lender means (i) Boston Scientific Corporation, so long as any BSC Debt remains outstanding, (ii) Brainlab AG., so long as any Brainlab Debt remains outstanding, and/or (iii) the Bridge Note Holders, so long as any Bridge Debt remains outstanding.

4. Miscellaneous. On and after the date hereof, reference in each of the Junior Notes to "this Note", "hereunder", "hereof", "herein" or words of like import referring to such Junior Note shall mean and be a reference to the Junior Note as amended by this Second Amendment. Except as expressly provided in this Second Amendment, all other terms, conditions and provisions of the Junior Notes shall continue in full force and effect as provided therein.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company has executed, acknowledged and delivered this Second Amendment as of the day and year first above written.

MRI INTERVENTIONS, INC.

By: _____
Name: _____
Title: _____

Exhibit 4.5

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE SOLD, ASSIGNED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT IN A TRANSACTION WHICH IS REGISTERED UNDER THE SECURITIES ACT, OR IN A TRANSACTION WHICH IS EXEMPT FROM OR NOT SUBJECT TO THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. ADDITIONALLY, THE TRANSFER OF THIS NOTE IS SUBJECT TO THE CONDITIONS SPECIFIED IN THIS NOTE, AND MAKER HEREOF RESERVES THE RIGHT TO REFUSE THE TRANSFER OF THIS NOTE UNTIL SUCH CONDITIONS HAVE BEEN FULFILLED WITH RESPECT TO SUCH TRANSFER.

SURGIVISION, INC.

10% SUBORDINATED SECURED CONVERTIBLE NOTE DUE 2016

Issue Date: April 5, 2011 Principal Amount: U.S. $2,000,000

SURGIVISION, INC., a Delaware corporation (the "**Company**"), for value received, hereby promises to pay to **BRAINLAB AG.**, a corporation organized under the laws of the Federal Republic of Germany ("**Brainlab**"), the principal amount of U.S. $2,000,000 on April 5, 2016 (the "**Maturity Date**"). This Note is subject to the following terms and conditions:

1. **DEFINITIONS**

"**Bankruptcy Law**" means Title 11, U.S. Code or any similar federal, state or foreign law for the relief of debtors.

"**Brainlab**" means Brainlab AG., a corporation organized under the laws of the Federal Republic of Germany or its successors or assigns.

"**Business Day**" means each day of the year on which banking institutions are not required or authorized to close in Germany or New York.

"**Capital Stock**" means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated and whether or not voting) of corporate stock, limited liability company interests, partnership interests or any other participation, right or other interest in the nature of an equity interest in such Person including, without limitation, common stock and preferred stock of such Person, or any option, warrant or other security convertible into any of the foregoing.

"Collateral Agent" means Landmark Community Bank, in its capacity as collateral agent for the ratable benefit of the Junior Lender.

"**Company**" means SurgiVision, Inc., a Delaware corporation.

"**Conversion Date**" has the meaning specified in Section 4(b)(iii) of this Note.

"**Conversion Notice**" has the meaning specified in Section 4(b)(i) of this Note.

"**Conversion Price**" has the meaning specified in Section 4(a)(iv) of this Note.

"**Conversion Shares**" means shares of Qualified Financing Stock to be issued in connection with the conversion of this Note.

"**Default**" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"**Event of Default**" has the meaning specified in Section 9(a) of this Note.

"**Indebtedness**" of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee which are capitalized in accordance with United States generally accepted accounting principles, (v) all reimbursement obligations of such Person (whether contingent or otherwise) in respect of letters of credit, banker's acceptances, surety or other bonds and similar instruments, (vi) all Indebtedness of others secured by a lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person, and (vii) all Indebtedness of others guaranteed by such Person or for which such Person is otherwise liable.

"**Issue Date**" of this Note means the date on which this Note was originally issued or deemed issued as set forth on the face of this Note.

"**Junior Debt**" means any obligations of the Company under the Junior Debt Documents, including, without limitation, obligations with respect to the payment of principal, interest (including without limitation interest accruing at the then applicable rate provided in the Junior Notes after the commencement of any Proceeding by, against or relating to the Company, whether or not a claim for such interest is allowed in such Proceeding), fees, costs and expenses before or after the commencement of any Proceeding, in each instance, without regard to whether or not an allowed claim in any such Proceeding.

"Junior Debt Documents" means the Junior Notes, the Junior Security Agreement, and any and all other documents or instruments evidencing or further guarantying or securing, directly or indirectly, any of the Junior Debt, whether now existing or hereafter amended or created.

"Junior Lender" means, collectively, the holders of the Junior Notes.

"Junior Notes" means those certain Junior Secured Promissory Notes due 2020 issued by the Company, and any amendments thereto or extensions thereof.

"Junior Security Agreement" means that certain Junior Security Agreement dated November 5, 2010, by and between the Company and the Collateral Agent, and any amendments thereto.

"**Legend**" has the meaning specified in Section 10(c) of this Note.

"Lien" shall mean any mortgage, deed of trust, pledge, hypothecation, assignment, security interest, encumbrance, lien or other security interest or security agreement of any kind or nature whatsoever.

"**Maturity Date**" means April 5, 2016.

"**Note**" means this 10% Subordinated Secured Convertible Note Due 2016 issued by the Company.

"**Person**" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government, or any agency or political subdivision thereof.

"**Qualified Financing**" means any bona fide, third-party, arms-length negotiated equity financing with net proceeds to the Company of at least $10,000,000, pursuant to a single transaction or series of related transactions, occurring after the Issue Date in which shares of the Company's preferred stock are issued in exchange for cash proceeds.

"**Qualified Financing Stock**" means shares of a series of the Company's preferred stock issued in a Qualified Financing after the Issue Date.

"**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations of the Securities Exchange Commission promulgated thereunder.

"**Senior Debt**" means any obligations of the Company under the Senior Debt Documents, including, without limitation, obligations with respect to the payment of principal, interest (including without limitation interest accruing at the then applicable rate provided in the Senior Notes after the commencement of any Proceeding by, against or relating to the Company, whether or not a claim for such interest is allowed in such Proceeding), fees, costs and expenses before or after the commencement of any Proceeding, in each instance, without regard to whether or not an allowed claim in any such Proceeding.

"Senior Debt Documents" means the Senior Notes, the Loan Agreement dated as of October 16, 2009 between the Company and Boston Scientific Corporation, the Patent Security Agreement dated October 16, 2009 between the Company and Boston Scientific Corporation, and any and all other documents or instruments evidencing or further guarantying or securing, directly or indirectly, any of the Senior Debt, whether now existing or hereafter amended or created.

"Senior Lender" means the holder of the Senior Debt.

"Senior Notes" means those certain Secured Convertible Promissory Notes issued by the Company to Boston Scientific Corporation dated as of October 16, 2009, November 17, 2009 and December 18, 2009, respectively, in the aggregate original principal amount of $3,500,000, and any amendments thereto or extensions thereof.

"**Shares**" means the shares of Capital Stock in the Company, or any other securities into which such shares of Capital Stock shall be reclassified or changed.

"**Subsidiary**" of any specified Person means any corporation, partnership, joint venture, limited liability company, association, trust or other business entity, whether now existing or hereafter organized or acquired, (i) in the case of a corporation, of which more than 50% of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, officers or trustees thereof is held by such specified Person or any of its Subsidiaries or (ii) in the case of a partnership, joint venture, limited liability company, association, trust or other business entity, with respect to which such specified Person or any of its Subsidiaries has the power to direct or cause the direction of the management and policies of such entity by contract or otherwise.

"**Tax** or **Taxes**" means any present or future tax, duty, levy, impost, assessment or other government charge (including penalties and interest related thereto) imposed or levied by or on behalf of any Taxing Authority.

"**Taxing Authority**" means any government or political subdivision or territory or possession of any government or agency therein or thereof having the power to tax.

"**Term**" means the period of time from the Issue Date until all amounts owing by the Company under this Note have been paid in full in cash or converted into equity of the Company as contemplated herein.

"**Transfer Restricted Security**" has the meaning specified in Section 10(c) of this Note.

2. **INTEREST; PRINCIPAL**

(a) Accrual and Payment of Interest. The outstanding principal amount of this Note shall accrue interest at a rate per annum (calculated on the basis of the actual number of days elapsed over a year of 360 days) equal to ten percent (10%) from the Issue Date to but excluding the Maturity Date. All accrued but unpaid interest shall be due and payable on the Maturity Date. Notwithstanding the foregoing, in the event that the principal balance of this Note is converted pursuant to Section 4 hereof on or prior to the Maturity Date, all accrued but unpaid interest shall also be converted in accordance with Section 4 hereof.

(b) Defaulted Interest. If the Company defaults in a payment of principal or interest on this Note, it shall pay interest on overdue principal and on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the rate per annum equal to fifteen percent (15%), to the extent lawful, until such time as the Company has paid such overdue principal and interest.

(c) Principal. If this Note has not previously been converted as provided in Section 4 hereof, all principal and all accrued, but unpaid interest shall be immediately due and payable by the Company to Brainlab on the Maturity Date.

(d) Prepayment. Amounts owing under this Note may not be pre-paid, in whole or in part, by the Company prior to the delivery of a Financing Notice (as defined below) from the Company to Brainlab without the prior written consent of Brainlab. In the event that the Company delivers a Financing Notice and conversion is not automatic, the Company may thereafter, pre-pay, in whole or in part, amounts owing under this Note prior to the the Maturity Date, upon at least 10 days prior notice to Brainlab.

3. **METHOD OF PAYMENT**

All principal and interest owing by the Company to Brainlab under this Note shall be paid in United States Dollars. The Company shall pay all principal and interest owing under this Note by wire transfer of immediately available funds, in accordance with the wiring instructions provided from time to time by Brainlab to the Company in writing, provided that if any applicable law (as determined by the Company) requires the deduction of withholding of any Tax from any such payment, then the Company shall make such deduction and timely pay the full amount deducted to the relevant governmental authority in accordance with applicable law and remit the balance of the payment to Brainlab.

4. **CONVERSION**

(a) Conversion of Note.

(i) The Company shall provide written notice to Brainlab setting forth the fact that a Qualified Financing has occurred, the applicable Conversion Price, the number of Conversion Shares issued/to be issued upon conversion and the calculation thereof and the rights, preferences and responsibilities of the Conversion Shares, not more than 10 days following the consummation of a Qualified Financing, as well as a representation as to the then current capitalization of the Company ("**Financing Notice**").

(ii) Subject to the further provisions of this Section 4, in the event that the Conversion Shares to be issued to Brainlab in connection with the Qualified Financing shall represent at least 10% of the outstanding Shares of the Company, on a fully diluted basis, the principal and accrued interest existing pursuant to this Note shall automatically be converted into Conversion Shares simultaneous upon the closing of the Qualified Financing. Subject to the further provisions of this Section 4, in the event that the Conversion Shares to be issued to Brainlab in connection with the Qualified Financing shall represent less than 10% of the outstanding Shares of the Company, on a fully diluted basis, Brainlab may, at its sole option, cause all but not less than all of the principal and accrued interest existing pursuant to this Note to be converted into Conversion Shares at any time following the closing of a Qualified Financing but prior to the time all amounts owing by the Company under this Note have been paid in full, at the Conversion Price in effect on the Conversion Date.

(iii) The number of Conversion Shares issuable upon conversion of this Note shall equal the number determined by dividing (a) the outstanding principal amount of this Note plus all accrued but unpaid interest by (b) the Conversion Price in effect on the Conversion Date.

(iv) Subject to the adjustments provided by this Section 4, the **"Conversion Price"** shall be the price per share paid by investors in the Qualified Financing for one share of Qualified Financing Stock.

(v) Notwithstanding any of the foregoing to the contrary, the Company shall not issue or cause to be issued fractional Conversion Shares on conversion of this Note. If any fraction of a share would, except for the provisions of this Section 4(a)(v), be issuable upon conversion of this Note, the number of Conversion Shares to be issued will be rounded up to the nearest whole share.

(b) Conversion Procedure

(i) In the case of an optional conversion by Brainlab, Brainlab shall deliver to the Company a written notice of Brainlab's election to convert all of the principal and accrued interest existing pursuant to this Note into Conversion Shares (a **"Conversion Notice"**).

(ii) In the case of any conversion of this Note, Brainlab must (a) surrender this Note to the Company, and (b) furnish appropriate endorsements and transfer documents if required by the Company. As soon as practicable after Brainlab fulfills these obligations the Company shall deliver to Brainlab (or any affiliate of Brainlab as designated in writing by Brainlab) a certificate (or, if so designated in writing by Brainlab, multiple certificates in the name of Brainlab or its affiliates in such denominations as Brainlab may request) for the number of Conversion Shares issuable upon the conversion.

(iii) For purposes of this Note, the "**Conversion Date**" shall be (a) in the case of an automatic conversion upon a Qualified Financing, the closing date of a Qualified Financing, or (b) in the case of an optional conversion by Brainlab, the date on which the Conversion Notice is delivered to the Company in accordance with Section 11(a) hereof.

(iv) The Person(s) in whose name the Conversion Shares are registered shall be deemed to be a shareholder of record as of the Conversion Date.

(c) Taxes on Conversion. If Brainlab converts this Note, the Company shall pay any documentary, stamp, transfer or similar Tax, but excluding any foreign Tax, due on the issuance of Conversion Shares upon such conversion. Nothing herein shall preclude any Tax withholding required by law or regulation.

(d) Obligation to Provide Conversion Shares.

(i) All Conversion Shares delivered upon conversion of this Note shall be (a) duly authorized and validly issued, (b) free from preemptive rights and free of any lien or adverse claim and (c) subject to the terms of the Company's Certificate of Incorporation.

(ii) The Company will promptly comply with all federal and state securities laws regulating the offer and delivery of Conversion Shares, upon conversion of this Note, if any.

(e) Adjustment of Conversion Price. The Conversion Price shall be adjusted from time to time by the Company as follows:

(i) In the event that the Company experiences a Qualified Financing and, prior to Brainlab's election to convert, another Qualified Financing shall occur, the Conversion Price shall be adjusted based upon the most recent Qualified Financing.

(ii) In the event of any stock subdivision, stock combination or other similar event, the Conversion Price shall be appropriately and equitably adjusted to reflect such event. An adjustment made pursuant to this Section shall become effective immediately after the effectiveness of such event.

(f) Notice of Adjustment. Whenever the Conversion Price is adjusted, the Company shall promptly deliver to Brainlab a notice of the adjustment briefly stating the facts requiring the adjustment and the manner of computing it.

(g) Notice of Certain Transactions. In the event that:

(i) the Company takes any action which would require an adjustment in the Conversion Price;

(ii) the Company consolidates or merges with, or transfers all or substantially all of its assets to, another corporation and the Company's stockholders must approve the transaction; or

(iii) there is a dissolution or liquidation of the Company;

the Company shall deliver to Brainlab a notice stating the proposed record or effective date, as the case may be, at least 10 days before such date; provided, however, that the failure to deliver such notice or any defect therein shall not affect the validity of the corporate action required to be described in such notice. Additionally, in the event of any other occurrence which causes any of the representations and warranties of the Company contained herein to be untrue or incorrect in any material respect, the Company shall deliver to Brainlab a written notice describing such occurrence within 10 days of the Company becoming aware thereof.

(h) Effect of Reclassification, Consolidation, Merger or Sale on Conversion Right. If any of the following shall occur, namely: (a) any reclassification or change of shares of Capital Stock issuable upon conversion of this Note (other than a change as a result of a subdivision or combination, any other change for which an adjustment is provided in Section 4(e), or any change in par value); (b) any

consolidation or merger to which the Company is a party other than a consolidation or merger in which the Company is the continuing corporation and which does not result in any reclassification or change of shares of Capital Stock issuable upon conversion of this Note (other than a change in name or as a result of a subdivision or combination); or (c) any sale or conveyance of all or substantially all of the assets of the Company as an entirety, then the Company, or such successor or purchasing corporation, as the case may be, shall, as a condition precedent to such reclassification, change, consolidation, merger, sale or conveyance, deliver a notice to Brainlab that Brainlab shall have the right to convert this Note into the kind and amount of securities and property (including cash) receivable upon such reclassification, change, consolidation, merger, sale or conveyance by a holder of the number of Conversion Shares deliverable upon conversion of this Note immediately prior to such reclassification, change, consolidation, merger, sale or conveyance. Such notice shall provide for adjustments of the Conversion Price which shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Price provided for in Section 4(e). If, in the case of any such consolidation, merger, sale or conveyance, the stock or other securities and property (including cash) receivable thereupon by a holder of shares of Capital Stock include shares of stock or other securities and property of a corporation other than the successor or purchasing corporation, as the case may be, in such consolidation, merger, sale or conveyance, then the Company shall use commercially reasonable efforts to cause such notice to be executed by such other corporation and contain such additional provisions to protect the interests of Brainlab as the directors of the Company shall reasonably consider necessary by reason of the foregoing. The provisions of this Section 4(h) shall similarly apply to successive consolidations, mergers, sales or conveyances.

5. **SECURITY**

The Company hereby grants to Brainlab a continuing second priority security interest in and Lien on, second only to the Liens of Senior Lender under the Senior Debt Documents, all of the properties, assets, and rights of the Company, wherever located and whether now owned or hereafter acquired or arising, and all proceeds and products thereof (all such properties, assets, rights, proceeds and products hereinafter sometimes called, collectively, the "**Collateral**"). This security interest and Lien shall be evidenced the parties entering into a Master Security Agreement, the terms of which shall be incorporated herein by reference. Upon the request of Brainlab, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out and perfect the security interest granted hereby.

6. **SUBORDINATION**

(a) Subordination of this Note. Brainlab agrees that, until such time as all amounts owing by the Company under the Senior Debt have been indefeasibly converted into equity of the Company or paid in full in cash, any Lien it may acquire against any assets or property of the Company to secure any obligations of the Company to Brainlab in connection herewith shall be subordinate and inferior to the Liens of Senior Lender under the Senior Debt Documents. The priorities set forth in this section are applicable irrespective of the order or time of attachment, or the order, time or manner of perfection, or the order or time of filing or recordation of any document or instrument, or other method of perfecting the Lien, and notwithstanding any conflicting terms or conditions which may be contained in any of the Senior Debt Documents or any other documents.

(b) Subordination of Other Indebtedness. The Company and the Collateral Agent, on behalf of the Junior Lender, agree that, until such time as all amounts owing by the Company under this Note have been indefeasibly converted into equity of the Company or paid in full in cash (a) the Junior Debt is subordinate in priority and subject in right and priority of payment to the prior performance of any and all obligations of the Company to Brainlab or its successor or assignee, pursuant to this Note, including, but not limited to, any interest accruing thereon after the commencement of an insolvency proceeding,

without regard to whether or not such interest is an allowed claim and (b) any Liens the Collateral Agent has or may acquire, on behalf of and for the ratable benefit of the Junior Lender, against any assets or property of the Company to secure any obligations of the Company to the Junior Lender shall be subordinate and inferior to the Liens of Brainlab under this Note and the related Master Security Agreement. The priorities set forth in this section are applicable irrespective of the order or time of attachment, or the order, time or manner of perfection, or the order or time of filing or recordation of any document or instrument, or other method of perfecting the Lien, and notwithstanding any conflicting terms or conditions which may be contained in the Master Security Agreement in favor of Brainlab or any other documents.

7. **REPRESENTATIONS AND WARRANTIES OF THE COMPANY** The Company hereby represents and warrants to Brainlab as of the Issue Date, and, if applicable, as of the Conversion Date, as follows, each of which shall survive for the Term of this Note:

(a) Organization and Qualification. The Company is a corporation duly incorporated and validly existing under the laws of the State of Delaware. The Company has all requisite power and authority to carry on its business as currently conducted, other than such failures that, individually or in the aggregate, would not have a material adverse effect on the Company's business, properties or financial condition taken as a whole (a "**Material Adverse Effect**"). The Company is duly qualified to transact business in each jurisdiction in which the failure to be so qualified would reasonably be expected to have a Material Adverse Effect.

(b) Capitalization.

(i) As of the Issue Date, the authorized Capital Stock of the Company consists of: (a) 30,000,000 shares of Preferred Stock, of which 8,000,000 shares have been designated Series A Convertible Preferred Stock and of which 7,965,000 shares of Series A Convertible Preferred Stock are issued and outstanding; and (b) 70,000,000 shares of Common Stock, of which 15,859,981 shares are issued and outstanding. As of the Conversion Date, the capitalization of the Company shall be as set forth in the Financing Notice.

(ii) As of the Issue Date, other than as set forth on Schedule 7(b), (a) there is not outstanding, nor is the Company bound by, any subscriptions, options, preemptive rights, warrants, calls, commitments or agreements or rights, rights of first offer or first refusal, or rights of any character requiring the Company to issue or entitling any Person to acquire any shares of Capital Stock or any other equity security of the Company, including any right of conversion or exchange under any outstanding security or other instrument, and the Company is not obligated to issue or transfer any shares of Capital Stock or other equity interest for any purpose; (b) there are no outstanding obligations of the Company to repurchase, redeem or otherwise acquire any outstanding shares of Capital Stock or other equity interests in the Company; and (c) no plan, purchase agreement, option or other agreement or understanding between the Company and any holder of any shares of Capital Stock or other equity interests or securities or rights exercisable or convertible for shares of Capital Stock or other equity interests or securities provides for acceleration or other changes in the vesting provisions or other terms of such agreement or understanding as the result of the occurrence of any event.

(c) Subsidiaries. The Company has no Subsidiaries. The Company is not a participant in any joint venture, partnership, or similar arrangement.

(d) Authorization. All action for or on the part of the Company, its officers and directors necessary, including without limitation, all action required by the Company's stockholders, for the authorization, execution and delivery of this Note and the performance of all obligations of the Company

hereunder shall have been taken, and this Note will constitute a valid and legally binding obligation of the Company, enforceable in accordance with its terms, subject to: (i) judicial principles limiting the availability of specific performance, injunctive relief, and other equitable remedies and (ii) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors' rights.

(e) Valid Issuance of Conversion Shares Upon Conversion. Upon conversion in accordance with the terms hereof, Brainlab will obtain good and valid title to the Conversion Shares to be issued upon conversion free and clear of any liens, restrictions, claims, equities, options, charges, rights of first refusal, or encumbrances or other restrictions, except restrictions on transfer and other rights and limitations contained in the Company's Certificate of Incorporation and except for restrictions imposed by applicable state and federal securities laws.

(f) Required Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any Person, including, without limitation any, federal, state or local governmental authority on the part of the Company is required in connection with the offer, sale or issuance of this Note or the issuance of Conversion Shares upon conversion as provided for herein, except for the following: (i) the filing of such notices as may be required under the Securities Act; (ii) the filing of such notices as may be required under any applicable state securities laws, which, in the case of each of (i) and (ii), shall be filed by the Company (with the cooperation of Brainlab) following conversion within the applicable required timeframes; and (iii) the compliance with any other applicable state and/or federal securities laws, which compliance the Company (with the cooperation of Brainlab) will arrange within the appropriate time periods therefore.

(g) Litigation. Other than as set forth on Schedule 7(g), there is no claim, action, suit, proceeding, arbitration, complaint, charge or investigation ("**Action**") pending (i) by, or to the best of the Company's knowledge, against (A) the Company or (B) to the best of the Company's knowledge, any officer or director of the Company arising out of such officer's or director's employment or service to the Company; or (ii) that questions the validity of, or may materially and adversely impact Brainlab's rights under, this Note. Other than as set forth on Schedule 7(g), neither the Company, nor, to the best of the Company's knowledge, any officer or director of the Company, is a party to or is named as subject to the provisions of any order, writ, injunction, judgment or decree of any governmental authority (collectively, an "**Order**") (in the case of officers or directors, such as would affect the Company). Other than as set forth on Schedule 7(g), to the best of the Company's knowledge, (i) the Company has not received written notice of a threatened Action or Order against the Company, and (ii) no event has occurred or circumstance exists that may give rise to or serve as a basis for the commencement or imposition of any such Action or Order. For purposes of this Note, "**Company's knowledge**" shall mean the actual knowledge, following due inquiry, of each of Kimble Jenkins, the Company's Chief Executive Officer, and Oscar Thomas, the Company's Vice President, Business Affairs.

(h) Intellectual Property.

(i) For purposes of this Note, "**Company Intellectual Property**" shall mean all patents, patent rights, patent applications, trademarks and service marks, trademark rights, trademark applications, service mark rights, service mark applications, trade names, registered copyrights, copyright rights, domain names and proprietary rights and trade secrets, technology and know-how, owned or used by the Company, that the Company reasonably believes to be necessary to or used in connection with the business of the Company as presently conducted or as proposed to be conducted, in each case together with any amendments, modifications and supplements thereto.

(ii) The Company owns or possesses sufficient legal rights to all Company Intellectual Property for the conduct of its business as presently conducted or as presently proposed to be conducted without, to the best of the Company's knowledge, conflict with, or infringement of, the rights of others. To the best of the Company's knowledge, no service marketed or sold, or presently proposed to be marketed or sold, by the Company violates or will violate any license or infringes or will infringe any intellectual property rights of any Person. Other than as set forth on Schedule 7(h)(ii) hereto, and other than with respect to commercially available software products under standard end-user object code license agreements, as of the Issue Date there are no outstanding options, licenses, agreements, claims, encumbrances or shared ownership interests of any kind relating to the Company Intellectual Property, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, proprietary rights and processes of any other Person. Except as set forth on Schedule 7(h)(ii) hereto, the Company has not received any communications alleging that the Company has violated or, by conducting its business, would violate any of the patents, trademarks, service marks, tradenames, copyrights, trade secrets, mask works or other proprietary rights or processes of any other Person. The Company has obtained and possesses valid licenses to use all of the software programs present on the computers and other software-enabled electronic devices that it owns or leases or that it has otherwise provided to its employees for their use in connection with its business. To the best of the Company's knowledge, except as set forth in Schedule 7(h)(ii) hereto, the Company does not use any inventions of any of the officers, employees or consultants of the Company (or Persons the Company currently intends to hire) made prior to their employment with or engagement by the Company. Except as set forth in Schedule 7(h)(ii) hereto, each officer, employee and consultant of the Company has assigned to the Company all intellectual property rights he or she creates in the performance of services for the Company that are related to the business of the Company as now conducted and as presently proposed to be conducted by execution of a binding agreement with the Company.

(i) No Violation of Law. Other than as set forth in Schedule 7(i), (i) the Company is not in violation, in any material respect, of any applicable local, state or federal law, ordinance, regulation, order, injunction or decree, or any other requirement of any governmental body, agency or authority or court binding on it, or relating to its property or business or its advertising, sales or pricing practices (including, without limitation, any state or federal banking laws and regulations, antitrust laws and regulations, or consumer protection laws or regulations), and (ii) the Company has not, in any event, received any written notice of the existence of any of the foregoing.

(j) Compliance with Other Instruments. The Company is not in violation or default of any provision of its Certificate of Incorporation or Bylaws. The Company is not in violation or default of any provision of any material instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation to which it is a party or by which it or any of its properties or assets are bound which would reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. The execution, delivery and performance of and compliance with this Note and the issuance of Conversion Shares upon conversion as provided herein, will not result in any such violation, be in conflict with or constitute, with or without the passage of time or giving of notice, a default under any such provision, require any consent or waiver under any such provision (other than any consents or waivers that have been obtained), or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of the properties or assets of the Company pursuant to any such provision.

(k) Permits. The Company has all permits, licenses, and any similar authority necessary for the conduct of its business as now being conducted by it, the lack of which would reasonably be expected to have a Material Adverse Effect. The Company is not in default in any material respect under any of such permits, licenses, or other similar authority.

(l) Environmental and Safety Laws. The operations of the Company have been and are in compliance in all respects with all Environmental Laws (defined below) applicable to the Company and with all licenses required by Environmental Laws applicable to the Company, except, in each case, such non-compliance as would not have a Material Adverse Effect. For purposes of this Note, the term "**Environmental Laws**" shall mean all present federal, state and local laws, statutes, ordinances, regulations, codes, published policies, rules, directives, orders, decrees, permits, licenses, approvals, authorizations, published guidelines, covenants, deed restrictions, treaties, conventions, and rules of common law in effect, and in each case as amended, and any judicial or administrative judgment, opinion or interpretation thereof, relating to the regulation or protection of human health, safety, natural resources or the environment, including, without limitation, laws and regulations (and all other items recited above) relating to the use, treatment, storage, management, handling, manufacture, generation, processing, recycling, distribution, transport, release or threatened release of or exposure to any hazardous material.

(m) Title to Property and Assets. The Company has good and marketable title to all of the material properties and assets owned by it, free and clear of any and all mortgages, liens, encroachments, easements, restrictions, claims, equities, options, charges, rights of first refusal, encumbrances, defects of title or other conflicting ownership or security interests whatsoever (collectively, "**Encumbrances**"), except (i) Liens for current taxes and assessments not yet due, (ii) Liens under the Senior Debt Documents, (iii) Liens under the Junior Debt Documents, (iv) Liens in favor of Brainlab as contemplated hereunder, and (v) possible minor Encumbrances which do not, in any case, materially detract from the value of the property subject thereto or materially impair the operations of the Company (collectively, "**Permitted Encumbrances**"). With respect to any material property and assets it leases, the Company is in material compliance with such leases and, to the best of its knowledge, holds a valid leasehold interest free of any and all Encumbrances, except for Permitted Encumbrances. The Company's material properties and assets are in good condition and repair, in all material respects, for the purposes for which they are currently used, ordinary wear and tear excepted.

(n) Financial Statements. The unaudited financial statements of the Company for the fiscal year ended December 31, 2010 (consisting of a balance sheet and statement of operations) (collectively, the "**Financial Statements**") have been provided to Brainlab. The Financial Statements (i) were prepared on an accrual basis, in accordance with the Company's past practices, applied on a consistent basis throughout the period indicated, (ii) are derived from and were prepared in accordance with the books and records of the Company, and (iii) fairly present in all material respects the financial position of the Company at the date therein indicated and the results of operations of the Company for the period therein specified. The Company has no material liabilities of a kind that would be required under United States generally accepted accounting principles to be reflected on the face of the Company's balance sheet, other than (i) those set forth or adequately provided for in the December 31, 2010 balance sheet included in the Financial Statements, (ii) those incurred in the conduct of the Company's business since January 1, 2011 in the ordinary course, consistent with past practice, which are of the type that ordinarily occur or recur and, individually or in the aggregate, are not material in nature or amount and do not result from any breach of contract, tort or violation of law, (iii) those set forth on Schedule 7(n) and (iv) liabilities arising pursuant to this Note. Except for liabilities reflected in the Financial Statements, the Company has no off balance sheet liability of any nature to, or any financial interest in, any third party or entities, the purpose or effect of which is to defer, postpone, reduce or otherwise avoid or adjust the recording of debt expenses incurred by the Company. Except as set forth on Schedule 7(n), since January 1, 2011, there have not been any materially adverse changes in the assets, liabilities, condition (financial or otherwise), relationships (including with its customers, suppliers and employees), operations or prospects of the Company.

(o) Agreements; Actions.

(i) Except for agreements set forth on Schedule 7(o)(i) hereto, there are no agreements, understandings or proposed transactions between the Company and any of its officers, directors, affiliates, or any affiliate thereof.

(ii) Except as set forth on Schedule 7(o)(ii), there are no agreements, understandings, instruments, contracts, judgments, orders, writs or decrees to which the Company is a party or by which it is bound that involve (i) provisions restricting the development, manufacture or distribution of the Company's products or services or (ii) the payment of indemnification by the Company with respect to infringement of proprietary rights.

(iii) Since January 1, 2011, the Company has not (i) incurred indebtedness for money borrowed, or (ii) sold, exchanged or otherwise disposed of any of its assets or rights having an aggregate value of more than $50,000, other than the sale of its inventory and license agreements in the ordinary course of business.

(p) Changes. Other than as set forth on Schedule 7(p), since January 1, 2011, there has not been:

(i) any adverse change in the assets, liabilities, financial condition or operating results of the Company, from that reflected in the Financial Statements, except for changes arising in the ordinary course of business that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect;

(ii) any damage, destruction or loss of any asset or property of the Company having an aggregate value in excess of $50,000, whether or not covered by insurance;

(iii) any waiver by the Company of a valuable right or of a debt owed to it in excess of $50,000;

(iv) any satisfaction or discharge of any Encumbrance or payment of any obligation by the Company, except in the ordinary course of business and the satisfaction or discharge of which would not have a Material Adverse Effect;

(v) any material change or amendment to any contract or agreement that could reasonably be expected to be material to the Company either in terms of revenue generated thereby or the liabilities incurred by the Company thereunder;

(vi) any material change in any compensation arrangement or agreement with any key employee;

(vii) any sale, assignment or transfer of any patents, trademarks, copyrights, trade secrets or other intangible assets;

(viii) any resignation or termination of employment of any key employee or officer of the Company (and to the best of Company's knowledge, there is no impending resignation or termination of employment of any such key employee or officer);

(ix) the loss of any customer or the cancellation of any order of the Company which has historically represented, or is expected to represent, revenue to the Company in excess of $5,000 per month or $50,000 in the aggregate nor any written notice thereof;

(x) any mortgage, pledge, grant of a security interest in, or Encumbrance created by the Company, with respect to any of its material properties or assets, except for Permitted Encumbrances;

(xi) any loans or guarantees made by the Company to or for the benefit of any related party, or any members of their immediate families, other than travel advances and other advances made in the ordinary course of business;

(xii) any declaration, set aside, payment or other distribution in respect of any of the Capital Stock of the Company, or any direct or indirect redemption, purchase or other acquisition of any of such Capital Stock by the Company;

(xiii) any other event or condition of any character that would have a Material Adverse Effect; or

(xiv) any agreement or commitment by the Company to do any of the things described in this Section 7(p).

(q) Employee Benefit Plans.

(i) Except as set forth in Schedule 7(q) hereto, the Company does not maintain, sponsor, or make contributions to: any "employee pension benefit plan" or "employee welfare benefit plan," as such terms are defined in the Employee Retirement Income Security Act of 1974, as amended, and all regulations promulgated thereunder ("**ERISA**"); any collective bargaining agreement; any severance agreement or plan, or any medical, life or disability benefit plan or arrangement; any excess benefit plan, bonus or incentive plan, top hat plan or deferred compensation plan, salary reduction agreement, or change-of-control agreement; whether or not written with respect to any employee, former employee, director, independent contractor, or any beneficiary or dependent thereof (all such plans, policies, programs, arrangements, agreements and contracts, including those that are set forth on Schedule 7(q) hereto are referred to in this Note as "**Scheduled Plans**").

(ii) To the best of the Company's knowledge, each Scheduled Plan has been operated and administered in compliance in all material respects, and each Scheduled Plan currently complies in form and in operation in all material respects, with all applicable requirements of ERISA, the Internal Revenue Code of 1986, as amended, and all regulations promulgated thereunder (the "**Code**"), and all other applicable laws. Neither the Company nor any controlled group affiliate, as described in Sections 414(b) or (c) of the Code, has ever sponsored, maintained, contributed to or had any obligation to contribute to any plan subject to Section 412 of the Code or Title IV of ERISA.

(r) Tax Returns, Payments and Elections. The Company has filed all material tax returns and reports (including information returns and reports) as the Company is required by law to have filed, and such returns and reports are true and correct in all material respects. The Company has paid all material taxes and other assessments that have become due and payable. The Company has not made any elections pursuant to the Code (other than elections that relate solely to methods of accounting, depreciation or amortization) that would have a Material Adverse Effect. Except as set forth in Schedule 7(r), the Company has never had any material tax deficiency proposed or assessed against it and the Company has not executed any waiver of any statute of limitations on the assessment or collection of any tax or governmental charge. Except as set forth in Schedule 7(r), none of the federal income tax returns,

state income or franchise tax or sales or use tax returns of the Company has ever been audited by governmental authorities. Since January 1, 2011, the Company has not incurred any taxes, assessments or governmental charges other than in the ordinary course of business and the Company has made adequate provisions on its books of account for all material taxes, assessments and governmental charges with respect to its business, properties and operations that have accrued but not yet been paid. Except as set forth in Schedule 7(r) hereto, the Company has withheld or collected from each payment made to each of its employees, the amount of all taxes (including, but not limited to, federal income taxes, Federal Insurance Contribution Act taxes and Federal Unemployment Tax Act taxes) required to be withheld or collected therefrom, and has paid the same to the proper tax receiving officers or authorized depositories.

(s) Labor Agreements and Actions; Employee Compensation. The Company is not bound by or subject to (and none of its assets or properties is bound by or subject to) any written or oral, express or implied, contract, commitment or arrangement with any labor union, and no labor union has requested or, to the best of the Company's knowledge, has sought to represent any of the employees, representatives or agents of the Company. There is no strike or other labor dispute involving the Company pending, or to the best of the Company's knowledge, threatened, that could have a Material Adverse Effect, nor is the Company aware of any labor organization activity involving its employees. To the best of the Company's knowledge none of its officers or key employees or any group of key employees intends to terminate their employment with the Company, nor does the Company have a present intention to terminate the employment of any of the foregoing. The Company has complied in all material respects with all applicable state and federal equal employment opportunity laws.

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

(u) Disclosure. Neither this Note nor any and all written statements furnished or made to Brainlab by or on behalf of the Company in connection with this Note, taken as a whole, and including any corrective materials furnished or made available to Brainlab, contains any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained herein and therein not materially misleading in light of the circumstances under which they were made.

8. **COVENANTS AND OTHER AGREEMENTS**

(a) Payment of Note. The Company shall promptly make all payments in respect of this Note on the dates and in the manner provided in this Note. The Company shall, to the extent permitted by law, pay interest on overdue amounts at the rate set forth in Section 2 of this Note, which interest on overdue amounts (to the extent that the payment of such interest shall be legally enforceable) shall accrue from the date such amounts become overdue.

(b) No Additional Indebtedness. During the Term of this Note, other than the Senior Debt, the Company shall incur no new Indebtedness for borrowed money in excess of $250,000 individually or in the aggregate, except with the prior written consent of Brainlab which consent, in the case of Indebtedness that is, by its terms, subordinate to Indebtedness owed to Brainlab, shall not unreasonably be withheld or delayed.

(c) Financial Reporting. As long as any amounts remain outstanding under this Note or, if this Note is converted, as long as Brainlab continues to hold at least 50% of the Conversion Shares issued upon such conversion, the Company shall deliver to Brainlab (i) as soon as practicable after the end of each fiscal year of the Company, and in any event within 120 days thereafter, a balance sheet of the

Company and statement of stockholders' equity as of the end of such year and statements of income and cash flow for such year, such year-end financial reports to be in reasonable detail, prepared in accordance with generally accepted accounting principles, consistently applied (subject however to the absence of footnotes in the event the Company does not engage an independent certified public accounting firm to audit and certify such financial statements); and (ii) as soon as practicable after the end of each fiscal quarter (except the last quarter of each fiscal year), and in any event within forty-five (45) days thereafter, an unaudited balance sheet of the Company as of the end of such fiscal quarter, and an unaudited statement of income for each fiscal quarter and for the current fiscal year to date.

(d) Information and Inspection Rights. During the Term of this Note or, if this Note is converted, as long as Brainlab continues to hold at least 50% of the Conversion Shares issued upon such conversion, in addition to any rights that may be available under Delaware or other applicable law, subject to the execution of a standard confidentiality agreement, Brainlab shall have the right, at its sole expense and upon reasonable prior notice to the Company, to inspect and examine the Company's properties, operations and books of account; provided, however, that any such inspection or examination shall be conducted in a manner that is reasonably designed to minimize any interference with the operations of the Company's business; provided, further, that the Company shall be under no obligation to provide, give access to or discuss with Brainlab any information regarding the Company's properties, operations or books of account to the extent necessary to comply with the terms and conditions of confidentiality agreements between the Company and any third parties or to the extent the Company has determined that there exists an actual or potential conflict of interest between Brainlab and the Company.

(e) Board Observation Rights. During the Term of this Note or, if this Note is converted, as long as Brainlab continues to hold at least 50% of the Conversion Shares issued upon such conversion, Brainlab shall be entitled to appoint one individual who shall be invited to attend and observe all meetings of the Company's board of directors or any committees created by the board; provided, however, that such board observer agrees to hold in confidence and trust, to act in a fiduciary manner with respect to and not to disclose any information provided to or learned by the board observer acting in such capacity. Notwithstanding the provisions of this Section 8(e), the Company reserves the right to exclude the board observer from portions of any meeting where and to the extent that the Company reasonably believes that excluding the board observer from attending such portion of the meeting is reasonably necessary (i) to preserve attorney-client, work product or similar privilege between the Company and its counsel with respect to any matter, (ii) to comply with the terms and conditions of confidentiality agreements between the Company and any third parties, or (iii) because the Company has determined, in good faith, that there exists, with respect to the subject of such deliberation or such information, an actual or potential conflict of interest between Brainlab and the Company. Furthermore, the members of the Company's board of directors shall be entitled to hold reasonable executive sessions which the board observer may not be invited to attend. Brainlab's board observer shall use the same degree of care to protect the Company's confidential and proprietary information as Brainlab uses to protect its confidential and proprietary information of like nature, but in no circumstances with less than reasonable care.

(f) Further Instruments and Acts. Upon the reasonable request of Brainlab, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the provisions of this Note.

9. **DEFAULTS AND REMEDIES**

(a) Events of Default. Each of the following shall be an "**Event of Default**" for purposes of this Note:

(1) unless this Note is converted pursuant to Section 4 hereof, failure to pay principal of or interest on this Note on the dates specified in Section 2 hereof, to and including the Maturity Date;

(2) failure to perform any other covenant, representation, warranty or agreement of the Company under this Note, continued for 30 days or more after written notice to the Company by Brainlab;

(3) there shall be, with respect to any issue or issues of Indebtedness (other than Indebtedness created or as a result of this Note) of the Company or any of its Subsidiaries, whether such Indebtedness now exists or shall hereafter be created, (x) an event of default that has caused the holders thereof (or their representatives) (i) to declare such Indebtedness to be due and payable prior to its scheduled maturity and such Indebtedness has not been discharged in full or such acceleration has not been rescinded or annulled within 45 days following such acceleration and/or (ii) to commence judicial proceedings to exercise remedies under applicable law and such judicial proceedings have not been dismissed or stayed within 45 days following such commencement and/or (y) the failure to make a principal payment at the final (but not any interim) fixed maturity and such defaulted payment shall not have been made, waived or extended within 45 days of such payment default;

(4) except for judgments related to matters disclosed on the schedules to this Note, the rendering of a final judgment or judgments against the Company or any of its Subsidiaries in an amount that exceeds $500,000 in excess of insurance coverage, which judgment remains in force, undischarged, unsatisfied, unbonded or unstayed for a period of 60 days;

(5) the Company or any of its Subsidiaries pursuant to or within the meaning of any Bankruptcy Law:

(A) admits in writing its inability to pay its debts generally as they become due,

(B) commences a voluntary case or proceeding,

(C) consents to the entry of an order for relief against it in an involuntary case or proceeding,

(D) consents or acquiesces in the institution of a bankruptcy or insolvency proceeding against it,

(E) consents to the appointment of a custodian of it or for all or substantially all of its property, or

(F) makes a general assignment for the benefit of its creditors, or any of them takes any action to authorize or effect any of the foregoing;

(6) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any of its Subsidiaries in an involuntary case or proceeding,

(B) appoints a custodian for the Company or any of its Subsidiaries or for all or substantially all of their property, or

(C) orders the liquidation of the Company or any of its Subsidiaries, and in each case the order or decree remains unstayed and in effect for 60 days; provided, however, that if the entry of such order or decree is appealed and dismissed on appeal, then the Event of Default hereunder by reason of the entry of such order or decree shall be deemed to have been cured;

(7) failure to consummate a Qualified Financing within 180 days following the date of this Note;

(8) failure to issue Conversion Shares when such Conversion Shares are required to be delivered, upon conversion of this Note and such failure is not remedied for a period of 10 Business Days;

(9) a breach of any the representations and warranties contained in this Note that is not remedied within 30 days following the Company's receipt of a notice of such breach from Brainlab; or

(10) a breach or default by the Company of or under any of the terms of any other agreement between the Company and Brainlab or any affiliate of Brainlab that is not remedied within 30 days following the Company's receipt of a notice of such breach from Brainlab.

(b) Acceleration. If an Event of Default with respect to this Note (other than an Event of Default specified in clause (5) or (6) of Section 9(a) with respect to the Company) occurs and is continuing, Brainlab by notice in writing to the Company may declare the unpaid principal of and accrued interest to the date of acceleration on this Note to be due and payable immediately and, upon any such declaration, such principal amount and accrued interest, notwithstanding anything contained in this Note to the contrary, will become immediately due and payable. If an Event of Default specified in clause (5) or (6) of Section 9(a) with respect to the Company occurs, this Note will ipso facto become immediately due and payable without any declaration or other act on the part of Brainlab.

(c) Remedies. If an Event of Default occurs and is continuing, Brainlab may pursue any available remedy by proceeding at law or in equity to collect the payment of principal of or interest on this Note or to enforce the performance of any provision of this Note. A delay or omission by Brainlab in exercising any right or remedy maturing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

(d) Waiver of Usury, Stay or Extension Laws. The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Note; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Company, but will suffer and permit the execution of every such power as though no such law had been enacted.

10. **EXCHANGE; TAXES; LEGEND; REPLACEMENT**

(a) Exchange. For so long as this Note is outstanding and unless this Note is converted pursuant to Section 4, at the option of Brainlab, and subject to the other provisions of this Note, this Note may be exchanged for other promissory notes of a like aggregate principal amount and subject to substantially the same terms and conditions as set forth in this Note, executed by the Company, upon surrender of this Note to the Company.

(b) Payment of Taxes. Notwithstanding any other provision of this Section 10, no transfer of this Note shall be permitted, and no registration of transfer shall be effected unless, prior to the time of such transfer or registration of transfer, Brainlab has made arrangements reasonably satisfactory to the Company for payment or reimbursement of any and all Taxes which would, in the absence of payment by the transferor, be required to be paid by the Company as a result of such transfer. No service charge shall be made for any registration of transfer or exchange.

(c) Legend. Except as permitted by Section 10(e), this Note (and all promissory notes issued in exchange therefor or substitution of this Note) shall, so long as appropriate, bear a legend (the "**Legend**") to substantially the following effect (each, a "**Transfer Restricted Security**"):

> **THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE SOLD, ASSIGNED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT IN A TRANSACTION WHICH IS REGISTERED UNDER THE SECURITIES ACT, OR IN A TRANSACTION WHICH IS EXEMPT FROM OR NOT SUBJECT TO THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. ADDITIONALLY, THE TRANSFER OF THIS NOTE IS SUBJECT TO THE CONDITIONS SPECIFIED IN THIS NOTE, AND THE MAKER HEREOF RESERVES THE RIGHT TO REFUSE THE TRANSFER OF THIS NOTE UNTIL SUCH CONDITIONS HAVE BEEN FULFILLED WITH RESPECT TO SUCH TRANSFER.**

(d) Removal of Legend. At such time as any Transfer Restricted Security may be freely transferred without registration under the Securities Act and without being subject to transfer restrictions pursuant to the Securities Act, the Company shall permit the holder of such Transfer Restricted Security to exchange such Transfer Restricted Security for a new Note which does not bear the applicable portion of the Legend upon receipt of an appropriate certification from such holder and, at the request of the Company, upon receipt of an opinion of counsel, reasonably acceptable to the Company, that the transfer restrictions contained in the Legend are no longer applicable.

(e) Replacement of Lost, Stolen or Destroyed Note. Upon receipt of an executed lost note affidavit in form and substance satisfactory to the Company regarding the loss, theft, destruction, or mutilation of this Note and, if requested by the Company in the case of any such loss, theft or destruction, upon delivery of an indemnity bond or other agreement or security reasonably satisfactory to the Company, or, in the case of any such mutilation, upon surrender and cancellation of this Note, the Company will issue a new Note, of like tenor, in the amount of unpaid principal of this Note, in lieu of such lost, stolen, destroyed or mutilated Note.

11. **MISCELLANEOUS**

(a) Notices. All notices (including the Conversion Notice, if any), consents, waivers and other communications required or permitted by this Note shall be in writing and shall be deemed given to a party when (a) delivered to the appropriate address by hand, (b) one (1) Business Day following delivery to a nationally recognized overnight courier service (costs prepaid), or (c) received or rejected by

the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses and marked to the attention of the person (by name or title) designated below (or to such other address or person as a party may designate by notice to the other party):

the Company:	SurgiVision, Inc. Attention: Chief Financial Officer One Commerce Square Suite 2550 Memphis, TN 38103
With copy to:	SurgiVision, Inc. Attention: VP, Business Affairs One Commerce Square Suite 2550 Memphis, TN 38103
Brainlab:	Brainlab AG. Attention: Chief Financial Officer Kapellenstr. 12, 85622 Feldkirchen, Germany
With copy to:	Legal Department Attention: General Counsel, Brainlab AG Kapellenstr. 12, 85622 Feldkirchen, Germany

(b) Successors. All agreements of the Company in this Note shall bind its successor.

(c) Severability. Each provision of this Note shall be considered separable and if for any reason any provision which is not essential to the effectuation of the basic purpose of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(d) Applicable Law; Dispute Resolution. This Note shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Note shall be governed by, the internal laws of the State of Delaware, without giving effect to provisions thereof regarding conflict of laws. The parties hereby submit to the exclusive jurisdiction of any state or federal court located within the State of Delaware, over any dispute arising out of or relating to this Note or any of the transactions contemplated hereby, and further agree that venue for all such matters shall lie exclusively in those courts and that process for any such action or proceeding may be served on any party anywhere in the world. The parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have, including, but not limited to, any claim of forum non conveniens, to venue in the courts noted above. Each of the parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the parties hereto hereby agrees that this Note involves at least One Hundred Thousand Dollars ($100,000), and that it has been entered into in express reliance on 6 Del. C. § 2708. **EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY** in any dispute, and consents to any and all relief ordered by the court, after the time for appeal has expired.

(e) Time is of the Essence. The Company hereby agrees that time is of the essence in the performance of this Note.

(f) No Third Party Beneficiaries. This Note is for the sole benefit of the parties hereto and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable benefit, claim, cause of action, remedy or right of any kind.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed this as of the date first written above.

SURGIVISION, INC.

By: /s/ Kimble Jenkins
Name: Kimble Jenkins
Title: CEO

Acknowledged, accepted and agreed to as of the date set forth above:

BRAINLAB AG

By: /s/ Joseph Doyle
Name: Joseph Doyle
Title: CFO

Acknowledged, accepted and agreed to as of the date set forth above with respect to Section 6(b) hereof on behalf of the Junior Lender:

LANDMARK COMMUNITY BANK
as collateral agent for the ratable benefit of the Junior Lender

By: /s/ William Bryan Jones
Name: William Bryan Jones
Title: S.V.P.

DISCLOSURE SCHEDULES

AS MADE PART OF THE

10% SUBORDINATED SECURED

CONVERTIBLE NOTE DUE 2016

ISSUED BY

SURGIVISION, INC.

IN FAVOR OF

BRAINLAB AG.

DATED AS OF APRIL 5, 2011

Except as otherwise defined herein, capitalized terms in these schedules shall have the meanings ascribed to those terms in the above-referenced 10% Subordinated Secured Convertible Note Due 2016 (the "Note").

Schedule 7(b)
Capitalization

There are presently 3,759,977 shares of SurgiVision's common stock, par value $0.01 per share (the "Common Stock"), issuable upon exercise of outstanding options. The options issued by SurgiVision provide for acceleration of the applicable vesting schedules upon the occurrence of a "Change of Control" event. The circumstances that constitute a "Change of Control" are set forth in the applicable option agreement or the applicable stock option plan under which the option was granted. Certain options issued to SurgiVision's directors and executive officers will become exercisable only if SurgiVision closes one or more equity financings that result in certain minimum cash proceeds.

There are presently 435,984 shares of Common Stock issuable upon exercise of outstanding warrants.

As provided in the Company's certificate of incorporation (as amended and restated to date, the "COI"), shares of SurgiVision's Series A Convertible Preferred Stock are convertible into shares of Common Stock.

The Senior Notes are convertible into shares of Capital Stock in accordance with the terms thereof.

In March 2010, SurgiVision issued certain unsecured convertible notes in the aggregate principal amount of $4,071,000 in a private placement transaction. Such notes are convertible into shares of Common Stock.

The Note is convertible into shares of Capital Stock in accordance with the terms thereof.

Schedule 7(g)
Litigation

On April 22, 2010, SurgiVision Consultants, Inc. and Guy M. Kezirian (collectively, the "Plaintiffs") filed a lawsuit against SurgiVision in the United States District Court, Central District of California, alleging trademark infringement, unfair competition, trademark dilution and violation of the Anti-Cybersquatting Protection Act, all relating to SurgiVision's use of its "SURGI-VISION" and "SURGIVISION" trademarks and its "surgivision.com" domain name. SurgiVision and the Plaintiffs entered into a binding settlement agreement on February 16, 2011, and an order dismissing the litigation was entered on February 18, 2011.

Schedule 7(h)(ii)
Intellectual Property

SurgiVision has in place five exclusive license agreements with The Johns Hopkins University.

In December 2005, SurgiVision entered into a development agreement and license agreement with an affiliate of Boston Scientific Corporation in the implantable neurological field.

In July 2007, SurgiVision entered into a master service and license agreement with Cedara Software Corp. (d/b/a Merge OEM).

In July 2007, we entered into a research agreement with The University of Utah ("Utah"). In return for the funding provided by SurgiVision for Utah's research activities, Utah granted SurgiVision a non-exclusive, worldwide license to any intellectual property created or conceived by Utah personnel in the performance of the research. In addition, SurgiVision also received the first option to license exclusively any such intellectual property.

In August 2007, SurgiVision entered into a research agreement with the University of California, San Francisco ("UCSF"). In return for SurgiVision's financial support of UCSF's research, SurgiVision received the first option to license, exclusively or non-exclusively, any intellectual property conceived or created by UCSF personnel under the research project.

In March 2008, SurgiVision entered into a development agreement and license agreement with an affiliate of Boston Scientific Corporation in the field of implantable medical leads for cardiac applications.

In April 2009, we entered into a patent license agreement with the National Institutes of Health, or NIH, that covers techniques for three dimensional renderings of the patient's anatomy from MRI data in real time. The techniques underlying this patent may be used in the development of SurgiVision's ClearTrace system.

In May 2009, SurgiVision entered into a license agreement with Georg Thieme Verlag with respect to an electronic brain atlas.

In May 2009, SurgiVision entered into a cooperation and development agreement with Siemens Healthcare to develop the hardware and MRI software systems for MRI-guided, catheter-based ablation to treat cardiac arrhythmias.

On April 22, 2010, SurgiVision Consultants, Inc. and Guy M. Kezirian (collectively, the "Plaintiffs") filed a lawsuit against SurgiVision in the United States District Court, Central District of California, alleging trademark infringement, unfair competition, trademark dilution and violation of the Anti-Cybersquatting Protection Act, all relating to SurgiVision's use of its "SURGI-VISION" and "SURGIVISION" trademarks and its "surgivision.com" domain name. SurgiVision and the Plaintiffs entered into a binding settlement agreement on February 16, 2011, and an order dismissing the litigation was entered on February 18, 2011.

Schedule 7(i)
No Violation of Law

None

Schedule 7(n)
Financial Statements

On April 22, 2010, SurgiVision Consultants, Inc. and Guy M. Kezirian (collectively, the "Plaintiffs") filed a lawsuit against SurgiVision in the United States District Court, Central District of California, alleging trademark infringement, unfair competition, trademark dilution and violation of the Anti-Cybersquatting Protection Act, all relating to SurgiVision's use of its "SURGI-VISION" and "SURGIVISION" trademarks and its "surgivision.com" domain name. SurgiVision and the Plaintiffs entered into a binding settlement agreement on February 16, 2011, and an order dismissing the litigation was entered on February 18, 2011. The amount of the financial settlement is not reflected in the balance sheet included in the Financial Statements.

Schedule 7(o)(i)
Agreements; Actions

SurgiVision has adopted certain compensation practices for its non-employee directors.

Each of SurgiVision's officers is an employee of the company.

SurgiVision has issued stock options to each of its directors and officers.

In April 2010, SurgiVision entered into a separation agreement with Mr. John C. Thomas, Jr., who previously served as our Chief Financial Officer. Under the separation agreement, Mr. Thomas ceased to be a SurgiVision employee, SurgiVision agreed to pay Mr. Thomas certain severance, and Mr. Thomas agreed to consult and cooperate with SurgiVision in connection with the orderly transition of his business responsibilities to a new Chief Financial Officer. Mr. Thomas continues to serve as a director of the company.

SurgiVision adopted its Key Personnel Incentive Program to provide a key employee and consultant with the opportunity to receive incentive bonus payments based on future performance of services to the company or upon a consummation of a sale transaction. The compensation committee of SurgiVision's Board of Directors is responsible for administering the program, and the only participants in the program are Paul A. Bottomley and Parag Karmarkar. Dr. Bottomley is a director of the company.

Schedule 7(o)(ii)
Agreements; Actions

None

Schedule 7(p)
Changes

On April 22, 2010, SurgiVision Consultants, Inc. and Guy M. Kezirian (collectively, the "Plaintiffs") filed a lawsuit against SurgiVision in the United States District Court, Central District of California, alleging trademark infringement, unfair competition, trademark dilution and violation of the Anti-Cybersquatting Protection Act, all relating to SurgiVision's use of its "SURGI-VISION" and "SURGIVISION" trademarks and its "surgivision.com" domain name. SurgiVision and the Plaintiffs entered into a binding settlement agreement on February 16, 2011, and an order dismissing the litigation was entered on February 18, 2011. The amount of the financial settlement is not reflected in the Financial Statements. Pursuant to the settlement agreement, SurgiVision also abandoned the registrations for its "SURGI-VISION" and "SURGIVISION" trademarks, and it transferred to the Plaintiffs the "surgivision.com" domain name.

Schedule 7(q)
Employee Benefit Plans

SurgiVision utilizes ADP Total Source as a Professional Employer Organization. As such, SurgiVision's employees are co-employed through ADP. ADP administers and maintains the benefit plans in which SurgiVision's employees participate. The benefits made available to SurgiVision's employees through ADP include a 401(k) plan, medical insurance, life insurance, long-term disability coverage, and flexible spending accounts for health care and dependent care costs. SurgiVision does not match contributions made by participants in the 401(k) plan.

In April 2010, SurgiVision entered into a separation agreement with Mr. John C. Thomas, Jr., who previously served as our Chief Financial Officer. Under the separation agreement, Mr. Thomas ceased to be a SurgiVision employee, SurgiVision agreed to pay Mr. Thomas certain severance, and Mr. Thomas agreed to consult and cooperate with SurgiVision in connection with the orderly transition of his business responsibilities to a new Chief Financial Officer. Mr. Thomas continues to serve as a director of the company.

SurgiVision adopted its Key Personnel Incentive Program to provide a key employee and consultant with the opportunity to receive incentive bonus payments based on future performance of services to the company or upon a consummation of a sale transaction. The compensation committee of SurgiVision's Board of Directors is responsible for administering the program, and the only participants in the program are Paul A. Bottomley and Parag Karmarkar. Dr. Bottomley is a director of the company.

SurgiVision adopted its Cardiac EP Business Participation Plan to enable it to provide a key product development advisor and consultant with financial rewards in the event SurgiVision sells its cardiac EP business operations. SurgiVision's cardiac EP business operations include its operations relating to the ClearTrace system for MRI-guided cardiac ablation to treat cardiac arrhythmias, but it does not include SurgiVision's operations relating to its ClearPoint system, its SafeLead Development Program or any other product or product candidate. The sole participant in the plan is Dr. Nassir F. Marrouche.

SurgiVision has two plans under which it is currently issuing stock option awards, the 2010 Incentive Compensation Plan and the 2010 Non-Qualified Stock Option Plan. Although there are options outstanding under SurgiVision's 2007 Stock Incentive Plan and 1998 Stock Option Plan, no new awards may be granted under those plans.

SurgiVision has implemented a ClearPoint Sales Incentive Program that covers SurgiVision's Vice President, Sales and Sales Representatives.

Schedule 7(r)
Tax Returns, Payments and Elections

None

FIRST AMENDMENT TO
10% SUBORDINATED SECURED CONVERTIBLE NOTE DUE 2016

This **FIRST AMENDMENT** (this "Amendment") is made effective as of September 30, 2011 and is made in reference to that certain 10% Subordinated Secured Convertible Note Due 2016 (the "Note") issued by MRI Interventions, Inc. f/k/a SurgiVision, Inc., a Delaware corporation (the "Company"), and payable to Brainlab AG, a corporation organized under the laws of the Federal Republic of Germany ("Brainlab").

WHEREAS, the Company previously issued the Note to Brainlab; and

WHEREAS, the Company and Brainlab desire to amend the terms of the Note;

NOW, THEREFORE, the Note is hereby amended as set forth below:

1. Defined Terms. Capitalized terms used in this Amendment without definition shall have the same meanings ascribed to such terms in the Note.

2. Amendment to Section 4 (Conversion). Section 4 of the Note (Conversion) is hereby amended by deleting paragraph (a)(iv) in its entirety and substituting the following therefor:

"(iv) Subject to the adjustments provided by this Section 4, the **"Conversion Price"** shall be the lesser of (A) the price per share paid by investors in the Qualified Financing for one share of Qualified Financing Stock, or (B) $0.60 per share.

3. Amendment to Section 9 (Defaults and Remedies). Section 9 of the Note (Defaults and Remedies) is hereby amended by deleting clause (7) of paragraph (a) thereof and substituting the following therefor:

"(7) failure to consummate a Qualified Financing within 360 days following the date of this Note;"

4. Miscellaneous. On and after the date hereof, reference in the Note to "this Note", "hereunder", "hereof", "herein" or words of like import referring to such Note shall mean and be a reference to the Note as amended by this Amendment. Except as expressly provided in this Amendment, all other terms, conditions and provisions of the Note shall continue in full force and effect as provided therein.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company has executed, acknowledged and delivered this Amendment as of the day and year first above written.

MRI INTERVENTIONS, INC.

By: /s/ Oscar Thomas
Name: Oscar Thomas
Title: Vice President, Business Affairs

Acknowledged, accepted and agreed to
as of the date set forth above:

BRAINLAB AG

By: /s/ Joseph Doyle
Name: Joseph Doyle
Title: CFO

THIS CONVERTIBLE PROMISSORY NOTE AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR UNDER THE SECURITIES LAWS OF ANY STATE. THIS CONVERTIBLE PROMISSORY NOTE HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO THE DISTRIBUTION THEREOF. THIS CONVERTIBLE PROMISSORY NOTE AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND REGISTRATION OR QUALIFICATION UNDER APPLICABLE STATE SECURITIES LAWS OR AN OPINION OF COUNSEL THAT SUCH PROPOSED TRANSFER DOES NOT VIOLATE THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

MRI INTERVENTIONS, INC.
UNSECURED CONVERTIBLE PROMISSORY NOTE DUE 2013

US$_____ _____, 2011

FOR VALUE RECEIVED, the undersigned, **MRI INTERVENTIONS, INC.**, a Delaware corporation (the "Company"), hereby promises to pay to the order of _____, a _____, or its assigns (collectively, the "Holder"), the principal amount of _____ Dollars (US $_____), together with any accrued and unpaid interest thereon as described herein.

1. Definitions. In addition to the terms defined elsewhere in this Note, the following terms have the meanings indicated:

"Business Day" means any day other than a Saturday, Sunday or other day on which banks in Memphis, Tennessee are required to be closed.

"Common Stock" means the Company's common stock, par value $.01 per share.

"Continuing Company" means the public company that continues following the closing of a Reverse Merger.

"IPO" means the initial underwritten public offering of the Company's Common Stock pursuant to an effective registration statement under the Securities Act.

"IPO Conversion Price" means sixty percent (60%) of the per share public offering price of the Company's Common Stock in its IPO.

"Person" means any individual or entity.

"Qualified Financing" means a financing transaction that occurs after a Reverse Merger in which the Continuing Company issues shares of its capital stock in exchange for cash proceeds, if such transaction provides gross proceeds to the Continuing Company of at least $5,000,000.

"Qualified Financing Conversion Price" means sixty percent (60%) of the per share price paid by investors in the Qualified Financing for a share of Qualified Financing Stock.

"Qualified Financing Stock" means shares of the Continuing Company's capital stock issued in a Qualified Financing.

"Reverse Merger" means a business combination transaction involving the Company and a public company (which could include, but is not limited to, a public shell) after which the public company continues and survives but less than a majority of the combined voting power of the then-outstanding securities of such public company immediately after such transaction are held, directly or indirectly, in the aggregate by the holders of securities entitled to vote generally in the election of directors of the public company immediately prior to such transaction.

"Reverse Merger Conversion Price" means a conversion price per share determined prior to the closing of a Reverse Merger in accordance with the next sentence. In the event of a pending Reverse Merger, the Company and the Holder will work together in good faith to establish an equitable conversion price per share that effectively represents a forty percent (40%) discount factor.

2. Principal Amount. The principal amount represented by this Convertible Promissory Note (this "Note") is _____ Dollars (US$_____).

3. Interest. The unpaid principal balance from time to time outstanding hereunder shall bear interest from the date hereof until paid in full at a fixed rate of fifteen percent (15.0%) per annum. Interest will accrue on this Note from its original issuance date on the basis of a 360-day year consisting of twelve 30 day months.

4. Payment of Principal and Interest. Subject to earlier payment or conversion as provided for elsewhere in this Note, the Company shall pay to the Holder the entire unpaid principal amount and all unpaid accrued interest under this Note in full on _____, 2013 (the "Maturity Date"). Principal and interest due hereunder shall be paid in lawful money of the United States of America in immediately available federal funds or the equivalent at the address of the Holder set forth in Section 6 below or at such other address as the Holder may designate. All payments made hereunder shall first be applied to interest then due and payable, and any excess payment shall then be applied to reduce the principal amount. Upon payment in full of all principal and interest payable hereunder, the Holder shall surrender this Note to the Company for cancellation.

5. Conversion of Note.

(a) Conversion upon IPO. Simultaneous with the closing of an IPO, the entire outstanding principal amount of this Note and all accrued interest then outstanding shall automatically be converted into shares of Common Stock. The number of shares of Common Stock issuable upon a conversion pursuant to this Section 5(a) shall equal (i) the sum of the outstanding principal amount of this Note and all accrued interest then outstanding, divided by (ii) the IPO Conversion Price.

(b) Conversion with Reverse Merger. Provided the Company and the Holder reach agreement as to the Reverse Merger Conversion Price, the entire outstanding principal amount of this Note and all accrued interest then outstanding shall be converted into shares of Common Stock in connection with (and prior to the closing of) a Reverse Merger. The number of shares of Common Stock issuable upon a conversion pursuant to this Section 5(a) shall equal (i) the sum of the outstanding principal amount of this Note and all accrued interest then outstanding, divided by (ii) the Reverse Merger Conversion Price. Unless an earlier conversion date is agreed between the Company and the Holder, a conversion under this Section 5(b) shall be deemed effective as of the day immediately preceding the closing date of the Reverse Merger. In the absence of agreement between the Company and the Holder as to the Reverse Merger Conversion Price, this Note shall not convert pursuant to this Section 5(b).

(c) Conversion upon Qualified Financing. Subject to earlier conversion in connection with a Reverse Merger, simultaneous with the closing of a Qualified Financing, the entire outstanding principal amount of this Note and all accrued interest then outstanding shall automatically be converted into shares of Qualified Financing Stock. The number of shares of Qualified Financing Stock issuable upon a conversion pursuant to this Section 5(c) shall equal (i) the sum of the outstanding principal amount of this Note and all accrued interest then outstanding, divided by (ii) the Qualified Financing Conversion Price.

(d) Reservation of Shares. The number of shares issuable and deliverable upon the conversion of this entire Note shall be reserved and kept available out of authorized but unissued and otherwise unreserved capital stock, solely for the purpose of issuance as required hereunder, free from preemptive rights or any other contingent purchase rights of Persons other than the Holder. All shares so issuable and deliverable shall, upon issuance in accordance with the terms hereof, be duly and validly authorized and issued and fully paid and nonassessable.

(e) Mechanics of Conversion. As soon as practicable upon conversion of this Note, (i) a certificate for the shares issuable upon such conversion, with such restrictive legends as are appropriate under the circumstances, shall be issued and delivered to or upon the written order of the Holder in such name or names as the Holder may designate, and (ii) the Holder shall surrender this Note for cancellation. The Holder, or any Person so designated by the Holder to receive shares, shall be deemed to have become holder of record of such shares as of the conversion date.

(f) No Fractional Shares. No fractional shares shall be issued upon any conversion of this Note. If any fraction of a share would, except for the provisions of this Section 5(f), be issuable upon conversion of this Note, the number of shares to be issued will be rounded up to the nearest whole share.

6. Notices. All notices and other communications required or permitted hereunder to be given to a party to this Note shall be in writing and shall be faxed, mailed by registered or certified mail postage prepaid, delivered by a national overnight delivery service, or otherwise delivered by hand, electronically (including by email) or by messenger, addressed to such party's address as set forth below:

if to the Company: MRI Interventions, Inc.
Attention: Vice President, Business Affairs
One Commerce Square, Ste 2550
Memphis TN 38103
Facsimile: (901) 522-9400

if to the Holder: _____

_____

_____

_____

or such other address with respect to a party as such party shall notify each other party in writing as above provided. Any notice sent in accordance with this Section 6 shall be effective upon the earlier of: (i) if mailed, seven Business Days after mailing; (ii) if sent by messenger, upon delivery; (iii) if sent by a nationally recognized overnight delivery service, one Business Day after having been dispatched; (iv) if sent via fax, upon transmission and electronic confirmation of transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and electronic confirmation of transmission (provided, however, that any notice of change of address shall only be valid upon receipt); (v) if sent by electronic mail, upon transmission and notice by telephone of such transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and notice by telephone; and (vi) upon the actual receipt thereof.

7. Default and Remedies.

(a) An "Event of Default" under this Note shall mean the occurrence of any of the following events:

(i) If the Company shall fail to make when due the payment of the principal amount or interest as required by this Note, whether at the due date thereof or by acceleration thereof or otherwise; or

(ii) The commencement by the Company of any bankruptcy, insolvency, receivership or similar proceedings under any federal or applicable state law; or the commencement against the Company of any bankruptcy, insolvency, receivership or similar proceeding under any federal or applicable state law by creditors of the Company or other similar law of any jurisdiction, provided, that such proceeding shall not be deemed an Event of Default if such proceeding is dismissed within ninety (90) days of commencement.

(b) Upon and during the continuation of an Event of Default, the Holder may declare the outstanding principal amount, and all accrued and unpaid interest on the principal amount, immediately due and payable, and such amount shall be collectible immediately or at any time after such Event of Default. The rights and remedies provided by this Note shall be cumulative, and shall be in addition to, and not exclusive of, any other rights and remedies available at law or in equity.

8. Assignability. Neither party may assign this Note without the prior consent of the other party. No such assignment shall constitute a novation or release of the Company of the obligations hereof or from any liability to the Holder.

9. Usury Laws. It is the intention of the Company and the Holder to conform strictly to all applicable usury laws now or hereafter in force, and any interest payable under this Note shall be subject to reduction to an amount that is the maximum legal amount allowed under the applicable usury laws as now or hereafter construed by the courts having jurisdiction over such matters. The aggregate of all interest (whether designated as interest, service charges, points or otherwise) contracted for, chargeable, or receivable under this Note shall under no circumstances exceed the maximum legal rate upon the principal amount remaining unpaid from time to time. If such interest does exceed the maximum legal rate, it shall be deemed a mistake and such excess shall be canceled automatically and, if theretofore paid, rebated to the Company or credited on the principal amount, or if this Note has been repaid, then such excess shall be rebated to the Company.

10. Miscellaneous.

(a) Any amendment hereto or waiver of any provision hereof must be in writing and signed by both the Company and the Holder.

(b) Wherever in this Note reference is made to the Company or the Holder, such reference shall be deemed to include, as applicable, a reference to their respective successors and permitted assigns, and the provisions of this Note shall be binding upon and shall inure to the benefit of such successors and permitted assigns.

(c) This Note shall in all respects be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of law principles of any jurisdiction to the contrary.

(d) The captions of the Sections of this Note are inserted solely for ease of reference and shall not be considered in the interpretation or construction of this Note.

(e) The Holder, by acceptance of this Note, hereby represents and warrants that (i) the Holder is an "accredited investor" as defined in Rule 501(a) of Regulation D under the Securities Act, (ii) the Holder has been offered the opportunity to obtain information from the Company, to verify the accuracy of the information received by it and to evaluate the merits and risks of its investment in the Company, and to ask questions of and receive satisfactory answers concerning the terms and conditions of its investment in the Company, and (iii) the Holder has acquired this Note for investment only and not for resale or distribution. The Holder, by acceptance of this Note, further understands, covenants and agrees that the Company is under no obligation and has made no commitment to provide for registration of this Note or shares of Common Stock issuable upon conversion of this Note under the Securities Act or applicable state securities laws.

(f) The Company waives presentment, notice and demand, notice of protest, notice of demand and dishonor, and notice of nonpayment of this Note.

(g) In the event that any provision of this Note is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any such provision which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision of this Note. THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY.

(h) No delay in the exercise of any right or remedy of any party hereto shall operate as a waiver thereof, and no single or partial exercise of any such right or remedy shall preclude other or future exercise thereof or the exercise of any other right or remedy.

(i) It is expressly understood and agreed by the parties hereto that if it is necessary to enforce payment of this Note through the engagement or efforts of an attorney or by suit, the Company shall pay reasonable attorneys' fees, expenses of counsel, and other costs of collection actually incurred by the Holder.

(j) The Company may not prepay this Note, in whole or in part, without the prior written consent of the Holder.

(k) This Note may be executed in counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Note.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company has executed, acknowledged and delivered this Note as of the day and year first above written.

MRI INTERVENTIONS, INC.

By: _____
Printed: _____
Title: _____

AGREED TO AND ACCEPTED BY:

_____

By: _____
Printed: _____
Title: _____

AMENDMENT TO
UNSECURED CONVERTIBLE PROMISSORY NOTE DUE 2013

THIS AMENDMENT TO UNSECURED CONVERTIBLE PROMISSORY NOTE DUE 2013 (this "Amendment") is made and entered into as of December __, 2011, by and between **MRI INTERVENTIONS, INC.**, a Delaware corporation (the "Company") and [_____] (the "Holder").

WHEREAS, the Company issued to the Holder that certain Unsecured Convertible Promissory Note Due 2013 in the original principal amount of $[_____], dated as of [_____], 2011 (the "Note"); and

WHEREAS, the Company and the Holder desire to amend the Note to allow and provide for certain matters all as hereinafter set forth.

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

1. Definitions. Capitalized terms used in this Amendment, to the extent not otherwise defined herein, shall have the same meanings as in the Note, as amended hereby.

2. Amendment to Section 1. Section 1 of the Note (Definitions) is hereby amended by adding the following definition for the term "Form 10 Conversion Price":

"Form 10 Conversion Price" means $0.60 per share.

3. Amendment to Section 5. Section 5 of the Note (Conversion of Note) is hereby amended by adding the following new Section 5(g):

(g) Conversion Upon Common Stock Registration. Upon the effective date of a Form 10 or other registration statement pursuant to which the Common Stock is registered as a class of securities under the Securities Exchange Act of 1934, as amended, the entire outstanding principal amount hereunder, together with all accrued but unpaid interest, shall automatically be converted into Common Stock. The number of shares of Common Stock issuable upon a conversion pursuant to this Section 5(g) shall equal the outstanding principal amount of this Note and all accrued but unpaid interest thereon divided by the Form 10 Conversion Price.

4. Miscellaneous. The Note and any and all other agreements, documents or instruments now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Note as amended hereby, are hereby amended so that any reference in such documents to the Note shall mean a reference to the Note, as amended hereby. The terms and provisions set forth in this Amendment shall modify and supersede all inconsistent terms and provisions set forth in the Note and except as expressly modified and superseded by this Amendment, the terms and provisions of the Note are ratified and confirmed and shall continue in full force and effect.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company and the Holder have caused this Amendment to be executed and delivered effective as of the day and year first written above.

THE COMPANY:

MRI INTERVENTIONS, INC.

By: _____
Name: _____
Title: _____

THE HOLDER:

_____
Print name of the Holder

_____
Signature

Exhibit 4.7

THIS PROMISSORY NOTE AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR UNDER THE SECURITIES LAWS OF ANY STATE. THIS PROMISSORY NOTE HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO THE DISTRIBUTION THEREOF. THIS PROMISSORY NOTE AND THE SECURITES ISSUABLE UPON CONVERSION HEREOF MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND REGISTRATION OR QUALIFICATION UNDER APPLICABLE STATE SECURITIES LAWS OR AN OPINION OF COUNSEL THAT SUCH PROPOSED TRANSFER DOES NOT VIOLATE THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

THIS PROMISSORY NOTE AND THE RIGHTS AND OBLIGATIONS EVIDENCED HEREBY ARE SUBORDINATE IN THE MANNER AND TO THE EXTENT SET FORTH IN SECTION 7 BELOW. THE HOLDER OF THIS INSTRUMENT, BY ITS ACCEPTANCE HEREOF, IRREVOCABLY AGREES TO BE BOUND BY SUCH PROVISIONS.

MRI INTERVENTIONS, INC.
10% SECURED CONVERTIBLE PROMISSORY NOTE DUE 2014

US$_____ _____, 2011

FOR VALUE RECEIVED, the undersigned, **MRI INTERVENTIONS, INC.**, a Delaware corporation (the "Company"), hereby promises to pay to the order of _____ or its registered assigns (collectively, the "Holder") the principal amount of _____ Dollars (US $_____), together with accrued and unpaid interest thereon as described herein.

1. Definitions. In addition to the terms defined elsewhere in this Note, the following terms have the meanings indicated:

"BSC Debt" means all indebtedness, including principal and all accrued interest thereon, outstanding under those certain Secured Convertible Promissory Notes issued by the Company to Boston Scientific Corporation dated as of October 16, 2009, November 17, 2009 and December 18, 2009, respectively, in the aggregate original principal amount of $3,500,000, as such notes may be amended and in effect from time to time.

"Business Day" means any day other than a Saturday, Sunday or other day on which banks in Memphis, Tennessee are required to be closed.

"Collateral Agent" means the collateral agent under the Security Agreement.

"Common Stock" means the Company's common stock, par value $.01 per share, or any capital stock resulting from a reclassification of such common stock.

"Conversion Price" means $0.60, subject to adjustment from time to time pursuant to Section 9 hereof.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Derivative Securities" means any securities or rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Common Stock, including options and warrants.

"IPO" means an underwritten public offering of shares of Common Stock for the account of the Company pursuant to an effective registration statement under the Securities Act.

"Notes" means, collectively, this Note and all other secured convertible promissory notes issued by the Company in the same financing transaction (whether in a single closing or multiple closings).

"New Securities" means, collectively, equity securities of the Company, whether or not currently authorized, as well as rights, options, or warrants to purchase such equity securities, or securities of any type whatsoever that are, or may become, convertible or exchangeable into or exercisable for such equity securities; provided, however, that the term "New Securities" does not include (a) securities issued pursuant to the Company's direct or indirect acquisition of another Person by (i) merger, (ii) purchase of assets or (iii) other reorganization whereby the Company becomes the owner of more than fifty percent (50%) of the voting power of such Person, (b) securities issued upon exercise or conversion of any options, warrants, notes or other convertible securities, (c) securities (including, but not limited to, options) granted or issued to employees, officers, directors, consultants or advisors of the Company pursuant to plans or agreements approved by the Company's Board of Directors or a duly authorized committee thereof, (d) securities issued in a public offering pursuant to an effective registration statement under the Securities Act, (e) securities issued in connection with sponsored research, collaboration, technology license, development, OEM, distribution, marketing or other similar agreements or strategic partnerships approved by the Company's Board of Directors or a duly authorized committee thereof, or (f) securities issued with the consent of the Required Holders.

"Person" means any individual or entity.

"Required Holders" means, at any time, holders of a majority in aggregate principal amount of the Notes then outstanding.

"Sale Transaction" means a transaction or series of related transactions pursuant to which (a) the Company is merged, consolidated or reorganized into or with another Person, or securities of the Company are exchanged for securities of another Person, and immediately after such merger, consolidation, reorganization or exchange less than a majority of the combined voting power of the then-outstanding securities of such Person immediately after such transaction are held, directly or indirectly, in the aggregate by the holders of securities entitled to vote generally in the election of directors of the Company immediately prior to such transaction, or (b) the Company sells all or substantially all of its assets to any other Person and less than a majority of the combined voting power of the then-outstanding securities of such Person immediately after such sale are held, directly or indirectly, in the aggregate by the holders of securities entitled to vote generally in the election of directors of the Company immediately prior to such sale.

"Securities Act" means the Securities Act of 1933, as amended.

"Security Agreement" means that certain Security Agreement by and between the Company and Landmark Community Bank, as collateral agent for the ratable benefit of the holders of the Notes.

"Subordination Agreement" shall mean a subordination agreement entered into with Boston Scientific Corporation to evidence the senior priority of the BSC Debt as otherwise contemplated in Section 7 hereof.

2. Principal Amount. The principal amount represented by this Secured Convertible Promissory Note (this "Note") is _____Dollars (US$_____).

3. Interest. The unpaid principal balance from time to time outstanding hereunder shall bear interest from the date hereof until paid in full at a fixed rate of ten percent (10.0%) per annum. Interest will accrue on this Note from and including its original issuance date on the basis of a 360-day year consisting of twelve 30 day months.

4. Payment of Principal and Interest. Subject to earlier payment or conversion as provided for elsewhere in this Note, the Company shall pay to the Holder the entire unpaid principal amount and all unpaid accrued interest under this Note in full on the third (3rd) year anniversary of the original issuance date (the "Maturity Date"). Principal and interest due hereunder shall be paid in lawful money of the United States of America in immediately available federal funds or the equivalent at the address of the Holder set forth in Section 12 below or at such other address as the Holder may designate. All payments made hereunder shall first be applied to interest then due and payable and any excess payment shall then be applied to reduce the principal amount. Upon payment in full of all principal and interest payable hereunder, the Holder shall surrender this Note to the Company for cancellation.

5. Prepayment. Subject to the provisions of Section 7 hereof, the Company shall be permitted to prepay, without penalty or premium, all or any portion of the unpaid principal amount and/or any unpaid accrued interest under this Note at any time prior to the Maturity Date, upon no less than 15 days prior written notice to the Holder.

6. Security Interest. This Note is secured by a security interest in the Company's property and assets pursuant to the Security Agreement, to which reference is made for a description of the security for this Note.

7. Subordination. Notwithstanding any provision herein to the contrary, the Company and the Holder hereby agree that the obligations of the Company to the Holder hereunder shall be subordinated in all respects, including in right of payment, to the BSC Debt and that the Holder shall not be entitled to receive any payment from the Company hereunder (other than as contemplated in Section 8 below) until the BSC Debt has been discharged in full. The Holder, by its acceptance of this Note, (a) authorizes the Collateral Agent on the Holder's behalf to take such action as may be necessary or appropriate to further effectuate the subordination as provided in this Section 7, including, without limitation, the execution and delivery of a Subordination Agreement with Boston Scientific Corporation, and (b) appoints the Collateral Agent its attorney-in-fact for any and all such purposes. The Holder of this Note, whether upon original issue or upon transfer or assignment hereof, by such Holder's acceptance hereof, agrees that this Note shall be subject to the provisions of any such Subordination Agreement.

8. Conversion into Common Stock.

(a) Optional Conversion. Subject to earlier payment or conversion as provided for elsewhere in this Note, this Note (the entire outstanding principal amount hereunder, together with all unpaid accrued interest) may be converted into shares of Common Stock at the option of the Holder. The Holder shall effect a conversion under this Section 8(a) by delivering to the Company notice of the Holder's election to convert this Note ("Conversion Notice"). The number of shares of Common Stock issuable upon a conversion pursuant to this Section 8(a) shall equal (i) the sum of the outstanding principal amount plus all unpaid accrued interest, divided by (ii) the then effective Conversion Price as of the date the Conversion Notice is delivered to the Company.

(b) Mandatory Conversion Upon Securities Registration. Subject to earlier payment or conversion as provided for elsewhere in this Note, upon any of (i) the closing of an IPO; (ii) the effective date of a Form 10 or other registration statement pursuant to which the Common Stock is registered as a class of securities under the Exchange Act; or (iii) the effective date, but immediately prior to the effective time, of the closing of a merger, share exchange or other similar transaction pursuant to which the Company merges or exchanges shares with another Person (or a subsidiary of such Person) that has a class of securities registered under the Exchange Act, regardless of whether the Company, such other Person or a subsidiary of such other Person survives such transaction; the entire outstanding principal amount hereunder, together with all unpaid accrued interest, shall automatically be converted into shares of Common Stock. The number of shares of Common Stock issuable upon a conversion pursuant to this Section 8(b) shall equal (A) the sum of the outstanding principal amount plus all unpaid accrued interest, divided by (B) the then effective Conversion Price.

(c) Mandatory Conversion Upon Sale Transaction. Subject to earlier payment or conversion as provided for elsewhere in this Note, upon the effective date, but immediately prior to the effective time, of the closing of a Sale Transaction, the entire outstanding principal amount hereunder, together with all unpaid accrued interest, shall automatically be converted into shares of Common Stock. The number of shares of Common Stock issuable upon a conversion pursuant to this Section 8(c) shall equal (i) the sum of the outstanding principal amount plus all unpaid accrued interest, divided by (ii) the then effective Conversion Price.

(d) Mandatory Conversion Upon Consent of Required Holders. Subject to earlier payment or conversion as provided for elsewhere in this Note, upon the date and time, or the occurrence of an event, specified by vote or written consent of the Required Holders, the entire outstanding principal amount hereunder, together with all unpaid accrued interest, shall automatically be converted into shares of Common Stock. The number of shares of Common Stock issuable upon a conversion pursuant to this Section 8(d) shall equal (1) the sum of the outstanding principal amount plus all unpaid accrued interest, divided by (2) the then effective Conversion Price as of the date and time specified, or the time of the event specified, in such vote or written consent of the Required Holders.

(e) Procedural Requirements. As soon as practicable upon conversion, the Holder shall surrender this Note (or, if the Holder alleges that this Note has been lost, stolen or destroyed, a lost note affidavit and agreement reasonably acceptable to the Company to indemnify the Company against any claim that may be made against the Company on account of the alleged loss, theft or destruction of this Note) to the Company. As soon as practicable after the Holder's surrender of this Note (or such lost note affidavit and agreement), the Company shall issue or cause to be issued and deliver or cause to be delivered to or upon the written order of the Holder and in such name or names as the Holder may designate a certificate for the shares of Common Stock issuable upon such conversion, with such restrictive legends as deemed necessary by the Company. The Holder, or any Person so designated by the Holder to receive shares, shall be deemed to have become holder of record of such shares as of the conversion date. Upon conversion, all rights with respect to this Note will terminate (notwithstanding the failure of the Holder to surrender this Note to the Company), except only the rights of the Holder, upon surrender of this Note (or lost note affidavit and agreement), to receive the shares of Common Stock as provided above.

(f) No Fractional Shares. The Company shall not issue or cause to be issued fractional shares of Common Stock on conversion of this Note. If any fraction of a share of Common Stock would, except for the provisions of this Section 8(f), be issuable upon conversion of this Note, the number of shares of Common Stock to be issued shall be rounded up to the nearest whole share.

(g) Reservation of Shares. The Company covenants that it will at all times reserve and keep available out of its authorized but unissued and otherwise unreserved shares of Common Stock, solely for the purpose of enabling it to issue shares of Common Stock as required hereunder, the number of shares of Common Stock which are then issuable and deliverable upon the conversion of this Note (taking into account the adjustments set forth in Section 9), free from preemptive rights or any other contingent purchase rights of Persons other than the Holder. The Company covenants that all shares of Common Stock so issuable and deliverable shall, upon issuance in accordance with the terms hereof, be duly and validly authorized and issued and fully paid and non-assessable.

9. Certain Adjustments. The Conversion Price is subject to adjustment from time to time as set forth in this Section 9.

(a) Stock Dividends and Splits. If the Company, at any time while this Note is outstanding, (i) pays a stock dividend on its Common Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Common Stock, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, or (iii) combines outstanding shares of Common Stock into a smaller number of shares, then in each such case the Conversion Price shall be appropriately and equitably adjusted to reflect such event. Any adjustment made pursuant to Section 9(a)(i) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to Section 9(a)(ii) or Section 9(a)(iii) shall become effective immediately after the effective time of such subdivision or combination.

(b) Reorganization, Reclassification, Etc. In case of any capital reorganization, or of any reclassification of the capital stock of the Company (other than a change in par value or from par value to no par value or from no par value to par value or as a result of a split-up or combination) or in case of the consolidation or merger of the Company with or into any other Person (other than (i) a consolidation or merger in which the Company is the continuing entity and which does not result in the Common Stock being changed into or exchanged for stock or other securities or property of any other Person, (ii) a Sale Transaction, or (iii) a consolidation or merger contemplated in Section 8(b) above), the Holder shall have the right immediately thereafter to receive upon the conversion hereof, based on the same Conversion Price in effect immediately prior to such event, the kind and amount of shares of stock or other securities or property (including cash) receivable upon such reclassification, reorganization, merger or consolidation, by a holder of the number of shares of Common Stock into which this Note is convertible immediately prior to such event; and if any reclassification also results in a change covered by Section 9(a), then such adjustment shall be made pursuant to Section 9(a) and this Section 9(b). The provisions of this Section 9(b) shall similarly apply to successive reclassifications, reorganizations, mergers or consolidations.

(c) Calculations. All calculations under this Section 9 shall be made to the nearest cent. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company.

(d) Notice of Adjustments. Upon the occurrence of an adjustment pursuant to this Section 9, the Company, at its expense, will promptly compute such adjustment in accordance with the terms hereof and prepare and deliver to the Holder a certificate describing in reasonable detail such adjustment and the transactions giving rise thereto, including all facts upon which such adjustment is based; provided, however, that any failure of the Company to prepare and deliver such certificate, or any defect therein, shall not in any way impair or affect the validity of the adjustment required to be described in such certificate.

(e) Notice of Corporate Events. If the Company: (i) declares a dividend or any other distribution of cash, securities or other property in respect of its Common Stock; (ii) authorizes or approves, enters into any agreement contemplating, or solicits stockholder approval for, any merger, share exchange or other similar transaction; or (iii) authorizes the voluntary dissolution, liquidation or winding up of the affairs of the Company, then the Company shall deliver to the Holder a notice describing the material terms and conditions of such transaction, at least ten (10) days prior to the applicable record or effective date on which a Person would need to hold Common Stock in order to participate in such transaction; provided, however, that the failure to deliver such notice, or any defect therein, shall not in any way impair or affect the validity of the corporate action required to be described in such notice.

10. Default; Acceleration; Waiver.

(a) An "Event of Default" under this Note shall mean the occurrence of any of the following events:

(i) The Company shall fail to make payment of any amount as required by this Note within fifteen (15) days after the same becomes due and payable, whether at the stated Maturity Date or any accelerated date of maturity;

(ii) Commencement of proceedings for the liquidation of the Company, or any other termination or winding-up of its existence or business,

(iii) Material breach by the Company of any provision of the Security Agreement, provided, that such breach shall not be deemed an Event of Default if such breach is cured prior to the thirty-first (31st) day following written notice of such breach from either the Required Holders or the Collateral Agent;

(iv) A material representation or warranty made by the Company in the Security Agreement shall prove to have been false in any material respect when made, provided, that such breach shall not be deemed an Event of Default if such breach is cured prior to the thirty-first (31st) day following the date the Company becomes aware of the factual circumstances giving rise to the breach, unless such breach has had a material impairment on the Holder's rights under this Note;

(v) Commencement by the Company of any bankruptcy, insolvency, receivership or similar proceedings under any federal or applicable state law;

(vi) Commencement against the Company of any bankruptcy, insolvency, receivership or similar proceeding under any federal or applicable state law by creditors of the Company, provided, that such proceeding shall not be deemed an Event of Default if such proceeding is dismissed within ninety (90) days of commencement; or

(vii) A default occurs under any mortgage, indenture or instrument by which there may be secured or evidenced any indebtedness for money borrowed by the Company, whether such indebtedness exists on the date of this Note or shall be created thereafter, which default (A) is caused by a failure to pay principal of or interest on such indebtedness prior to the expiration of any applicable grace period (a "Payment Default"), or (B) results in the acceleration of such indebtedness prior to its express maturity, and, in each case, the principal amount of such indebtedness, together with the principal amount of any other indebtedness for money borrowed by the Company under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates $500,000 or more.

(b) Upon the occurrence of any Event of Default (other than an Event of Default as specified in Section 10(a)(v) or Section 10(a)(vi)) and so long as such Event of Default is continuing, subject to the provisions of Section 7 above and any Subordination Agreement, the Required Holders may, at their option and upon written notice of acceleration given to the Company, declare the entire unpaid portion of the principal amount and all unpaid accrued interest under the Notes due and payable. Subject to the provisions of Section 7 above and any Subordination Agreement, if an Event of Default specified in Section 10(a)(v) or Section 10(a)(vi) occurs and is continuing, then the entire unpaid portion of the principal amount and all unpaid accrued interest under the Notes shall automatically, and without any notice or any other action on the part of the Holder or any other holders of Notes, become due and payable immediately.

(c) Prior to or after any notice of acceleration given to the Company, the Required Holders may, on behalf of all holders of the Notes, waive any Event of Default that has occurred hereunder and its consequences. Whenever any Event of Default hereunder shall have been waived as permitted by this Section 10(c), such Event of Default shall for all purposes of the Notes be deemed to have been cured and to be not continuing.

(d) The rights and remedies provided by this Note shall be cumulative, and shall be in addition to, and not exclusive of, any other rights and remedies available at law or in equity.

11. Participation Rights.

(a) Subject to the terms and conditions of this Section 11 and applicable securities laws, for so long as this Note is outstanding, if the Company proposes to offer or sell any New Securities, the Company shall first offer such New Securities to the Holder.

(b) The Company shall give notice (the "Offer Notice") to the Holder, stating (i) its bona fide intention to offer such New Securities, (ii) the number of such New Securities to be offered, and (iii) the price and terms, if any, upon which it proposes to offer such New Securities.

(c) By notification to the Company within three (3) days after the Offer Notice is given, the Holder may elect to purchase or otherwise acquire, at the price and on the terms specified in the Offer Notice, up to that portion of such New Securities which equals the proportion that the Common Stock issued and held, or issuable upon conversion and/or exercise, as applicable, of any Derivative Securities (including, without limitation, this Note) then held, by the Holder bears to the total Common Stock of the Company then outstanding (assuming full conversion and/or exercise, as applicable, of all Derivative Securities (including, without limitation, the Notes)).

(d) The Company may, during the one hundred twenty (120) day period following the expiration of the period provided in Section 11(c), offer and sell the remaining unsubscribed portion of such New Securities to any Person or Persons at a price not less than, and upon terms no more favorable to the offeree than, those specified in the Offer Notice. If the Company does not enter into an agreement for the sale of the New Securities within such period, or if such agreement is not consummated within thirty (30) days of the end of such period, the right provided hereunder shall be deemed to be revived and such New Securities shall not be offered unless first reoffered to the Holder in accordance with this Section 11.

(e) Notwithstanding any provision hereof to the contrary, in lieu of complying with the foregoing provisions of this Section 11, the Company may elect to give notice to the Holder within thirty (30) days after the issuance of New Securities. Such notice shall describe the type, price, and terms of the New Securities. The Holder shall have ten (10) days from the date notice is given to elect to purchase up to the number of New Securities that would, if purchased by the Holder, maintain the Holder's percentage-ownership position, calculated as set forth in Section 11(c) before giving effect to the issuance of such New Securities.

(f) The rights of the Holder, and the obligations of the Company, under this Section 11 shall terminate upon payment or conversion of this Note.

12. Notices. All notices and other communications required or permitted hereunder to be given to a party to this Note shall be in writing and shall be faxed, mailed by registered or certified mail postage prepaid, delivered by a national overnight delivery service, or otherwise delivered by hand, electronically (including by email) or by messenger, addressed to such party's address as set forth below:

if to the Company: MRI Interventions, Inc.
Attention: Vice President, Business Affairs
One Commerce Square, Ste 2550
Memphis TN 38103
Facsimile: (901) 522-9400

if to the Holder: _____
_____
_____
Facsimile:_____
Email:_____

or such other address with respect to a party as such party shall notify the other party in writing as above provided. Any notice sent in accordance with this Section 12 shall be effective upon the earlier of: (a) if mailed, seven Business Days after mailing; (b) if sent by messenger, upon delivery; (c) if sent by a nationally recognized overnight delivery service, one Business Day after having been dispatched; (d) if sent via fax, upon transmission and electronic confirmation of transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and electronic confirmation of transmission (provided, however, that any notice of change of address shall only be valid upon receipt); (e) if sent by electronic mail, upon transmission and notice by telephone of such transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and notice by telephone; and (f) upon the actual receipt thereof.

13. Assignability. Neither party may assign this Note without the prior consent of the other party. No such assignment shall constitute a novation or release of the Company of the obligations hereof or from any liability to the Holder.

14. Usury Laws. It is the intention of the Company and the Holder to conform strictly to all applicable usury laws now or hereafter in force, and any interest payable under this Note shall be subject to reduction to an amount that is the maximum legal amount allowed under the applicable usury laws as now or hereafter construed by the courts having jurisdiction over such matters. The aggregate of all interest contracted for under this Note shall under no circumstances exceed the maximum legal rate upon the principal amount remaining unpaid from time to time. If such interest does exceed the maximum legal rate, it shall be deemed a mistake and such excess shall be canceled automatically and, if theretofore paid, rebated to the Company or credited on the principal amount, or if this Note has been repaid, then such excess shall be rebated to the Company.

15. Miscellaneous.

(a) Any term of this Note may be amended or waived with the written consent of the Company and the Holder. In addition, any term of this Note may be amended or waived (including, without limitation, any Event of Default that has occurred hereunder) with the written consent of the Company and the Required Holders, provided that any such amendment or waiver affects and applies to all of the Notes. It shall not be necessary for the consent of the Holder or any other holder of a Note to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof

(b) Wherever in this Note reference is made to the Company or the Holder, such reference shall be deemed to include, as applicable, a reference to their respective successors and permitted assigns, and the provisions of this Note shall be binding upon and shall inure to the benefit of such successors and permitted assigns.

(c) This Note shall in all respects be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of law principles of any jurisdiction to the contrary.

(d) The captions of the Sections of this Note are inserted solely for ease of reference and shall not be considered in the interpretation or construction of this Note.

(e) The Holder, by acceptance of this Note, hereby represents and warrants that this Note has been acquired by the Holder for investment only and not for resale or distribution hereof. The Holder, by acceptance of this Note, further understands, covenants and agrees that the Company is under no obligation and has made no commitment to provide for registration of this Note or shares of Common Stock issuable upon conversion of this Note under the Securities Act or applicable state securities laws.

(f) The Holder, by acceptance of this Note, agrees to the terms of the Security Agreement. Without limiting the generality of the foregoing, the Holder consents to the appointment of the Collateral Agent under the Security Agreement and authorizes the Collateral Agent to execute and deliver the Security Agreement and to perform its obligations and exercise its rights thereunder in accordance therewith.

(g) The Company waives presentment, notice and demand, notice of protest, notice of demand and dishonor, and notice of nonpayment of this Note.

(h) In the event that any provision of this Note is illegal, invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform to such statute or rule of law. Any such provision which may prove illegal, invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision of this Note. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder or to enforce a judgment or other court ruling in favor of the Holder. THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY.

(i) No delay in the exercise of any right or remedy of any party hereto shall operate as a waiver thereof, and no single or partial exercise of any such right or remedy shall preclude other or future exercise thereof or the exercise of any other right or remedy.

(j) It is expressly understood and agreed by the parties hereto that if it is necessary to enforce payment of this Note through the engagement or efforts of an attorney or by suit, the Company shall pay reasonable attorneys' fees, expenses of counsel, and other costs of collection actually incurred by the Holder.

(k) This Note may be executed in counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Note.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company has executed, acknowledged and delivered this Note as of the day and year first above written.

MRI INTERVENTIONS, INC.

By: _____
Name: _____
Title: _____

AGREED TO AND ACCEPTED BY:

_____
Signature

_____
Print Name

Exhibit 4.8

AMENDMENT TO
10% SENIOR UNSECURED CONVERTIBLE NOTE DUE 2012

THIS AMENDMENT TO 10% SENIOR UNSECURED CONVERTIBLE NOTE DUE 2012 (this "Amendment") is made and entered into as of [_____],2011, by and between **MRI INTERVENTIONS, INC.**, a Delaware corporation formerly known as SurgiVision, Inc (the "Company") and [_____] (the "Holder").

WHEREAS, the Company issued to the Holder that certain 10% Senior Unsecured Convertible Note Due 2012 in the original principal amount of $[_____], dated as of March [_____], 2010 (the "Note"); and

WHEREAS, the Company and the Holder desire to amend the Note to allow and provide for certain matters all as hereinafter set forth.

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

1. Definitions. Capitalized terms used in this Amendment, to the extent not otherwise defined herein, shall have the same meanings as in the Note, as amended hereby.

2. Amendment to Section 1. Section 1 of the Note (Definitions) is hereby amended by adding the following definition for the term "Public Company Conversion Price":

"Public Company Conversion Price" means $1.00, subject to adjustment from time to time pursuant to Section 7. Solely for purposes of Section 7, references to the term "Conversion Price" shall also mean and include the "Public Company Conversion Price," unless the context expressly indicates otherwise.

3. Amendment to Section 4 (Payment of Principal and Interest). Section 4 of the Note (Payment of Principal and Interest) is hereby amended by adding the following clause at the beginning of the second sentence thereof: "Except as otherwise provided in Section 5(d),".

4. Amendment to Section 5. Section 5 of the Note (Conversion into Common Stock) is hereby amended by adding the following new Section 5(d):

(d) Public Company Automatic Conversion. Upon (i) the effective date of a Form 10 or other registration statement pursuant to which the Common Stock is registered as a class of securities under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or (ii) the effective date, but immediately prior to the effective time, of the closing of a merger, share exchange or other similar transaction pursuant to which the Company merges or exchanges shares with another entity (or a subsidiary of such entity) that has a class of securities registered under the Exchange Act, regardless of whether the Company, such other entity or a subsidiary of such other entity survives such transaction, the entire outstanding principal amount hereunder, together with all accrued but unpaid interest, shall automatically be converted into Common Stock. The number of shares of Common Stock issuable upon a conversion pursuant to this Section 5(d) shall equal the outstanding principal amount of this Note and all accrued but unpaid interest thereon divided by the Public Company Conversion Price.

5. Miscellaneous. The Note and any and all other agreements, documents or instruments now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Note as amended hereby, are hereby amended so that any reference in such documents to the Note shall mean a

reference to the Note, as amended hereby. The terms and provisions set forth in this Amendment shall modify and supersede all inconsistent terms and provisions set forth in the Note and except as expressly modified and superseded by this Amendment, the terms and provisions of the Note are ratified and confirmed and shall continue in full force and effect.

IN WITNESS WHEREOF, the Company and the Holder have caused this Amendment to be executed and delivered effective as of the day and year first written above.

THE COMPANY:

MRI INTERVENTIONS, INC.

By: _____
Name: _____
Title: _____

THE HOLDER:

_____
Print name of the Holder

_____
Signature

Exhibit 10.1

SURGI-VISION, INC.
1998 STOCK OPTION PLAN
Adopted by Board on June 24, 1998

1. **Establishment, Purpose and Term of Plan**.

1.1 **Establishment**. The SURGI-VISION, INC. 1998 Stock Option Plan (the ***"Plan"***) is hereby established effective as of June 24 1998 (the "***Effective Date***").

1.2 **Purpose**. The purpose of the Plan is to advance the interests of the Participating Company Group and its stockholders by providing an incentive to attract, retain and reward persons performing services for the Participating Company Group and by motivating such persons to contribute to the growth and profitability of the Participating Company Group.

1.3 **Term of Plan**. The Plan shall continue in effect until the earlier of its termination by the Board or the date on which all of the shares of Stock available for issuance under the Plan have been issued and all restrictions on such shares under the terms of the Plan and the agreements evidencing Options granted under the Plan have lapsed. However, all Incentive Stock Options shall be granted, if at all, within ten (10) years from the Effective Date.

2. **Definitions and Construction**.

2.1 **Definitions**. Whenever used herein, the following terms shall have their respective meanings set forth below:

(a) ***"Board"*** means the Board of Directors of the Company. If one or more Committees have been appointed by the Board to administer the Plan, ***"Board"*** also means such Committee(s).

(b) ***"Code"*** means the Internal Revenue Code of 1986, as amended, and any applicable regulations promulgated thereunder.

(c) ***"Committee"*** means the Compensation Committee or other committee of the Board duly appointed to administer the Plan and having such powers as shall be specified by the Board. Unless the powers of the Committee have been specifically limited, the Committee shall have all of the powers of the Board granted herein, including, without limitation, the power to amend or terminate the Plan at any time, subject to the terms of the Plan and any applicable limitations imposed by law.

(d) ***"Company"*** means SURGI-VISION, INC., a Delaware corporation, or any successor corporation thereto.

(e) ***"Consultant"*** means any person, including an advisor, engaged by a Participating Company to render services other than as an Employee or a Director.

(f) ***"Director"*** means a member of the Board or of the board of directors of any other Participating Company.

(g) ***"Disability"*** means the inability of the Optionee, in the opinion of a qualified physician acceptable to the Company, to perform the major duties of the Optionee's position with the Participating Company Group because of the sickness or injury of the Optionee.

(h) ***"Employee"*** means any person treated as an employee (including an officer or a Director who is also treated as an employee) in the records of a Participating Company and, with respect to any Incentive Stock Option granted to such person, who is an employee for purposes of Section 422 of the Code; provided, however, that neither service as a Director nor payment of a director's fee shall be sufficient to constitute employment for purposes of the Plan.

(i) ***"Exchange Act"*** means the Securities Exchange Act of 1934, as amended.

(j) ***"Fair Market Value"*** means, as of any date, the value of a share of Stock or other property as determined by the Board, in its sole discretion, or by the Company, in its sole discretion, if such determination is expressly allocated to the Company herein, subject to the following:

(i) If, on such date, there is a public market for the Stock, the Fair Market Value of a share of Stock shall be the closing sale price of a share of Stock (or the mean of the closing bid and asked prices of a share of Stock if the Stock is so quoted instead) as quoted on the Nasdaq National Market, The Nasdaq Small-Cap Market or such other national or regional securities exchange or market system constituting the primary market for the Stock, as reported in The Wall Street Journal or such other source as the Company deems reliable. If the relevant date does not fall on a day on which the Stock has traded on such securities exchange or market system, the date on which the Fair Market Value shall be established shall be the last day on which the Stock was so traded prior to the relevant date, or such other appropriate day as shall be determined by the Board, in its sole discretion.

(ii) If, on such date, there is no public market for the Stock, the Fair Market Value of a share of Stock shall be as determined by the Board without regard to any restriction other than a restriction which, by its terms, will never lapse.

(k) ***"Incentive Stock Option"*** means an Option intended to be (as set forth in the Option Agreement) and which qualifies as an incentive stock option within the meaning of Section 422(b) of the Code.

(l) ***"Insider"*** means an officer or a Director of the Company or any other person whose transactions in Stock are subject to Section 16 of the Exchange Act.

(m) ***"Nonstatutory Stock Option"*** means an Option not intended to be (as set forth in the Option Agreement) or which does not qualify as an Incentive Stock Option.

(n) ***"Option"*** means a right to purchase Stock (subject to adjustment as provided in Section 4.2) pursuant to the terms and conditions of the Plan. An Option may be either an Incentive Stock Option or a Nonstatutory Stock Option.

(o) ***"Option Agreement"*** means a written agreement(s) between the Company and an Optionee setting forth the terms, conditions and restrictions of the Option granted to the Optionee and any shares acquired upon the exercise thereof.

(p) ***"Optionee"*** means a person who has been granted one or more Options.

(q) ***"Parent Corporation"*** means any present or future "parent corporation" of the Company, as defined in Section 424(e) of the Code.

(r) ***"Participating Company"*** means the Company or any Parent Corporation or Subsidiary Corporation.

(s) ***"Participating Company Group"*** means, at any point in time, all corporations collectively which are then Participating Companies.

(t) ***"Rule 16b-3"*** means Rule 16b-3 under the Exchange Act, as amended from time to time, or any successor rule or regulation.

(u) ***"Section 162(m)"*** means Section 162(m) of the Code, as amended by the Revenue Reconciliation Act of 1993 P.L. 103-66).

(v) ***"Securities Act"*** means the Securities Act of 1933, as amended.

(w) ***"Service"*** means an Optionee's employment or service with the Participating Company Group, whether in the capacity of an Employee, a Director or a Consultant. The Optionee's Service shall not be deemed to have terminated merely because of a change in the capacity in which the Optionee renders Service to the Participating Company Group or a change in the Participating Company for which the Optionee renders such Service, provided that there is no interruption or termination of the Optionee's Service. Furthermore, an Optionee's Service with the Participating Company Group shall not be deemed to have terminated if the Optionee takes any military leave, sick leave, or other bona fide leave of absence approved by the Company; provided, however, that if any such leave exceeds ninety (90) days, on the ninety-first (91st) day of such leave the Optionee's Service shall be deemed to have terminated unless the Optionee's right to return to Service with the Participating Company Group is guaranteed by statute or contract, Notwithstanding the foregoing, unless otherwise designated by the Company or required by law, a leave of absence shall not be treated as Service for purposes of determining vesting under the Optionee's Option Agreement. The Optionee's Service shall be deemed to have terminated either upon an actual termination of Service or upon the corporation for which the Optionee performs Service ceasing to be a Participating Company. Subject to the foregoing, the Company, in its sole discretion, shall determine whether the Optionee's Service has terminated and the effective date of such termination.

(x) ***"Stock"*** means the common stock of the Company, as adjusted from time to time in accordance with Section 4.2.

(y) ***"Subsidiary Corporation"*** means any present or future "subsidiary corporation" of the Company, as defined in Section 424(f) of the Code.

(z) ***"Ten Percent Owner Optionee"*** means an Optionee who, at the time an Option is granted to the Optionee, owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of a Participating Company within the meaning of Section 422(b)(6) of the Code.

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

3. **Administration**.

3.1 **Administration by the Board**. The Plan shall be administered by the Board. All questions of interpretation of the Plan or of any Option shall be determined by the Board, and such determinations shall be final and binding upon all persons having an interest in the Plan or such Option. Any officer of a Participating Company shall have the authority to act on behalf of the Company with respect to any matter, right, obligation, determination or election which is the responsibility of or which is allocated to the Company herein, provided the officer has apparent authority with respect to such matter, right, obligation, determination or election,

3.2 **Administration with Respect to Insiders**. With respect to participation by Insiders in the Plan, at any time that any class of equity security of the Company is registered pursuant to Section 12 of the Exchange Act, the Plan shall be administered in compliance with the requirements, if any, of Rule 16b-3.

3.3 **Powers of the Board**. In addition to any other powers set forth in the Plan and subject to the provisions of the Plan, the Board shall have the full and final power and authority, in its sole discretion:

(a) to determine the persons to whom, and the time or times at which, Options shall be granted and the number of shares of Stock to be subject to each Option;

(b) to designate Options as Incentive Stock Options or Nonstatutory Stock Options;

(c) to determine the Fair Market Value of shares of Stock or other property;

(d) to determine the terms, conditions and restrictions applicable to each Option (which need not be identical) and any shares acquired upon the exercise thereof, including, without limitation, (i) the exercise price of the Option, (ii) the method of payment for

shares purchased upon the exercise of the Option, (iii) the method for satisfaction of any tax withholding obligation arising in connection with the Option or such shares, including by the withholding or delivery of shares of stock, (iv) the timing, terms and conditions of the exercisability of the Option or the vesting of any shares acquired upon the exercise thereof, (v) the time of the expiration of the Option, (vi) the effect of the Optionee's termination of Service with the Participating Company Group on any of the foregoing, and (vii) all other terms, conditions and restrictions applicable to the Option or such shares not inconsistent with the terms of the Plan;

(e) to approve one or more forms of Option Agreement,

(f) to amend, modify, extend, cancel, renew, reprice or otherwise adjust the exercise price of, or grant a new Option in substitution for, any Option or to waive any restrictions or conditions applicable to any Option or any shares acquired upon the exercise thereof,

(g) to accelerate, continue, extend or defer the exercisability of any Option or the vesting of any shares acquired upon the exercise thereof, including with respect to the period following an Optionee's termination of Service with the Participating Company Group;

(h) to prescribe, amend or rescind rules, guidelines and policies relating to the Plan, or to adopt supplements to, or alternative versions of, the Plan, including, without limitation, as the Board deems necessary or desirable to comply with the laws of, or to accommodate the tax policy or custom of, foreign jurisdictions whose citizens may be granted Options; and

(i) to correct any defect, supply any omission or reconcile any inconsistency in the Plan or any Option Agreement and to make all other determinations and take such other actions with respect to the Plan or any Option as the Board may deem advisable to the extent consistent with the Plan and applicable law.

3.4 **Committee Complying with Section 162(m)**. If a Participating Company is a "publicly held corporation" within the meaning of Section 162(m), the Board may establish a Committee of "outside directors" within the meaning of Section 162(m) to approve the grant of any Option which might reasonably be anticipated to result in the payment of employee remuneration that would otherwise exceed the limit on employee remuneration deductible for income tax purposes pursuant to Section 162(m).

4. **Shares Subject to Plan**.

4.1 **Maximum Number of Shares Issuable**. Subject to adjustment as provided in Section 4.2, the maximum aggregate number of shares of Stock that may be issued under the Plan shall be One Million (1,000,000) and shall consist of authorized but unissued or reacquired shares of Stock or any combination thereof. If an outstanding Option for any reason expires or is terminated or canceled or shares of Stock acquired, subject to repurchase, upon the exercise of an Option are repurchased by the Company, the shares of Stock allocable to the

unexercised portion of such Option, or such repurchased shares of Stock, shall again be available for issuance under the Plan. * Add Clause

4.2 **Adjustments for Changes in Capital Structure**. In the event of any stock dividend, stock split, reverse stock split, recapitalization, combination, reclassification or similar change in the capital structure of the Company, appropriate adjustments shall be made in the number and class of shares subject to the Plan and to any outstanding Options and in the exercise price per share of any outstanding Options. If a majority of the shares which are of the same class as the shares that are subject to outstanding Options are exchanged for, converted into, or otherwise become (whether or not pursuant to an Ownership Change Event, as defined in Section 8.1) shares of another corporation (the ***"New Shares"***), the Board may unilaterally amend the outstanding Options to provide that such Options are exercisable for New Shares. In the event of any such amendment, the number of shares subject to, and the exercise price per share of, the outstanding Options shall be adjusted in a fair and equitable manner as determined by the Board, in its sole discretion. Notwithstanding the foregoing, any fractional share resulting from an adjustment pursuant to this Section 4.2 shall be rounded up or down to the nearest whole number, as determined by the Board, and in no event may the exercise price of any Option be decreased to an amount less than the par value, if any, of the stock subject to the Option. The adjustments determined by the Board pursuant to this Section 4.2 shall be final, binding and conclusive.

5. **Eligibility and Option Limitations**.

5.1 **Persons Eligible for Options**. Options may be granted only to Employees, Consultants, and Directors. For purposes of the foregoing sentence, ***"Employees," "Consultants"*** and ***"Directors"*** shall include prospective Employees, prospective Consultants and prospective Directors to whom Options are granted in connection with written offers of an employment or other service relationship with the Participating Company Group. Eligible persons maybe granted more than one (1) Option.

5.2 **Option Grant Restrictions**. Any person who is not an Employee on the effective date of the grant of an Option to such person may be granted only a Nonstatutory Stock Option. An Incentive Stock Option granted to a prospective Employee upon the condition that such person become an Employee shall be deemed granted effective on the date such person commences Service with a Participating Company, with an exercise price determined as of such date in accordance with Section 6.1.

5.3 **Fair Market Value Limitation**. To the extent that options designated as Incentive Stock Options (granted under all stock option plans of the Participating Company Group, including the Plan) become exercisable by an Optionee for the first time during any calendar year for stock having a Fair Market Value greater than One Hundred Thousand Dollars ($100,000), the portion of such options which exceeds such amount shall be treated as Nonstatutory Stock Options. For purposes of this Section 5.3, options designated as Incentive Stock Options shall be taken into account in the order in which they were granted, and the Fair Market Value of stock shall be determined as of the time the option with respect to such stock is granted. If the Code is amended to provide for a different limitation from that set forth in this Section 5.3, such different limitation shall be deemed incorporated herein effective as of the date

and with respect to such Options as required or permitted by such amendment to the Code. If an Option is treated as an Incentive Stock Option in part and as a Nonstatutory Stock Option in part by reason of the limitation set forth in this Section 5.3, the Optionee may designate which portion of such Option the Optionee is exercising. In the absence of such designation, the Optionee shall be deemed to have exercised the Incentive Stock Option portion of the Option first. Separate certificates representing each such portion shall be issued upon the exercise of the Option.

6. **Terms and Conditions of Options**.

Options shall be evidenced by Option Agreements specifying the number of shares of Stock covered thereby, in such form as the Board shall from time to time establish. No Option or purported Option shall be a valid and binding obligation of the Company unless evidenced by a fully executed Option Agreement. Option Agreements may incorporate all or any of the terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

6.1 **Exercise Price**. The exercise price for each Option shall be established in the sole discretion of the Board; provided, however, that (a) the exercise price per share for an Incentive Stock Option shall be not less than the Fair Market Value of a share of Stock on the effective date of grant of the Option, (b) the exercise price per share for a Nonstatutory Stock Option shall be not less than eighty-five percent (85%) of the Fair Market Value of a share of Stock on the effective date of grant of the Option, and (e) no incentive Stock Option granted to a Ten Percent Owner Optionee shall have an exercise price per share less than one hundred ten percent (110%) of the Fair Market Value of a share of Stock on the effective date of grant of the Option. Notwithstanding the foregoing, an Option (whether an Incentive Stock Option or a Nonstatutory Stock Option) may be granted with an exercise price lower than the minimum exercise price set forth above if such Option is granted pursuant to an assumption or substitution for another option in a manner qualifying under the provisions of Section 424(a) of the Code.

6.2 **Exercise Period**. Options shall be exercisable at such time or times, or upon such event or events, and subject to such terms, conditions, performance criteria, and restrictions as shall be determined by the Board and set forth in the Option Agreement evidencing such Option; provided, however, that (a) no Incentive Stock Option shall be exercisable after the expiration of ten (10) years after the effective date of grant of such Option, (b) no Incentive Stock Option granted to a Ten Percent Owner Optionee shall be exercisable after the expiration of five (5) years after the effective date of grant of such Option and, (c) no Option granted to a prospective Employee, prospective Consultant or prospective Director may become exercisable prior to the date on which such person commences Service with a Participating Company. Subject to the foregoing, unless otherwise specified by the Board in the grant of an Option, any Option granted hereunder shall have a term of ten (10) years from the Effective Date of grant of the Option.

6.3 **Payment of Exercise Price**.

(a) ***Forms of Consideration Authorized***. Except as otherwise provided below, payment of the exercise price for the number of shares of Stock being purchased

pursuant to any Option shall be made (i) in cash, by check, or cash equivalent, (ii) by tender to the Company of shares of Stock owned by the Optionee having a Fair Market Value (as determined by the Company without regard to any restrictions on transferability applicable to such stock by reason of federal or state securities laws or agreements with an underwriter for the Company) not less than the exercise price, (iii) by the assignment of the proceeds of a sale or loan with respect to some or all of the shares being acquired upon the exercise of the Option (including, without limitation, through an exercise complying with the provisions of Regulation T as promulgated from time to time by the Board of Governors of the Federal Reserve System) (a ***"Cashless Exercise"***), (iv) by the Optionee's promissory note in a form approved by the Company, (v) by such other consideration as may be approved by the Board from time to time to the extent permitted by applicable law, or (vi) by any combination thereof. The Board may at any time or from time to time, by adoption of or by amendment to the standard forms of Option Agreement described in Section 7, or by other means, grant Options which do not permit all of the foregoing forms of consideration to be used in payment of the exercise price or which otherwise restrict one or more forms of consideration.

(b) ***Tender of Stock***. Notwithstanding the foregoing, an Option may not be exercised by tender to the Company of shares of Stock to the extent such tender of Stock would constitute a violation of the provisions of any law, regulation or agreement restricting the redemption of the Company's stock. Unless otherwise provided by the Board, an Option may not be exercised by tender to the Company of shares of Stock unless such shares either have been owned by the Optionee for more than six (6) months or were not acquired, directly or indirectly, from the Company.

(c) ***Cashless Exercise***. The Company reserves, at any and all times, the right, in the Company's sole and absolute discretion, to establish, decline to approve or terminate any program or procedures for the exercise of Options by means of a Cashless Exercise.

(d) ***Payment by Promissory Note***. No promissory note shall be permitted if the exercise of an Option using a promissory note would be a violation of any law. Any permitted promissory note shall be on such terms as the Board shall determine at the time the Option is granted. The Board shall have the authority to permit or require the Optionee to secure any promissory note used to exercise an Option with the shares of Stock acquired upon the exercise of the Option or with other collateral acceptable to the Company. Unless otherwise provided by the Board, if the Company at any time is subject to the regulations promulgated by the Board of Governors of the Federal Reserve System or any other governmental entity affecting the extension of credit in connection with the Company's securities, any promissory note shall comply with such applicable regulations, and the Optionee shall pay the unpaid principal and accrued interest, if any, to the extent necessary to comply with such applicable regulations.

6.4 **Tax Withholding**. The Company shall have the right, but not the obligation, to deduct from the shares of Stock issuable upon the exercise of an Option, or to accept from the Optionee the tender of, a number of whole shares of Stock having a Fair Market Value, as determined by the Company, equal to all or any part of the federal, state, local and foreign taxes, if any, required by law to be withheld by the Participating Company Group with

respect to such Option or the shares acquired upon the exercise thereof. Alternatively or in addition, in its sole discretion, the Company shall have the right to require the Optionee, through payroll withholding, cash payment or otherwise, including by means of a Cashless Exercise, to make adequate provision for any such tax withholding obligations of the Participating Company Group arising in connection with the Option or the shares acquired upon the exercise thereof. The Company shall have no obligation to deliver shares of Stock or to release shares of Stock from an escrow established pursuant to the Option Agreement until the Participating Company Group's tax withholding obligations have been satisfied by the Optionee.

6.5 **Repurchase Rights**. Shares issued under the Plan may be subject to a right of first refusal, one or more repurchase options, or other conditions and restrictions as determined by the Board in its sole discretion at the time the Option is granted. The Company shall have the right to assign at any time any repurchase right it may have, whether or not such right is then exercisable, to one or more persons as may be selected by the Company. Upon request by the Company, each Optionee shall execute any agreement evidencing such transfer restrictions prior to the receipt of shares of Stock hereunder and shall promptly present to the Company any and all certificates representing shares of Stock acquired hereunder for the placement on such certificates of appropriate legends evidencing any such transfer restrictions.

6.6 **Effect of Termination of Service**.

(a) ***Option Exercisability***. Subject to earlier termination of the Option as otherwise provided herein, an Option shall be exercisable after an Optionee's termination of Service as follows:

(i) **Disability**. If the Optionee's Service with the Participating Company Group is terminated because of the Disability of the Optionee, the Option, to the extent unexercised and exercisable on the date on which the Optionee's Service terminated, may be exercised by the Optionee (or the Optionee's guardian or legal representative) at any time prior to the expiration of six (6) months (or such longer or shorter period of time as determined by the Board, in its sole discretion) after the date on which the Optionee's Service terminated, but in any event no later than the date of expiration of the Option's term as set forth in the Option Agreement evidencing such Option (the ***"Option Expiration Date"***).

(ii) **Death**. If the Optionee's Service with the Participating Company Group is terminated because of the death of the Optionee, the Option, to the extent unexercised and exercisable on the date on which the Optionee's Service terminated, may be exercised by the Optionee's legal representative or other person who acquired the right to exercise the Option by reason of the Optionee's death at any time prior to the expiration of six (6) months (or such longer or shorter period of time as determined by the Board, in its sole discretion) after the date on which the Optionee's Service terminated, but in any event no later than the Option Expiration Date. The Optionee's Service shall be deemed to have terminated on account of death if the Optionee dies within one (1) month after the Optionee's termination of Service.

(iii) **Other Termination of Service**. If the Optionee's Service with the Participating Company Group terminates for any reason, except Disability or death, the Option, to the extent unexercised and exercisable by the Optionee on the date on which the Optionee's Service terminated, may be exercised by the Optionee within one (1) month (or such longer or shorter period of time as determined by the Board, in its sole discretion) after the date on which the Optionee's Service terminated, but in any event no later than the Option Expiration Date.

(b) ***Extension if Exercise Prevented by Law***. Notwithstanding the foregoing, if the exercise of an Option within the applicable time periods set forth in Section 6.6(a) is prevented by the provisions of Section 11 below, the Option shall remain exercisable until one (1) month after the date the Optionee is notified by the Company that the Option is exercisable, but in any event no later than the Option Expiration Date.

(c) ***Extension if Optionee Subject to Section 16(b)***. Notwithstanding the foregoing, if a sale within the applicable time periods set forth in Section 6.6(a) of shares acquired upon the exercise of the Option would subject the Optionee to suit under Section 16(b) of the Exchange Act, the Option shall remain exercisable until the earliest to occur of (i) the tenth (10th) day following the date on which a sale of such shares by the Optionee would no longer be subject to such suit, (ii) the one hundred and ninetieth (190th) day after the Optionee's termination of Service, or (iii) the Option Expiration Date.

7. **Standard Forms of Option Agreement**.

7.1 **General**. Unless otherwise provided by the Board at the time the Option is granted, an Option shall comply with and be subject to the terms and conditions set forth in the standard form of Option Agreement adopted by the Board concurrently with its adoption of the Plan and as amended from time to time.

7.2 **Authority to Vary Terms**. The Board shall have the authority from time to time to vary the terms of any of the standard forms of Option Agreement described in this Section 7 either in connection with the grant or amendment of an individual Option or in connection with the authorization of a new standard form or forms; provided, however, that the terms and conditions of any such new, revised or amended standard form or forms of Option Agreement are not inconsistent with the terms of the Plan.

8. **Change in Control**.

8.1 **Definitions**.

(a) An ***"Ownership Change Event"*** shall be deemed to have occurred if any of the following occurs with respect to the Company:

(i) the direct or indirect sale or exchange in a single or series of related transactions by the stockholders of the Company of more than fifty percent (50%) of the voting stock of the Company;

(ii) a merger or consolidation in which the Company is a party;

(iii) the sale, exchange, or transfer of all or substantially all of the assets of the Company; or

(iv) a liquidation or dissolution of the Company.

(b) A ***"Change in Control"*** shall mean an Ownership Change Event or a series of related Ownership Change Events (collectively, the ***"Transaction"***) wherein the stockholders of the Company immediately before the Transaction do not retain immediately after the Transaction, in substantially the same proportions as their ownership of shares of the Company's voting stock immediately before the Transaction, direct or indirect beneficial ownership of more than fifty percent (50%) of the total combined voting power of the outstanding voting stock of the Company or the corporation or corporations to which the assets of the Company were transferred (the ***"Transferee Corporation(s)"***), as the case may be. For purposes of the preceding sentence, indirect beneficial ownership shall include, without limitation, an interest resulting from ownership of the voting stock of one or more corporations which, as a result of the Transaction, own the Company or the Transferee Corporation(s), as the case may be, either directly or through one or more subsidiary corporations. The Board shall have the right to determine whether multiple sales or exchanges of the voting stock of the Company or multiple Ownership Change Events are related, and its determination shall be final, binding and conclusive.

8.2 **Effect of Change in Control on Options**. In the event of a Change in Control, the surviving, continuing, successor, or purchasing corporation or parent corporation thereof, as the case may be (the ***"Acquiring Corporation"***), may either assume the Company's rights and obligations under outstanding Options or substitute for outstanding Options substantially equivalent options for the Acquiring Corporation's stock. For purposes of this Section 8.2, an Option shall be deemed assumed if, following the Change in Control, the Option confers the right to purchase in accordance with its terms and conditions, for each share of Stock subject to the Option immediately prior to the Change in Control, the consideration (whether stock, cash or other securities or properly) to which a holder of a share of Stock on the effective date of the Change in Control was entitled. Any Options which are neither assumed or substituted for by the Acquiring Corporation in connection with the Change in Control nor exercised as of the date of the Change in Control shall terminate and cease to be outstanding effective as of the date of the Change in Control, Notwithstanding the foregoing, shares acquired upon exercise of an Option prior to the Change in Control and any consideration received pursuant to the Change in Control with respect to such shares shall continue to be subject to all applicable provisions of the Option Agreement evidencing such Option except as otherwise provided in such Option Agreement. Furthermore, notwithstanding the foregoing, if the corporation the stock of which is subject to the outstanding Options immediately prior to an Ownership Change Event described in Section 8.1(a)(i) constituting a Change in Control is the surviving or continuing corporation and immediately after such Ownership Change Event less than fifty percent (50%) of the total combined voting power of its voting stock is held by another corporation or by other corporations that are members of an affiliated group within the meaning of Section 1504(a) of the Code without regard to the provisions of Section 1504(b) of the Code, the outstanding Options shall not terminate unless the Board otherwise provides in its sole discretion.

9. **Nontransferability of Options**.

Unless otherwise specifically provided in an Option Agreement, during the lifetime of the Optionee, an Option shall be exercisable only by the Optionee or the Optionee's guardian or legal representative. No Option shall be assignable or transferable by the Optionee, except by will or by the laws of descent and distribution.

10. **Compliance with Securities Law**.

The grant of Options and the issuance of shares of Stock upon exercise of Options shall be subject to compliance with all applicable requirements of federal, state and foreign law with respect to such securities. Options may not be exercised if the issuance of shares of Stock upon exercise would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Stock may then be listed. In addition, no Option may be exercised unless (a) a registration statement under the Securities Act shall at the time of exercise of the Option be in effect with respect to the shares issuable upon exercise of the Option or (b) in the opinion of legal counsel to the Company, the shares issuable upon exercise of the Option may be issued in accordance with the terms of an applicable exemption from the registration requirements of the Securities Act. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any shares hereunder shall relieve the Company of any liability in respect of the failure to issue or sell such shares as to which such requisite authority shall not have been obtained. As a condition to the exercise of any Option, the Company may require the Optionee to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

11. **Indemnification**.

In addition to such other rights of indemnification as they may have as members of the Board or officers or employees of the Participating Company Group, members of the Board and any officers or employees of the Participating Company Group to whom authority to act for the Board or the Company is delegated shall be indemnified by the Company against all reasonable expenses, including attorneys' fees, actually and necessarily incurred in connection with the defense of any action, suit or proceeding, or in connection with any appeal therein, to which they or any of them may be a party by reason of any action taken or failure to act under or in connection with the Plan, or any right granted hereunder, and against all amounts paid by them in settlement thereof (provided such settlement is approved by independent legal counsel selected by the company) or paid by them in satisfaction of a judgment in any such action, suit or proceeding, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such person is liable for gross negligence, bad faith or intentional misconduct in duties; provided, however, that within sixty (60) days after the institution of such action, suit or proceeding, such person shall offer to the Company, in writing, the opportunity at its own expense to handle and defend the same.

12. **Termination or Amendment of Plan**.

The Board may terminate or amend the Plan at any time. However, subject to changes in applicable law, regulations or rules that would permit otherwise, without the approval of the Company's stockholders, there shall be (a) no increase in the maximum aggregate number of shares of Stock that may be issued under the Plan (except by operation of the provisions of Section 4.2), (b) no change in the class of persons eligible to receive Incentive Stock Options, and (c) no other amendment of the Plan that would require approval of the Company's stockholders under any applicable law, regulation or rule. In any event, no termination or amendment of the Plan may adversely affect any then outstanding Option or any unexercised portion thereof, without the consent of the Optionee, unless such termination or amendment is required to enable an Option designated as an Incentive Stock Option to qualify as an Incentive Stock Option or is necessary to comply with any applicable law, regulation or rule.

13. **Stockholder Approval**.

The Plan or any increase in the maximum number of shares of Stock issuable thereunder as provided in Section 4.1 (the ***"Maximum Shares"***) shall be approved by the stockholders of the Company within twelve (12) months of the date of adoption thereof by the Board. Options granted prior to stockholder approval of the Plan or in excess of the Maximum Shares previously approved by the stockholders shall become exercisable no earlier than the date of stockholder approval of the Plan or such increase in the Maximum Shares, as the case may be.

Exhibit 10.2

SURGI-VISION
2007 STOCK INCENTIVE PLAN

Section 1. Purpose.

This plan shall be known as the "Surgi-Vision 2007 Stock Incentive Plan" (the "Plan"). The purpose of the Plan is to promote the interests of Surgi-Vision, Inc., a Delaware corporation (the "Company"), its Subsidiaries, if any, and its stockholders by (i) attracting and retaining key officers, employees, and directors of, and consultants to, the Company and its Subsidiaries and Affiliates; (ii) motivating such individuals by means of performance-related incentives to achieve long-range performance goals; (iii) enabling such individuals to participate in the long-term growth and financial success of the Company; (iv) encouraging ownership of stock in the Company by such individuals; and (v) linking their compensation to the long-term interests of the Company and its stockholders.

Section 2. Definitions.

As used in the Plan, the following terms shall have the meanings set forth below:

(a) "Affiliate" shall mean any entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, the Company. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any entity, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities or by contract or otherwise.

(b) "Award" shall mean any Option, Stock Appreciation Right, Restricted Share Award, Restricted Share Unit, Performance Award, Other Stock-Based Award or other award granted under the Plan, whether singly, in combination or in tandem, to a Participant by the Committee pursuant to such terms, conditions, restrictions and/or limitations, if any, as the Committee may establish or which are required by applicable legal requirements.

(c) "Award Agreement" shall mean any written agreement, contract or other instrument or document evidencing any Award, which may, but need not, be executed or acknowledged by a Participant.

(d) "Board" shall mean the Board of Directors of the Company.

(e) "Change in Control" shall mean, unless otherwise defined in the applicable Award Agreement, any of the following events:

(i) any person or entity, including a "group" as defined in Section 13(d)(3) of the Exchange Act, other than the Company or a wholly-owned subsidiary thereof or any employee benefit plan of the Company or any of its Subsidiaries, becomes the beneficial owner of the Company's securities having more than 50% of the combined voting power of the then outstanding securities of the Company that may be cast for the election of directors of the Company (other than as a result of an issuance of securities initiated by the Company in the ordinary course of business);

(ii) as the result of, or in connection with, any cash tender or exchange offer, merger or other business combination or contested election, or any combination of the foregoing

transactions, less than a majority of the combined voting power of the then outstanding securities of the Company or any successor company or entity entitled to vote generally in the election of the directors of the Company or such other corporation or entity after such transaction are held in the aggregate by the holders of the Company's securities entitled to vote generally in the election of directors of the Company immediately prior to such transaction;

(iii) approval by the Company's stockholders of a plan of complete liquidation or dissolution of the Company; or

(iv) the sale or other disposition of all or substantially all of the assets of the Company to any Person (other than a transfer to a Subsidiary).

(f) "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

(g) "Committee" shall mean a committee of Directors appointed by the Board to administer the Plan; provided, however, that to the extent the Board has not appointed such committee, all references in the Plan to the "Committee" shall be deemed to be references to the Board.

(h) "Consultant" shall mean any consultant to the Company or its Subsidiaries or Affiliates.

(i) "Director" shall mean a member of the Board.

(j) "Disability" shall have the meaning given to such term in Section 409A of the Code or any successor provision thereto.

(k) "Employee" shall mean a current or prospective officer or employee of the Company or of any Subsidiary or Affiliate.

(l) "Fair Market Value" with respect to the Shares, shall mean, for purposes of a grant of an Award as of any date, the fair market value as determined, in good faith, by the Board in its sole discretion, and for purposes of a sale of a Share as of any date, the actual sales price on that date.

(m) "Incentive Stock Option" shall mean an option to purchase Shares from the Company that is granted under Section 6 of the Plan and that is intended to meet the requirements of Section 422 of the Code or any successor provision thereto.

(n) "Non-Qualified Stock Option" shall mean an option to purchase Shares from the Company that is granted under Section 6 of the Plan and is not intended to be an Incentive Stock Option.

(o) "Option" shall mean an Incentive Stock Option or a Non-Qualified Stock Option.

(p) "Option Price" shall mean the purchase price payable to purchase one Share upon the exercise of an Option.

(q) "Other Stock-Based Award" shall mean any Award granted under Section 9 of the Plan.

(r) "Participant" shall mean any Employee, Director, Consultant or other person who receives an Award under the Plan.

(s) "Performance Award" shall mean any Award granted under Section 8 of the Plan.

(t) "Person" shall mean any individual, corporation, partnership, limited liability company, association, joint-stock company, trust, unincorporated organization, government or political subdivision thereof or other entity.

(u) "Restricted Share" shall mean any Share granted under Section 7 of the Plan.

(v) "Restricted Share Unit" shall mean any unit granted under Section 7 of the Plan.

(w) "SEC" shall mean the Securities and Exchange Commission or any successor thereto.

(x) "Shares" shall mean shares of common stock, $0.01 par value per share, of the Company.

(y) "Stock Appreciation Right" or **"SAR"** shall mean a stock appreciation right granted under Section 6 of the Plan that entitles the holder to receive, with respect to each Share encompassed by the exercise of such SAR, the amount determined by the Committee and specified in an Award Agreement. In the absence of such a determination, the holder shall be entitled to receive, with respect to each Share encompassed by the exercise of such SAR, the excess of the Fair Market Value on the date of exercise over the Fair Market Value on the date of grant.

(z) "Subsidiary" shall mean any Person (other than the Company) of which a majority of its voting power or its equity securities or equity interest is owned directly or indirectly by the Company.

(aa) "Substitute Awards" shall mean Awards granted solely in assumption of, or in substitution for, outstanding awards previously granted by a company acquired by the Company or with which the Company combines.

Section 3. Administration.

3.1 *Authority of Committee.* The Plan shall be administered by the Committee, which may be the entire Board if, in its sole discretion, it assumes administration of the Plan. Subject to the terms of the Plan and applicable law, and in addition to other express powers and authorizations conferred on the Committee by the Plan, the Committee shall have full power and authority in its discretion to: (i) designate Participants; (ii) determine the type or types of Awards to be granted to a Participant; (iii) determine the number of Shares to be covered by, or with respect to which payments, rights or other matters are to be calculated in connection with Awards; (iv) determine the timing, terms, and conditions of any Award; (v) accelerate the time at which all or any part of an Award may be settled or exercised; (vi) determine whether, to what extent, and under what circumstances, Awards may be settled or exercised in cash, Shares, other securities, other Awards or other property, or canceled, forfeited or suspended and the method or methods by which Awards may be settled, exercised, canceled, forfeited or suspended; (vii) determine whether, to what extent, and under what circumstances cash, Shares, other securities, other Awards, other property, and other amounts payable with respect to an Award shall be deferred either automatically or at the election of the holder thereof or of the Committee; (viii) interpret and administer the Plan and any instrument or agreement relating to, or Award made under, the Plan; (ix) except to the extent prohibited by Section 6.2, amend or modify the terms of any Award at or after grant with the consent of the holder of the Award; (x) establish, amend, suspend or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan; and (xi) make any other determination and take any other action that the Committee deems necessary or

desirable for the administration of the Plan, subject to the exclusive authority of the Board under Section 13 hereunder to amend or terminate the Plan. The exercise of an Option or receipt of an Award shall be effective only if an Award Agreement shall have been duly executed and delivered on behalf of the Company following the grant of the Option or other Award.

3.2 *Committee Discretion Binding.* Unless otherwise expressly provided in the Plan, all designations, determinations, interpretations, and other decisions under or with respect to the Plan or any Award shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive, and binding upon all Persons, including the Company, any Subsidiary or Affiliate, any Participant and any holder or beneficiary of any Award.

3.3 *Delegation.* Subject to the terms of the Plan, the Committee's charter (if applicable) and applicable law, the Committee may delegate to one or more officers or managers of the Company or of any Subsidiary or Affiliate, or to a committee of such officers or managers, the authority, subject to such terms and limitations as the Committee shall determine, to grant Awards to or to cancel, modify or waive rights with respect to, or to alter, discontinue, suspend or terminate Awards held by Participants.

Section 4. Shares Available For Awards.

4.1 *Shares Available.* Subject to the provisions of Section 4.2 hereof, the stock to be subject to Awards under the Plan shall be the Shares of the Company and the maximum aggregate number of Shares with respect to which Awards may be granted under the Plan shall be 2,500,000. Each Share subject to an Option shall reduce the aggregate number of Shares with respect to which Awards may be granted by one share. Each Share subject to a SAR (whether the distribution upon redemption is made in cash, stock or a combination of the two) shall reduce the aggregate number of Shares with respect to which Awards may be granted by one share. Each Share issued pursuant to a Restricted Share Award, Restricted Share Unit Award, Performance Award or Other Stock-Based Award shall reduce the aggregate number of Shares with respect to which Awards may be granted by one share. If, after the effective date of the Plan, any Shares covered by an Award granted under this Plan, or to which such an Award relates, are forfeited, or if such an Award otherwise terminates, expires unexercised or is canceled, then the Shares covered by such Award, or to which such Award relates, or the number of Shares otherwise counted against the aggregate number of Shares with respect to which Awards may be granted, to the extent of any such forfeiture, termination, expiration or cancellation, shall again become Shares with respect to which Awards may be granted in accordance with the formula described above. Notwithstanding the foregoing and anything contained herein to the contrary, (i) the gross number of Shares issued pursuant to an Award and not later forfeited, terminated, expired or canceled shall be deducted from the total number of Shares available for grant under this Plan, and (ii) Shares that are canceled, tendered or withheld in payment of all or part of the Option Price or exercise price of an Award or in satisfaction of withholding tax obligations, and Shares that are reacquired with cash tendered in payment of the Option Price or exercise price of an Award, shall not be included in or added to the number of Shares available for grant under the Plan, in each case in accordance with the formula described above.

4.2 *Adjustments.* In the event that any unusual or non-recurring transactions, including an unusual or non-recurring dividend or other distribution (whether in the form of an extraordinary cash dividend, dividend of Shares, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Shares or other securities of the Company, issuance of warrants or other rights to purchase Shares or other securities of the Company, or other similar corporate transaction or event affects the Shares, then the Committee shall in an equitable and proportionate manner (and, as applicable, in such equitable and proportionate manner as is consistent with Sections 422 and 409A of the Code and the regulations thereunder) either: (i) adjust any or all of (1) the aggregate number of Shares or other securities of the

Company (or number and kind of other securities or property) with respect to which Awards may be granted under the Plan; (2) the number of Shares or other securities of the Company (or number and kind of other securities or property) subject to outstanding Awards under the Plan, provided that the number of Shares subject to any Award shall always be a whole number; (3) the grant or exercise price with respect to any Award under the Plan; and (4) the limits on the number of Shares that may be granted to Participants under the Plan in any calendar year; (ii) provide for an equivalent award in respect of securities of the surviving entity of any merger, consolidation or other transaction or event having a similar effect; or (iii) make provision for a cash payment to the holder of an outstanding Award.

4.3 *Substitute Awards.* Any Shares issued by the Company as Substitute Awards in connection with the assumption or substitution of outstanding grants from any acquired corporation shall not reduce the Shares available for Awards under the Plan.

4.4 *Sources of Shares Deliverable Under Awards.* Any Shares delivered pursuant to an Award may consist, in whole or in part, of authorized and unissued Shares or of issued Shares which have been reacquired by the Company.

Section 5. Eligibility.

Any Employee, Director or Consultant shall be eligible to be designated a Participant.

Section 6. Stock Options And Stock Appreciation Rights.

6.1 *Grant.* Subject to the provisions of the Plan including, without limitation, Section 3.3 above and other applicable legal requirements, the Committee shall have sole and complete authority to determine the Participants to whom Options and SARs shall be granted, the number of Shares subject to each Award, the exercise price and the conditions and limitations applicable to the exercise of each Option and SAR. An Option may be granted with or without a related SAR. A SAR may be granted with or without a related Option. The Committee shall have the authority to grant Incentive Stock Options, and to grant Non-Qualified Stock Options. In the case of Incentive Stock Options, the terms and conditions of such grants shall be subject to and comply with Section 422 of the Code, as from time to time amended, and any regulations implementing such statute. A person who has been granted an Option or SAR under this Plan may be granted additional Options or SARs under the Plan if the Committee shall so determine; provided, however, that to the extent the aggregate Fair Market Value (determined at the time the Incentive Stock Option is granted) of the Shares with respect to which all Incentive Stock Options are exercisable for the first time by an Employee during any calendar year (under all plans described in of Section 422(d) of the Code of the Employee's employer corporation and its parent and Subsidiaries) exceeds $100,000, such Options shall be treated as Non-Qualified Stock Options.

6.2 *Price.* The Committee in its sole discretion shall establish the Option Price at the time each Option is granted. Except in the case of Substitute Awards, the Option Price of an Option may not be less than one hundred percent (100%) of the Fair Market Value of the Shares with respect to which the Option is granted on the date of grant of such Option. Notwithstanding the foregoing and except as permitted by the provisions of Section 4.2 and Section 13 hereof, the Committee shall not have the power to (i) amend the terms of previously granted Options to reduce the Option Price of such Options, or (ii) cancel such Options and grant substitute Options with a lower Option Price than the canceled Options. Except with respect to Substitute Awards, SARs may not be granted at a price less than the Fair Market Value of a Share on the date of grant.

6.3 *Term.* Subject to the Committee's authority under Section 3.1 and the provisions of Section 6.6, each Option and SAR and all rights and obligations thereunder shall expire on the date

determined by the Committee and specified in the Award Agreement. The Committee shall be under no duty to provide terms of like duration for Options or SARs granted under the Plan. Notwithstanding the foregoing, no Option or SAR shall be exercisable after the expiration of ten (10) years from the date such Option or SAR was granted.

6.4 *Exercise.*

(a) Each Option and SAR shall be exercisable at such times and subject to such terms and conditions as the Committee may, in its sole discretion, specify in the applicable Award Agreement or thereafter. The Committee shall have full and complete authority to determine, subject to Section 6.6 herein, whether an Option or SAR will be exercisable in full at any time or from time to time during the term of the Option or SAR, or to provide for the exercise thereof in such installments, upon the occurrence of such events and at such times during the term of the Option or SAR as the Committee may determine.

(b) The Committee may impose such conditions with respect to the exercise of Options, including without limitation, any relating to the application of federal, state or foreign securities laws or the Code, as it may deem necessary or advisable. The exercise of any Option granted hereunder shall be effective only at such time as the sale of Shares pursuant to such exercise will not violate any state or federal securities or other laws.

(c) An Option or SAR may be exercised in whole or in part at any time, with respect to whole Shares only, within the period permitted thereunder for the exercise thereof, and shall be exercised by written notice of intent to exercise the Option or SAR, delivered to the Company at its principal office, and payment in full to the Company at the direction of the Committee of the amount of the Option Price for the number of Shares with respect to which the Option is then being exercised.

(d) Payment of the Option Price shall be made in cash or cash equivalents, or, at the discretion of the Committee, (i) by transfer, either actually or by attestation, to the Company of Shares that have been held by the Participant for at least six (6) months (or such lesser period as may be permitted by the Committee), valued at the Fair Market Value of such Shares on the date of exercise (or next succeeding trading date, if the date of exercise is not a trading date), together with any applicable withholding taxes, such transfer to be upon such terms and conditions as determined by the Committee, or (ii) by a combination of such cash (or cash equivalents) and such Shares; provided, however, that the optionee shall not be entitled to tender Shares pursuant to successive, substantially simultaneous exercises of an Option or any other stock option of the Company. In addition, if permitted by the Committee in its sole discretion, payment may also be made in whole or in part in the form of an option to acquire Shares or in the form of another Award hereunder (based, in each case, on the Fair Market Value of such option or Award on the date the Option is exercised, as determined by the Committee).

(e) At the Committee's discretion, the amount payable as a result of the exercise of an SAR may be settled in cash, Shares or a combination of cash and Shares. A fractional Share shall not be deliverable upon the exercise of a SAR but a cash payment will be made in lieu thereof.

6.5 *Ten Percent Stock Rule.* Notwithstanding any other provisions in the Plan, if at the time an Option is otherwise to be granted pursuant to the Plan, the optionee or rights holder owns directly or indirectly (within the meaning of Section 424(d) of the Code) Shares of the Company possessing more than ten percent (10%) of the total combined voting power of all classes of Stock of the Company or its parent or Subsidiary or Affiliate corporations (within the meaning of Section 422(b)(6) of the Code), then any

Incentive Stock Option to be granted to such optionee or rights holder pursuant to the Plan shall satisfy the requirement of Section 422(c)(5) of the Code, and the Option Price shall be not less than one hundred ten percent (110%) of the Fair Market Value of the Shares of the Company, and such Option by its terms shall not be exercisable after the expiration of five (5) years from the date such Option is granted.

6.6 *Transferability of Options.* Except as provided in this Section 6.6, no Options shall be (i) transferable otherwise than by will or the laws of descent and distribution, or (ii) exercisable during the lifetime of the Participant by anyone other than the Participant. Non-Qualified Stock Options granted to a Participant may be transferred by such Participant to a permitted transferee (as defined below), provided that (i) such Non-Qualified Stock Options shall be fully vested; (ii) there is no consideration for such transfer (other than receipt by the Participant of interest in an entity that is a permitted transferee); (iii) the participant (or such Participant's estate or representative) shall remain obligated to satisfy all income or other tax withholding obligations associated with the exercise of such Non-Qualified Stock Options; (iv) the Participant shall notify the Company in writing prior to such transfer and disclose to the Company the name and address of the permitted transferee and the relationship of the permitted transferee to the Participant; and (v) such transfer shall be effected pursuant to transfer documents in a form approved by the Company. A permitted transferee may not further assign or transfer any such Non-Qualified Stock Options otherwise than by will or the laws of descent and distribution. Following the transfer of Non-Qualified Stock Options to a permitted transferee, such Nonqualified Options shall continue to be subject to the same terms and conditions that applied to them prior to their transfer by the Participant, except that they shall be exercisable by the permitted transferee to whom such transfer was made rather than by the transferring Participant. For the purposes of the Plan, the term "permitted transferee" means, with respect to a Participant, (i) any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law of the Participant, including adoptive relationships, and (ii) a trust in which the Participant or the persons described in clause (i) above have more than fifty percent of the beneficial interest.

Section 7. Restricted Shares And Restricted Share Units.

7.1 *Grant.*

(a) Subject to the provisions of the Plan and other applicable legal requirements, the Committee shall have sole and complete authority to determine the Participants to whom Restricted Shares and Restricted Share Units shall be granted, the number of Restricted Shares and/or the number of Restricted Share Units to be granted to each Participant, the duration of the period during which, and the conditions under which, the Restricted Shares and Restricted Share Units may be forfeited to the Company, and the other terms and conditions of such Awards. The Restricted Share and Restricted Share Unit Awards shall be evidenced by Award Agreements in such form as the Committee shall from time to time approve, which agreements shall comply with and be subject to the terms and conditions provided hereunder and any additional terms and conditions established by the Committee that are consistent with the terms of the Plan.

(b) Each Restricted Share and Restricted Share Unit Award made under the Plan shall be for such number of Shares as shall be determined by the Committee and set forth in the Award Agreement containing the terms of such Restricted Share or Restricted Share Unit Award. Such agreement shall set forth the period of time during which the grantee must remain in the continuous employment of the Company in order for the forfeiture and transfer restrictions to lapse. If the Committee so determines, the restrictions may lapse during such restricted period in installments with respect to specified portions of the Shares covered by the Restricted Share or Restricted Share Unit Award. The Award Agreement may also, in the discretion of the Committee, set forth performance or other conditions under which restrictions on the Shares may lapse or that will

subject the Shares to forfeiture and transfer restrictions. The Committee may, at its discretion, waive all or any part of the restrictions applicable to any or all outstanding Restricted Share and Restricted Share Unit Awards.

7.2 *Delivery of Shares and Transfer Restrictions.* At the time of a Restricted Share Award, a certificate representing the number of Shares awarded thereunder shall be registered in the name of the grantee. Such certificate shall be held by the Company or any custodian appointed by the Company for the account of the grantee subject to the terms and conditions of the Plan, and shall bear such a legend setting forth the restrictions imposed thereon as the Committee, in its discretion, may determine. The applicable Award Agreement will specify whether a grantee has the right to receive dividends with respect to the Restricted Shares prior to the lapsing of transfer restrictions. Unless otherwise provided in the applicable Award Agreement, the grantee shall have all other rights of a stockholder with respect to the Restricted Shares, including the right to vote such Shares, subject to the following restrictions: (i) the grantee shall not be entitled to delivery of the stock certificate until the expiration of the restricted period and the fulfillment of any other restrictive conditions set forth in the Award Agreement with respect to such Shares; (ii) none of the Shares may be sold, assigned, transferred, pledged, hypothecated or otherwise encumbered or disposed of during such restricted period or until after the fulfillment of any such other restrictive conditions; and (iii) except as otherwise determined by the Committee at or after grant, all of the Shares shall be forfeited and all rights of the grantee to such Shares shall terminate, without further obligation on the part of the Company, unless the grantee remains in the continuous employment of the Company for the entire restricted period in relation to which such Shares were granted and unless any other restrictive conditions relating to the Restricted Share Award are met. Unless otherwise provided in the applicable Award Agreement, any Shares, any other securities of the Company and any other property (except for cash dividends) distributed with respect to the Shares subject to Restricted Share Awards shall be subject to the same restrictions, terms and conditions as such restricted Shares.

7.3 *Termination of Restrictions.* At the end of the restricted period and provided that any other restrictive conditions of the Restricted Share Award are met, or at such earlier time as otherwise determined by the Committee, all restrictions set forth in the Award Agreement relating to the Restricted Share Award or in the Plan shall lapse as to the restricted Shares subject thereto, and a stock certificate for the appropriate number of Shares, free of the restrictions and restricted stock legend, shall be delivered to the Participant or the Participant's beneficiary or estate, as the case may be.

7.4 *Payment of Restricted Share Units.* Each Restricted Share Unit shall have a value equal to the Fair Market Value of a Share. Restricted Share Units shall be paid in cash, Shares, other securities or other property, as determined in the sole discretion of the Committee, upon the lapse of the restrictions applicable thereto, or otherwise in accordance with the applicable Award Agreement. The applicable Award Agreement will specify whether a Participant will be entitled to receive dividend rights in respect of Restricted Stock Units at the time of any payment of dividends to stockholders on Shares. If the applicable Award Agreement specifies that a Participant will be entitled to receive dividend rights, (i) the amount of any such dividend right shall equal the amount that would be payable to the Participant as a stockholder in respect of a number of Shares equal to the number of Restricted Stock Units then credited to the Participant, (ii) any such dividend right shall be paid in accordance with the Company's payment practices as may be established from time to time and as of the date on which such dividend would have been payable in respect of outstanding Shares, and (iii) the applicable Award Agreement will specify whether dividend equivalents shall be paid in respect of Restricted Share Units that are not yet vested. Except as otherwise determined by the Committee at or after grant, Restricted Share Units may not be sold, assigned, transferred, pledged, hypothecated or otherwise encumbered or disposed of, and all Restricted Share Units and all rights of the grantee to such Restricted Share Units shall terminate, without further obligation on the part of the Company, unless the grantee remains in continuous employment of the

Company for the entire restricted period in relation to which such Restricted Share Units were granted and unless any other restrictive conditions relating to the Restricted Share Unit Award are met.

Section 8. Performance Awards.

8.1 *Grant.* The Committee shall have sole and complete authority to determine the Participants who shall receive a Performance Award, which shall consist of a right that is (i) denominated in cash or Shares (including but not limited to Restricted Shares and Restricted Share Units), (ii) valued, as determined by the Committee, in accordance with the achievement of such performance goals during such performance periods as the Committee shall establish, and (iii) payable at such time and in such form as the Committee shall determine.

8.2 *Terms and Conditions.* Subject to the terms of the Plan and any applicable Award Agreement, the Committee shall determine the performance goals to be achieved during any performance period, the length of any performance period, the amount of any Performance Award and the amount and kind of any payment or transfer to be made pursuant to any Performance Award, and may amend specific provisions of the Performance Award; provided, however, that such amendment may not adversely affect existing Performance Awards made within a performance period commencing prior to implementation of the amendment.

8.3 *Payment of Performance Awards.* Performance Awards may be paid in a lump sum or in installments following the close of the performance period or, in accordance with the procedures established by the Committee, on a deferred basis. Termination of employment prior to the end of any performance period, other than for reasons of death or Disability, will result in the forfeiture of the Performance Award, and no payments will be made. A Participant's rights to any Performance Award may not be sold, assigned, transferred, pledged, hypothecated or otherwise encumbered or disposed of in any manner, except by will or the laws of descent and distribution, and/or except as the Committee may determine at or after grant.

Section 9. Other Stock-Based Awards.

The Committee shall have the authority to determine the Participants who shall receive an Other Stock-Based Award, which shall consist of any right that is (i) not an Award described in Section 6 or 7 above and (ii) an Award of Shares or an Award denominated or payable in, valued in whole or in part by reference to, or otherwise based on or related to, Shares (including, without limitation, securities convertible into Shares), as deemed by the Committee to be consistent with the purposes of the Plan. Subject to the terms of the Plan and any applicable Award Agreement, the Committee shall determine the terms and conditions of any such Other Stock-Based Award.

Section 10. Awards to Committee Members.

Notwithstanding any provision of this Plan to the contrary, if applicable, Awards to Directors appointed to and serving on the Committee shall be determined by the Board.

Section 11. Termination of Employment.

The Committee shall have the full power and authority to determine the terms and conditions that shall apply to any Award upon a termination of employment with the Company, its Subsidiaries and Affiliates, including a termination by the Company, by a Participant voluntarily, or by reason of death, Disability or retirement, and may provide such terms and conditions in the Award Agreement or in such rules and regulations as it may prescribe.

Section 12. Change In Control.

The Committee may specify in the applicable Award Agreement at or after grant, or otherwise by resolution prior to a Change in Control, that all or a portion of the outstanding Awards shall vest, become immediately exercisable or payable and have all restrictions lifted upon a Change in Control. In that event, such Awards shall be deemed to have vested, become immediately exercisable or payable and had all restrictions lifted immediately prior to occurrence of the Change in Control.

Section 13. Amendment And Termination.

13.1 *Amendments to the Plan.* The Board may amend, alter, suspend, discontinue or terminate the Plan or any portion thereof at any time; provided that no such amendment, alteration, suspension, discontinuation or termination shall be made without stockholder approval if (a) such approval is necessary to comply with any tax or regulatory requirement for which or with which the Board deems it necessary or desirable to comply or (b) if such amendment constitutes a material revision to the Plan. For the purpose of the foregoing, a "material revision" shall mean: (i) a material increase in the number of shares subject to the Plan under Section 4; (ii) an expansion of the types of Awards under the Plan; (iii) a material expansion of the class of employees, directors or other participants eligible to participate in the Plan; or (iv) a material extension of the term of the Plan.

13.2 *Amendments to Awards.* Subject to the restrictions of Section 6.2, the Committee may waive any conditions or rights under, amend any terms of or alter, suspend, discontinue, cancel or terminate, any Award theretofore granted, prospectively or retroactively; provided that any such waiver, amendment, alteration, suspension, discontinuance, cancellation or termination that would materially and adversely affect the rights of any Participant or any holder or beneficiary of any Award theretofore granted shall not to that extent be effective without the consent of the affected Participant, holder or beneficiary.

13.3 *Adjustments of Awards Upon the Occurrence of Certain Unusual or Nonrecurring Events.* The Committee is hereby authorized to make equitable and proportionate adjustments in the terms and conditions of, and the criteria included in, Awards in recognition of unusual or nonrecurring events (and shall make such adjustments for events described in Section 4.2 hereof) affecting the Company, any Subsidiary or Affiliate, or the financial statements of the Company or any Subsidiary or Affiliate, or of changes in applicable laws, regulations or accounting principles.

13.4 *Section 409A Compliance*. No Award (or modification thereof) shall provide for deferral of compensation that does not comply with Section 409A of the Code unless the Committee, at the time of grant, specifically provides that the Award is not intended to comply with Section 409A of the Code. Notwithstanding any provision of this Plan to the contrary, if one or more of the payments or benefits received or to be received by a Participant pursuant to an Award would cause the Participant to incur any additional tax or interest under Section 409A of the Code, the Committee may reform such provision to maintain to the maximum extent practicable the original intent of the applicable provision without violating the provisions of Section 409A of the Code.

Section 14. General Provisions.

14.1 *Limited Transferability of Awards.* Except as otherwise provided in the Plan, no Award shall be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by a Participant, except by will or the laws of descent and distribution. No transfer of an Award by will or by laws of descent and distribution shall be effective to bind the Company unless the Company shall have been furnished with

written notice thereof and an authenticated copy of the will and/or such other evidence as the Committee may deem necessary or appropriate to establish the validity of the transfer.

14.2 *Dividend Equivalents.* In the sole and complete discretion of the Committee, an Award may provide the Participant with dividends or dividend equivalents, payable in cash, Shares, other securities or other property on a current or deferred basis. All dividend or dividend equivalents which are not paid currently may, at the Committee's discretion, accrue interest, be reinvested into additional Shares, or, in the case of dividends or dividend equivalents credited in connection with Performance Awards, be credited as additional Performance Awards and paid to the Participant if and when, and to the extent that, payment is made pursuant to such Award. The total number of Shares available for grant under Section 4 shall not be reduced to reflect any dividends or dividend equivalents that are reinvested into additional Shares or credited as Performance Awards.

14.3 *No Rights to Awards.* No Person shall have any claim to be granted any Award, and there is no obligation for uniformity of treatment of Participants or holders or beneficiaries of Awards. The terms and conditions of Awards need not be the same with respect to each Participant.

14.4 *Share Certificates.* All certificates for Shares or other securities of the Company or any Subsidiary or Affiliate delivered under the Plan pursuant to any Award or the exercise thereof shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan or the rules, regulations and other requirements of the SEC or any state securities commission or regulatory authority, and any applicable Federal or state laws, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

14.5 *Withholding.* A Participant may be required to pay to the Company or any Subsidiary or Affiliate and the Company or any Subsidiary or Affiliate shall have the right and is hereby authorized to withhold from any Award, from any payment due or transfer made under any Award or under the Plan, or from any compensation or other amount owing to a Participant the amount (in cash, Shares, other securities, other Awards or other property) of any applicable withholding or other tax-related obligations in respect of an Award, its exercise or any other transaction involving an Award, or any payment or transfer under an Award or under the Plan and to take such other action as may be necessary in the opinion of the Company to satisfy all obligations for the payment of such taxes. The Committee may provide for additional cash payments to holders of Options to defray or offset any tax arising from the grant, vesting, exercise or payment of any Award.

14.6 *Award Agreements.* Each Award hereunder shall be evidenced by an Award Agreement that shall be delivered to the Participant and may specify the terms and conditions of the Award and any rules applicable thereto. In the event of a conflict between the terms of the Plan and any Award Agreement, the terms of the Plan shall prevail. The Committee shall, subject to applicable law, determine the date an Award is deemed to be granted. The Committee or, except to the extent prohibited under applicable law, its delegate(s) may establish the terms of agreements or other documents evidencing Awards under this Plan and may, but need not, require as a condition to any such agreement's or document's effectiveness that such agreement or document be executed by the Participant, including by electronic signature or other electronic indication of acceptance, and that such Participant agree to such further terms and conditions as specified in such agreement or document. The grant of an Award under this Plan shall not confer any rights upon the Participant holding such Award other than such terms, and subject to such conditions, as are specified in this Plan as being applicable to such type of Award (or to all Awards) or as are expressly set forth in the agreement or other document evidencing such Award.

14.7 *No Limit on Other Compensation Arrangements.* Nothing contained in the Plan shall prevent the Company or any Subsidiary or Affiliate from adopting or continuing in effect other

compensation arrangements, which may, but need not, provide for the grant of Options, Restricted Shares, Restricted Share Units, Other Stock-Based Awards or other types of Awards provided for hereunder.

14.8 *No Right to Employment.* The grant of an Award shall not be construed as giving a Participant the right to be retained in the employ of the Company or any Subsidiary or Affiliate. Further, the Company or a Subsidiary or Affiliate may at any time dismiss a Participant from employment, free from any liability or any claim under the Plan, unless otherwise expressly provided in an Award Agreement.

14.9 *No Rights as Stockholder.* Subject to the provisions of the Plan and the applicable Award Agreement, no Participant or holder or beneficiary of any Award shall have any rights as a stockholder with respect to any Shares to be distributed under the Plan until such person has become a holder of such Shares. Notwithstanding the foregoing, in connection with each grant of Restricted Shares hereunder, the applicable Award Agreement shall specify if and to what extent the Participant shall not be entitled to the rights of a stockholder in respect of such Restricted Shares.

14.10 *Governing Law.* The validity, construction and effect of the Plan and any rules and regulations relating to the Plan and any Award Agreement shall be determined in accordance with the laws of the State of Delaware without giving effect to conflicts of laws principles.

14.11 *Severability.* If any provision of the Plan or any Award is, or becomes, or is deemed to be invalid, illegal or unenforceable in any jurisdiction or as to any Person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award, such provision shall be stricken as to such jurisdiction, Person or Award and the remainder of the Plan and any such Award shall remain in full force and effect.

14.12 *Other Laws.* The Committee may refuse to issue or transfer any Shares or other consideration under an Award if, acting in its sole discretion, it determines that the issuance or transfer of such Shares or such other consideration might violate any applicable law or regulation (including applicable non-U.S. laws or regulations), and any payment tendered to the Company by a Participant, other holder or beneficiary in connection with the exercise of such Award shall be promptly refunded to the relevant Participant, holder or beneficiary.

14.13 *No Trust or Fund Created.* Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Subsidiary or Affiliate and a Participant or any other Person. To the extent that any Person acquires a right to receive payments from the Company or any Subsidiary or Affiliate pursuant to an Award, such right shall be no greater than the right of any unsecured general creditor of the Company or any Subsidiary or Affiliate.

14.14 *No Fractional Shares.* No fractional Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash, other securities or other property shall be paid or transferred in lieu of any fractional Shares or whether such fractional Shares or any rights thereto shall be canceled, terminated or otherwise eliminated.

14.15 *Headings.* Headings are given to the sections and subsections of the Plan solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Plan or any provision thereof.

Section 15. Term Of The Plan.

15.1 *Effective Date.* The Plan was adopted by the Board and became effective on March 28, 2007 (the "Effective Date"), subject to the approval of the Plan by the Company's stockholders.

15.2 *Expiration Date.* No new Awards shall be granted under the Plan after the tenth anniversary of the Effective Date. Unless otherwise expressly provided in the Plan or in an applicable Award Agreement, any Award granted hereunder may, and the authority of the Board or the Committee to amend, alter, adjust, suspend, discontinue or terminate any such Award or to waive any conditions or rights under any such Award shall, continue after the tenth anniversary of the Effective Date.

Exhibit 10.3

SURGIVISION, INC.

AMENDED AND RESTATED
KEY PERSONNEL INCENTIVE PROGRAM

INTRODUCTION

The SurgiVision, Inc. Amended and Restated Key Personnel Incentive Program (the "Program") provides eligible key personnel of the Company (as defined herein) with the opportunity to receive incentive bonus payments ("Incentive Payments") upon providing a number of years of service to the Company or upon consummation of a Triggering Event (as defined herein) in accordance with the terms and conditions set forth herein.

The purpose of the Program is to provide designated key employees and consultants with financial rewards in the event of a Triggering Event in order to incentivize such personnel to increase the value of the Company, to secure their continued commitment and dedication to the Company, and to strengthen the mutuality of interests between the key personnel and the stockholders of the Company.

1. DEFINITIONS

Whenever used herein, the following words and phrases shall have the meanings set forth below:

"AAA" shall have the meaning as set forth in Section 6.5 herein.

"Affiliate" of a Person shall mean any other Person that controls, is controlled by, or is under common control with, such Person.

"Aggregate Incentive Award" shall mean an aggregate positive amount, if any, equal to the Applicable Percentage of the Surplus Amount; provided, however, that in no event shall the Aggregate Incentive Award exceed the Maximum Program Amount.

"Applicable Percentage" shall mean six percent (6%).

"Board" shall mean the Board of Directors of the Company.

"Bonus Pool" has the meaning set forth in Section 3.2 herein.

"Cause" shall mean, as applicable to each Participant, (a) such Participant's commission of an act of fraud, embezzlement, theft or other criminal act against the Company constituting a felony; (b) such Participant's willful or wanton disregard of the rules or policies of the Company which results in a material loss, damage or injury to the Company; (c) the repeated failure of a Participant to perform duties consistent with his or her position or to follow or comply with the reasonable directives of the Board or the Participant's superior(s) after having been given notice thereof; (d) the material breach of any provision contained in a written non-competition, confidentiality or non-disclosure agreement between the Company and the Participant; or (e) any

other event that allows the Company or its subsidiaries to terminate the employment or consultancy of the Participant for "Cause" pursuant to a written employment agreement or consulting agreement.

"Committee" shall mean the Compensation Committee of the Board or such other committee of directors appointed by the Board to administer the Program; provided, however, that to the extent the Board has not appointed any such committee, all references in the Program to the "Committee" shall be deemed to be references to the Board.

"Common Shares" shall mean the shares of the Company's common stock on a fully diluted basis (i.e., giving effect to the issuance of all shares issuable upon exercise of options and conversions of convertible securities, etc.) on the date of the consummation of a Triggering Event. For purposes of any determination, the number of Common Shares shall be determined in good faith by the Committee, which determination shall be final and binding on all Persons.

"Company" shall mean SurgiVision, Inc., a Delaware corporation, including its successor in interest by merger, consolidation or otherwise.

"Disability" shall mean a Participant (a) is determined to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to last for a continuous period of not less than twelve (12) months, or (b) is, by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, receiving income replacement benefits for a period of not less than three (3) months under an accident and health plan sponsored by the Company.

"Dispute" shall have the meaning as set forth in Section 6.5 herein.

"Future Payments Provision" shall mean any provision relating to a Sale Transaction that provides for (a) the payment of proceeds of, or from, such Sale Transaction in one or more installments after the consummation of the Sale Transaction, (b) the deposit of any proceeds of, or from, such Sale Transaction into an escrow account (whether such escrow account is established by the Company or any Purchaser), or (c) any earnout, contingent payment, deferred payment or post-closing adjustment payment pursuant to which any proceeds of, or from, such Sale Transaction will be paid in one or more installments after the consummation of such Sale Transaction.

"Hurdle Amount" shall mean Fifty Million Dollars ($50,000,000).

"Incentive Award Agreements" shall mean those certain letter agreements, or any of them, from time to time entered into between the Company and Participants pursuant to the Program, as described in Section 3.4 below, as the same may be amended or modified.

"Incentive Payments" shall have the meaning as set forth in the Introduction herein.

"Individual Share" shall have the meaning set forth in Section 3.3(b) herein. The sum of the Individual Shares for all Participants, in the aggregate, may be less than, but shall not exceed, one hundred percent (100%).

"Involuntary Termination" shall mean the termination of a Participant's employment or consultancy by the Company other than for Cause.

"Maximum Incentive Payment" shall mean the positive amount calculated by multiplying the Maximum Program Amount by a Participant's Individual Share.

"Maximum Program Amount" shall mean Three Million Dollars ($3,000,000).

"Net Proceeds" shall mean the portion of the aggregate cash and non-cash consideration paid or payable in connection with the consummation of a Sale Transaction that is distributed, or otherwise available for distribution, to holders of Common Shares. The fair market value of any securities issued, and any other non-cash consideration and any future payments or consideration to be paid or delivered, in connection with a Sale Transaction will be valued in good faith by the Committee, which determination shall be final and binding on all Persons.

"Participant" shall mean an individual who (a) is an employee or bona fide consultant of the Company or any of its subsidiaries, (b) is designated by the Committee for an award under the Program, and (c) enters into an Incentive Award Agreement with the Company. The Participants shall be identified on Exhibit A attached hereto, which may be amended from time to time by the Committee to reflect the addition/removal of Participants pursuant to the Program.

"Person" shall mean an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

"Post-Closing Adjustment Provision" shall mean any provision relating to a Sale Transaction that potentially requires the Company and/or its stockholders to reimburse or repay any portion of the proceeds from such Sale Transaction or any other amount to the Purchaser, or to indemnify the Purchaser in any respect.

"Program" shall have the meaning set forth in the introduction herein.

"Purchaser" shall mean any Person(s) that acquire(s) the Company pursuant to a Sale Transaction.

"Rules" shall have the meaning as set forth in Section 6.5 herein.

"Sale Transaction" shall mean the following: (a) the Company is merged, consolidated or reorganized into or with another corporation or other Person, or securities of the Company are exchanged for securities of another corporation or other Person, and immediately after such merger, consolidation, reorganization or exchange less than a majority of the combined voting power of the then-outstanding securities of such corporation or other Person immediately after such transaction are held, directly or indirectly, in the aggregate by the holders of securities entitled to vote generally in the election of directors of the Company immediately prior to such transaction, or (b) the Company, in any transaction or series of related transactions, sells a substantial portion of its assets to any other corporation or other Person and less than a majority of the combined voting power of the then-outstanding securities of such corporation or other

Person immediately after such sale or sales are held, directly or indirectly, in the aggregate by the holders of securities entitled to vote generally in the election of directors of the Company immediately prior to such sale. For purposes of this definition, a sale of a substantial portion of the Company's assets shall mean the Company's sale of assets having a total gross fair market value equal to or more than 40% of the total gross fair market value of all of the Company's assets immediately prior to such sale.

"Service Payment" shall have the meaning as set forth in Section 3.1 herein.

"Special Individual Payment" shall mean any payment (whether in cash or in kind) made, or agreed to be made, to any Participant in connection with the consummation of a Sale Transaction that is (a) reasonably characterized as being compensation primarily for a non-compete or similar agreement with, or for the benefit of, the Purchaser, or (b) a consulting or similar fee that is not reasonably commensurate with the services actually to be performed by the Participant. Notwithstanding the foregoing to the contrary, Special Individual Payments shall not include reasonable salary, bonus, stock options or equity compensation, fringe benefit payments or other compensation payable to a Participant following consummation of a Sale Transaction for services actually to be rendered or performed.

"Special Payment Reduction" shall have the meaning as set forth in Section 3.3(b) herein.

"Surplus Amount" shall mean the aggregate positive amount, if any, by which the Net Proceeds from a Triggering Event exceed the Hurdle Amount.

"Triggering Event" shall mean a Sale Transaction that is consummated during the term of the Program.

"Unallocated Portion" shall have the meaning as set forth in Section 3.3(b) herein.

"Withheld Amount" shall have the meaning as set forth in Section 3.5(c)(ii) herein.

2. ADMINISTRATION

The Program shall be administered by the Committee. The Committee shall have the authority to award and grant Incentive Payments, pursuant to the terms of the Program, to employees and bona fide consultants of the Company determined by the Committee to be eligible to participate in the Program. In particular, the Committee shall have the authority, consistent with the terms of the Program: (a) to select the employees and consultants of the Company and its subsidiaries to whom Incentive Payments may be granted from time to time; provided, however, that the Committee shall not grant Incentive Payments to any member of the Committee without the prior approval of the Board; (b) to determine whether a Triggering Event has occurred; (c) to calculate and determine the amount of the Net Proceeds; (d) to determine the amount of Incentive Payments to be granted to Participants; provided however, that the amount of any Incentive Payment shall comply with the limitations set forth in Section 280G of the Internal Revenue Code; (v) to calculate and determine the amount of any Special Individual Payments; (vi) to interpret the terms and provisions of the Program and any award issued under the Program (and any agreements relating thereto); and (vii) to supervise the administration of the Program as described herein or otherwise. Subject to the foregoing, all decisions made by

the Committee pursuant to the provisions of the Program shall be made in the Committee's sole discretion and in good faith and shall be final and binding on all Persons.

3. INCENTIVE PAYMENT AMOUNTS

3.1 Payments Upon Completion of Service Requirements. Each Incentive Award Agreement may provide for all or a portion of the Participant's Incentive Payment to be paid upon the completion of specified services as an employee or consultant of the Company (a "Service Payment").

3.2 Participant Bonus Pool. In the event the Company consummates a Triggering Event, the Company shall allocate the Aggregate Incentive Award to a bonus pool for the Participants (the "Bonus Pool").

3.3 Participant's Share of Bonus Pool.

(a) Eligibility for Bonus. A Participant shall be eligible to receive payment of his or her Incentive Payment with respect to a Triggering Event as provided in this Section 3.3 if, and only if, the Triggering Event is consummated while the Participant is serving as an employee or consultant of the Company or one of its subsidiaries.

(b) Individual Share. Each Participant's Incentive Payment with respect to a Triggering Event shall be specified in the Participant's Incentive Award Agreement as a percentage (the "Individual Share") of either (i) the Bonus Pool or (ii) the Maximum Program Amount. In either case, the Participant's Incentive Payment with respect to a Triggering Event shall be reduced, on a dollar-for-dollar basis, by the amount of Service Payments previously paid to the Participant, if any, so that in no event shall the aggregate amount of all payments of all kinds to Participant exceed his Maximum Incentive Payment. If the aggregate Service Payments already paid to the Participant equal or exceed the amount of the Incentive Payment otherwise payable to the Participant with respect to the Triggering Event (before reduction as described in this Section), then such Incentive Payment shall be zero. Any portion of the Bonus Pool not awarded to Participants pursuant to Incentive Award Agreements as of the date of a Triggering Event (the "Unallocated Portion") shall be retained by the Company, and no Participant shall have any right to or claim against such Unallocated Portion. Notwithstanding the foregoing to the contrary, in the event any Participant receives any Special Individual Payment, such Participant's Incentive Payment from the Bonus Pool shall be reduced, on a dollar-for-dollar basis, by the corresponding amount of any such Special Individual Payment (the "Special Payment Reduction").

3.4 Incentive Award Agreements. Awards made pursuant to the Program, and any Incentive Payments made pursuant to such awards, shall be made in accordance with, and subject to the terms and conditions of, individual Incentive Award Agreements entered into between the Company and each Participant. Each Incentive Award Agreement must be satisfactory to the

Committee in both form and substance.

3.5 Payment of Incentive Payments.

(a) In-Kind Payment. Notwithstanding any provision herein to the contrary, if the Company and/or holders of Common Shares receive (or are to receive) non-cash consideration in connection with a Triggering Event, then the Company may, without obligation, fund the Bonus Pool with cash consideration and non-cash consideration in the same proportion that the Company and/or holders of Common Shares receive (or are to receive) such consideration in connection with the Triggering Event. The fair market value of any securities or other non-cash consideration will be valued in good faith by the Committee, which determination shall be final and binding on all Persons.

(b) No Future Payments Provision or Post-Closing Adjustment Provision. In the event a Triggering Event does not include any Future Payments Provision or Post-Closing Adjustment Provision, then, subject to Section 3.3(b) herein, the Company shall pay (in cash and/or non-cash consideration as described above) each eligible Participant the amount of such Participant's Incentive Payment within thirty (30) days following the closing of such Triggering Event and the distribution of the proceeds thereof.

(c) Future Payments Provision and/or Post-Closing Adjustment Provision. In the event the Triggering Event transaction includes any Future Payments Provision and/or Post-Closing Adjustment Provision, then, subject to Section 3.3(b) herein, the Company shall pay the Incentive Payments according to the terms of this Section 3.5(c).

(i) In the event the Triggering Event transaction includes a Future Payments Provision, the Company shall pay (in cash and/or non-cash consideration as described above) each eligible Participant, within thirty (30) days following the closing of such Triggering Event and the distribution of the proceeds thereof, the portion of such Participant's Incentive Payment equal to the product obtained by multiplying (A) such Participant's Individual Share, by (B) the Aggregate Incentive Award, by (C) the percentage of the total Net Proceeds paid, distributed or delivered to the Company and/or holders of the Common Shares, as applicable, on or about the closing date of the Triggering Event. Thereafter, within thirty (30) days after any additional portion of the Net Proceeds is paid, distributed or delivered to the Company and/or holders of the Common Shares, as applicable, the Company shall pay to such Participant the portion(s) of such Participant's remaining Incentive Payment in an amount equal to the product obtained by multiplying (A) such Participant's Individual Share, by (B) the Aggregate Incentive Award, by (C) the percentage that such additional portion of the Net Proceeds bears to the total Net Proceeds.

(ii) In the event the Triggering Event transaction includes a Post-Closing Adjustment Provision, within thirty (30) days following the closing of such Triggering Event, the Company shall pay (in cash and/or non-cash consideration as described above) each eligible Participant the amount of such Participant's Incentive Payment, less an amount that shall take into account the potential adjustment that is the subject of the Post-Closing Adjustment Provision (the "Withheld Amount"), which amount shall be determined in good faith by the Committee. As soon as practicable after the amount of such adjustment, if any, is known with certainty (as determined by the Committee), the Company shall pay each Participant the Participant's prorated portion of the Withheld Amount, less the amount actually reimbursed or paid pursuant to the Post-Closing Adjustment Provision.

(iii) Notwithstanding the foregoing, no payment shall be made under this Section 3.5(c) if the Participant's Incentive Award Agreement has been terminated under Section 4.1, Section 4.2 or Section 4.3 herein before the date of such payment or if a payment would otherwise be due after March 15 of the year following any termination of the Participant's employment or consultancy.

4. TERMINATION OF EMPLOYMENT OR CONSULTANCY; LOSS OF ELIGIBILITY

4.1 Termination for Cause and Voluntary Termination. A Participant's Incentive Award Agreement shall immediately and automatically terminate in the event (a) such Participant's employment or consultancy is terminated by the Company (or any of its subsidiaries) for Cause, or (b) such Participant voluntarily terminates his or her employment or consultancy or voluntarily reduces the level of his or her employment or consultancy such that Participant is no longer rendering substantial services within the meaning of Treasury Regulation §1.409A-1(d)(1). Upon termination of the Incentive Award Agreement, such Participant shall no longer be eligible to receive any Incentive Payment. For purposes of this Section 4.1, a Participant's employment or consultancy shall not be deemed to have been voluntarily terminated by the Participant simply because of a change in the capacity in which the Participant renders services (i.e., a change from employee to consultant, and vice versa), provided the Participant continues to render substantial services within the meaning of Treasury Regulation §1.409A-1(d)(1).

4.2 Involuntary Termination. In the event a Participant's employment or consultancy is terminated due to an Involuntary Termination, the Company shall pay to Participant any remaining Service Payments (as set forth in the Participant's Incentive Award Agreement) on the earlier of (a) the specified due date thereof or (b) March 15 of the year following the calendar year in which such Involuntary Termination occurred, whereupon such Participant's Incentive Award Agreement shall terminate. For purposes of this Section 4.2, a Participant's employment or consultancy shall not be deemed to have been terminated due to an Involuntary Termination because of a change in the capacity in which the Participant renders services (i.e., a change from employee to consultant, and vice versa).

4.3 Death or Disability. In the event a Participant's employment or consultancy is terminated due to death or Disability, the Company shall pay to the Participant any remaining Service Payments (as set forth in the Participant's Incentive Award Agreement) on the earlier of (a) the specified due date thereof or (b) March 15 of the year following the calendar year in which such death or Disability occurred, whereupon such Participant's Incentive Award Agreement shall terminate.

5. AMENDMENT

At any time prior to the consummation of a Triggering Event, the Committee may amend or alter (a) this Program and/or (b) any or all individual Incentive Award Agreements issued under this Program. Notwithstanding the foregoing, no amendment or alteration of this Program or any individual Incentive Award Agreement shall impair any Participant's rights under any Incentive Award Agreement theretofore issued under this Program, without the prior consent of such Participant(s).

6. MISCELLANEOUS

6.1 Taxes. Incentive Payments (including, without limitation, any portion thereof that may be paid as Service Payments) are subject to applicable federal, state and local withholding taxes. The Company shall withhold from Incentive Payments payable under the Program all income, employment and payroll taxes which, by applicable federal, state or local law, the Company is required to withhold.

6.2 Employment or Consultancy Status Not Conferred. The adoption of this Program or the receipt of an Incentive Award under this Program shall not confer upon any employee or consultant of the Company or its subsidiaries any right to continued employment or consultancy with the Company or its subsidiaries, as the case may be, nor shall it interfere in any way with the right of Company or its subsidiaries to terminate the employment or consultancy of any of its employees or consultants at any time.

6.3 Governing Law. The Program and all awards made and actions taken thereunder shall be governed by and construed in accordance with the laws of the State of Delaware.

6.4 Successors. In the event of any merger, consolidation or other similar event involving the Company, the provisions of the Program shall be binding upon the surviving or resulting entity of such transaction.

6.5 Arbitration. Any controversy, claim or dispute arising out of, in connection with or relating to this Program or any Incentive Award Agreement ("Dispute"), which cannot otherwise be resolved through good faith negotiations between the parties, may be submitted by either the Company or the relevant Participant(s) to binding arbitration in accordance with the then prevailing Commercial Arbitration Rules of the American Arbitration Association (the "AAA"), except as such rules conflict with the provisions of this Section, in which case the provisions of this Section shall control. The Dispute shall be submitted to binding arbitration before three (3) arbitrators in Memphis, Tennessee under the AAA's Commercial Arbitration Rules (the "Rules") as modified or supplemented hereby. Within ten (10) days after commencement of any arbitration proceeding, as provided herein, the Company shall choose an

arbitrator, and the relevant Particpant(s) shall choose an arbitrator. Thereafter, a third neutral arbitrator shall be selected by the two (2) arbitrators chosen by the parties. If the arbitrators chosen by the parties cannot agree upon the neutral arbitrator within ten (10) business days after their appointment, then, in any such event, the neutral arbitrator shall be selected, pursuant to the Rules. The costs of the arbitration, including the fees and expenses of the arbitrators, shall be shared equally by the parties, but each party shall be responsible for its own costs, including attorneys and witness fees, incurred by that party in the arbitration proceedings. In rendering an award, the parties agree that the arbitrators shall not have any power or authority to modify any provisions of the Program or any Incentive Award Agreement, and in no event shall the arbitrator have the power or authority to make awards that provide for damages expressly excluded or limited by the same. The arbitration award shall be in writing and shall specify the factual or legal basis for the award. A judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Nothing in this Section shall be construed to prevent any party from instituting legal proceedings to seek a temporary restraining order or other temporary or preliminary injunctive relief to prevent immediate and irreparable harm to such party, and for which monetary damages would be inadequate, pending final resolution of a Dispute pursuant to this Section. Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder or to obtain interim relief, and except as reasonably necessary to comply with any applicable law, rule, regulation of any governmental authority or securities exchange, neither party may, nor may the arbitrator, disclose the existence, content or results of any arbitration hereunder without the prior written consent of both parties. The Federal Arbitration Act, 9 U.S.C. Sections 1 through 14, except as modified hereby, shall govern the interpretation and enforcement of this Section. THE PARTIES ACKNOWLEDGE AND AGREE THAT IN AGREEING TO SUBMIT ALL DISPUTES TO BINDING ARBITRATION, THEY ARE IRREVOCABLY WAIVING ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO THIS AGREEMENT.

6.6 No Trust. The amounts to be paid in respect of the Program shall not constitute or be treated as a trust of any kind. The Company shall not be required to fund or otherwise segregate assets to be used for the payment of Incentive Payments under the Program. The Company shall make such payments only out of its general assets, and, therefore, the Company's obligation to make such payments shall be subject to any claims of its other creditors having priority as to its assets. The Participants' rights under the Program are solely those of general unsecured creditors of the Company and are subject to forfeiture under the terms hereof and under the Participant's Incentive Award Agreement. If the Company designates any assets to pay its liabilities hereunder, such assets shall at all times remain the property of the Company, and the Participants shall not have any property interest in such assets.

6.7 Interpretation. The Committee acting in good faith, shall have discretion to interpret the Program and the Incentive Award Agreements. The Committee's interpretation and actions hereunder, if made in the exercise of good faith discretion and not in an arbitrary and capricious manner, shall be conclusive and binding upon all Persons for all purposes. Neither the Company nor any of its directors, officers or employees (including members of the Committee) shall be liable to the Participants or any other Person for any action taken in connection with the interpretation of the Program or the Incentive Award Agreement.

6.8 No Right of Equity Ownership. Neither the Program nor any Incentive Award Agreement grants to any Participant any right or privilege of equity ownership in the Company.

6.9 Section 409A Compliance. The provisions of this Program are intended to cause the Program to conform with the requirements of a plan providing only for short-term deferrals as provided in Treasury Regulation §1.409A-1(b)(4), as amended from time to time or to any successor provision, and the provisions of this Program shall be construed in accordance with that intention. If any provision of this Program shall be inconsistent or in conflict with any applicable requirements for a short-term deferral plan, then such requirement shall be deemed to override and supersede the inconsistent or conflicting provision, and any required provision of a short-term deferral plan that is omitted from this Program shall be incorporated herein by reference and shall apply retroactively, if necessary, and be deemed to be a part of this Program to the same extent as though expressly set forth herein. To the extent permissible under Treasury Regulation §1.409A-1(b)(4)(ii), the payments may be delayed within the discretion of the Committee on the following grounds: (a) it is administratively impracticable to make the payment by the regular payment date due to unforeseeable reasons; (b) the payment would jeopardize the Company's ability to continue as a going concern; (c) the payment is reasonably anticipated not to be deductible under Section 162(m) of the Internal Revenue Code due to circumstances that a reasonable person would not have anticipated; or (d) such other grounds as may be from time to time permissible under the foregoing regulation; provided, however, any delayed payment shall be made within the period required under the foregoing regulation.

7. EFFECTIVENESS OF PROGRAM, PROGRAM TERMINATION

This Program shall become effective on September 14, 2006, and shall expire and terminate upon the earlier to occur of (a) December 31, 2015, or (b) the consummation of a Triggering Event; provided, however, that upon any such termination, the terms of the Program (and any Incentive Award Agreements) shall survive to the extent, but only to the extent, necessary for the Company to satisfy its obligations to eligible Participants hereunder that result from such Triggering Event or any unpaid Service Payments.

Exhibit A

Participants

The following individuals are "Participants" under the Amended and Restated SurgiVision, Inc. Key Personnel Incentive Program, whose "Individual Shares" are set forth opposite their names:

As of May 15, 2007

Participant Name	Individual Share
Paul A. Bottomley	33.33%
Parag Karmarker	33.33%
Unallocated	33.33%

As of June 2, 2010, a portion of the above unallocated Individual Share has been allocated as follows:

Participant Name	Individual Share
Paul A. Bottomley	23.33%
Left unallocated	10.00%

Exhibit 10.4

SurgiVision, Inc.
2010 Incentive Compensation Plan

1 . Purpose of the Plan. The purpose of the SurgiVision 2010 Incentive Compensation Plan (the "Plan") is to aid SurgiVision, Inc., a Delaware corporation (the "Company"), and its Affiliates (defined below) in recruiting and retaining key employees, directors, consultants and other service providers of outstanding ability and to motivate such employees, directors, consultants and other service providers to exert their best efforts on behalf of the Company and its Affiliates by providing incentives through the granting of Awards (defined below). The Company expects that it will benefit from the added interest which such key employees, directors, consultants and other service providers will have in the welfare of the Company as a result of their proprietary interest in the Company's success.

2. Definitions. The following capitalized terms used in the Plan have the respective meanings set forth in this Section 2:

"Act" means the Securities Exchange Act of 1934, as amended, or any successor thereto.

"Affiliate" means with respect to the Company, any entity directly or indirectly controlling, controlled by, or under common control with, the Company or any other entity designated by the Board in which the Company or an Affiliate has an interest.

"Award" means an Option, Stock Appreciation Right, cash bonus, or Other Stock-Based Award granted pursuant to the Plan.

"Board" means the Board of Directors of the Company.

"Change of Control" means the occurrence with respect to the Company of any of the following events: (i) a change in the ownership of the Company; (ii) a change in the effective control of the Company; (iii) a change in the ownership of a substantial portion of the assets of the Company.

For purposes of this definition, a change in the ownership of the Company occurs on the date on which any one person, or more than one person acting as a group, acquires ownership of stock of the Company that, together with stock held by such person or group constitutes more than 50% of the total fair market value or total voting power of the stock of the Company. A change in the effective control of the Company occurs on the date on which either (i) a person, or more than one person acting as a group, acquires ownership of stock of the Company possessing 30% or more of the total voting power of the stock of the Company, taking into account all such stock acquired during the 12-month period ending on the date of the most recent acquisition, or (ii) a majority of the members of the Board is replaced during any 12-month period by directors whose appointment or election is not endorsed by a majority of the members of such Board prior to the date of the appointment or election. A change in the ownership of a substantial portion of assets occurs on the date on which any one person, or more than one person acting as a group, other than a person or group of persons that is related to the Company, acquires assets from the Company that have a total gross fair market value equal to or more than 40% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or

acquisitions, taking into account all such assets acquired during the 12-month period ending on the date of the most recent acquisition.

An event constitutes a Change of Control with respect to a Participant only if the Participant performs services for the Company, or the Participant's relationship to the Company otherwise satisfies the requirements of Treasury Regulation Section 1.409A-3(i)(5)(ii).

The determination as to the occurrence of a Change of Control shall be based on objective facts and in accordance with the requirements of Section 409A of the Code.

"Code" means the Internal Revenue Code of 1986, as amended, or any successor thereto.

"Committee" means the Compensation Committee of the Board (or a subcommittee thereof as provided under Section 4), or such other committee of the Board (including, without limitation, the full Board) to which the Board has delegated power to act under or pursuant to the provisions of the Plan.

"Company" has the meaning set forth in Section 1.

"Covered Employee" means an individual who is, with respect to the Company, an individual defined in Section 162(m)(3) of the Code, or any successor provision thereto.

"Disability" means Disability as defined for purposes of Section 409A of the Code. The Disability determination shall be in the sole discretion of the Committee and a Participant (or his representative) shall furnish the Committee with medical evidence documenting the Participant's disability or infirmity which is satisfactory to the Committee.

"Effective Date" means the date the Board approves the Plan, or such later date as is designated by the Board; provided that within one year of the Effective Date, the Plan shall have been approved by at least a majority vote of stockholders voting in person or by proxy at a duly held stockholders' meeting, or if the provisions of the corporate charter, bylaws or applicable state law prescribes a greater degree of stockholder approval for this action, the approval by the holders of that percentage, at a duly held meeting of stockholders.

"Employment" means (i) a Participant's employment if the Participant is an employee of the Company or any of its Affiliates, (ii) a Participant's service as a consultant or other service provider, if the Participant is a consultant or other service provider to the Company or its Affiliates, and (iii) a Participant's service as an non-employee director, if the Participant is a non-employee member of the Board.

"Fair Market Value" means, on a given date, (i) if there should be a public market for the Shares on such date, the closing price of the Shares as reported on such date on the composite tape of the principal national securities exchange on which such Shares are listed or admitted to trading, or, if no composite tape exists for such national securities exchange on such date, then the closing price on the principal national securities exchange on which such Shares are listed or admitted to trading, or, (ii) if the Shares are not listed or admitted to trading or quotation on a national securities exchange, the arithmetic mean of the per Share closing bid price and per Share closing asked price on such date as quoted on the National Association of Securities Dealers

Automated Quotation System (or such market in which such prices are regularly quoted), or (iii) if there is no market on which the Shares are regularly quoted, the Fair Market Value shall be the value established by the Committee in good faith pursuant to the reasonable application of a reasonable valuation method under Treasury Regulation Section 1.409A-1(b)(5)(iv)(B). With respect to (i) and (ii) above, if no sale of Shares shall have been reported on such composite tape or such national securities exchange on such date or quoted on the National Association of Securities Dealer Automated Quotation System on such date, then the immediately preceding date on which sales of the Shares have been so reported or quoted shall be used.

"ISO" means an Option that is also an incentive stock option granted pursuant to Section 6(d) of the Plan.

"Option" means a stock option granted pursuant to Section 6 of the Plan.

"Option Price" means the purchase price per Share of an Option, as determined pursuant to Section 6(a) of the Plan.

"Other Stock-Based Awards" means Awards granted pursuant to Section 8 of the Plan.

"Participant" means an employee, director, consultant or other service provider of the Company or any of its Affiliates who is selected by the Committee to participate in the Plan.

"Performance-Based Awards" means certain Other Stock-Based Awards granted pursuant to Section 8(b) of the Plan.

"Permitted Holders" means, as of the date of determination, any and all of an employee benefit plan (or trust forming a part thereof) maintained by (i) the Company, or (ii) any corporation or other Person of which a majority of its voting power of its voting equity securities or equity interest is owned, directly or indirectly, by the Company.

"Person" means a "person", as such term is used for purposes of Section 13(d) or 14(d) of the Act (or any successor section thereto).

"Plan" has the meaning set forth in Section 1.

"Qualified Performance-Based Award" means (i) any Option or Stock Appreciation Right granted under Section 10 of the Plan, or (ii) any other Award that is intended to qualify for the Section 162(m) Exemption and is made subject to performance goals based on Qualified Performance Measures as set forth in Section 10.

"Qualified Performance Measures" means one or more of the performance measures listed in Section 10(b) upon which performance goals for certain Qualified Performance-Based Awards may be established by the Committee.

"Section 162(m) Exemption" means the exemption from the limitation on deductibility imposed by Section 162(m) that is set forth in Section 162(m)(4)(C) of the Code or any successor provision thereto.

"Shares" means shares of common stock of the Company.

"Stock Appreciation Right" means a stock appreciation right granted pursuant to Section 7 of the Plan.

"Subsidiary" means a subsidiary corporation, as defined in Section 424(f) of the Code (or any successor section thereto).

3. Shares Subject to the Plan. Subject to Section 11 of the Plan, the total number of Shares which may be issued under the Plan is 5,000,000 and the maximum number of Shares for which ISOs may be granted is 2,500,000. The Shares may consist, in whole or in part, of unissued Shares or treasury Shares. The issuance of Shares or the payment of cash upon the exercise of an Award or in consideration of the cancellation or termination of an Award shall reduce the total number of Shares available under the Plan, as applicable. Shares subject to Awards that terminate or lapse without the payment of consideration may be granted again under the Plan.

4. Administration. The Plan shall be administered by the Committee. The Committee is authorized to interpret the Plan, to establish, amend and rescind any rules and regulations relating to the Plan, and to make any other determinations that it deems necessary or advisable for the administration of the Plan. The Committee may correct any defect or supply any omission or reconcile any inconsistency in the Plan in the manner and to the extent the Committee deems necessary or advisable. Any decision of the Committee in the interpretation and administration of the Plan, as described herein, shall lie within its sole and absolute discretion and shall be final, conclusive and binding on all parties concerned (including, but not limited to, Participants and their beneficiaries or successors). The Committee shall have the full power and authority to establish the terms and conditions of any Award consistent with the provisions of the Plan and to waive any such terms and conditions at any time (including, without limitation, accelerating or waiving any vesting conditions). Determinations made by the Committee under the Plan need not be uniform and may be made selectively among Participants, whether or not such Participants are similarly situated. Awards may, in the discretion of the Committee, be made under the Plan in assumption of, or in substitution for, outstanding awards previously granted by the Company, any of its Affiliates or any of their respective predecessors, or any entity acquired by the Company or with which the Company combines. The number of Shares underlying such substitute awards shall be counted against the aggregate number of Shares available for Awards under the Plan. The Committee shall require payment of any minimum amount it may determine to be necessary to withhold for federal, state, local or other taxes as a result of the exercise, vesting or grant of an Award. Unless the Committee specifies otherwise, the Participant may elect to pay a portion or all of such minimum withholding taxes by (i) delivery in Shares, or (ii) having Shares withheld by the Company from any Shares that would have otherwise been received by the Participant. The number of Shares so delivered or withheld shall have an aggregate Fair Market Value sufficient to satisfy the applicable minimum withholding taxes.

5. Limitations. No Award may be granted under the Plan after the tenth anniversary of the Effective Date, but Awards theretofore granted may extend beyond that date.

6. Terms and Conditions of Options. Options granted under the Plan shall be, as determined by the Committee, non-qualified or incentive stock options for federal income tax purposes, as evidenced by the related Award agreements, and shall be subject to the foregoing and the following terms and conditions and to such other terms and conditions, not inconsistent therewith, as the Committee shall determine:

(a) Option Price. The Option Price per Share shall be determined by the Committee, but shall not be less than 100% of the Fair Market Value of a Share on the date an Option is granted (other than in the case of Options granted in assumption or substitution of previously granted awards, as described in Section 4; provided that such assumption or substitution is described in Treasury Regulation Section 1.409A-1(b)(5)(v)(D)).

(b) Exercisability. Options granted under the Plan shall be exercisable at such time and upon such terms and conditions as may be determined by the Committee, but in no event shall an Option be exercisable more than ten years after the date it is granted. Each Award agreement shall set forth the extent to which the Participant shall have the right to exercise the Option following termination of the Participant's employment or service with the Company or its Affiliates. Such provisions shall be determined in the sole discretion of the Committee, shall be included in the Award agreements, need not be uniform among all Options issued pursuant to the Plan, and may reflect distinctions based on the reasons for termination.

(c) Exercise of Options. Except as otherwise provided in the Plan or in an Award agreement, an Option may be exercised for all, or from time to time any part, of the Shares for which it is then exercisable. For purposes of Section 6 of the Plan, the exercise date of an Option shall be the later of the date a notice of exercise is received by the Company and, if applicable, the date payment is received by the Company pursuant to clauses (i), (ii), (iii) or (iv) in the following sentence. The purchase price for the Shares as to which an Option is exercised shall be paid to the Company to the extent permitted by law, (i) in cash or its equivalent (e.g., by personal check) at the time the Option is exercised, (ii) in Shares having a Fair Market Value equal to the aggregate Option Price for the Shares being purchased and satisfying such other requirements as may be imposed by the Committee; provided, that such Shares have been held by the Participant for no less than six months (or such other period as established from time to time by the Committee in order to avoid adverse accounting treatment applying generally accepted accounting principles), (iii) partly in cash and partly in Shares (as described in (ii) above), (iv) if there is a public market for the Shares at such time, through the delivery of irrevocable instructions to a broker to sell Shares obtained upon the exercise of the Option and to deliver promptly to the Company an amount out of the proceeds of such sale equal to the aggregate Option Price for the Shares being purchased, or (v) to the extent the Committee shall approve in the Award agreement or otherwise, through "net settlement" in Shares. In the case of a "net settlement" of an Option, the Company will not require a cash payment of the Option Price of the Option set forth in the Award agreement, but will reduce the number of Shares issued upon the exercise by the largest number of whole Shares that have a Fair Market Value that does not exceed the aggregate Option Price set forth in the Award agreement. With respect to any remaining balance of the aggregate Option Price, the Company shall accept a cash payment. No Participant shall have any rights to dividends or other rights of a stockholder with respect to Shares subject to an Option until the Participant has given written notice of exercise of

the Option, paid in full for such Shares and, if applicable, has satisfied any other conditions imposed by the Committee pursuant to the Plan.

(d) ISOs. The Committee may grant Options under the Plan that are intended to be ISOs. Such ISOs shall comply with the requirements of Section 422 of the Code (or any successor section thereto). No ISO may be granted to any Participant who at the time of such grant, owns more than 10% of the total combined voting power of all classes of stock of the Company or of any Subsidiary, unless (i) the Option Price for such ISO is at least 110% of the Fair Market Value of a Share on the date the ISO is granted and (ii) the date on which such ISO terminates is a date not later than the day preceding the fifth anniversary of the date on which the ISO is granted. Any Participant who disposes of Shares acquired upon the exercise of an ISO either (i) within two years after the date of grant of such ISO or (ii) within one year after the transfer of such Shares to the Participant, shall notify the Company of such disposition and of the amount realized upon such disposition. All Options granted under the Plan are intended to be nonqualified stock options, unless the applicable Award agreement expressly states that the Option is intended to be an ISO. If an Option is intended to be an ISO, and if for any reason such Option (or portion thereof) shall not qualify as an ISO, then, to the extent of such non-qualification, such Option (or portion thereof) shall be regarded as a nonqualified stock option granted under the Plan; provided that such Option (or portion thereof) otherwise complies with the Plan's requirements relating to nonqualified stock options. In no event shall any member of the Committee, the Company or any of its Affiliates (or their respective employees, officers or directors) have any liability to any Participant (or any other Person) due to the failure of an Option to qualify for any reason as an ISO.

(e) Attestation. Wherever in this Plan or any agreement evidencing an Award a Participant is permitted to pay the exercise price of an Option or taxes relating to the exercise of an Option by delivering Shares, the Participant may, subject to procedures satisfactory to the Committee, satisfy such delivery requirement by presenting proof of beneficial ownership of such Shares, in which case the Company shall treat the Option as exercised without further payment and/or shall withhold such number of Shares from the Shares acquired by the exercise of the Option, as appropriate.

7. Terms and Conditions of Stock Appreciation Rights.

(a) Grants. The Committee may also grant (i) a Stock Appreciation Right independent of an Option or (ii) a Stock Appreciation Right in connection with an Option, or a portion thereof. A Stock Appreciation Right granted pursuant to clause (ii) of the preceding sentence (A) may be granted at the time the related Option is granted or at any time prior to the exercise or cancellation of the related Option, (B) shall cover the same number of Shares covered by an Option (or such lesser number of Shares as the Committee may determine), and (C) shall be subject to the same terms and conditions as such Option except for such additional limitations as are contemplated by this Section 7 (or such additional limitations as may be included in an Award agreement).

(b) Terms. The exercise price per Share of a Stock Appreciation Right shall be an amount determined by the Committee but in no event shall such amount be less than the Fair Market Value of a Share on the date the Stock Appreciation Right is granted (other than in

the case of a Stock Appreciation Right granted in assumption or substitution of previously granted awards, as described in Section 4; provided that such assumption or substitution is described in Treasury Regulation Section 1.409A-1(b)(5)(v)(D)); provided, however, that, in the case of a Stock Appreciation Right granted in conjunction with an Option, or a portion thereof, the exercise price may not be less than the Option Price of the related Option. Each Stock Appreciation Right granted independent of an Option shall entitle a Participant upon exercise to an amount equal to (i) the excess of (A) the Fair Market Value on the exercise date of one Share over (B) the exercise price per Share, times (ii) the number of Shares covered by the Stock Appreciation Right. Each Stock Appreciation Right granted in conjunction with an Option, or a portion thereof, shall entitle a Participant to surrender to the Company the unexercised Option, or any portion thereof, and to receive from the Company in exchange therefor an amount equal to the product of (i) the excess of (A) the Fair Market Value on the exercise date of one Share over (B) the Option Price per Share, times (ii) the number of Shares covered by the Option, or portion thereof, which is surrendered. The date on which a notice of exercise is received by the Company shall be the exercise date. Payment shall be made in Shares or in cash, or partly in Shares and partly in cash (any such Shares valued at such Fair Market Value), as set forth in the Award agreement or as otherwise permitted by the Committee. Stock Appreciation Rights may be exercised from time to time upon actual receipt by the Company of written notice of exercise stating the number of Shares with respect to which the Stock Appreciation Right is being exercised. No fractional Shares will be issued in payment for Stock Appreciation Rights, but instead cash will be paid for a fraction or, if the Committee should so determine, the number of Shares will be rounded downward to the next whole Share.

(c) Limitations. The Committee may impose, in its sole discretion, such conditions upon the exercisability or transferability of Stock Appreciation Rights as it may deem fit, but in no event shall a Stock Appreciation Right be exercisable more than ten years after the date it is granted.

8. Other Stock Based Awards.

(a) Generally. The Committee, in its sole discretion, may grant or sell Awards of Shares, Awards of restricted Shares and Awards that are valued in whole or in part by reference to, or are otherwise based on the Fair Market Value of, Shares ("Other Stock-Based Awards"). Such Other Stock-Based Awards shall be in such form, and dependent on such conditions, as the Committee shall determine, including, without limitation, the right to receive one or more Shares (or the equivalent cash value of such Shares) upon the completion of a specified period of service, the occurrence of an event and/or the attainment of performance objectives. Other Stock-Based Awards may be granted alone or in addition to any other Awards granted under the Plan. Subject to the provisions of the Plan, the Committee shall determine to whom and when Other Stock-Based Awards will be made; the number of Shares to be awarded under (or otherwise related to) such Other Stock-Based Awards; whether such Other Stock-Based Awards shall be settled in cash, Shares or a combination of cash and Shares; and all other terms and conditions of such Awards (including, without limitation, the vesting provisions thereof and provisions ensuring that all Shares so awarded and issued shall be fully paid and non-assessable).

(b) Performance-Based Awards. Notwithstanding anything to the contrary herein, certain Other Stock-Based Awards granted under this Section 8 may be based on the attainment of written performance goals approved by the Committee for a performance period established by the Committee ("Performance-Based Awards"). The Committee shall determine whether, with respect to a performance period, the applicable performance goals have been met with respect to a given Participant and, if they have, shall so certify. In connection with such certification, the Committee, or its delegate, may decide that the amount of the Performance-Based Award actually paid to a given Participant may be less than the amount determined by the applicable performance goal formula; provided that the Committee shall have the authority to waive any applicable performance goals. In the event the applicable performance goals are not waived by the Committee, payment of a Performance-Based Award will occur only after certification and will be made as determined by the Committee in its sole discretion after the end of the applicable performance period.

9. Plan Cash Bonuses. While cash bonuses may be granted at any time outside this Plan, cash awards may also be granted in addition to other Awards granted under the Plan and in addition to cash awards made outside of the Plan. Subject to the provisions of the Plan, the Committee shall have authority to determine the persons to whom cash bonuses under the Plan shall be granted and the amount, terms and conditions of those cash bonuses. Notwithstanding anything to the contrary in this Plan, no Covered Employee shall be eligible to receive a cash bonus granted under the Plan in excess of the Section 162(m) Exemption in any fiscal year, no cash bonus shall be granted pursuant to this Plan to any Covered Employee unless the cash bonus constitutes a Qualified Performance-Based Award, and no cash bonus awarded pursuant to the Plan shall be paid later than 2 1/2 months after the end of the calendar year in which such bonus was earned.

10. Performance Goals for Certain Section 162(m) Awards.

(a) 162(m) Exemption. This Plan shall be operated to ensure that all Options and Stock Appreciation Rights granted hereunder to any Covered Employee qualify for the Section 162(m) Exemption. With respect to any Covered Employee, the maximum annual number of Shares in respect of which all Qualified Performance-Based Awards may be granted under Section 10 of the Plan is 250,000 and the maximum annual amount of all Qualified Performance-Based Awards that are settled in cash and that may be granted under Section 10 of the Plan in any year is $1,500,000.

(b) Qualified Performance-Based Awards. When granting any Award other than Options or Stock Appreciation Rights, the Committee may designate the Award as a Qualified Performance-Based Award, based upon a determination that the recipient is or may be a Covered Employee with respect to that Award, and the Committee wishes the Award to qualify for the Section 162(m) Exemption. If an Award is so designated, the Committee shall establish performance goals for the Award within the time period prescribed by Section 162(m) of the Code based on one or more of the following Qualified Performance Measures, which may be expressed in terms of Company-wide objectives or in terms of objectives that relate to the performance of a Subsidiary or a division, region, department or function within the Company or a Subsidiary: (i) return on capital, equity, or assets (including economic value created); (ii) productivity or operating efficiencies; (iii) cost improvements; (iv) cash flow; (v) sales revenue

growth; (vi) net income, earnings per share, or earnings from operations; (vii) quality; (viii) customer satisfaction; (ix) comparable site sales; (x) stock price or total stockholder return; (xi) EBITDA or EBITDAR; (xii) after-tax operating income; (xiii) book value per Share; (xiv) debt reduction; (xv) strategic business objectives, consisting of one or more objectives based on meeting specified cost targets, business expansion goals and goals relating to acquisitions or divestitures; or (xvi) any combination of the foregoing.

Each goal may be expressed on an absolute and/or relative basis, may be based on or otherwise employ comparisons based on internal targets, the past performance of the Company or any Subsidiary, operating unit, business segment or division of the Company or any Subsidiary and/or the past or current performance of other companies, and in the case of earnings-based measures, may use or employ comparisons relating to capital, stockholders' equity and/or common stock outstanding, or to assets or net assets. The Committee may appropriately adjust any evaluation of performance under criteria set forth in this Section 10(b) to exclude any of the following events that occurs during a performance period: (i) asset write-downs; (ii) litigation or claim judgments or settlements; (iii) the effect of changes in tax law, accounting principles or other such laws or provisions affecting reported results; (iv) accruals for reorganization and restructuring programs; and (v) any extraordinary non-recurring items as described in Accounting Principles Board Opinion No. 30 and/or in management's discussion and analysis of financial condition and results of operations appearing in the Company's annual report to stockholders for the applicable year. Measurement of the Company's performance against the goals established by the Committee shall be objectively determinable, and to the extent goals are expressed in standard accounting terms, performance shall be measured according to generally accepted accounting principles as in existence on the date on which the performance goals are established and without regard to any changes in those principles after that date.

(c) Performance Goal Conditions. Each Qualified Performance-Based Award (other than an Option or Stock Appreciation Right) shall be earned, vested and payable (as applicable) only upon the achievement of performance goals established by the Committee based upon one or more of the Qualified Performance Measures, together with the satisfaction of any other conditions, such as continued employment, the Committee may determine to be appropriate; however, the Committee may provide, either in connection with the grant of an Award or by later amendment, that achievement of the performance goals will be waived upon the death or Disability of the Participant. To the extent necessary to comply with the Section 162(m) Exemption, with respect to grants of Qualified Performance-Based Awards, no later than 90 days following the commencement of each performance period (or such other time as may be required or permitted by Section 162(m) of the Code), the Committee shall, in writing, (i) select the performance goal or goals applicable to the performance period, (ii) establish the various targets and bonus amounts which may be earned for such performance period, and (iii) specify the relationship between performance goals and targets and the amounts to be earned by each Covered Employee for such performance period.

(d) Certification of Goal Achievement. Any payment of a Qualified Performance-Based Award granted with performance goals shall be conditioned upon the written certification of the Committee in each case that the performance goals and any other material conditions were satisfied. In determining the amount earned by a Covered Employee for a given performance period, subject to any applicable Award Agreement, the Committee shall have the

right to reduce (but not increase) the amount payable at a given level of performance to take into account additional factors that the Committee may deem relevant in its sole discretion to the assessment of individual or corporate performance for the performance period. Except as specifically provided in Section 10(c), no Qualified Performance-Based Award may be amended, nor may the Committee exercise any discretionary authority it may otherwise have under the Plan with respect to a Qualified Performance-Based Award, in any manner to waive the achievement of the applicable performance goal based on Qualified Performance Measures or to increase the amount payable under, or the value of, the Award, or otherwise in a manner that would cause the Qualified Performance-Based Award to cease to qualify for the Section 162(m) Exemption.

11. Adjustments upon Certain Events. Notwithstanding any other provisions in the Plan to the contrary, the following provisions shall apply to all Awards granted under the Plan:

(a) Generally. In the event of any change in the outstanding Shares after the Effective Date by reason of any Share dividend or split, reorganization, recapitalization, merger, consolidation, spin-off, combination or exchange of Shares or other corporate exchange or change in capital structure, any distribution to stockholders of Shares (other than regular cash dividends) or any similar event, the Committee without liability to any person shall make such substitution or adjustment, if any, as it deems to be equitable (subject to Section 18), as to the number or kind of Shares or other securities issued or reserved for issuance as set forth in Section 3 of the Plan or pursuant to outstanding Awards; provided that the Committee shall determine in its sole discretion the manner in which such substitution or adjustment shall be made.

(b) Change of Control. In the event of a Change of Control (or similar corporate transaction, whether or not including any Permitted Holder) after the Effective Date, the Committee may (subject to Section 18), but shall not be obligated to, (i) accelerate, vest or cause the restrictions to lapse with respect to all or any portion of an Award, (ii) cancel such Awards for fair value (as determined in the sole discretion of the Committee) which, in the case of Options and Stock Appreciation Rights, may equal the excess, if any, of value of the consideration to be paid in the Change of Control transaction to holders of the same number of Shares subject to such Options or Stock Appreciation Rights (or, if no consideration is paid in any such transaction, the Fair Market Value of the Shares subject to such Options or Stock Appreciation Rights) over the aggregate exercise price of such Options or Stock Appreciation Rights, (iii) provide for the issuance of substitute Awards that will substantially preserve the otherwise applicable terms of any affected Awards previously granted hereunder as determined by the Committee in its sole discretion, or (iv) provide that for a period of at least 10 days prior to the Change of Control, such Options shall be exercisable as to all Shares subject thereto and that upon the occurrence of the Change of Control, such Options shall terminate and be of no further force or effect. For the avoidance of doubt, pursuant to (ii) above, the Committee may cancel Options and Stock Appreciation Rights for no consideration if the aggregate Fair Market Value of the Shares subject to such Options or Stock Appreciation Rights is less than or equal to the aggregate Option Price of such Options or exercise price of such Stock Appreciation Rights.

12. No Right to Employment or Awards. The granting of an Award under the Plan shall impose no obligation on the Company or any of its Affiliates to continue the Employment

of a Participant and shall not lessen or affect the Company's or any of its Affiliates' right to terminate the Employment of such Participant. No Participant or other Person shall have any claim to be granted any Award, and there is no obligation for uniformity of treatment of Participants, or holders or beneficiaries of Awards. The terms and conditions of Awards and the Committee's determinations and interpretations with respect thereto need not be the same with respect to each Participant (whether or not such Participants are similarly situated).

13. Successors and Assigns. The Plan shall be binding on all successors and assigns of the Company and the Participants, including, without limitation, the estate of each such Participant and the executor, administrator or trustee of such estate, and any receiver or trustee in bankruptcy or any other representative of the Participant's creditors.

14. Nontransferability of Awards. Unless otherwise determined by the Committee, an Award shall not be transferable or assignable by the Participant otherwise than by will or by the laws of descent and distribution. An Award exercisable after the death of a Participant may be exercised by the legatees, personal representatives or distributees of the Participant.

15. Amendments or Termination. The Committee may amend, alter or discontinue the Plan, but no amendment, alteration or discontinuation shall be made which, (a) without the approval of the stockholders of the Company, would (except as is provided in Section 11 of the Plan) increase the total number of Shares reserved for the purposes of the Plan or change the maximum number of Shares for which Awards may be granted to any Participant, or (b) without the consent of a Participant, would materially adversely impair any of the rights under any Award theretofore granted to such Participant under the Plan; provided, however, that the Committee may amend the Plan in such manner as it deems necessary to permit the granting of Awards meeting the requirements of the Code or other applicable laws (including, without limitation, to avoid adverse tax consequences to the Company or any Participant).

Without limiting the generality of the foregoing, to the extent applicable, notwithstanding anything herein to the contrary, this Plan and Awards issued hereunder shall be interpreted in accordance with Section 409A of the Code and Department of Treasury regulations and other interpretative guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the Effective Date. Notwithstanding any provision of the Plan to the contrary, in the event the Committee determines that any amounts payable hereunder will be taxable to a Participant under Section 409A of the Code and related Department of Treasury guidance prior to payment to such Participant of such amount, the Company may (i) adopt such amendments to the Plan and Awards and appropriate policies and procedures, including amendments and policies with retroactive effect, that the Committee determines necessary or appropriate to preserve the intended tax treatment of the benefits provided by the Plan and Awards hereunder, and/or (ii) take such other actions as the Committee determines necessary or appropriate to avoid the imposition of an additional tax under Section 409A of the Code.

16. Choice of Law. The Plan shall be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of laws.

17. Effectiveness of Plan. The Plan shall be effective as of the Effective Date, subject to the approval of the Company's stockholders.

18. Section 409A. Notwithstanding other provisions of the Plan or any Award agreements thereunder, no Award shall be granted, deferred, accelerated, extended, paid out or modified under this Plan in a manner that would result in the imposition of an additional tax under Section 409A of the Code upon a Participant. In the event that it is reasonably determined by the Committee that, as a result of Section 409A of the Code, any payment or delivery of Shares in respect of any Award under the Plan may not be made at the time contemplated by the terms of the Plan or the relevant Award agreement, as the case may be, without causing the Participant holding such Award to be subject to taxation under Section 409A of the Code, the Company will make such payment or delivery of Shares on the first day that would not result in the Participant incurring any tax liability under Section 409A of the Code. In the case of a Participant who is a "specified employee" (within the meaning of Section 409A(a)(2)(B)(i) of the Code), any payment and/or delivery of Shares in respect of any Award subject to Section 409A of the Code that is linked to the date of the Participant's separation from service shall not be made prior to the date which is six (6) months after the date of such Participant's separation from service from the Company and its Affiliates, determined in accordance with Section 409A of the Code and the regulations promulgated thereunder. The Company shall use commercially reasonable efforts to implement the provisions of this Section 18 in good faith; provided that neither the Company, the Committee nor any of the Company's employees, directors or representatives shall have any liability to Participants with respect to this Section 18.

Exhibit 10.5

SurgiVision, Inc.
2010 Non-Qualified Stock Option Plan

1. Purpose of the Plan. The purpose of the SurgiVision 2010 Non-Qualified Stock Option Plan (the "Plan") is to aid SurgiVision, Inc., a Delaware corporation (the "Company"), and its Affiliates (defined below) in recruiting and retaining key employees, directors, consultants and other service providers of outstanding ability and to motivate such employees, directors, consultants and other service providers to exert their best efforts on behalf of the Company and its Affiliates by providing incentives through the granting of Awards (defined below). The Company expects that it will benefit from the added interest which such key employees, directors, consultants and other service providers will have in the welfare of the Company as a result of their proprietary interest in the Company's success.

2. Definitions. The following capitalized terms used in the Plan have the respective meanings set forth in this Section 2:

"Act" means the Securities Exchange Act of 1934, as amended, or any successor thereto.

"Affiliate" means with respect to the Company, any entity directly or indirectly controlling, controlled by, or under common control with, the Company or any other entity designated by the Board in which the Company or an Affiliate has an interest.

"Award" means an Option granted pursuant to the Plan.

"Board" means the Board of Directors of the Company.

"Change of Control" means the occurrence with respect to the Company of any of the following events: (i) a change in the ownership of the Company; (ii) a change in the effective control of the Company; (iii) a change in the ownership of a substantial portion of the assets of the Company.

For purposes of this definition, a change in the ownership of the Company occurs on the date on which any one person, or more than one person acting as a group, acquires ownership of stock of the Company that, together with stock held by such person or group, constitutes more than 50% of the total fair market value or total voting power of the stock of the Company. A change in the effective control of the Company occurs on the date on which either (i) a person, or more than one person acting as a group, acquires ownership of stock of the Company possessing 30% or more of the total voting power of the stock of the Company, taking into account all such stock acquired during the 12-month period ending on the date of the most recent acquisition, or (ii) a majority of the members of the Board is replaced during any 12-month period by directors whose appointment or election is not endorsed by a majority of the members of such Board prior to the date of the appointment or election. A change in the ownership of a substantial portion of assets occurs on the date on which any one person, or more than one person acting as a group, other than a person or group of persons that is related to the Company, acquires assets from the Company that have a total gross fair market value equal to or more than 40% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions, taking into account all such assets acquired during the 12-month period ending on the date of the most recent acquisition.

An event constitutes a Change of Control with respect to a Participant only if the Participant performs services for the Company, or the Participant's relationship to the Company otherwise satisfies the requirements of Treasury Regulation Section 1.409A-3(i)(5)(ii).

The determination as to the occurrence of a Change of Control shall be based on objective facts and in accordance with the requirements of Section 409A of the Code.

"Code" means the Internal Revenue Code of 1986, as amended, or any successor thereto.

"Committee" means the Compensation Committee of the Board (or a subcommittee thereof as provided under Section 4), or such other committee of the Board (including, without limitation, the full Board) to which the Board has delegated power to act under or pursuant to the provisions of the Plan.

"Company" has the meaning set forth in Section 1.

"Disability" means Disability as defined for purposes of Section 409A of the Code. The Disability determination shall be in the sole discretion of the Committee and a Participant (or his representative) shall furnish the Committee with medical evidence documenting the Participant's disability or infirmity which is satisfactory to the Committee.

"Effective Date" means the date the Board approves the Plan.

"Employment" means (i) a Participant's employment if the Participant is an employee of the Company or any of its Affiliates, (ii) a Participant's service as a consultant or other service provider, if the Participant is a consultant or other service provider to the Company or its Affiliates, and (iii) a Participant's service as an non-employee director, if the Participant is a non-employee member of the Board.

"Fair Market Value" means, on a given date, (i) if there should be a public market for the Shares on such date, the closing price of the Shares as reported on such date on the composite tape of the principal national securities exchange on which such Shares are listed or admitted to trading, or, if no composite tape exists for such national securities exchange on such date, then the closing price on the principal national securities exchange on which such Shares are listed or admitted to trading, or, (ii) if the Shares are not listed or admitted to trading or quotation on a national securities exchange, the arithmetic mean of the per Share closing bid price and per Share closing asked price on such date as quoted on the National Association of Securities Dealers Automated Quotation System (or such market in which such prices are regularly quoted), or (iii) if there is no market on which the Shares are regularly quoted, the Fair Market Value shall be the value established by the Committee in good faith pursuant to the reasonable application of a reasonable valuation method under Treasury Regulation Section 1.409A-1(b)(5)(iv)(B). With respect to (i) and (ii) above, if no sale of Shares shall have been reported on such composite tape or such national securities exchange on such date or quoted on the National Association of Securities Dealer Automated Quotation System on such date, then the immediately preceding date on which sales of the Shares have been so reported or quoted shall be used.

"Option" means a stock option granted pursuant to Section 6 of the Plan.

"Option Price" means the purchase price per Share of an Option, as determined pursuant to Section 6(a) of the Plan.

"Participant" means an employee, director, consultant or other service provider of the Company or any of its Affiliates who is selected by the Committee to participate in the Plan.

"Permitted Holder" means, as of the date of determination, any employee benefit plan (or trust forming a part thereof) maintained by (i) the Company, or (ii) any corporation or other Person of which a majority of its voting power of its voting equity securities or equity interest is owned, directly or indirectly, by the Company.

"Person" means a "person", as such term is used for purposes of Section 13(d) or 14(d) of the Act (or any successor section thereto).

"Plan" has the meaning set forth in Section 1.

"Shares" means shares of common stock of the Company.

"Subsidiary" means a subsidiary corporation, as defined in Section 424(f) of the Code (or any successor section thereto).

3. Shares Subject to the Plan. Subject to Section 7 of the Plan, the total number of Shares which may be issued under the Plan is 2,565,675. The Shares may consist, in whole or in part, of unissued Shares or treasury Shares. The issuance of Shares or the payment of cash upon the exercise of an Award or in consideration of the cancellation or termination of an Award shall reduce the total number of Shares available under the Plan, as applicable. Shares subject to Awards that terminate or lapse without the payment of consideration may be granted again under the Plan.

4. Administration. The Plan shall be administered by the Committee. The Committee is authorized to interpret the Plan, to establish, amend and rescind any rules and regulations relating to the Plan, and to make any other determinations that it deems necessary or advisable for the administration of the Plan. The Committee may correct any defect or supply any omission or reconcile any inconsistency in the Plan in the manner and to the extent the Committee deems necessary or advisable. Any decision of the Committee in the interpretation and administration of the Plan, as described herein, shall lie within its sole and absolute discretion and shall be final, conclusive and binding on all parties concerned (including, but not limited to, Participants and their beneficiaries or successors). The Committee shall have the full power and authority to establish the terms and conditions of any Award consistent with the provisions of the Plan and to waive any such terms and conditions at any time (including, without limitation, accelerating or waiving any vesting conditions). Determinations made by the Committee under the Plan need not be uniform and may be made selectively among Participants, whether or not such Participants are similarly situated. Awards may, in the discretion of the Committee, be made under the Plan in assumption of, or in substitution for, outstanding awards previously granted by the Company, any of its Affiliates or any of their respective predecessors,

or any entity acquired by the Company or with which the Company combines. The number of Shares underlying such substitute awards shall be counted against the aggregate number of Shares available for Awards under the Plan. The Committee shall require payment of any minimum amount it may determine to be necessary to withhold for federal, state, local or other taxes as a result of the exercise, vesting or grant of an Award. Unless the Committee specifies otherwise, the Participant may elect to pay a portion or all of such minimum withholding taxes by (i) delivery in Shares, or (ii) having Shares withheld by the Company from any Shares that would have otherwise been received by the Participant. The number of Shares so delivered or withheld shall have an aggregate Fair Market Value sufficient to satisfy the applicable minimum withholding taxes.

5. Limitations. No Award may be granted under the Plan after the tenth anniversary of the Effective Date, but Awards theretofore granted may extend beyond that date.

6. Terms and Conditions of Options. All Options granted under the Plan shall be non-qualified stock options and shall be subject to the foregoing and the following terms and conditions and to such other terms and conditions, not inconsistent therewith, as the Committee shall determine. No incentive stock option, within the meaning of Section 422 of the Code (or any successor section thereto), shall be granted under the Plan.

(a) Option Price. The Option Price per Share shall be determined by the Committee, but shall not be less than 100% of the Fair Market Value of a Share on the date an Option is granted (other than in the case of Options granted in assumption or substitution of previously granted awards, as described in Section 4; provided that such assumption or substitution is described in Treasury Regulation Section 1.409A-1(b)(5)(v)(D)).

(b) Exercisability. Options granted under the Plan shall be exercisable at such time and upon such terms and conditions as may be determined by the Committee, but in no event shall an Option be exercisable more than ten years after the date it is granted. Each Award agreement shall set forth the extent to which the Participant shall have the right to exercise the Option following termination of the Participant's employment or service with the Company or its Affiliates. Such provisions shall be determined in the sole discretion of the Committee, shall be included in the Award agreements, need not be uniform among all Options issued pursuant to the Plan, and may reflect distinctions based on the reasons for termination.

(c) Exercise of Options. Except as otherwise provided in the Plan or in an Award agreement, an Option may be exercised for all, or from time to time any part, of the Shares for which it is then exercisable. For purposes of Section 6 of the Plan, the exercise date of an Option shall be the later of the date a notice of exercise is received by the Company and, if applicable, the date payment is received by the Company pursuant to clauses (i), (ii), (iii) or (iv) in the following sentence. The purchase price for the Shares as to which an Option is exercised shall be paid to the Company to the extent permitted by law, (i) in cash or its equivalent (e.g., by personal check) at the time the Option is exercised, (ii) in Shares having a Fair Market Value equal to the aggregate Option Price for the Shares being purchased and satisfying such other requirements as may be imposed by the Committee; provided, that such Shares have been held by the Participant for no less than six months (or such other period as established from time to time by the Committee in order to avoid

adverse accounting treatment applying generally accepted accounting principles), (iii) partly in cash and partly in Shares (as described in (ii) above), (iv) if there is a public market for the Shares at such time, through the delivery of irrevocable instructions to a broker to sell Shares obtained upon the exercise of the Option and to deliver promptly to the Company an amount out of the proceeds of such sale equal to the aggregate Option Price for the Shares being purchased, or (v) to the extent the Committee shall approve in the Award agreement or otherwise, through "net settlement" in Shares. In the case of a "net settlement" of an Option, the Company will not require a cash payment of the Option Price of the Option set forth in the Award agreement, but will reduce the number of Shares issued upon the exercise by the largest number of whole Shares that have a Fair Market Value that does not exceed the aggregate Option Price set forth in the Award agreement. With respect to any remaining balance of the aggregate Option Price, the Company shall accept a cash payment. No Participant shall have any rights to dividends or other rights of a stockholder with respect to Shares subject to an Option until the Participant has given written notice of exercise of the Option, paid in full for such Shares and, if applicable, has satisfied any other conditions imposed by the Committee pursuant to the Plan.

(d) Attestation. Wherever in this Plan or any agreement evidencing an Award a Participant is permitted to pay the exercise price of an Option or taxes relating to the exercise of an Option by delivering Shares, the Participant may, subject to procedures satisfactory to the Committee, satisfy such delivery requirement by presenting proof of beneficial ownership of such Shares, in which case the Company shall treat the Option as exercised without further payment and/or shall withhold such number of Shares from the Shares acquired by the exercise of the Option, as appropriate.

7. Adjustments upon Certain Events. Notwithstanding any other provisions in the Plan to the contrary, the following provisions shall apply to all Awards granted under the Plan:

(a) Generally. In the event of any change in the outstanding Shares after the Effective Date by reason of any Share dividend or split, reorganization, recapitalization, merger, consolidation, spin-off, combination or exchange of Shares or other corporate exchange or change in capital structure, any distribution to stockholders of Shares (other than regular cash dividends) or any similar event, the Committee without liability to any person shall make such substitution or adjustment, if any, as it deems to be equitable (subject to Section 14), as to the number or kind of Shares or other securities issued or reserved for issuance as set forth in Section 3 of the Plan or pursuant to outstanding Awards; provided that the Committee shall determine in its sole discretion the manner in which such substitution or adjustment shall be made.

(b) Change of Control. In the event of a Change of Control (or similar corporate transaction, whether or not including any Permitted Holder) after the Effective Date, the Committee may (subject to Section 14), but shall not be obligated to, (i) accelerate, vest or cause the restrictions to lapse with respect to all or any portion of an Award, (ii) cancel such Awards for fair value (as determined in the sole discretion of the Committee) which may equal the excess, if any, of value of the consideration to be paid in the Change of Control transaction to holders of the same number of Shares subject to such Awards (or, if no consideration is paid in any such transaction, the Fair Market Value of the Shares subject to such Awards) over the aggregate exercise price of such Awards, (iii) provide for the issuance of substitute Awards that

will substantially preserve the otherwise applicable terms of any affected Awards previously granted hereunder as determined by the Committee in its sole discretion, or (iv) provide that for a period of at least 10 days prior to the Change of Control, such Awards shall be exercisable as to all Shares subject thereto and that upon the occurrence of the Change of Control, such Awards shall terminate and be of no further force or effect. For the avoidance of doubt, pursuant to clause (ii) above, the Committee may cancel Awards for no consideration if the aggregate Fair Market Value of the Shares subject to such Awards is less than or equal to the aggregate Option Price of such Awards.

8. No Right to Employment or Awards. The granting of an Award under the Plan shall impose no obligation on the Company or any of its Affiliates to continue the Employment of a Participant and shall not lessen or affect the Company's or any of its Affiliates' right to terminate the Employment of such Participant. No Participant or other Person shall have any claim to be granted any Award, and there is no obligation for uniformity of treatment of Participants, or holders or beneficiaries of Awards. The terms and conditions of Awards and the Committee's determinations and interpretations with respect thereto need not be the same with respect to each Participant (whether or not such Participants are similarly situated).

9. Successors and Assigns. The Plan shall be binding on all successors and assigns of the Company and the Participants, including, without limitation, the estate of each such Participant and the executor, administrator or trustee of such estate, and any receiver or trustee in bankruptcy or any other representative of the Participant's creditors.

10. Non-transferability of Awards. Unless otherwise determined by the Committee, an Award shall not be transferable or assignable by the Participant otherwise than by will or by the laws of descent and distribution. An Award exercisable after the death of a Participant may be exercised by the legatees, personal representatives or distributees of the Participant.

11. Amendments or Termination. The Committee may amend, alter or discontinue the Plan, but no amendment, alteration or discontinuation shall be made which, without the consent of a Participant, would materially adversely impair any of the rights under any Award theretofore granted to such Participant under the Plan; provided, however, that the Committee may amend the Plan in such manner as it deems necessary to permit the granting of Awards meeting the requirements of applicable laws.

Without limiting the generality of the foregoing, to the extent applicable, notwithstanding anything herein to the contrary, this Plan and Awards issued hereunder shall be interpreted in accordance with Section 409A of the Code and Department of Treasury regulations and other interpretative guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the Effective Date. Notwithstanding any provision of the Plan to the contrary, in the event the Committee determines that any amounts payable hereunder will be taxable to a Participant under Section 409A of the Code and related Department of Treasury guidance prior to payment to such Participant of such amount, the Company may (i) adopt such amendments to the Plan and Awards and appropriate policies and procedures, including amendments and policies with retroactive effect, that the Committee determines necessary or appropriate to preserve the intended tax treatment of the benefits provided by the Plan and Awards hereunder, and/or (ii) take such other actions as the Committee determines necessary or appropriate to avoid the imposition of an additional tax under Section 409A of the Code.

12. Choice of Law. The Plan shall be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts of laws.

13. Effectiveness of Plan. The Plan shall be effective as of the Effective Date.

14. Section 409A. Notwithstanding other provisions of the Plan or any Award agreements thereunder, no Award shall be granted, deferred, accelerated, extended, paid out or modified under this Plan in a manner that would result in the imposition of an additional tax under Section 409A of the Code upon a Participant. In the event that it is reasonably determined by the Committee that, as a result of Section 409A of the Code, any payment or delivery of Shares in respect of any Award under the Plan may not be made at the time contemplated by the terms of the Plan or the relevant Award agreement, as the case may be, without causing the Participant holding such Award to be subject to taxation under Section 409A of the Code, the Company will make such payment or delivery of Shares on the first day that would not result in the Participant incurring any tax liability under Section 409A of the Code. In the case of a Participant who is a "specified employee" (within the meaning of Section 409A(a)(2)(B)(i) of the Code), any payment and/or delivery of Shares in respect of any Award subject to Section 409A of the Code that is linked to the date of the Participant's separation from service shall not be made prior to the date which is six (6) months after the date of such Participant's separation from service from the Company and its Affiliates, determined in accordance with Section 409A of the Code and the regulations promulgated thereunder. The Company shall use commercially reasonable efforts to implement the provisions of this Section 14 in good faith; provided that neither the Company, the Committee nor any of the Company's employees, directors or representatives shall have any liability to Participants with respect to this Section 14.

Exhibit 10.6

JUNIOR SECURITY AGREEMENT

THIS JUNIOR SECURITY AGREEMENT (as it may be amended or modified from time to time, this, "Agreement") is made and entered as of November 5, 2010, by and between **SURGIVISION, INC.**, a Delaware corporation (the "Company"), and **LANDMARK COMMUNITY BANK**, a Tennessee state-chartered bank, in its capacity as collateral agent (the "Collateral Agent") for the ratable benefit of the Holders (as defined below).

W I T N E S S E T H:

That for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Collateral Agent, on behalf of the Holders, hereby agree as follows:

1. Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms have the meanings indicated:

(a) "Business Day" means any day other than a Saturday, Sunday or other day on which banks in Memphis, Tennessee are required to be closed.

(b) "BSC Debt" shall mean all indebtedness, including principal and all accrued interest thereon, outstanding under those certain Secured Convertible Promissory Notes issued by the Company to Boston Scientific Corporation dated as of October 16, 2009, November 17, 2009 and December 18, 2009, respectively, in the aggregate original principal amount of $3,500,000, as such Notes may be amended and in effect from time to time.

(c) "Event of Default" shall have the meaning indicated in the Notes.

(d) "Holder" shall mean a Person in whose name a Note is registered.

(e) "Lien" shall mean, with respect to any asset, any mortgage, lien, pledge or security interest, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

(f) "Material Adverse Effect" means, with respect to the Company, any change or effect that, when taken individually or together with all other adverse changes or effects, is materially adverse to the business, results of operations or financial condition of the Company.

(g) "Note" shall mean a SurgiVision, Inc. Junior Secured Promissory Note due 2020.

(h) "Officer" shall mean, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, or any Vice President of such Person.

(i) "Officers' Certificate" shall mean a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the Chief Executive Officer or the Chief Financial Officer.

(j) "Permitted Lien" shall mean any of the following Liens:

(i) Liens arising out of or securing the BSC Debt;

(ii) Liens arising out of this Agreement;

(iii) Liens securing the payment of taxes, assessments or other governmental charges or levies either not yet overdue or the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to the Company;

(iv) non-consensual statutory Liens (other than as described in clause (iii) above) arising in the ordinary course of the Company's business to the extent: (A) such Liens secure indebtedness which is not overdue or (B) such Liens secure indebtedness relating to claims or liabilities which (1) are fully insured and being defended at the sole cost and expense and at the sole risk of the insurer or (2) are being contested in good faith by appropriate proceedings diligently pursued and available to the Company, in each case prior to the commencement of foreclosure or other similar proceedings;

(v) purchase money security interests in equipment or other fixed or capital assets (including capital leases) and purchase money mortgages on real property;

(vi) pledges and deposits of cash by the Company in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security benefits;

(vii) pledges and deposits of cash by the Company to secure the performance of tenders, bids, leases, trade contracts (other than for the repayment of indebtedness), statutory obligations and other similar obligations, in each case in the ordinary course of the Company's business;

(viii) Liens arising from (A) operating leases and the precautionary UCC financing statement filings in respect thereof and (B) equipment or other materials that are not owned by the Company but are located on the premises of the Company (but not in connection with, or as part of, the financing thereof) from time to time in the ordinary course of the Company's business and the precautionary UCC financing statement filings in respect thereof;

(ix) statutory or common law Liens or rights of setoff of depository banks with respect to funds of the Company at such banks to secure fees and charges in connection with returned items or the standard fees and charges of such banks in connection with the deposit accounts maintained by the Company at such banks (but not any other indebtedness);

(x) judgments and other similar Liens arising in connection with court proceedings, provided that (A) such Liens are being contested in good faith and by appropriate proceedings diligently pursued, and (B) a stay of enforcement of any such Liens is in effect;

(xi) Liens which are otherwise permitted under the BSC Debt; and

(xii) non-consensual Liens to secure indebtedness and other liabilities in an amount not to exceed $250,000 in the aggregate, to the extent not otherwise permitted by any of the foregoing clauses.

(k) "Person" shall mean any individual or entity.

(l) "Required Holders" shall mean, at any time, Holders of a majority in aggregate principal amount of the Notes then outstanding.

(m) "Sale Transaction" shall have the meaning indicated in the Notes.

(n) "Secured Obligations" shall mean all obligations of the Company with respect to the Notes.

(o) "Senior Lender" shall mean Boston Scientific Corporation, so long as any BSC Debt remains outstanding.

(p) "Subordination Agreement" shall mean the Subordination Agreement dated as of the date hereof among the Senior Lender, the Collateral Agent and the Holders.

(q) "UCC" shall mean the Uniform Commercial Code as in effect in any applicable jurisdiction and any successor statute, as in effect from time to time (except that terms used herein which are defined in the Uniform Commercial Code as in effect in such jurisdiction on the date hereof shall continue to have the same meaning notwithstanding any replacement or amendment of such statute except as the Collateral Agent may otherwise determine).

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

2. Grant of Security Interest.

(a) To secure the prompt and complete payment and performance of the Secured Obligations, the Company hereby grants to the Collateral Agent, on behalf of and for the ratable benefit of the Holders, a security interest in the properties, assets and rights of the Company, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof (all of the same being hereinafter called the "Collateral"), including, without limitation, all goods (including inventory, equipment and any accessions thereto), intellectual property (including all patents, patent applications, trade secrets, trademarks, copyrights and all other intellectual property), instruments (including promissory notes), documents, accounts, chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, securities and all other investment property, supporting obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds, and all general intangibles (including all payment intangibles and goodwill of any kind or nature), subject to the first priority security interests and liens granted in favor of the Senior Lender.

(b) Notwithstanding any provision of this Agreement to the contrary, in no event shall the Collateral include, and the Company shall not be deemed to have granted a security interest in, the following: (i) any of the Company's rights or interests in or under any lease, license, contract or agreement to which the Company is a party to the extent, but only to the extent, that such a grant would, under the terms of such lease, license, contract or agreement, constitute or result in (A) the abandonment, invalidation or unenforceability of any right, title or interest of the Company therein or (B) a breach or termination event pursuant to the terms of, or a default under, such lease, license, contract or agreement, provided, that (1) immediately upon the ineffectiveness, lapse, termination or waiver of any such provision, the Collateral shall include, and the Company shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect and (2) to the extent that any such lease, license, contract or agreement would otherwise constitute Collateral (but for the provisions of this paragraph), all proceeds resulting from the sale or disposition by the Company of any

rights of the Company under such lease, license, contract or agreement shall constitute Collateral, (ii) any equipment or other fixed or capital assets owned by the Company acquired after the date hereof that is subject to a Permitted Lien securing a purchase money financing, project financing or capital or finance lease obligation if the contract or other agreement in which such Lien is granted (or the documentation providing for such purchase money, project financing or capital or finance lease obligation) prohibits the creation of any other Lien on such property, provided, that immediately upon the ineffectiveness, lapse, termination or waiver of any such provision, the Collateral shall include, and the Company shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect, and (iii) any trademark applications filed in the U.S. Patent and Trademark Office on the basis of the Company's "intent-to-use" such trademark, unless and until acceptable evidence of use of the trademark has been filed with and accepted by the U.S. Patent and Trademark Office pursuant to Section 1(c) or Section 1(d) of the Lanham Act (15 U.S.C. 1051, et seq.), to the extent that granting a Lien in such trademark application prior to such filing would adversely affect the enforceability or validity of such trademark application.

(c) Notwithstanding any provision of this Agreement to the contrary, the Company shall be permitted, without consent from the Collateral Agent or any Holders, to conduct ordinary course activities with respect to the Collateral, including, without limitation, (i) selling or otherwise disposing of, in any transaction or series of related transactions, any property subject to the Liens of this Agreement that has become worn out, defective, obsolete or not used or useful in the business; (ii) abandoning, terminating, canceling, releasing or making alterations in or substitutions of any leases or contracts subject to the Liens of this Agreement; (iii) surrendering or modifying any franchise, license or permit subject to the Liens of this Agreement that the Company may own or under which it may be operating; (iv) altering, repairing, replacing, changing the location or position of or adding to the Company's structures, machinery, systems, equipment, fixtures and appurtenances; (v) granting a license of any intellectual property; (vi) selling, transferring or otherwise disposing of inventory in the ordinary course of business; (vii) collecting accounts receivable in the ordinary course of business; (viii) making payments (including for the repayment of indebtedness or interest) from cash that is at any time part of the Collateral in the ordinary course of business; and (ix) abandoning any intellectual property that is no longer used or useful in the Company's business.

3. Representations and Warranties. The Company represents and warrants, as of the date of this Agreement, to the Collateral Agent and the Holders as follows:

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted. The Company is duly qualified to transact business and is in good standing in each other jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Effect. The Company has all requisite corporate power and authority to own and operate its properties and assets.

(b) All corporate action on the part of the Company necessary for the authorization, execution, delivery and performance of the Company's obligations under this Agreement has been taken. This Agreement, when executed and delivered by the Company, shall constitute the valid and legally binding obligation of the Company, legally enforceable against the Company in accordance with its terms.

(c) Neither the execution and delivery of this Agreement, nor compliance by the Company with the terms and provisions hereof, conflicts with, or results in a breach or violation of, any of the terms, conditions and provisions of: (i) the Company's certificate of incorporation or bylaws; (ii) any judgment, order, injunction, decree or ruling of any court or governmental authority; (iii) subject to the provisions of Section 2(b) and Section 7 hereof, any note, mortgage, indenture, contract or agreement to which the Company is a party or to which it is subject.

(d) The Company owns the Collateral free of any Liens, except for (i) Liens arising out of or securing the BSC Debt, and (ii) Liens arising out of this Agreement.

(e) The Company has full power and authority to grant to the Collateral Agent the security interest in the Collateral pursuant hereto. When financing statements have been filed in the appropriate offices against the Company in the locations listed on Exhibit A, the Collateral Agent will have a fully perfected second priority security interest in that Collateral of the Company in which a security interest may be perfected by filing, subject only to Permitted Liens.

(f) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or other regulatory body is required either for the grant by the Company of the Liens created hereby in the Collateral or for the exercise by the Collateral Agent of its rights and remedies hereunder.

4. Covenants as to the Collateral. So long as any of the Secured Obligations remain outstanding:

(a) Subject to the provisions of Section 7 hereof:

(i) the Company agrees to file and deliver to the Collateral Agent all financing statements and other documents and take such other actions as may from time to time be necessary in order to maintain, subject to Permitted Liens, a second perfected security interest in the Collateral owned by the Company;

(ii) the Company shall, at the Company's expense, at any time and from time to time, promptly execute and deliver all further instruments and documents and take all further action that the Collateral Agent deems reasonably necessary or desirable or that the Collateral Agent may reasonably request (A) to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder in respect of the Collateral; or (B) to otherwise effect the purposes of this Agreement, including, without limitation, furnishing to the Collateral Agent from time to time statements and schedules identifying and describing the Collateral and such other reports in connection with the Collateral as the Collateral Agent may reasonably request, all in reasonable detail.

(b) The Company agrees to take any and all actions necessary to defend title to the Collateral against all Persons and to defend the security interest of the Collateral Agent in the Collateral and the priority thereof against any Lien that is not a Permitted Lien hereunder.

(c) The Company shall not (i) change its name as it appears in official filings in the state of its incorporation, (ii) change its chief executive office or mailing address, (iii) change the type of entity that it is, (iv) change its organization identification number, if any, issued by its state of incorporation, or (v) change its state of incorporation, in each case, unless the Collateral Agent shall have received at least twenty (20) days prior written notice of such change and the Company shall have acknowledged in writing that such change will not adversely affect the validity, perfection or priority of the Collateral Agent's security interest in the Collateral.

(d) Except as otherwise provided in Section 2(c) hereof, the Company (i) shall cause all of its material properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order, and (ii) shall cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be reasonably necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times.

(e) The Company shall pay promptly before delinquent all property and other taxes, assessments and governmental charges or levies imposed upon, and all claims (including claims for labor, materials and supplies) against the Collateral, except to the extent the validity thereof is being contested in good faith by appropriate proceedings diligently pursued and available to the Company.

(f) The Company shall maintain with reputable insurers insurance with respect to the Collateral against loss or damage of the kinds and in the amounts customarily insured against or carried by corporations engaged in the same or similar businesses and similarly situated to the Company.

(g) The Company shall not create, incur or suffer to exist any Lien on the Collateral, except for Permitted Liens.

(h) The Company shall not sell, transfer or otherwise dispose of any of its assets, except (i) as contemplated by Section 2(c) hereof, (ii) as otherwise permitted under the BSC Debt, or (iii) as part of a Sale Transaction.

(i) The Company shall not wind up, liquidate or dissolve, except as a result of a Sale Transaction.

5. Additional Provisions Concerning the Collateral.

(a) The Company hereby authorizes the Collateral Agent to file, without the signature of the Company where permitted by law, one or more financing or continuation statements and amendments thereto relating to the Collateral to perfect the Liens created by this Agreement.

(b) Subject to the provisions of Section 7 hereof, upon occurrence and during the continuance of an Event of Default and after the acceleration of the Notes (so long as such Event of Default has not been waived), the Company hereby irrevocably appoints the Collateral Agent the Company's attorney-in-fact and proxy, with full authority in the place and stead of the Company and in the name of the Company or otherwise, from time to time in the Collateral Agent's discretion, to take any action and to execute any instrument which the Collateral Agent may deem necessary or advisable to accomplish the purposes of this Agreement. The Company hereby ratifies and approves all acts of said attorney; and the attorney shall have no liability to the Company for any act or omission as such attorney, except in the case of the Collateral Agent's willful misconduct or gross negligence.

(c) Anything herein to the contrary notwithstanding, (i) the Company shall remain liable under any contracts and agreements included in or relating to the Collateral to the extent set forth therein to perform all of the Company's obligations thereunder to the same extent as if this Agreement had not been executed; (ii) the exercise by the Collateral Agent of any of its rights hereunder shall not release the Company from any of the Company's duties or obligations under the contracts and agreements included in or relating to the Collateral; and (iii) the Collateral Agent shall not have any obligation or liability by reason of this Agreement under any contracts and agreements included in or relating to the Collateral, nor shall the Collateral Agent be obligated to perform any of the obligations or duties of the Company thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

6. Events of Default and Remedies.

(a) Upon the occurrence and during the continuance of an Event of Default and after the acceleration of the Notes (so long as such Event of Default has not been waived), subject to the provisions of Section 7 hereof, the Collateral Agent may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the UCC (whether or not the UCC applies to the affected Collateral), and also may (i) require the Company to, and the Company hereby agrees that the Company shall, at the Company's expense and upon request of the Collateral Agent forthwith, assemble all or part of the Collateral as directed by the Collateral Agent and make it available to the Collateral Agent at a place to be designated by the Collateral Agent which is reasonably convenient to both parties; and (ii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at the office of the Collateral Agent or elsewhere, for cash, on credit or for future delivery, and at such price or prices and upon such other terms as the Collateral Agent may deem commercially reasonable. The Company agrees that, to the extent notice of sale shall be required by law, at least ten (10) days prior notice to the Company of the time and place of any public or private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it has been so adjourned.

(b) Subject to the provisions of Section 7 hereof and after satisfying its responsibilities to turn over funds to the Senior Lender pursuant to the Subordination Agreement, upon the occurrence and during the continuance of an Event of Default and after the acceleration of the Notes (so long as such Event of Default has not been waived), any cash held by the Collateral Agent as Collateral and all cash proceeds received by the Collateral Agent in respect of any sale of, collection from or other realization upon, all or any part of the Collateral shall be applied as follows:

(i) First: to the Collateral Agent, its agents and attorneys for amounts due under Section 9 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Collateral Agent and the costs and expenses of such collection;

(ii) Second: to Holders of Notes for amounts due and unpaid on the Notes for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

(iii) Third: to the Company or to such party as a court of competent jurisdiction shall direct.

In the event that the proceeds of any such sale, collection or realization are insufficient to pay all Secured Obligations in full, the Company shall remain liable for any deficiency, including any attorney's fees and other expenses incurred by the Collateral Agent or any Holder to collect such deficiency.

(c) Notwithstanding any of the foregoing, neither the Collateral Agent nor the Holders shall be required to (i) make any demand upon, pursue or exhaust any of their rights or remedies against the Company with respect to the payment of the Secured Obligations or to pursue or exhaust any of their rights or remedies with respect to any Collateral therefor, or (ii) marshal the Collateral or resort to the Collateral in any particular order.

7. Subordination.

(a) The Liens arising under this Agreement and the exercise of any right or remedy by the Collateral Agent in respect thereof is junior and subordinate to the interest of the Senior Lender with respect to the BSC Debt and the Liens that secure the BSC Debt.

(b) The Liens securing the BSC Debt shall be senior to the Liens securing the Secured Obligations irrespective of the time of the execution, delivery or issuance of any thereof or the filing or recording for perfection of any thereof or the filing of any financing statement or continuation statement relating to any thereof. The Collateral Agent shall not contest the validity, perfection, priority or enforceability of, or assert the avoidability of, any security interest or lien granted by the Company to the Senior Lender and, upon the request of the Senior Lender, the Collateral Agent agrees to cooperate, at the sole expense of the Company as provided in Section 9 hereof, in the defense of any action regarding the validity, perfection, priority, enforceability or avoidability of any such security interest or lien.

(c) Upon request of the Senior Lender at any time and from time to time, the Collateral Agent agrees to execute, on behalf of the Holders, such other documents or instruments as may be requested by the Senior Lender further to evidence of public record or otherwise the senior priority of the BSC Debt as contemplated hereby.

(d) The Collateral Agent agrees to maintain on its books and records such notations as the Senior Lender may reasonably request to reflect the subordination contemplated hereby and to perfect or preserve the rights of the Senior Lender hereunder.

(e) Without limiting any of the rights of the Senior Lender, in the event the Senior Lender (i) releases or discharges any Liens upon any collateral that secures the BSC Debt and also secures the Secured Obligations or (ii) consents to the Company entering into any sale or other disposition of collateral (each of the foregoing, a "Release Event"), such collateral shall thereupon be deemed to have been released from all such Liens in favor of the Collateral Agent, on behalf of the Holders, and the Collateral Agent and the Holders shall be deemed to have consented to any such sale or disposition. The Collateral Agent, on behalf of the Holders, agrees that, within ten (10) days following the joint request of the Senior Lender and the Company therefor, the Collateral Agent will execute, deliver and file any and all such termination statements, releases and other agreements and instruments as the Senior Lender reasonably deems necessary or appropriate in order to give effect to the preceding sentence. The Collateral Agent shall not be liable for any such release undertaken in good faith in reliance upon any such joint written request of the Company and Senior Lender, and notwithstanding any term hereof to the contrary, the Collateral Agent shall not be under any obligation to execute and deliver any such instrument of release, satisfaction or termination unless and until it receives such joint written request. The Collateral Agent hereby irrevocably appoints the Senior Lender, and its successors and assigns and its officers, with full power of substitution, the true and lawful attorney(s) of the Collateral Agent for the purpose of effecting any such executions, deliveries and filings if and to the extent that the Collateral Agent shall have failed to perform such obligations within such ten (10) day period.

(f) The Company and the Senior Lender may agree to increase the amount of the BSC Debt or otherwise modify the terms of the BSC Debt or the documents evidencing the BSC Debt, and the Senior Lender may grant extensions of the time of payment or performance to and make compromises, including releases of collateral and settlements with the Company, in each case without the consent of the Collateral Agent or any Holder and without affecting the agreements contained in this Section 7; provided, however, that nothing contained in this Section 7(f) shall constitute a waiver of the right of the Company itself to agree or consent to a settlement or compromise of a claim which the Senior Lender may have against the Company.

(g) Nothing contained in this Section 7 shall impair, as between the Company, on the one hand, and the Collateral Agent and the Holders, on the other hand, the obligation of the Company to pay to the Collateral Agent and the Holders all amounts payable in respect of this Agreement and the Notes as and when the same shall become due and payable in accordance with the terms thereof, subject, however, to the rights of the Senior Lender as set forth in this Section 7.

(h) This Section 7 shall continue in full force and effect and shall be operative until the full discharge of the BSC Debt.

8. The Collateral Agent.

(a) Landmark Community Bank has been appointed Collateral Agent hereunder for the benefit of the Holders. Notwithstanding any provision herein to the contrary, the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Collateral Agent have or be deemed to have any fiduciary relationship with any Holder, the Senior Lender or the Company, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or otherwise exist against the Collateral Agent other than as a "representative" as such term is used in Section 9-102(a)(72)(E) of the UCC. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Agreement with reference to the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create and reflect only an administrative relationship between independent contracting parties. Except as otherwise expressly provided in this Agreement, the Collateral Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions which the Collateral Agent is expressly entitled to take or assert under this Agreement, and any action so taken or not taken shall be deemed consented to by the Holders.

(b) None of the Collateral Agent or any of its agents or employees shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or the transactions contemplated hereby, except for its own willful misconduct, gross negligence or bad faith, or (ii) be responsible in any manner to any Holder or the Senior Lender for any recital, statement, representation, warranty, covenant or agreement made by the Company contained in this Agreement or in any certificate, report, statement or other document received by the Collateral Agent under or in connection with this Agreement, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement, or for any failure of the Company to perform its obligations hereunder or under the Notes. None of the Collateral Agent or any of its agents or employees shall be under any obligation to any Holder or the Senior Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or to inspect the properties, books or records of the Company.

(c) The Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of its rights or powers hereunder, and neither the Collateral Agent nor any of its employees or agents shall be responsible for any act or failure to act hereunder, except for its own willful misconduct, gross negligence or bad faith.

(d) The Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including, without limitation, counsel to the Company), independent accountants and other experts and advisors selected by the Collateral Agent.

(e) The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Event of Default and the acceleration of the Notes unless the Collateral Agent shall have received written notice from the Company or the Required Holders that refers to this Agreement, describes the Event of Default and states that there has been an acceleration of the Notes. The Collateral Agent shall be under no obligation to exercise any of its rights or powers vested in it by this Agreement, at the request, order or direction of any Required Holders, unless such Required Holders shall have offered to the Collateral Agent reasonable security or indemnity satisfactory to the Collateral Agent against the costs, expenses and liabilities (including, without limitation, attorneys' fees) which might be incurred therein or thereby.

(f) The Collateral Agent is each Holder's agent for the purpose of perfecting the Holders' security interest in assets which, in accordance with Article 9 of the UCC, can be perfected only by possession or control.

(g) The Collateral Agent may resign at any time upon thirty (30) days prior written notice to the Company, such resignation to be effective upon the acceptance of a successor agent to its appointment as Collateral Agent. The Collateral Agent may appoint, after consulting with the Company, a successor Collateral Agent prior to the intended effective date of the resignation. If no successor Collateral Agent is appointed within thirty (30) days after the intended effective date of resignation (as stated in the notice of resignation) the Collateral Agent shall be entitled to petition at the expense of the Company a court of competent jurisdiction to appoint a successor. Upon the acceptance of its appointment as successor Collateral Agent hereunder, such successor Collateral Agent shall succeed to all the rights, powers and duties of the retiring Collateral Agent, and the term "Collateral Agent" shall mean such successor Collateral Agent, and the retiring Collateral Agent's appointment, powers and duties as the Collateral Agent shall be terminated. After the retiring Collateral Agent's resignation hereunder, the provisions of this Section 8 (and Section 9) shall continue to inure to its benefit and the retiring Collateral Agent shall not by reason of such resignation be deemed to be released from liability as to any actions taken or omitted to be taken by it while it was the Collateral Agent under this Agreement.

(h) The Collateral Agent may make loans to, issue letters of credit for the account of, accept deposits from, and generally engage in any kind of banking, trust or other business with the Company as though it was not the collateral agent hereunder. The Collateral Agent may receive information regarding the Company (including information that may be subject to confidentiality obligations in favor of the Company), and the Collateral Agent shall not be under any obligation to provide such information to the Holders.

9. Indemnity and Expenses.

(a) The Company agrees to indemnify the Collateral Agent from and against any and all claims, losses and liabilities growing out of or resulting from this Agreement (including, without limitation, enforcement of this Agreement), except claims, losses or liabilities resulting solely and directly from Collateral Agent's willful misconduct, gross negligence or bad faith.

(b) The Company will pay to the Collateral Agent on demand the amount of any and all reasonable costs and expenses which the Collateral Agent may incur in connection with (i) the administration of this Agreement (excluding the salary of the Collateral Agent's employees and the Collateral Agent's normal and usual overhead expenses); (ii) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any Collateral; (iii) the exercise or

enforcement of any of the rights of the Collateral Agent hereunder; or (iv) the failure by the Company to perform or observe any of the provisions hereof, except expenses resulting solely and directly from the Collateral Agent's willful misconduct, gross negligence or bad faith.

10. Notices. All notices and other communications required or permitted hereunder to be given to a party shall be in writing and shall be faxed, mailed by registered or certified mail postage prepaid, delivered by a national overnight delivery service, or otherwise delivered by hand, electronically (including by email) or by messenger, addressed to such party's address as set forth below:

if to the Company:	SurgiVision, Inc. Attention: Vice President, Business Affairs One Commerce Square, Ste 2550 Memphis TN 38103 Facsimile: (901) 522-9400
if to the Collateral Agent:	Landmark Community Bank Attention: Bryan Jones 1000 Ridgeway Loop Rd. Suite 103 Memphis, Tennessee 38120 Facsimile: (901) 260-2525

or such other address with respect to a party as such party shall notify the other party in writing as above provided. Any notice sent in accordance with this Section 10 shall be effective upon the earlier of: (i) if mailed, seven Business Days after mailing; (ii) if sent by messenger, upon delivery; (iii) if sent by a nationally recognized overnight delivery service, one Business Day after having been dispatched; (iv) if sent via fax, upon transmission and electronic confirmation of transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and electronic confirmation of transmission (provided, however, that any notice of change of address shall only be valid upon receipt); (v) if sent by electronic mail, upon transmission and notice by telephone of such transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and notice by telephone; and (vi) upon the actual receipt thereof.

11. Security Interest Absolute. The Liens and obligations of the Company hereunder shall be absolute and unconditional irrespective of: (a) any lack of validity or enforceability of the Notes; (b) any change in the time, manner or place of payment of, or in any other term in respect of, the Secured Obligations, or any other amendment or waiver of or consent to any departure from this Agreement or the Notes; (c) any increase in, addition to, or exchange, release or non-perfection of, any collateral for all or any of the Secured Obligations; or (d) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Company in respect of the Secured Obligations or this Agreement.

12. Amendments; Waivers.

(a) Subject to the provisions of Section 7 hereof, the Company and the Collateral Agent may amend or supplement this Agreement without the consent of any Holder:

(i) to cure any ambiguity, defect or inconsistency herein;

(ii) to make any change that would provide any additional benefits to the Holders, to further secure the Notes, to add to the covenants of the Company for the benefit of the Holders or to surrender any right or power conferred upon the Company, or to make any change that does not adversely affect the benefits hereunder of the Holders; or

(iii) to comply with the requirements of applicable law.

(b) Subject to the provisions of Section 7 hereof, the Company and the Collateral Agent may amend or supplement this Agreement with the consent of the Required Holders.

(c) Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any amendment or supplement to this Agreement, and, if applicable, upon the Collateral Agent's receipt of evidence reasonably satisfactory to it of the requisite consent of the Required Holders, the Collateral Agent shall join with the Company in the execution of such amendment or supplement unless such amendment or supplement affects the Collateral Agent's own rights, duties or immunities under this Agreement or otherwise, in which case the Collateral Agent may in its discretion, but shall not be obligated to, enter into such amendment or supplement.

(d) The Required Holders may waive compliance in any particular instance by the Company with any provision of this Agreement.

(e) It shall not be necessary for the consent of any Holder to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

(f) After an amendment, supplement or waiver under this Section 12 becomes effective, the Company shall mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

13. Release of Collateral; Termination of Agreement.

(a) The Liens created by this Agreement shall be released:

(i) as to any Collateral sold, exchanged or otherwise disposed by the Company as provided in Section 2(b) or Section 7(e) hereof; and

(ii) in whole, if the Secured Obligations have been paid in full.

(b) Except as described in Section 7(e) hereof, upon receipt of an Officer's Certificate certifying that all conditions precedent under this Agreement to such release have been met and any necessary or proper instruments of termination, satisfaction or release prepared by the Company, the Collateral Agent shall execute, deliver or acknowledge (at the Company's expense) such instruments to evidence the release of any Collateral permitted to be released pursuant to this Agreement. The Collateral Agent shall not be liable for any such release undertaken in good faith in reliance upon any such Officer's Certificate, and notwithstanding any term hereof to the contrary, the Collateral Agent shall not be under any obligation to execute and deliver any such instrument of release, satisfaction or termination unless and until it receives such Officer's Certificate.

(c) This Agreement shall remain in full force and effect until the payment in full of the Secured Obligations.

14. Miscellaneous.

(a) No failure on the part of the Collateral Agent to exercise, and no delay in exercising any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof, or the exercise of any other right. The rights and remedies of the Collateral Agent provided herein are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law.

(b) All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, including without limitation any existing or subsequent federal or state banking laws or regulations, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Agreement invalid, unenforceable or not entitled to be recorded or registered, in whole or in part. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or invalidity without invalidating the remaining portions hereof or thereof, or affecting the validity or enforceability of such provision in any other jurisdiction.

(c) The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the Company, the Collateral Agent and the Holders and their respective successors and assigns, except that the Company shall not have the right to assign its rights or delegate its obligations under this Agreement or any interest herein, without the prior written consent of the Required Holders, except in connection with a Sale Transaction.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except as required by mandatory provisions of law and except to the extent that the validity or perfection of the security interest created hereby or remedies hereunder in respect of any particular Collateral are governed by the laws of a jurisdiction other than the State of Tennessee.

(e) This Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation or reorganization, should the Company make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of the Company's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(f) The captions or headings of the Sections of this Agreement are inserted merely for convenience of reference and shall not be deemed to limit or modify the terms and provisions hereof.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company and the Collateral Agent have executed and delivered this Agreement (or caused the execution and delivery of this Agreement by its duly authorized officers) on the date first above written.

COMPANY:

SURGIVISION, INC.

By: /s/ Kimble L. Jenkins
Name: Kimble L. Jenkins
Title: CEO

COLLATERAL AGENT:

LANDMARK COMMUNITY BANK,
as collateral agent for the ratable benefit of the Holders

By: /s/ William Bryan Jones
Name: William Bryan Jones
Title: Senior Vice President

FIRST AMENDMENT TO
JUNIOR SECURITY AGREEMENT

THIS FIRST AMENDMENT TO JUNIOR SECURITY AGREEMENT (this "Amendment") is made and entered as of April 5, 2011, by and between **SURGIVISION, INC.**, a Delaware corporation (the "Company"), and **LANDMARK COMMUNITY BANK**, a Tennessee state-chartered bank, in its capacity as collateral agent (the "Collateral Agent") for the ratable benefit of the registered holders (the "Holders") of the SurgiVision, Inc. Junior Secured Promissory Notes due 2020 (the "Notes").

W I T N E S S E T H:

WHEREAS, the Company and the Collateral Agent, on behalf of the Holders, entered into that certain Junior Security Agreement dated as of November 5, 2010 (the "Security Agreement");

WHEREAS, the terms of the Security Agreement may be amended by the Company and the Collateral Agent with the consent of Holders of a majority in aggregate principal amount of the Notes outstanding (the "Required Holders");

WHEREAS, the Required Holders have consented to the amendment of the terms of the Security Agreement as set forth below; and

WHEREAS, with the consent of the Required Holders, the Company and the Collateral Agreement desire to amend the terms of the Security Agreement as set forth below;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Collateral Agent, on behalf of the Holders, hereby agree as follows:

1. Defined Terms. Capitalized terms used in this Amendment without definition shall have the same meanings ascribed to such terms in Section 1 of the Security Agreement.

2. Amendment to Section 1 (Definitions).

(a) Section 1 of the Security Agreement (Definitions) is hereby amended by deleting subclauses (i) and (xi) of clause (j) (the definition of "Permitted Lien") in their entirety and substituting the following therefor:

"(i) Liens arising out of or securing the Senior Debt;"

***

"(xi) Liens which are otherwise permitted under the Senior Debt; and"

(b) Section 1 of the Security Agreement (Definitions) is hereby further amended by deleting clauses (o) and (p) thereof in their entirety and substituting the following therefor:

"(o) "Senior Lender" shall mean Boston Scientific Corporation, so long as any BSC Debt remains outstanding, and/or Brainlab AG., so long as any Brainlab Debt remains outstanding.

(p) "Subordination Agreement" shall mean the Subordination Agreement dated as of the date hereof among Boston Scientific Corporation, the Company and the Collateral Agent, on behalf of the Holders."

(b) Section 1 of the Security Agreement (Definitions) is hereby further amended by adding the following new defined terms at the end thereof:

"(r) Brainlab Debt shall mean all indebtedness, including principal and all accrued interest thereon, outstanding that certain 10% Subordinated Secured Convertible Note Due 2016 issued by the Company to Brainlab AG. dated as of April 5, 2011, in the aggregate original principal amount of $2,000,000, as such note may be amended and in effect from time to time.

(s) Senior Debt shall mean the BSC Debt and/or the Brainlab Debt."

3. Amendment to Section 2 (Grant of Security Interest). Section 2 of the Security Agreement (Grant of Security Interest) is hereby amended by deleting the final clause thereof (", subject to the first priority security interests and liens granted in favor of the Senior Lender.") and substituting the following therefor: ", subject to the security interests and liens granted in favor of the Senior Lenders."

4. Amendment to Section 4 (Covenants as to the Collateral). Section 4 of the Security Agreement (Covenants as to the Collateral) is hereby amended by deleting clause (h) thereof and substituting the following therefor:

"(h) The Company shall not sell, transfer or otherwise dispose of any of its assets, except (i) as contemplated by Section 2(c) hereof, (ii) as otherwise permitted under the Senior Debt, or (iii) as part of a Sale Transaction."

5. Amendment to Section 6 (Events of Default and Remedies). Section 6 of the Security Agreement (Events of Default and Remedies) is hereby amended by deleting the reference to "the Senior Lender" set forth in paragraph (b) thereof and substituting "Boston Scientific Corporation" therefor.

6. Amendment to Section 7 (Subordination). Section 7 of the Security Agreement (Subordination) is hereby amended by deleting such Section in its entirety and substituting the following therefor:

"7. Subordination.

(a) The Liens arising under this Agreement and the exercise of any right or remedy by the Collateral Agent in respect thereof is junior and subordinate to the interest of the Senior Lenders with respect to the Senior Debt and the Liens that secure the Senior Debt.

(b) The Liens securing the Senior Debt shall be senior to the Liens securing the Secured Obligations irrespective of the time of the execution, delivery or issuance of any thereof or the filing or recording for perfection of any thereof or the filing of any financing statement or continuation statement relating to any thereof. The Collateral Agent shall not contest the validity, perfection, priority or enforceability of, or assert the avoidability of, any security interest or lien granted by the Company to any Senior Lender and, upon the request of a Senior Lender, the Collateral Agent agrees to cooperate, at the sole expense of the Company as provided in Section 9 hereof, in the defense of any action regarding the validity, perfection, priority, enforceability or avoidability of any such security interest or lien.

(c) Upon request of a Senior Lender at any time and from time to time, the Collateral Agent agrees to execute, on behalf of the Holders, such other documents or instruments as may be requested by the Senior Lender further to evidence of public record or otherwise the senior priority of the Senior Debt as contemplated hereby.

(d) The Collateral Agent agrees to maintain on its books and records such notations as a Senior Lender may reasonably request to reflect the subordination contemplated hereby and to perfect or preserve the rights of the Senior Lender hereunder.

(e) Without limiting any of the rights of any Senior Lender, in the event the Senior Lender (i) releases or discharges any Liens upon any collateral that secures any Senior Debt and also secures the Secured Obligations or (ii) consents to the Company entering into any sale or other disposition of collateral (each of the foregoing, a "Release Event"), such collateral shall thereupon be deemed to have been released from all such Liens in favor of the Collateral Agent, on behalf of the Holders, and the Collateral Agent and the Holders shall be deemed to have consented to any such sale or disposition. The Collateral Agent, on behalf of the Holders, agrees that, within ten (10) days following the joint request of the Senior Lender and the Company therefor, the Collateral Agent will execute, deliver and file any and all such termination statements, releases and other agreements and instruments as the Senior Lender reasonably deems necessary or appropriate in order to give effect to the preceding sentence. The Collateral Agent shall not be liable for any such release undertaken in good faith in reliance upon any such joint written request of the Company and Senior Lender, and notwithstanding any term hereof to the contrary, the Collateral Agent shall not be under any obligation to execute and deliver any such instrument of release, satisfaction or termination unless and until it receives such joint written request. The Collateral Agent hereby irrevocably appoints each Senior Lender, and its successors and assigns and its officers, with full power of substitution, the true and lawful attorney(s) of the Collateral Agent for the purpose of effecting any such executions, deliveries and filings if and to the extent that the Collateral Agent shall have failed to perform such obligations within such ten (10) day period.

(f) The Company and a Senior Lender may agree to increase the amount of the Senior Debt or otherwise modify the terms of the Senior Debt or the documents evidencing the Senior Debt, and a Senior Lender may grant extensions of the time of payment or performance to and make compromises, including releases of collateral and settlements with the Company, in each case without the consent of the Collateral Agent or any Holder and without affecting the agreements contained in this Section 7; provided, however, that nothing contained in this Section 7(f) shall constitute a waiver of the right of the Company itself to agree or consent to a settlement or compromise of a claim which a Senior Lender may have against the Company.

(g) Nothing contained in this Section 7 shall impair, as between the Company, on the one hand, and the Collateral Agent and the Holders, on the other hand, the obligation of the Company to pay to the Collateral Agent and the Holders all amounts payable in respect of this Agreement and the Notes as and when the same shall become due and payable in accordance with the terms thereof, subject, however, to the rights of the Senior Lenders as set forth in this Section 7.

(h) This Section 7 shall continue in full force and effect and shall be operative until the full discharge of the Senior Debt."

7. Amendment of Section 14 (Miscellaneous). Section 14 of the Security Agreement (Miscellaneous) is hereby amended by deleting such paragraph (d) thereof in its entirety and substituting the following therefor:

"(d) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except as required by mandatory provisions of law and except to the extent that the validity or perfection of the security interest created hereby or remedies hereunder in respect of any particular Collateral are governed by the laws of a jurisdiction other than the State of Delaware."

8. Miscellaneous. On and after the date hereof, each reference in the Security Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Security Agreement shall mean and be a reference to the Security Agreement as amended by this Amendment. Except as expressly provided in this Amendment, all other terms, conditions and provisions of the Security Agreement shall continue in full force and effect as provided therein. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original but all such counterparts together shall constitute but one and the same instrument. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

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IN WITNESS WHEREOF, the Company and the Collateral Agent have executed and delivered this Amendment (or caused the execution and delivery of this Agreement by its duly authorized officers) on the date first above written.

COMPANY:

SURGIVISION, INC.

By: /s/ Kimble Jenkins
Name: Kimble Jenkins
Title: CEO

COLLATERAL AGENT:

LANDMARK COMMUNITY BANK,
as collateral agent for the ratable benefit of the Holders

By: /s/ William Bryan Jones
Name: William Bryan Jones
Title: S.V.P.

SECOND AMENDMENT TO
JUNIOR SECURITY AGREEMENT

THIS SECOND AMENDMENT TO JUNIOR SECURITY AGREEMENT (this "Second Amendment") is made and entered as of October 14, 2011, by and between **MRI INTERVENTIONS, INC.**, f/k/a SurgiVision, Inc., a Delaware corporation (the "Company"), and **LANDMARK COMMUNITY BANK**, a Tennessee state-chartered bank, in its capacity as collateral agent (the "Collateral Agent") for the ratable benefit of the registered holders (the "Holders") of the Company's Junior Secured Promissory Notes due 2020 (the "Notes").

W I T N E S S E T H:

WHEREAS, the Company and the Collateral Agent, on behalf of the Holders, entered into that certain Junior Security Agreement dated as of November 5, 2010, as amended by that certain First Amendment to Junior Security Agreement dated as of April 5, 2011 (as amended, the "Security Agreement");

WHEREAS, the terms of the Security Agreement may be amended by the Company and the Collateral Agent with the consent of Holders of a majority in aggregate principal amount of the Notes outstanding (the "Required Holders");

WHEREAS, the Required Holders have consented to the amendment of the terms of the Security Agreement as set forth below; and

WHEREAS, with the consent of the Required Holders, the Company and the Collateral Agreement desire to amend the terms of the Security Agreement as set forth below;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Collateral Agent, on behalf of the Holders, hereby agree as follows:

1. Defined Terms. Capitalized terms used in this Amendment without definition shall have the same meanings ascribed to such terms in Section 1 of the Security Agreement.

2. Amendment to Section 1 (Definitions). Section 1 of the Security Agreement (Definitions) is hereby amended by deleting clauses (o) and (s) thereof in their entirety and substituting the following therefor:

(o) "Senior Lender" shall mean (i) Boston Scientific Corporation, so long as any BSC Debt remains outstanding, (ii) Brainlab AG., so long as any Brainlab Debt remains outstanding, and/or (iii) the Bridge Note Holders, so long as any Bridge Debt remains outstanding.

(s) Senior Debt shall mean the BSC Debt, the Brainlab Debt, and/or the Bridge Debt.

3. Amendment to Section 1 (Definitions). Section 1 of the Security Agreement (Definitions) is hereby further amended by adding the following new defined terms at the end thereof:

(t) Bridge Debt shall mean all indebtedness, including principal and all accrued interest thereon, outstanding under those the Bridge Notes.

(u) Bridge Notes shall mean those certain 10% Secured Convertible Promissory Notes Due 2014 issued by the Company, as such notes may be amended and in effect from time to time.

(v) Bridge Note Holders shall mean the persons in whose names the Bridge Notes are registered.

4. Miscellaneous. On and after the date hereof, each reference in the Security Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Security Agreement shall mean and be a reference to the Security Agreement as amended by this Second Amendment. Except as expressly provided in this Second Amendment, all other terms, conditions and provisions of the Security Agreement shall continue in full force and effect as provided therein. This Second Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original but all such counterparts together shall constitute but one and the same instrument. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

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IN WITNESS WHEREOF, the Company and the Collateral Agent have executed and delivered this Second Amendment (or caused the execution and delivery of this Second Amendment by its duly authorized officers) on the date first above written.

COMPANY:

MRI INTERVENTIONS, INC.

By: /s/ Oscar L. Thomas
Name: Oscar L. Thomas
Title: Vice President, Business Affairs

COLLATERAL AGENT:

LANDMARK COMMUNITY BANK,
as collateral agent for the ratable benefit of the Holders

By: /s/ William Bryan Jones
Name: William Bryan Jones
Title: S.V.P.

Exhibit 10.7

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (as it may be amended or modified from time to time, this, "Agreement") is made and entered as of October 14, 2011, by and between **MRI INTERVENTIONS, INC**., a Delaware corporation (the "Company"), and **LANDMARK COMMUNITY BANK**, a Tennessee state-chartered bank, in its capacity as collateral agent (the "Collateral Agent") for the ratable benefit of the Holders (as defined below).

W I T N E S S E T H:

That for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Collateral Agent, on behalf of the Holders, hereby agree as follows:

1. Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms have the meanings indicated:

(a) "Business Day" shall mean any day other than a Saturday, Sunday or other day on which banks in Memphis, Tennessee are required to be closed.

(b) "BSC Debt" shall mean all indebtedness, including principal and all accrued interest thereon, outstanding under those certain Secured Convertible Promissory Notes issued by the Company to Boston Scientific Corporation dated as of October 16, 2009, November 17, 2009 and December 18, 2009, respectively, in the aggregate original principal amount of $3,500,000, as such notes may be amended and in effect from time to time.

(c) "Brainlab Debt" shall mean all indebtedness, including principal and all accrued interest thereon, outstanding under that certain 10% Subordinated Secured Convertible Note Due 2016 issued by the Company to Brainlab AG dated as of April 5, 2011 in the original principal amount of $2,000,000, as such note may be amended and in effect from time to time.

(d) "Event of Default" shall have the meaning indicated in the Notes.

(e) "Holder" shall mean a Person in whose name a Note is registered.

(f) "Lien" shall mean, with respect to any asset, any mortgage, lien, pledge or security interest, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

(g) "Material Adverse Effect" shall mean, with respect to the Company, any change or effect that, when taken individually or together with all other adverse changes or effects, is materially adverse to the business, results of operations or financial condition of the Company.

(h) "Note" shall mean a 10% Secured Convertible Promissory Note due 2014 issued by the Company.

(i) "Officer" shall mean, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, or any Vice President of such Person.

(j) "Officers' Certificate" shall mean a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the Chief Executive Officer or the Chief Financial Officer.

(k) "Other Existing Secured Debt" shall mean all indebtedness, other than the BSC Debt and the Brainlab Debt, outstanding from time to time under promissory notes issued by the Company prior to the date of this Agreement that are secured by a security interest in the Company's property and assets.

(l) "Permitted Lien" shall mean any of the following Liens:

(i) Liens arising out of or securing the BSC Debt;

(ii) Liens arising out of or securing the Brainlab Debt;

(iii) Liens arising out of or securing the Other Existing Secured Debt;

(iv) Liens arising out of this Agreement;

(v) Liens securing the payment of taxes, assessments or other governmental charges or levies either not yet overdue or the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to the Company;

(vi) non-consensual statutory Liens (other than as described in clause (iv) above) arising in the ordinary course of the Company's business to the extent: (A) such Liens secure indebtedness which is not overdue or (B) such Liens secure indebtedness relating to claims or liabilities which (1) are fully insured and being defended at the sole cost and expense and at the sole risk of the insurer or (2) are being contested in good faith by appropriate proceedings diligently pursued and available to the Company, in each case prior to the commencement of foreclosure or other similar proceedings;

(vii) purchase money security interests in equipment or other fixed or capital assets (including capital leases) and purchase money mortgages on real property;

(viii) pledges and deposits of cash by the Company in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security benefits;

(ix) pledges and deposits of cash by the Company to secure the performance of tenders, bids, leases, trade contracts (other than for the repayment of indebtedness), statutory obligations and other similar obligations, in each case in the ordinary course of the Company's business;

(x) Liens arising from (A) operating leases and the precautionary UCC financing statement filings in respect thereof and (B) equipment or other materials that are not owned by the Company but are located on the premises of the Company (but not in connection with, or as part of, the financing thereof) from time to time in the ordinary course of the Company's business and the precautionary UCC financing statement filings in respect thereof;

(xi) statutory or common law Liens or rights of setoff of depository banks with respect to funds of the Company at such banks to secure fees and charges in connection with returned items or the standard fees and charges of such banks in connection with the deposit accounts maintained by the Company at such banks (but not any other indebtedness);

(xii) judgments and other similar Liens arising in connection with court proceedings, provided that (A) such Liens are being contested in good faith and by appropriate proceedings diligently pursued, and (B) a stay of enforcement of any such Liens is in effect;

(xiii) Liens which are otherwise permitted under the BSC Debt; and

(xiv) non-consensual Liens to secure indebtedness and other liabilities in an amount not to exceed $250,000 in the aggregate, to the extent not otherwise permitted by any of the foregoing clauses.

(m) "Person" shall mean any individual or entity.

(n) "Required Holders" shall mean, at any time, Holders of a majority in aggregate principal amount of the Notes then outstanding.

(o) "Sale Transaction" shall have the meaning indicated in the Notes.

(p) "Secured Obligations" shall mean all obligations of the Company with respect to the Notes.

(q) "Senior Lender" shall mean Boston Scientific Corporation, so long as any BSC Debt remains outstanding.

(r) "Subordination Agreement" shall mean a subordination agreement entered into with the Senior Lender to evidence the senior priority of the BSC Debt as otherwise contemplated hereby.

(s) "UCC" shall mean the Uniform Commercial Code as in effect in any applicable jurisdiction and any successor statute, as in effect from time to time (except that terms used herein which are defined in the Uniform Commercial Code as in effect in such jurisdiction on the date hereof shall continue to have the same meaning notwithstanding any replacement or amendment of such statute except as the Collateral Agent may otherwise determine).

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

2. Grant of Security Interest.

(a) To secure the prompt and complete payment and performance of the Secured Obligations, the Company hereby grants to the Collateral Agent, on behalf of and for the ratable benefit of the Holders, a security interest in the properties, assets and rights of the Company, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof (all of the same being hereinafter called the "Collateral"), including, without limitation, all goods (including inventory, equipment and any accessions thereto), intellectual property (including all patents, patent applications, trade secrets, trademarks, copyrights and all other intellectual property), instruments (including promissory notes), documents, accounts, chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, securities and all other investment property, supporting obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds, and all general intangibles (including all payment intangibles and goodwill of any kind or nature).

(b) Notwithstanding any provision of this Agreement to the contrary, in no event shall the Collateral include, and the Company shall not be deemed to have granted a security interest in, the following: (i) any of the Company's rights or interests in or under any lease, license, contract or agreement to which the Company is a party to the extent, but only to the extent, that such a grant would, under the terms of such lease, license, contract or agreement, constitute or result in (A) the abandonment, invalidation or unenforceability of any right, title or interest of the Company therein or (B) a breach or termination event pursuant to the terms of, or a default under, such lease, license, contract or agreement, provided, that (1) immediately upon the ineffectiveness, lapse, termination or waiver of any such provision, the Collateral shall include, and the Company shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect and (2) to the extent that any such lease, license, contract or agreement would otherwise constitute Collateral (but for the provisions of this paragraph), all proceeds resulting from the sale or disposition by the Company of any rights of the Company under such lease, license, contract or agreement shall constitute Collateral, (ii) any equipment or other fixed or capital assets owned by the Company acquired after the date hereof that is subject to a Permitted Lien securing a purchase money financing, project financing or capital or finance lease obligation if the contract or other agreement in which such Lien is granted (or the documentation providing for such purchase money, project financing or capital or finance lease obligation) prohibits the creation of any other Lien on such property, provided, that immediately upon the ineffectiveness, lapse, termination or waiver of any such provision, the Collateral shall include, and the Company shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect, and (iii) any trademark applications filed in the U.S. Patent and Trademark Office on the basis of the Company's "intent-to-use" such trademark, unless and until acceptable evidence of use of the trademark has been filed with and accepted by the U.S. Patent and Trademark Office pursuant to Section 1(c) or Section 1(d) of the Lanham Act (15 U.S.C. 1051, et seq.), to the extent that granting a Lien in such trademark application prior to such filing would adversely affect the enforceability or validity of such trademark application.

(c) Notwithstanding any provision of this Agreement to the contrary, the Company shall be permitted, without consent from the Collateral Agent or any Holders, to conduct ordinary course activities with respect to the Collateral, including, without limitation, (i) selling or otherwise disposing of, in any transaction or series of related transactions, any property subject to the Liens of this Agreement that has become worn out, defective, obsolete or not used or useful in the business; (ii) abandoning, terminating, canceling, releasing or making alterations in or substitutions of any leases or contracts subject to the Liens of this Agreement; (iii) surrendering or modifying any franchise, license or permit subject to the Liens of this Agreement that the Company may own or under which it may be operating; (iv) altering, repairing, replacing, changing the location or position of or adding to the Company's structures, machinery, systems, equipment, fixtures and appurtenances; (v) granting a license of any intellectual property; (vi) selling, transferring or otherwise disposing of inventory in the ordinary course of business; (vii) collecting accounts receivable in the ordinary course of business; (viii) making payments (including for the repayment of indebtedness or interest) from cash that is at any time part of the Collateral in the ordinary course of business; and (ix) abandoning any intellectual property that is no longer used or useful in the Company's business.

3. Representations and Warranties. The Company represents and warrants, as of the date of this Agreement, to the Collateral Agent and the Holders as follows:

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted. The Company is duly qualified to transact business and is in good standing in each other jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Effect. The Company has all requisite corporate power and authority to own and operate its properties and assets.

(b) All corporate action on the part of the Company necessary for the authorization, execution, delivery and performance of the Company's obligations under this Agreement has been taken. This Agreement, when executed and delivered by the Company, shall constitute the valid and legally binding obligation of the Company, legally enforceable against the Company in accordance with its terms.

(c) Neither the execution and delivery of this Agreement, nor compliance by the Company with the terms and provisions hereof, conflicts with, or results in a breach or violation of, any of the terms, conditions and provisions of: (i) the Company's certificate of incorporation or bylaws; (ii) any judgment, order, injunction, decree or ruling of any court or governmental authority; (iii) subject to the provisions of Section 2(b) and Section 7 hereof, any note, mortgage, indenture, contract or agreement to which the Company is a party or to which it is subject.

(d) The Company owns the Collateral free of any Liens, except for (i) Liens arising out of or securing the BSC Debt, (ii) Liens arising out of or securing the Brainlab Debt, (iii) Liens arising out of or securing the Other Existing Secured Debt, and (iv) Liens arising out of this Agreement.

(e) The Company has full power and authority to grant to the Collateral Agent the security interest in the Collateral pursuant hereto. When financing statements have been filed in the appropriate offices against the Company in the locations listed on Exhibit A, the Collateral Agent will have a fully perfected security interest in that Collateral of the Company in which a security interest may be perfected by filing, subject only to Permitted Liens.

(f) The Liens arising under this Agreement and the exercise of any right or remedy by the Collateral Agent in respect thereof will be junior and subordinate to the interest of the Senior Lender with respect to the BSC Debt and the Liens that secure the BSC Debt. The Liens arising under this Agreement will rank equally to the Liens securing the Brainlab Debt irrespective of the time of the execution, delivery or issuance of any thereof or the filing or recording for perfection of any thereof or the filing of any financing statement or continuation statement relating to any thereof. The Liens arising under this Agreement will be senior to the Liens securing the Other Existing Secured Debt irrespective of the time of the execution, delivery or issuance of any thereof or the filing or recording for perfection of any thereof or the filing of any financing statement or continuation statement relating to any thereof.

(g) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or other regulatory body is required either for the grant by the Company of the Liens created hereby in the Collateral or for the exercise by the Collateral Agent of its rights and remedies hereunder.

4. Covenants as to the Collateral. So long as any of the Secured Obligations remain outstanding:

(a) Subject to the provisions of Section 7 hereof:

(i) the Company agrees to file and deliver to the Collateral Agent all financing statements and other documents and take such other actions as may from time to time be necessary in order to maintain a perfected security interest in the Collateral owned by the Company;

(ii) the Company shall, at the Company's expense, at any time and from time to time, promptly execute and deliver all further instruments and documents and take all further action that the Collateral Agent deems reasonably necessary or desirable or that the Collateral Agent may reasonably request (A) to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder in respect of the Collateral; or (B) to otherwise effect the purposes of this Agreement, including, without limitation, furnishing to the Collateral Agent from time to time statements and schedules identifying and describing the Collateral and such other reports in connection with the Collateral as the Collateral Agent may reasonably request, all in reasonable detail.

(b) The Company agrees to take any and all actions necessary to defend title to the Collateral against all Persons, to defend the security interest of the Collateral Agent in the Collateral and the priority thereof against any Lien that is not a Permitted Lien hereunder, and to defend the security interest of the Collateral Agent in the Collateral and the seniority thereof against the Liens securing the Other Existing Secured Debt.

(c) The Company shall not (i) change its name as it appears in official filings in the state of its incorporation, (ii) change its chief executive office or mailing address, (iii) change the type of entity that it is, (iv) change its organization identification number, if any, issued by its state of incorporation, or (v) change its state of incorporation, in each case, unless the Collateral Agent shall have received at least ten (10) days prior written notice of such change and the Company shall have acknowledged in writing that such change will not adversely affect the validity, perfection or priority of the Collateral Agent's security interest in the Collateral.

(d) Except as otherwise provided in Section 2(c) hereof, the Company (i) shall cause all of its material properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order, and (ii) shall cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be reasonably necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times.

(e) The Company shall pay promptly before delinquent all property and other taxes, assessments and governmental charges or levies imposed upon, and all claims (including claims for labor, materials and supplies) against the Collateral, except to the extent the validity thereof is being contested in good faith by appropriate proceedings diligently pursued and available to the Company.

(f) The Company shall maintain with reputable insurers insurance with respect to the Collateral against loss or damage of the kinds and in the amounts customarily insured against or carried by corporations engaged in the same or similar businesses and similarly situated to the Company.

(g) The Company shall not create, incur or suffer to exist any Lien on the Collateral, except for Permitted Liens.

(h) The Company shall not sell, transfer or otherwise dispose of any of its assets, except (i) as contemplated by Section 2(c) hereof, (ii) as otherwise permitted under the BSC Debt, or (iii) as part of a Sale Transaction.

(i) The Company shall not wind up, liquidate or dissolve, except as a result of a Sale Transaction.

5. Additional Provisions Concerning the Collateral.

(a) The Company hereby authorizes the Collateral Agent to file, without the signature of the Company where permitted by law, one or more financing or continuation statements and amendments thereto relating to the Collateral to perfect the Liens created by this Agreement.

(b) Subject to the provisions of Section 7 hereof, upon occurrence and during the continuance of an Event of Default and after the acceleration of the Notes (so long as such Event of Default has not been waived), the Company hereby irrevocably appoints the Collateral Agent the Company's attorney-in-fact and proxy, with full authority in the place and stead of the Company and in the name of the Company or otherwise, from time to time in the Collateral Agent's discretion, to take any action and to execute any instrument which the Collateral Agent may deem necessary or advisable to accomplish the purposes of this Agreement. The Company hereby ratifies and approves all acts of said attorney; and the attorney shall have no liability to the Company for any act or omission as such attorney, except in the case of the Collateral Agent's willful misconduct or gross negligence.

(c) Anything herein to the contrary notwithstanding, (i) the Company shall remain liable under any contracts and agreements included in or relating to the Collateral to the extent set forth therein to perform all of the Company's obligations thereunder to the same extent as if this Agreement had not been executed; (ii) the exercise by the Collateral Agent of any of its rights hereunder shall not release the Company from any of the Company's duties or obligations under the contracts and agreements included in or relating to the Collateral; and (iii) the Collateral Agent shall not have any obligation or liability by reason of this Agreement under any contracts and agreements included in or relating to the Collateral, nor shall the Collateral Agent be obligated to perform any of the obligations or duties of the Company thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

6. Events of Default and Remedies.

(a) Upon the occurrence and during the continuance of an Event of Default and after the acceleration of the Notes (so long as such Event of Default has not been waived), subject to the provisions of Section 7 hereof, the Collateral Agent may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the UCC (whether or not the UCC applies to the affected Collateral), and also may (i) require the Company to, and the Company hereby agrees that the Company shall, at the Company's expense and upon request of the Collateral Agent forthwith, assemble all or part of the Collateral as directed by the Collateral Agent and make it available to the Collateral Agent at a place to be designated by the Collateral Agent which is reasonably convenient to both parties; and (ii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at the office of the Collateral Agent or elsewhere, for cash, on credit or for future delivery, and at such price or prices and upon such other terms as the Collateral Agent may deem commercially reasonable. The Company agrees that, to the extent notice of sale shall be required by law, at least ten (10) days prior notice to the Company of the time and place of any public or private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it has been so adjourned.

(b) Subject to the provisions of Section 7 hereof and after satisfying its responsibilities to turn over funds to the Senior Lender pursuant to any Subordination Agreement, upon the occurrence and during the continuance of an Event of Default and after the acceleration of the Notes (so long as such Event of Default has not been waived), any cash held by the Collateral Agent as Collateral and all cash proceeds received by the Collateral Agent in respect of any sale of, collection from or other realization upon, all or any part of the Collateral shall be applied as follows:

(i) First: to the Collateral Agent, its agents and attorneys for amounts due under Section 9 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Collateral Agent and the costs and expenses of such collection;

(ii) Second: to Holders of Notes for amounts due and unpaid on the Notes for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

(iii) Third: to the Company or to such party as a court of competent jurisdiction shall direct.

In the event that the proceeds of any such sale, collection or realization are insufficient to pay all Secured Obligations in full, the Company shall remain liable for any deficiency, including any attorney's fees and other expenses incurred by the Collateral Agent or any Holder to collect such deficiency.

(c) Notwithstanding any of the foregoing, neither the Collateral Agent nor the Holders shall be required to (i) make any demand upon, pursue or exhaust any of their rights or remedies against the Company with respect to the payment of the Secured Obligations or to pursue or exhaust any of their rights or remedies with respect to any Collateral therefor, or (ii) marshal the Collateral or resort to the Collateral in any particular order.

7. Subordination.

(a) The Liens arising under this Agreement and the exercise of any right or remedy by the Collateral Agent in respect thereof are junior and subordinate to the interest of the Senior Lender with respect to the BSC Debt and the Liens that secure the BSC Debt.

(b) The Liens securing the BSC Debt shall be senior to the Liens securing the Secured Obligations irrespective of the time of the execution, delivery or issuance of any thereof or the filing or recording for perfection of any thereof or the filing of any financing statement or continuation statement relating to any thereof. The Collateral Agent shall not contest the validity, perfection, priority or enforceability of, or assert the avoidability of, any security interest or lien granted by the Company to the Senior Lender and, upon the request of the Senior Lender, the Collateral Agent agrees to cooperate, at the sole expense of the Company as provided in Section 9 hereof, in the defense of any action regarding the validity, perfection, priority, enforceability or avoidability of any such security interest or lien.

(c) Upon request of the Senior Lender at any time and from time to time, the Collateral Agent agrees to execute, on behalf of the Holders, such other documents or instruments as may be requested by the Senior Lender further to evidence of public record or otherwise the senior priority of the BSC Debt as contemplated hereby.

(d) The Collateral Agent agrees to maintain on its books and records such notations as the Senior Lender may reasonably request to reflect the subordination contemplated hereby and to perfect or preserve the rights of the Senior Lender hereunder.

(e) Without limiting any of the rights of the Senior Lender, in the event the Senior Lender (i) releases or discharges any Liens upon any collateral that secures the BSC Debt and also secures the Secured Obligations or (ii) consents to the Company entering into any sale or other disposition of collateral (each of the foregoing, a "Release Event"), such collateral shall thereupon be deemed to have been released from all such Liens in favor of the Collateral Agent, on behalf of the Holders, and the Collateral Agent and the Holders shall be deemed to have consented to any such sale or disposition. The Collateral Agent, on behalf of the Holders, agrees that, within ten (10) days following the joint request of the Senior Lender and the Company therefor, the Collateral Agent will execute, deliver and file any and all such termination statements, releases and other agreements and instruments as the Senior Lender reasonably deems necessary or appropriate in order to give effect to the preceding sentence. The Collateral Agent shall not be liable for any such release undertaken in good faith in reliance upon any such joint written request of the Company and Senior Lender, and notwithstanding any term hereof to the contrary, the Collateral Agent shall not be under any obligation to execute and deliver any such instrument of release, satisfaction or termination unless and until it receives such joint written request. The Collateral Agent hereby irrevocably appoints the Senior Lender, and its successors and assigns and its officers, with full power of substitution, the true and lawful attorney(s) of the Collateral Agent for the purpose of effecting any such executions, deliveries and filings if and to the extent that the Collateral Agent shall have failed to perform such obligations within such ten (10) day period.

(f) The Company and the Senior Lender may agree to increase the amount of the BSC Debt or otherwise modify the terms of the BSC Debt or the documents evidencing the BSC Debt, and the Senior Lender may grant extensions of the time of payment or performance to and make compromises, including releases of collateral and settlements with the Company, in each case without the consent of the Collateral Agent or any Holder and without affecting the agreements contained in this Section 7; provided, however, that nothing contained in this Section 7(f) shall constitute a waiver of the right of the Company itself to agree or consent to a settlement or compromise of a claim which the Senior Lender may have against the Company.

(g) Nothing contained in this Section 7 shall impair, as between the Company, on the one hand, and the Collateral Agent and the Holders, on the other hand, the obligation of the Company to pay to the Collateral Agent and the Holders all amounts payable in respect of this Agreement and the Notes as and when the same shall become due and payable in accordance with the terms thereof, subject, however, to the rights of the Senior Lender as set forth in this Section 7.

(h) This Section 7 shall continue in full force and effect and shall be operative until the full discharge of the BSC Debt.

8. The Collateral Agent.

(a) Landmark Community Bank has been appointed Collateral Agent hereunder for the benefit of the Holders. Notwithstanding any provision herein to the contrary, the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Collateral Agent have or be deemed to have any fiduciary relationship with any Holder, the Senior Lender or the Company, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or otherwise exist against the Collateral Agent other than as a "representative" as such term is used in Section 9-102(a)(72)(E) of the UCC. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Agreement with reference to the Collateral Agent is

not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create and reflect only an administrative relationship between independent contracting parties. Except as otherwise expressly provided in this Agreement, the Collateral Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions which the Collateral Agent is expressly entitled to take or assert under this Agreement, and any action so taken or not taken shall be deemed consented to by the Holders.

(b) None of the Collateral Agent or any of its agents or employees shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or the transactions contemplated hereby, except for its own willful misconduct, gross negligence or bad faith, or (ii) be responsible in any manner to any Holder or the Senior Lender for any recital, statement, representation, warranty, covenant or agreement made by the Company contained in this Agreement or in any certificate, report, statement or other document received by the Collateral Agent under or in connection with this Agreement, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement, or for any failure of the Company to perform its obligations hereunder or under the Notes. None of the Collateral Agent or any of its agents or employees shall be under any obligation to any Holder or the Senior Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or to inspect the properties, books or records of the Company.

(c) The Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of its rights or powers hereunder, and neither the Collateral Agent nor any of its employees or agents shall be responsible for any act or failure to act hereunder, except for its own willful misconduct, gross negligence or bad faith.

(d) The Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including, without limitation, counsel to the Company), independent accountants and other experts and advisors selected by the Collateral Agent.

(e) The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Event of Default and the acceleration of the Notes unless the Collateral Agent shall have received written notice from the Company or the Required Holders that refers to this Agreement, describes the Event of Default and states that there has been an acceleration of the Notes. The Collateral Agent shall be under no obligation to exercise any of its rights or powers vested in it by this Agreement, at the request, order or direction of any Required Holders, unless such Required Holders shall have offered to the Collateral Agent reasonable security or indemnity satisfactory to the Collateral Agent against the costs, expenses and liabilities (including, without limitation, attorneys' fees) which might be incurred therein or thereby.

(f) The Collateral Agent is each Holder's agent for the purpose of perfecting the Holders' security interest in assets which, in accordance with Article 9 of the UCC, can be perfected only by possession or control.

(g) The Collateral Agent may resign at any time upon thirty (30) days prior written notice to the Company, such resignation to be effective upon the acceptance of a successor agent to its appointment as Collateral Agent. The Collateral Agent may appoint, after consulting with the Company, a successor

Collateral Agent prior to the intended effective date of the resignation. If no successor Collateral Agent is appointed within thirty (30) days after the intended effective date of resignation (as stated in the notice of resignation) the Collateral Agent shall be entitled to petition at the expense of the Company a court of competent jurisdiction to appoint a successor. Upon the acceptance of its appointment as successor Collateral Agent hereunder, such successor Collateral Agent shall succeed to all the rights, powers and duties of the retiring Collateral Agent, and the term "Collateral Agent" shall mean such successor Collateral Agent, and the retiring Collateral Agent's appointment, powers and duties as the Collateral Agent shall be terminated. After the retiring Collateral Agent's resignation hereunder, the provisions of this Section 8 (and Section 9) shall continue to inure to its benefit and the retiring Collateral Agent shall not by reason of such resignation be deemed to be released from liability as to any actions taken or omitted to be taken by it while it was the Collateral Agent under this Agreement.

(h) The Collateral Agent may make loans to, issue letters of credit for the account of, accept deposits from, and generally engage in any kind of banking, trust or other business relationship with the Company as though it was not the collateral agent hereunder. The Collateral Agent may receive information regarding the Company (including information that may be subject to confidentiality obligations in favor of the Company), and the Collateral Agent shall not be under any obligation to provide such information to the Holders.

9. Indemnity and Expenses.

(a) The Company agrees to indemnify the Collateral Agent from and against any and all claims, losses and liabilities growing out of or resulting from this Agreement (including, without limitation, enforcement of this Agreement), except claims, losses or liabilities resulting solely and directly from Collateral Agent's willful misconduct, gross negligence or bad faith.

(b) The Company will pay to the Collateral Agent on demand the amount of any and all reasonable costs and expenses which the Collateral Agent may incur in connection with (i) the administration of this Agreement (excluding the salary of the Collateral Agent's employees and the Collateral Agent's normal and usual overhead expenses); (ii) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any Collateral; (iii) the exercise or enforcement of any of the rights of the Collateral Agent hereunder; or (iv) the failure by the Company to perform or observe any of the provisions hereof, except expenses resulting solely and directly from the Collateral Agent's willful misconduct, gross negligence or bad faith.

10. Notices. All notices and other communications required or permitted hereunder to be given to a party shall be in writing and shall be faxed, mailed by registered or certified mail postage prepaid, delivered by a national overnight delivery service, or otherwise delivered by hand, electronically (including by email) or by messenger, addressed to such party's address as set forth below:

if to the Company: MRI Interventions, Inc.
Attention: Vice President, Business Affairs
One Commerce Square, Ste 2550
Memphis TN 38103
Facsimile: (901) 522-9400

if to the Collateral Agent: Landmark Community Bank
Attention: Bryan Jones
1000 Ridgeway Loop Rd.
Suite 103
Memphis, Tennessee 38120
Facsimile: (901) 260-2525

or such other address with respect to a party as such party shall notify the other party in writing as above provided. Any notice sent in accordance with this Section 10 shall be effective upon the earlier of: (i) if mailed, seven Business Days after mailing; (ii) if sent by messenger, upon delivery; (iii) if sent by a nationally recognized overnight delivery service, one Business Day after having been dispatched; (iv) if sent via fax, upon transmission and electronic confirmation of transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and electronic confirmation of transmission (provided, however, that any notice of change of address shall only be valid upon receipt); (v) if sent by electronic mail, upon transmission and notice by telephone of such transmission or (if transmitted and received on a non-Business Day) on the first Business Day following transmission and notice by telephone; and (vi) upon the actual receipt thereof.

11. Security Interest Absolute. The Liens and obligations of the Company hereunder shall be absolute and unconditional irrespective of: (a) any lack of validity or enforceability of the Notes; (b) any change in the time, manner or place of payment of, or in any other term in respect of, the Secured Obligations, or any other amendment or waiver of or consent to any departure from this Agreement or the Notes; (c) any increase in, addition to, or exchange, release or non-perfection of, any collateral for all or any of the Secured Obligations; or (d) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Company in respect of the Secured Obligations or this Agreement.

12. Amendments; Waivers.

(a) Subject to the provisions of Section 7 hereof, the Company and the Collateral Agent may amend or supplement this Agreement without the consent of any Holder:

(i) to cure any ambiguity, defect or inconsistency herein;

(ii) to make any change that would provide any additional benefits to the Holders, to further secure the Notes, to add to the covenants of the Company for the benefit of the Holders or to surrender any right or power conferred upon the Company, or to make any change that does not adversely affect the benefits hereunder of the Holders; or

(iii) to comply with the requirements of applicable law.

(b) Subject to the provisions of Section 7 hereof, the Company and the Collateral Agent may amend or supplement this Agreement with the consent of the Required Holders.

(c) Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any amendment or supplement to this Agreement, and, if applicable, upon the Collateral Agent's receipt of evidence reasonably satisfactory to it of the requisite consent of the Required Holders, the Collateral Agent shall join with the Company in the execution of such amendment or supplement unless such amendment or supplement affects the Collateral Agent's own rights, duties or immunities under this Agreement or otherwise, in which case the Collateral Agent may in its discretion, but shall not be obligated to, enter into such amendment or supplement.

(d) The Required Holders may waive compliance in any particular instance by the Company with any provision of this Agreement.

(e) It shall not be necessary for the consent of any Holder to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

(f) After an amendment, supplement or waiver under this Section 12 becomes effective, the Company shall mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

13. Release of Collateral; Termination of Agreement.

(a) The Liens created by this Agreement shall be released:

(i) as to any Collateral sold, exchanged or otherwise disposed by the Company as provided in Section 2(c) or Section 7(e) hereof; and

(ii) in whole, if the Secured Obligations have been satisfied in full.

(b) Except as described in Section 7(e) hereof, upon receipt of an Officer's Certificate certifying that all conditions precedent under this Agreement to such release have been met and any necessary or proper instruments of termination, satisfaction or release prepared by the Company, the Collateral Agent shall execute, deliver or acknowledge (at the Company's expense) such instruments to evidence the release of any Collateral permitted to be released pursuant to this Agreement. The Collateral Agent shall not be liable for any such release undertaken in good faith in reliance upon any such Officer's Certificate, and notwithstanding any term hereof to the contrary, the Collateral Agent shall not be under any obligation to execute and deliver any such instrument of release, satisfaction or termination unless and until it receives such Officer's Certificate.

(c) This Agreement shall remain in full force and effect until the full satisfaction of the Secured Obligations.

14. Miscellaneous.

(a) No failure on the part of the Collateral Agent to exercise, and no delay in exercising any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof, or the exercise of any other right. The rights and remedies of the Collateral Agent provided herein are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law.

(b) All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, including without limitation any existing or subsequent federal or state banking laws or regulations, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Agreement invalid, unenforceable or not entitled to be recorded or registered, in whole or in part. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or invalidity without invalidating the remaining portions hereof or thereof, or affecting the validity or enforceability of such provision in any other jurisdiction.

(c) The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the Company, the Collateral Agent and the Holders and their respective successors and assigns, except that the Company shall not have the right to assign its rights or delegate its obligations under this Agreement or any interest herein, without the prior written consent of the Required Holders, except in connection with a Sale Transaction.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except as required by mandatory provisions of law and except to the extent that the validity or perfection of the security interest created hereby or remedies hereunder in respect of any particular Collateral are governed by the laws of a jurisdiction other than the State of Delaware.

(e) This Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation or reorganization, should the Company make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of the Company's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(f) The captions or headings of the Sections of this Agreement are inserted merely for convenience of reference and shall not be deemed to limit or modify the terms and provisions hereof.

[The next page is the signature page]

IN WITNESS WHEREOF, the Company and the Collateral Agent have executed and delivered this Agreement (or caused the execution and delivery of this Agreement by its duly authorized officers) on the date first above written.

COMPANY:

MRI INTERVENTIONS, INC.

By: /s/ Oscar L. Thomas
Name: Oscar L. Thomas
Title: Vice President, Business Affairs

COLLATERAL AGENT:

LANDMARK COMMUNITY BANK,
as collateral agent for the ratable benefit
of the Holders

By: /s/ William Bryan Jones
Name: William Bryan Jones
Title: S.V.P.

Exhibit 10.8

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (this "Agreement") is made as of the _____ day of _____, 20__ by and between MRI Interventions, Inc., a Delaware corporation, (the "Company") and _____(the "Indemnitee").

WHEREAS, the Board of Directors has determined that the increasing difficulty in attracting and retaining qualified persons as directors and officers is detrimental to the best interests of the Company's stockholders and that the Company should act to assure such persons that there will be adequate certainty of protection through insurance and indemnification against risks of claims and actions against them arising out of their service to and activities on behalf of the Company; and

WHEREAS, Section 145 of the General Corporation Law of the State of Delaware (the "DGCL") empowers the Company to indemnify and advance expenses to its officers, directors, employees and agents by agreement and to indemnify and advance expenses to persons who serve, at the request of the Company, as directors, officers, employees or agents of other corporations or enterprises, and expressly provides that the indemnification provided by Section 145 is not exclusive; and

WHEREAS, the Company has adopted provisions in its Certificate of Incorporation and Bylaws providing for mandatory indemnification of its officers and directors to the fullest extent permitted by applicable law, subject to certain limitations specified in the Certificate of Incorporation and Bylaws, and the Company wishes to clarify and enhance the rights and obligations of the Company and the Indemnitee with respect to indemnification; and

WHEREAS, in order to induce and encourage highly experienced and capable persons such as the Indemnitee to serve and continue to serve as directors and officers of the Company and in other capacities with respect to the Company and its affiliates, and to otherwise promote the desirable end that such persons will resist what they consider unjustified lawsuits and claims made against them in connection with the good faith performance of their duties to the Company, with the knowledge that certain costs, judgments, liabilities and expenses incurred by them in their defense of such litigation are to be borne by the Company, the Board of Directors of the Company has determined that the following Agreement is reasonable and prudent to promote and ensure the best interests of the Company and its stockholders; and

NOW, THEREFORE, in consideration of the Indemnitee's service as a director or executive officer of the Company, or service at the Company's request as a director, officer, employee or agent of other enterprises or entities, after the date hereof, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Service by Indemnitee. The Indemnitee will serve and/or continue to serve as a director or officer of the Company faithfully and to the best of the Indemnitee's ability so long as the Indemnitee is duly elected or appointed and until such time as the Indemnitee is removed, terminated or tenders a resignation.

Section 2. Indemnification.

(a) General. The Company shall indemnify the Indemnitee (i) as provided in this Agreement and (ii) subject to the provisions of this Agreement, to the full extent permitted by applicable law and in a manner permitted by such law.

(b) Proceedings Other Than Proceedings by or in the Right of the Company. Except as provided in Section 4 hereof, the Indemnitee shall be entitled to the rights of indemnification provided in this Section 2(b) if, by reason of the Indemnitee's Corporate Status (as hereinafter defined), the Indemnitee is or was, or is or was threatened to be made, a party to or is or was otherwise involved in a Proceeding (as hereinafter defined), other than a Proceeding by or in the right of the Company to procure a judgment in its favor. The Indemnitee shall be indemnified pursuant to and in accordance with this Section 2(b) against all Losses (as hereinafter defined) actually and reasonably incurred by the Indemnitee or on the Indemnitee's behalf in connection with such a Proceeding or any claim, issue or matter therein, but only if the Indemnitee acted in good faith and in a manner that the Indemnitee 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 his or her conduct was unlawful.

(c) Proceedings by or in the Right of the Company. Except as provided in Section 4 hereof, the Indemnitee shall be entitled to the rights of indemnification provided in this Section 2(c) if, by reason of the Indemnitee's Corporate Status, the Indemnitee is or was, or is or was threatened to be made, a party to or is or was otherwise involved in a Proceeding brought by or in the right of the Company to procure a judgment in its favor. The Indemnitee shall be indemnified pursuant to and in accordance with this Section 2(c) against all Expenses actually and reasonably incurred by the Indemnitee or on the Indemnitee's behalf in connection with such a Proceeding or any claim, issue or matter therein, but only if the Indemnitee acted in good faith and in a manner that the Indemnitee reasonably believed to be in or not opposed to the best interests of the Company; provided, however, that no indemnification for such Expenses shall be made in respect of any claim, issue or matter in such Proceeding as to which the Indemnitee shall have been adjudged liable to the Company unless (and only to the extent that) the Court of Chancery of the State of Delaware or the court in which such Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the Indemnitee is fairly and reasonably entitled to indemnity for such expenses that the Court of Chancery or such other court shall deem proper. Anything in this Agreement to the contrary notwithstanding, if the Indemnitee, by reason of the Indemnitee's Corporate Status, is or was, or is or was threatened to be made, a party to any Proceeding by or in the right of the Company to procure a judgment in its favor, then the Company shall not indemnify the Indemnitee for any judgment, fines or amounts paid in settlement to the Company in connection with such Proceeding.

(d) Indemnification for Expenses if Indemnitee is Wholly or Partly Successful. Anything in this Agreement to the contrary notwithstanding, to the extent that the Indemnitee, by reason of the Indemnitee's Corporate Status, is or was, or is or was threatened to be made, a party to any Proceeding and is successful, on the merits or otherwise, in defending such Proceeding (including dismissal without prejudice), the Indemnitee shall be indemnified to the maximum extent permitted by law against all Expenses actually and reasonably incurred by the Indemnitee or on the Indemnitee's behalf in connection with the defense of such Proceeding. If the Indemnitee is not wholly successful in defending any such Proceeding but is successful, on

the merits or otherwise, in defending one or more but less than all claims, issues or matters in such Proceeding (including dismissal without prejudice of certain claims), the Company shall indemnify the Indemnitee against all Expenses actually and reasonably incurred by the Indemnitee or on the Indemnitee's behalf in defending each such successfully resolved claim, issue or matter. To the extent the Indemnitee has been successful, on the merits or otherwise, in defending any Proceeding, or in defending any claim, issue or matter therein, the Indemnitee shall be entitled to indemnification as provided in this Section 2(d) regardless of whether the Indemnitee met the standards of conduct set forth in Sections 2(b) and 2(c) hereof.

(e) Indemnification for Expenses as a Witness. Anything in this Agreement to the contrary notwithstanding, to the fullest extent permitted by applicable law, to the extent that the Indemnitee, by reason of the Indemnitee's Corporate Status, is or was, or is or was threatened to be made, a witness in any Proceeding to which the Indemnitee is not a party, the Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by the Indemnitee or on the Indemnitee's behalf in connection therewith. To the extent permitted by applicable law, the Indemnitee shall be entitled to indemnification for Expenses incurred in connection with being or threatened to be made a witness, as provided in this Section 2(e), regardless of whether the Indemnitee met the standards of conduct set forth in Sections 2(b) and 2(c) hereof.

(f) Partial Indemnification. If the Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of the Losses actually and reasonably incurred by the Indemnitee in a Proceeding, but not for the total amount thereof, the Company shall indemnify the Indemnitee for the portion of such Losses to which the Indemnitee is entitled.

Section 3. Advancement of Expenses. Anything in this Agreement to the contrary notwithstanding, but subject to Section 4 hereof, if, by reason of the Indemnitee's Corporate Status, the Indemnitee is or was, or is or was threatened to be made, a party to, or is or was otherwise involved in, or is or was, or is or was threatened to be made, a witness to any Proceeding (including, without limitation, a Proceeding brought by or in the right of the Company to procure a judgment in its favor), then the Company shall advance all Expenses actually and reasonably incurred by or on behalf of the Indemnitee in connection with any such Proceeding in advance of the final disposition of such Proceeding within thirty (30) calendar days after the receipt by the Company of a written request for such advance or advances from time to time. Such written request shall include or be accompanied by a statement or statements reasonably evidencing the Expenses incurred by or on behalf of the Indemnitee and for which advancement is requested, and shall include or be preceded or accompanied by an undertaking by or on behalf of the Indemnitee to repay any Expenses advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that the Indemnitee is not entitled to be indemnified against such Expenses under this Agreement or otherwise. Such undertaking shall be sufficient for purposes of this Section 3 if it is in substantially the form attached hereto as Exhibit A. Any advances and undertakings to repay pursuant to this Section 3 shall be unsecured and interest free. The Indemnitee shall be entitled to advancement of Expenses as provided in this Section 3 regardless of any determination by or on behalf of the Company that the Indemnitee has not met the standards of conduct set forth in Sections 2(b) and 2(c) hereof.

Section 4. Proceedings Against the Company; Certain Securities Laws Claims.

(a) Anything in Section 2 or Section 3 hereof to the contrary notwithstanding, except as provided in Section 7(d) hereof, with respect to a Proceeding initiated against the Company by the Indemnitee (whether initiated by the Indemnitee in or by reason of such person's capacity as an officer or director of the Company or in or by reason of any other capacity, including, without limitation, as an employee or agent of the Company or a director, officer, employee or agent of Another Enterprise), the Company shall not be required to indemnify or to advance Expenses to the Indemnitee in connection with prosecuting such Proceeding (or any part thereof) or in defending any counterclaim, cross-claim, affirmative defense or like claim of the Company in such Proceeding (or part thereof) unless such Proceeding was authorized by the Board of Directors of the Company. For purposes of this Section 4, a compulsory counterclaim by the Indemnitee against the Company in connection with a Proceeding initiated against the Indemnitee by the Company shall not be considered a Proceeding (or part thereof) initiated against the Company by the Indemnitee, and the Indemnitee shall have all rights of indemnification and advancement with respect to any such compulsory counterclaim in accordance with and subject to the terms of this Agreement.

(b) Anything in Section 2 (other than Section 2(d)) or Section 3 hereof to the contrary notwithstanding, except as provided in Section 2(d) hereof with respect to indemnification of Expenses in connection with whole or partial success on the merits or otherwise in defending any Proceeding, the Company shall not be required to indemnify the Indemnitee in connection with any claim made against Indemnitee for (i) an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934 or similar provisions of state statutory law or common law, or (ii) any reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Securities Exchange Act of 1934 (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 Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act).

Section 5. Procedure for Determination of Entitlement to Indemnification; Independent Counsel.

(a) To obtain indemnification under this Agreement, the Indemnitee shall submit to the Company (following the final disposition of the applicable Proceeding) a written request for indemnification, including therein or therewith, except to the extent previously provided to the Company in connection with a request or requests for advancement pursuant to Section 3 hereof, a statement or statements reasonably evidencing all Losses incurred or paid by or on behalf of the Indemnitee and for which indemnification is requested. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board of Directors in writing that the Indemnitee has requested indemnification.

(b) Upon written request by the Indemnitee for indemnification pursuant to the first sentence of Section 5(a) hereof, if required by applicable law and to the extent not otherwise provided pursuant to the terms of this Agreement, a determination with respect to the

Indemnitee's entitlement to indemnification shall be made in the specific case as follows: (i) if a Change in Control (as hereinafter defined) shall have occurred and if so requested in writing by the Indemnitee, by Independent Counsel (as hereinafter defined) in a written opinion to the Board of Directors; or (ii) if a Change in Control shall not have occurred (or if a Change in Control shall have occurred but the Indemnitee shall not have requested that indemnification be determined by Independent Counsel as provided in subpart (i) of this Section 5(b)), (A) by a majority vote of the Disinterested Directors (as hereinafter defined), even though less than a quorum of the Board of Directors, or (B) by a committee of Disinterested Directors designated by majority vote of the Disinterested Directors, even though less than a quorum of the Board of Directors, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board of Directors, or (D) by the Company's stockholders in accordance with applicable law. Notice in writing of any determination as to the Indemnitee's entitlement to indemnification shall be delivered to the Indemnitee promptly after such determination is made, and if such determination of entitlement to indemnification has been made by Independent Counsel in a written opinion to the Board of Directors, then such notice shall be accompanied by a copy of such written opinion. If it is determined that the Indemnitee is entitled to indemnification, then payment to the Indemnitee of all amounts to which the Indemnitee is determined to be entitled shall be made within thirty (30) calendar days after such determination. If it is determined that the Indemnitee is not entitled to indemnification, then the written notice to the Indemnitee (or, if such determination has been made by Independent Counsel in a written opinion, the copy of such written opinion delivered to the Indemnitee) shall disclose the basis upon which such determination is based. The Indemnitee shall cooperate with the person, persons or entity making the determination with respect to the Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information that is not privileged or otherwise protected from disclosure and that is reasonably available to the Indemnitee and reasonably necessary to determine whether and to what extent the Indemnitee is entitled to indemnification.

(c) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 5(b) hereof, the Independent Counsel shall be selected as provided in this Section 5(c). If a Change in Control shall not have occurred (or if a Change in Control shall have occurred but the Indemnitee shall not have requested that indemnification be determined by Independent Counsel as provided in subpart (i) of Section 5(b)), then the Independent Counsel shall be selected by the Board of Directors, and the Company shall give written notice to the Indemnitee advising the Indemnitee of the identity of the Independent Counsel so selected. If a Change in Control shall have occurred and the Indemnitee shall have requested that indemnification be determined by Independent Counsel, then the Independent Counsel shall be selected by the Indemnitee (unless the Indemnitee shall request that such selection be made by the Board of Directors, in which event the preceding sentence shall apply), and the Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either event, the Indemnitee or the Company, as the case may be, may, within 10 calendar days after such written notice of selection has been given, deliver to the Company or to the Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the law firm or person so selected does not meet the requirements of "Independent Counsel" as defined in Section 23 of this Agreement, and the objection shall set forth the basis of such

assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the law firm or person so selected may not serve as Independent Counsel unless and until such objection is withdrawn or the Court of Chancery of the State of Delaware or another court of competent jurisdiction in the State of Delaware has determined that such objection is without merit. If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 5(b) hereof and, following the expiration of thirty (30) calendar days after submission by the Indemnitee of a written request for indemnification pursuant to Section 5(a) hereof, Independent Counsel shall not have been selected, or an objection thereto has been made and not withdrawn, then either the Company or the Indemnitee may petition the Court of Chancery of the State of Delaware or other court of competent jurisdiction in the State of Delaware for resolution of any objection that shall have been made by the Company or the Indemnitee to the other's selection of Independent Counsel and/or for appointment as Independent Counsel of a law firm or person selected by such court (or selected by such person as the court shall designate), and the law firm or person with respect to whom all objections are so resolved or the law firm or person so appointed shall act as Independent Counsel under Section 5(b) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 7(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing). If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 5(b) hereof, then the Company agrees to pay the reasonable fees and expenses of such Independent Counsel and to fully indemnify and hold harmless such Independent Counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

Section 6. Burden of Proof; Defenses; and Presumptions.

(a) In any judicial proceeding or arbitration pursuant to Section 7 hereof brought by the Indemnitee to enforce rights to indemnification or to an advancement of expenses hereunder, or in any action, suit or proceeding brought by the Company to recover an advancement of expenses (whether pursuant to the terms of an undertaking or otherwise), the burden shall be on the Company to prove that the Indemnitee is not entitled to be indemnified, or to such an advancement of expenses, as the case may be.

(b) It shall be a defense in any judicial proceeding or arbitration pursuant to Section 7 hereof to enforce rights to indemnification under Section 2(b) or Section 2(c) hereof (but not in any judicial proceeding or arbitration pursuant to Section 7 hereof to enforce a right to an advancement of expenses under Section 3 hereof) that the Indemnitee has not met the standards of conduct set forth in Section 2(b) or Section 2(c), as the case may be, but the burden of proving such defense shall be on the Company. With respect to any judicial proceeding or arbitration pursuant to Section 7 hereof brought by the Indemnitee to enforce a right to indemnification hereunder, or any action, suit or proceeding brought by the Company to recover an advancement of expenses (whether pursuant to the terms of an undertaking or otherwise), neither (i) the failure of the Company (including by its directors or Independent Counsel) to have made a determination prior to the commencement of such action, suit, proceeding or arbitration that indemnification is proper in the circumstances because the Indemnitee has met the applicable standards of conduct, nor (ii) an actual determination by the Company (including by its directors or Independent Counsel) that the Indemnitee has not met such applicable standards

of conduct, shall create a presumption that the Indemnitee has not met the applicable standards of conduct.

(c) The termination of any Proceeding by judgment, order, settlement, conviction or upon a plea of *nolo contendre* or its equivalent, shall not, of itself, adversely affect the right of the Indemnitee to indemnification hereunder or create a presumption that the Indemnitee did not act in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal Proceeding, that the Indemnitee had reasonable cause to believe that his or her conduct was unlawful.

(d) For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Company or Other Enterprise, including financial statements, or on information supplied to Indemnitee by the officers of the Company or Other Enterprise in the course of their duties, or on the advice of legal counsel for the Company or Other Enterprise or on information or records given or reports made to the Company or Other Enterprise by an independent certified public accountant or by an appraiser or other expert selected by the Company or Other Enterprise. The provisions of this Section 6(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which the Indemnitee may be deemed or found to have met the applicable standard of conduct set forth in this Agreement.

(e) The knowledge and/or actions, or failure to act, of any other director, officer, agent or employee of the Company or of Another Enterprise shall not be imputed to the Indemnitee for purposes of determining the Indemnitee's right to indemnification under this Agreement.

Section 7. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 5 of this Agreement that the Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 3 of this Agreement, (iii) no determination of entitlement to indemnification, if such determination of entitlement to indemnification is not to be made by Independent Counsel pursuant to Section 5(b) hereof, shall have been made pursuant to Section 5(b) of this Agreement within sixty (60) calendar days after receipt by the Company of the Indemnitee's written request for indemnification, (iv) no determination of entitlement to indemnification, if such determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 5(b) hereof, shall have been made pursuant to Section 5(b) hereof within eighty (80) calendar days after receipt by the Company of the Indemnitee's written request for indemnification, unless an objection to the selection of such Independent Counsel has been made and substantiated and not withdrawn, in which case the applicable time period shall be seventy (70) calendar days after the Court of Chancery of the State of Delaware or another court of competent jurisdiction in the State of Delaware (or such person appointed by such court to make such determination) has determined or appointed the person to act as Independent Counsel pursuant to Section 5(b) hereof, (v) payment of indemnification is not made pursuant to Section 2(d) or Section 2(e) of this Agreement within thirty (30) calendar days after receipt by the Company of a written request therefor, or (vi) payment of indemnification pursuant to Section 2(b) or Section 2(c) of this Agreement is not made within thirty (30) calendar days after a determination has been made

pursuant to Section 5(b) that the Indemnitee is entitled to indemnification, then the Indemnitee shall be entitled to seek an adjudication by the Court of Chancery of the State of Delaware of the Indemnitee's entitlement to such indemnification or advancement of Expenses. Alternatively, if the foregoing conditions have been satisfied, the Indemnitee, at his or her option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 calendar days following the date on which the Indemnitee first has the right to commence such proceeding pursuant to this Section 7(a); provided, however, that the foregoing clause shall not apply in respect of a proceeding brought by the Indemnitee to enforce his or her rights to indemnification under Section 2(d) of this Agreement.

(b) In the event that a determination shall have been made pursuant to Section 5(b) of this Agreement that the Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 7 shall be conducted in all respects as a *de novo* trial, or arbitration, on the merits and the Indemnitee shall not be prejudiced by reason of that adverse determination.

(c) If a determination shall have been made pursuant to Section 5(b) of this Agreement that the Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 7, absent (i) a misstatement or misrepresentation by the Indemnitee (or anyone acting on the Indemnitee's behalf) of a material fact, or an omission of a material fact necessary to make the Indemnitee's statement (or statements of persons acting on behalf of the Indemnitee) not materially misleading, in connection with the request for indemnification or in connection with the provision of information or documentation pursuant to the last sentence of Section 5(b), or (ii) a prohibition of such indemnification under applicable law.

(d) In the event that the Indemnitee, pursuant to this Section 7, seeks a judicial adjudication of or an award in arbitration to enforce the Indemnitee's rights under, or to recover damages for breach of, this Agreement, then the Indemnitee shall be entitled to recover from the Company, and shall be indemnified by the Company against, any and all Expenses actually and reasonably incurred by or on behalf of such Indemnitee in such judicial adjudication or arbitration, but only if (and only to the extent) the Indemnitee prevails therein. If it shall be determined in said judicial adjudication or arbitration that the Indemnitee is entitled to receive part but not all of the indemnification or advancement of Expenses sought, the expenses incurred by the Indemnitee in connection with such judicial adjudication or arbitration shall be appropriately prorated.

Section 8. Non-Exclusivity. Except to the extent expressly provided herein, and only to such extent, the rights of indemnification and to receive advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which the Indemnitee may at any time be entitled under applicable law, the Company's Certificate of Incorporation, the Company's Bylaws, any agreement, a vote of stockholders, a resolution of directors or otherwise, both as to action in or by reason of the Indemnitee's Corporate Status and as to action in or by reason of any other capacity of the Indemnitee while serving as a director or officer of the Company. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

In the event of any change after the date of this Agreement in any applicable law, statute or rule that expands the power of a Delaware corporation to indemnify a member of its board of directors or an officer, employee, agent or fiduciary, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greatest benefits afforded by such change. Anything in this Section 8 to the contrary notwithstanding, to the extent the time periods specified in Section 3 and Section 7(a) hereof with respect to the time at which the Indemnitee shall be entitled to seek an adjudication or an award in arbitration as to the Indemnitee's entitlement to indemnification or advancement differ from similar time periods specified in the Company's Certificate of Incorporation or Bylaws, the time periods set forth in Section 3 and Section 7(a) hereof shall control and be binding on the Indemnitee and the Company and shall be deemed a waiver of any contrary right specified in the Company's Certificate of Incorporation or Bylaws. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

Section 9. Insurance; Subrogation; Other Sources of Payment.

(a) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees or agents of the Company or Another Enterprise, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies. To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees or agents of the Company or Another Enterprise, the provision of directors' and officers' liability insurance as provided in this Section 9(a) shall be in addition to the Company's obligations under Sections 2 and 3 hereof and shall not be deemed to be in satisfaction of those obligations.

(b) In the event of any payment to or on behalf of the Indemnitee under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(c) Except to the extent required by applicable law, the Company shall not be liable under this Agreement to make any payment to Indemnitee with respect to amounts otherwise indemnifiable hereunder (or for which advancement is otherwise provided hereunder) if and to the extent that the Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise. Nothing hereunder is intended to affect any right of contribution of or against the Company in the event the Company and any other person or persons have co-equal obligations to indemnify or advance expenses to Indemnitee.

(d) The Company's obligation to indemnify or advance Expenses hereunder to the Indemnitee, in connection with or by reason of Indemnitee's service at the request of the Company as a director, officer, employee, agent or fiduciary of Another Enterprise, shall be

reduced by any amount that the Indemnitee has actually received as indemnification or advancement of Expenses from such Other Enterprise with respect to the Proceeding for which indemnification or advancement of Expenses is sought.

Section 10. Contribution. To the fullest extent permitted by applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, for any and all Losses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company, on the one hand, and Indemnitee, on the other hand, as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents), on the one hand, and Indemnitee, on the other hand, in connection with such event(s) and/or transaction(s).

Section 11. Settlements. Anything in this Agreement or the Company's Certificate of Incorporation or Bylaws to the contrary notwithstanding, the Company shall have no obligation to indemnify the Indemnitee for any amounts paid by or on behalf of the Indemnitee in settlement of any Proceeding, unless the Company has consented in writing to such settlement, which consent shall not be unreasonably withheld. The Company shall not settle any claim in any manner that would impose any fine or any obligation on the Indemnitee without the Indemnitee's prior written consent, which consent shall not be unreasonably withheld.

Section 12. Survival of Rights; Binding Effect; Successors and Assigns.

(a) The indemnification and advancement of Expenses and other rights provided by, or granted pursuant to, this Agreement shall continue during the period that the Indemnitee is a director or officer of the Company and shall continue after the Termination Date so long as Indemnitee shall be subject to any possible Proceeding (including any appeal thereto), by reason of Indemnitee's Corporate Status, with respect to claims arising from any action taken or omitted (or that are alleged to have been taken or omitted) by the Indemnitee, or from any facts or events that occurred (or that are alleged to have occurred), on or before the Termination Date, and shall further continue for such period of time following the conclusion of any such Proceeding as may be reasonably necessary for Indemnitee to enforce rights and remedies pursuant to this Agreement as provided in Section 7 of this Agreement.

(b) This Agreement shall be binding upon the Indemnitee and upon the Company and its successors and assigns, and shall inure to the benefit of the Indemnitee, the Indemnitee's heirs, personal representatives, executors, administrators and assigns and to the benefit of the Company and its successors and assigns.

(c) The Company further agrees that in the event the Company or any of its successors or assigns (i) consolidates with or merges into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfers or conveys all or substantially all of its properties and assets to any corporation or entity, then, and in each such case, to the extent necessary, proper provision shall be made so that the successors and assigns of the Company as a result of such transaction assume the obligations of the Company set forth in this Agreement, including, without limitations, the requirements with respect to directors' and officers' liability insurance set forth in Section 9.

Section 13. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 14. Acknowledgement. The Company expressly acknowledges, confirms and agrees that it has entered into this Agreement and has assumed the obligations imposed on the Company hereby in order to induce the Indemnitee to serve or continue to serve as a director or officer of the Company, and the Company acknowledges that the Indemnitee is relying upon this Agreement in serving and continuing to serve in such capacity. In addition, both the Company and Indemnitee acknowledge that in certain instances, federal law or applicable public policy may prohibit the Company from indemnifying its directors, officers, employees, agents or fiduciaries under this Agreement or otherwise. Indemnitee understands and acknowledges that the Company may be required in the future to undertake with the Securities and Exchange Commission to submit the question of indemnification to a court in certain circumstances for a determination of the Company's rights under public policy to indemnify Indemnitee.

Section 15. Notice by Indemnitee. The Indemnitee agrees to notify the Company promptly and in writing upon being served with any summons, citation, subpoena, complaint, petition, indictment, information or other document relating to the commencement or threatened commencement of any Proceeding or matter that may be subject to indemnification or advancement of Expenses covered hereunder. The failure of the Indemnitee to so notify the Company shall not relieve the Company of any obligation that it may have to the Indemnitee under this Agreement or otherwise, except to the extent the Company is materially prejudiced by such failure.

Section 16. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given (i) if delivered by hand to the party to whom said notice or other communication shall have been directed, on the date so delivered, or (ii) if mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed. All such notices, requests, demands and other communications shall be delivered to the Indemnitee or to the Company, as the case may be, at the following addresses:

(a) If to the Indemnitee, to the address set forth on the signature page hereto

(b) If to the Company, to:

MRI Interventions, Inc.
One Commerce Square, Suite 2550
Memphis, TN 38103
Attn: Corporate Secretary

or to such other address as may have been furnished to the Indemnitee by the Company or to the Company by the Indemnitee, as the case may be, by like notice.

Section 17. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement.

Section 18. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

Section 19. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

Section 20. Modification and Waiver.

(a) No amendment, modification, supplementation or repeal of this Agreement or any provision hereof shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

(b) No amendment, modification, supplementation or repeal of this Agreement or of any provision hereof shall limit or restrict any rights of the Indemnitee under this Agreement in respect of any action taken or omitted by the Indemnitee in or by reason of the Indemnitee's Corporate Status prior to such amendment, modification, supplementation or repeal.

Section 21. Governing Law; Submission to Jurisdiction; Service of Process.

(a) This Agreement and the legal relations between the parties with respect to the matters addressed hereby shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules.

(b) Except with respect to any arbitration commenced by the Indemnitee pursuant to Section 7(a) of this Agreement and except to the extent permitted by Section 2(c) hereof with respect to a determination by a court in which an underlying Proceeding was brought that the Indemnitee is entitled to indemnification of Expenses notwithstanding an adjudication of liability to the Company, the Company and the Indemnitee each hereby irrevocably and unconditionally (i) agrees and consents to the jurisdiction of the courts of the State of Delaware for all purposes in connection with any action, suit or proceeding that arises out of or relates to this Agreement and agrees that any such action instituted under this Agreement shall be brought only in the Court of Chancery of the State of Delaware (or in any other state court of the State of Delaware if the Court of Chancery does not have subject matter jurisdiction over such action),

and not in any other state or federal court in the United States of America or any court or tribunal in any other country; (ii) consents to submit to the exclusive jurisdiction of the courts of the State of Delaware for purposes of any action or proceeding arising out of or in connection with this Agreement; (iii) waives any objection to the laying of venue of any such action or proceeding in the courts of the State of Delaware; and (iv) waives, and agrees not to plead or to make, any claim that any such action or proceeding brought in the courts of the State of Delaware has been brought in an improper or otherwise inconvenient forum.

(c) Each of the Company and the Indemnitee hereby consents to service of any summons and complaint and any other process that may be served in any action, suit or proceeding arising out of or relating to this Agreement in any court of the State of Delaware by mailing by certified or registered mail, with postage prepaid, copies of such process to such party at its address for receiving notice pursuant to Section 16 hereof. Nothing herein shall preclude service of process by any other means permitted by applicable law.

Section 22. Nature of Agreement. This Agreement shall not be deemed an employment contract between the Company and the Indemnitee, and, if Indemnitee is an officer or employee of the Company, Indemnitee specifically acknowledges that Indemnitee may be discharged as an officer or employee of the Company at any time for any reason, with or without cause, and with or without severance compensation, except as may be otherwise provided in a separate written contract between the Company and the Indemnitee.

Section 23. Definitions. For purposes of this Agreement:

(a) "Another Enterprise" and "Other Enterprise" refer to a corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or any other form of enterprise, other than the Company.

(b) "Change in Control" means, and shall be deemed to have occurred if, (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended), other than a trustee or other fiduciary holding securities under an employee benefit plan of the Company acting in such capacity or a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company, becomes the "beneficial owner" (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total voting power represented by the Company's then outstanding voting stock, (ii) during any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board of Directors of the Company and any new director whose election by the Board of Directors or nomination for election by the Company's stockholders was approved by a vote of at least a majority of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof, (iii) the stockholders of the Company approve a merger or consolidation of the Company with any other corporation other than a merger or consolidation that would result in the voting stock of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting stock of the surviving entity) at least fifty percent (50%) of the total voting power represented by the voting stock of the Company or such surviving entity outstanding immediately after such merger or consolidation, or (iv) the stockholders of the Company approve a plan of complete liquidation

of the Company or an agreement for the sale or disposition by the Company (in one transaction or a series of related transactions) of all or substantially all of the Company's assets.

(c) "Corporate Status" describes the Indemnitee's status as a present or former director or officer of the Company or the Indemnitee's status, at any time while serving as a director or officer of the Company, as a director, officer, employee, agent or fiduciary of Another Enterprise to the extent the Indemnitee is or was serving in such capacity with respect to such Other Enterprise at the request of the Company.

(d) "Expenses" includes, without limitation, reasonable attorneys' fees; retainers; disbursements of counsel; court costs; filing fees; transcript costs; fees and expenses of experts; fees and expenses of witnesses; fees and expenses of accountants and other consultants (excluding public relations consultants unless approved in advance by the Company); travel expenses; duplicating and imaging costs; printing and binding costs; telephone charges; facsimile transmission charges; computer legal research costs; postage; delivery service fees; fees and expenses of third-party vendors; the premium, security for, and other costs associated with any bond (including supersedeas or appeal bonds, injunction bonds, cost bonds, appraisal bonds or their equivalents), in each case incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding (including, without limitation, any judicial or arbitration Proceeding brought to enforce the Indemnitee's rights under, or to recover damages for breach of, this Agreement), as well as all other "expenses" within the meaning of that term as used in Section 145 of the General Corporation Law of the State of Delaware and all other disbursements or expenses of types customarily and reasonably incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, actions, suits or proceedings similar to or of the same type as the Proceeding with respect to which such disbursements or expenses were incurred; but, notwithstanding anything in the foregoing to the contrary, "Expenses" shall not include amounts of judgments, penalties or fines actually levied against the Indemnitee in connection with any Proceeding.

(e) "Disinterested Director" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by the Indemnitee.

(f) "Independent Counsel" means a law firm, or a person admitted to practice law in any State of the United States, that is experienced in matters of corporation law and neither presently is, nor in the past three years has been, retained to represent: (i) the Company or the Indemnitee in any matter material to either such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnities under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any law firm or person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or the Indemnitee in an action to determine the Indemnitee's rights under this Agreement. For the avoidance of doubt, the term "Independent Counsel" shall not include any law firm or person who represents or advises, or at any time in the past three years has represented or advised, any entity or person who effectuated or has been a party to a Change in Control of the Company.

(g) "Losses" means all Expenses, judgments, penalties, fines, liabilities and amounts paid in settlement in connection with a Proceeding.

(h) "Proceeding" means any threatened, pending or completed action, suit, arbitration, alternative dispute resolution mechanism, investigation (including any internal investigation), inquiry, administrative hearing or any other threatened, pending or completed proceeding, whether brought by or in the right of the Company or otherwise, and whether civil, criminal, administrative or investigative.

(i) "Termination Date" shall mean the date on which the Indemnitee is no longer serving as a director or officer of the Company.

(j) References herein to "fines" shall include any excise tax assessed with respect to any employee benefit plan.

(k) References herein to a director of Another Enterprise or a director of an Other Enterprise shall include, in the case of any entity that is not managed by a board of directors, such other position, such as manager or trustee or member of the governing body of such entity, that entails responsibility for the management and direction of such entity's affairs, including, without limitation, the general partner of any partnership (general or limited) and the manager or managing member of any limited liability company.

(l) (i) References herein to serving at the request of the Company as a director, officer, employee, agent or fiduciary of Another Enterprise shall include any service as a director, officer, employee or agent of the Company that imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan of the Company or any of its affiliates, other than solely as a participant or beneficiary of such a plan; and (ii) if the Indemnitee has acted in good faith and in a manner such the Indemnitee reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan, the Indemnitee shall be deemed to have acted in a manner not opposed to the best interests of the Company for purposes of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Company and the Indemnitee have executed this Agreement on and as of the day and year first above written.

MRI INTERVENTIONS , INC.

By:_____
Name:_____
Title:_____

INDEMNITEE

By:_____
Name:_____
Address: _____

Exhibit A

UNDERTAKING

I _____, agree to reimburse the Company for all expenses paid to me or on my behalf by the Company in connection with my involvement in **[name or description of proceeding or proceedings]**, in the event, and to the extent, that it shall ultimately be determined that I am not entitled to be indemnified by the Company for such expenses.

Signature _____

Typed Name _____

_____) ss:

Before me _____, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and who, after being duly sworn, stated that the contents of said instrument is to the best of his/her knowledge and belief true and correct and who acknowledged that he/she executed the same for the purpose and consideration therein expressed.

GIVEN under my hand and official seal at _____, this _____ day of _____, 20__.

_____

Notary Public

My commission expires:

Exhibit 10.9

LICENSE AGREEMENT

This Agreement is between The Johns Hopkins University, a corporation of the State of Maryland, having a principal place of business at 2024 E. Monument Street, Suite 2-100, Baltimore, MD 21205 (hereinafter referred to as "JHU") and Surgi-Vision, Inc., a Delaware corporation (hereinafter the "Company"), having an address at Suite 601, 150 Gulf Shore Drive, Destin, Florida 32541.

WITNESSETH:

WHEREAS, as a center for research and education, JHU is interested in licensing PATENT RIGHTS (hereinafter defined) in a manner that will benefit the public by facilitating the distribution of useful products and the utilization of new methods, but is without capacity to commercially develop, manufacture, and distribute any such products or methods; and

WHEREAS, the following PATENT RIGHTS, as later defined, were developed during the course of research conducted by [***], all hereinafter, "Inventors"):

WHEREAS, JHU has acquired through assignment all rights, title and interest, with the exception of certain retained rights by the United States, in said PATENT RIGHTS; and

WHEREAS, the Company desires to commercially develop, manufacture, use and distribute such products and processes based on PATENT RIGHTS throughout the world;

NOW, THEREFORE, in consideration of the foregoing premises and the following mutual covenants, and other good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 PATENT RIGHTS" shall mean and include the rights in and to the patents and patent applications listed in Appendix A and any inventions disclosed and claimed in any of the listed patents in Appendix A and all continuations, continuations-in-part, divisions, reexaminations, and reissues of the listed patents and any corresponding foreign patent applications, and any patents, patents of addition, or other equivalent foreign patents issuing, granted or registered thereon.

1.2 "LICENSED PRODUCT(S)" means any material, compositions, drug, process, equipment, or other product, the manufacture, use or sale of which would constitute, but for the license granted to the Company pursuant to this Agreement, an infringement of a claim of PATENT RIGHTS (infringement shall include, but is not limited to, direct, contributory, or inducement to infringe).

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

1.3 "LICENSED SERVICE(S)" means the performance on behalf of a third party of any method which includes the manufacture of any product or the use of any product, process, or composition which would constitute, but for the license granted to the Company pursuant to this Agreement, an infringement of a claim of the PATENT RIGHTS, (infringement shall include, but not be limited to, direct, contributory or inducement to infringe).

1.4 "NET SALES", subject to Paragraphs 4.9 and 4.11, below, shall mean gross sales revenues and fees billed by the Company or any AFFILIATED COMPANY from the sale of LICENSED PRODUCT(S) less trade discounts allowed, refunds, returns and recalls, freight and delivery costs, sales taxes, rebates accrued, incurred or paid to Federal Medicaid or State Medicare or other payors and amounts exactly repaid or credited by reason of rejections or the return of Licensed Products (due to recalls, dating or other reasons) . In the event that the Company, or any AFFILIATED COMPANY sells a LICENSED PRODUCT(S) as part of a kit, the NET SALES for purposes of royalty payments shall be based on that portion of the sales revenues and fees derived from that component of the kit which could independently be sold as a LICENSED PRODUCT.

1.5 "NET SERVICE REVENUES", subject to Paragraphs 4.9 and 4.11, below, shall mean actual billings for the performance of LICENSED SERVICE less sales and/or use taxes imposed upon and with specific reference to the LICENSED SERVICE, and rebates accrued, incurred or paid to Federal Medicaid or State Medicare or other payors and amounts exactly repaid or credited by reason of rejection of services (due to recalls, dating or other reasons).

1.6 "SUBLICENSE REVENUES", shall mean consideration of any kind received by the Company from a sublicensee for sales of LICENSED PRODUCTS or for fees received, such as upfront fees or milestone fees and including any premium paid by the sublicensee over Fair Market Value for stock of the company in considerations for such sublicense; however, not included in Sublicense Revenues are amounts paid to the Company by the sublicensee for product development, research work, clinical studies and regulatory approvals performed by the Company, or third parties on its behalf. The term "Fair Market Value" as used in this Paragraph 1.6 shall mean the average price that the stock in questions is publicly trading at for sixty (60) days prior to the announcement of its purchase by the sublicensee or if the stock is not publicly traded, the value of such stock as determined by the most recent private financing of the Company.

1.7 "AFFILIATED COMPANY" or "AFFILIATED COMPANIES" shall mean any corporation, company, partnership, joint venture or other entity which controls, is controlled by or is under common control with the Company. For purposes of this Paragraph 1.7, control shall mean the direct or indirect ownership of at least fifty percent (50%) of the voting securities of a company.

1.8 "EXCLUSIVE LICENSE" shall mean a grant by JHU to the Company of its entire right and interest in the PATENT RIGHTS, subject to rights retained by the United States government in accordance with P.L. 96-517, as amended by P.L. 98-620, and subject to the retained right of JHU to make, have made, provide and use for its and The Johns Hopkins Health Systems' internal, non-commercial research purposes LICENSED PRODUCT(S) and LICENSED SERVICES.

1.9 EFFECTIVE DATE shall mean the date the Company has issued equity securities representing in the aggregate cash proceeds in the amount of not less than 7,500,000. If the Effective Date does not occur on or before October 1, 1998, this Agreement shall be void abinitio.

1.10 "ROYALTY PAYMENT PERIOD" shall mean the period of time beginning on the fourth anniversary of the EFFECTIVE DATE if on such date the JHU SHARES do not have a fair market value of at least [***] and continuing thereafter until the aggregate payments as described in Paragraph 4.14 below have been paid.

1.11 "JHU SHARES" shall mean the [***] shares of the Company's common stock issued to JHU in consideration of JHU entering into this Agreement together with any securities issued as a result of the ownership of such shares.

1.12 "CORE TECHNOLOGY" is an intravascular, intralumen, or intratissue miniature magnetic resonance coil detection probe as described in the PATENT RIGHTS.

1.13 "IMPROVEMENT" is any invention that results from the Research Agreement funded by the Company and made by a JHU employee in the FIELD OF USE.

1.14 "FIELD OF USE" is a diagnostic or therapeutic method, process or device using CORE TECHNOLOGY and excludes diagnostic or therapeutic methods, processes or devices not using CORE TECHNOLOGY.

1.15 "NEW DISCOVERY" means any invention that results from work under the Research Agreement funded by the Company and made by a JHU employee and that is not in the Field of Use.

1.16 "TERRITORY" means the world

1.17 "RESEARCH AGREEMENT" means a certain Research Agreement dated June 30, 1998, between JHU and the Company pertaining to the research directed to the CORE TECHNOLOGY, including specific STATEMENTS OF WORK addressing specific applications and clinical research.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ARTICLE 2 - GRANTS

2.1 Subject to the terms and conditions of this Agreement, on the EFFECTIVE DATE JHU will grant to the Company an EXCLUSIVE LICENSE to make, have made, use, and sell the LICENSED PRODUCT(S) and to provide the LICENSED SERVICE(S) in the TERRITORY within the FIELD OF USE under the PATENT RIGHTS.

2.2 The Company may sublicense to others under this Agreement and shall provide a copy of each such sublicense agreement to JHU promptly after it is executed. Each sublicense shall include those previsions contained herein which by their terms are to be binding upon a sublicensee.

2.3 The Company shall, at its option, have the right to include within the definition of PATENT RIGHTS any inventions resulting from work under the Research Agreement funded by the Company and invented by a JHU employee that is an IMPROVEMENT. The exercise of such option shall entitle the Company to receive an EXCLUSIVE LICENSE within the FIELD OF USE with respect to the IMPROVEMENTS, to make, have made, use, and sell the LICENSED PRODUCT(S) and to provide the LICENSED SERVICE(S) in the TERRITORY under such PATENT RIGHTS. JHU shall promptly notify the Company, in writing, of any such IMPROVEMENTS and the Company shall have sixty (60) days thereafter in which to elect to exercise such option by providing JHU with written notice. Upon such notice, the elected IMPROVEMENT shall be included in PATENT RIGHTS and governed by the terms of this Agreement. Any such notice from JHU shall specify if the IMPROVEMENT has been patented or if a patent application has been filed with respect to the same, and such patents or patent applications shall be added to Appendix A.

2.4 The Company shall have a first right of negotiation for an exclusive, world-wide, license with respect to any NEW DISCOVERY resulting from work under the Research Agreement funded by the Company and invented by a JHU employee. The financial considerations to be received by JHU for such inventions shall be reasonable for the nature of the NEW DISCOVERY considering its market potential and stage of development. JHU shall promptly notify the Company, in writing, of any such IMPROVEMENTS or NEW DISCOVERIES and the Company shall have sixty (60) days thereafter in which to elect to exercise such option. If the Company elects to exercise such option the parties agree to negotiate in good faith the terms of any such license.

ARTICLE 3 - PATENT INFRINGEMENT

3.1 Each party will notify the other promptly in writing when any infringement by another is uncovered or suspected.

3.2 The Company shall have the first right to enforce any patent within PATENT RIGHTS against any infringement or alleged infringement thereof, and shall at all times keep JHU informed as to the status thereof. The Company may, in its sole judgment and at its own expense, institute suit against any such infringer or alleged infringer and control, settle, and defend such suit in a manner consistent with the terms and provisions hereof and recover, for its account, any damages, awards or settlements resulting therefrom, subject to Paragraph 3.4. This right to sue for infringement shall not be used in an arbitrary or capricious manner. JHU shall reasonably cooperate in any such litigation at its own expense.

3.3 If the Company elects not to enforce any patent within the PATENT RIGHTS, then it shall so notify JHU in writing within six (6) months of receiving notice that an infringement exists, and JHU may, in its sole judgment and at its own expense, take steps to enforce any patent and control, settle, and defend such suit in a manner consistent with the terms and provisions hereof, and recover, for its own account, any damages, awards or settlements resulting therefrom. The Company shall reasonably cooperate in any such litigation at its own expense.

3.4 Any recovery by the Company under Paragraph 3.2 shall be deemed to reflect loss of commercial sales and the Company shall pay to JHU the same percent of the recovery net of all reasonable costs and expenses associated with each suit or settlement as if such net constituted Net Sales. If the cost and expenses exceed the recovery, then [***] of the excess shall be credited against royalties payable by the Company to JHU hereunder in connection with sales in the country of such legal proceedings, provided, however, that any such credit under this Paragraph 3.4 shall not exceed [***] of the royalties otherwise payable to JHU with regard to sales in the country of such action in any one calendar year, with any excess credit being carried forward to future calendar years.

ARTICLE 4 - PAYMENTS, ROYALTY, RESEARCH SUPPORT AND EQUITY

4.1 The Company will reimburse JHU for the reasonable costs and efforts of preparing, filing, maintaining and prosecuting PATENT RIGHTS through June 30, 1998 provided that such costs shall not exceed $79,623.85 in the aggregate. The Company shall reimburse JHU within thirty (30) days of receipt of invoice from JHU. The Company shall also reimburse JHU out of pocket expenses to have the corporate formation documents and fund raising documents reviewed by outside counsel not to exceed $15,000.

4.2 The Company shall pay to JHU within thirty (30) days of the EFFECTIVE DATE, a processing fee of Fifty Thousand Dollars ($50,000). This payment is nonrefundable and shall not be credited against royalties or other fees.

4.3 The Company shall pay to JHU a [***] annual maintenance fee due within thirty (30) days of each anniversary of the EFFECTIVE DATE. Such fees are nonrefundable and shall not be credited against royalties or other fees.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

4.4 Subject to the limitations set forth in Paragraph 4.14 below, the Company shall pay to JHU, as a running royalty during the ROYALTY PAYMENT PERIOD, for each LICENSED PRODUCT sold, and for each LICENSED SERVICE provided by the Company and AFFILIATED COMPANIES, five percent (5%) of NET SALES and NET SERVICE REVENUES. Such payments shall be made quarterly as provided in Paragraph 4.7.

4.5 Subject to the limitations set forth in Paragraph 4.14 below, the Company shall pay to JHU, as a running royalty during the ROYALTY PAYMENT PERIOD, twenty percent (20%) of SUBLICENSE REVENUES received by the Company and any AFFILIATED COMPANY. Such payments shall be made quarterly as provided in Paragraph 4.7.

4.6 The Company shall pay to JHU [***] upon the first commercial sale of a LICENSED PRODUCT or LICENSED SERVICE following receipt of FDA marketing approval. Such fee shall be non-refundable and will be credited against future royalties.

4.7 During the ROYALTY PAYMENT PERIOD the Company shall provide to JHU within forty-five (45) days of the end of each March, June, and September and within ninety (90) days of the end of each December, a written report to JHU of the amount of LICENSED PRODUCTS sold, LICENSED SERVICES sold, the total NET SALES, NET SERVICE REVENUES of such LICENSED PRODUCTS and LICENSED SERVICES, and the running royalties due to JHU as a result of NET SALES, NET SERVICE REVENUES and SUBLICENSE REVENUES received by the Company and AFFILIATED COMPANIES. Payment of any such royalties due shall accompany such report. Until the Company, an AFFILIATED COMPANY or a sublicensee has achieved a first commercial sale of a LICENSED PRODUCT and received FDA market approval, a report shall be submitted at the end of every June and December after the EFFECTIVE DATE and will include a full written report describing the Company's, AFFILIATED COMPANIES or sublicensee's technical efforts towards meeting the milestones in Article 6.

4.8 The Company shall make and retain, for a period of three (3) years following the period of each report required by Paragraph 4.7, true and accurate records, files and books of account containing all the data reasonably required for the full computation and verification of sales and other information required in Paragraph 4.7. Such books and records shall be in accordance with generally accepted accounting principles consistently applied. The Company shall permit the inspection and copying of such records, files and books of account by JHU or its agents during regular business hours upon ten (10) business days' written notice to the Company. Such inspection shall not be made more than once each calendar year. All costs of such inspection and copying shall be paid by JHU, provided that if any such inspection shall reveal that an error has been made in the amount equal to ten percent (10%) or more of such payment, such costs shall be borne by

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

the Company. The Company shall include in any agreement with its AFFILIATED COMPANIES or its sublicensees which permits such party to make, use or sell the LICENSED PRODUCT(S) or provide LICENSED SERVICES, a provision requiring such party to retain records of sales of LICENSED PRODUCT(S) and records of LICENSED SERVICES and other information as required in Paragraph 4.7 and permit JHU to inspect such records as required by this Paragraph 4.8.

4.9 No royalties shall be payable on LICENSED PRODUCT sales or LICENSED SERVICE activities between the Company and any AFFILIATED COMPANIES, in which event the royalty shall be based upon the NET SALES or NET SERVICE REVENUES of the AFFILIATED COMPANY.

4.10 No multiple royalties shall be due and payable because any LICENSED PRODUCTS or LICENSED SERVICES are covered by more than one patent which is within the definition of PATENT RIGHTS.

4.11 In order to insure JHU the full royalty payments contemplated hereunder, the Company agrees that in the absence of a written consent by JHU to the terms of any agreement, understanding, or arrangement between the Company or any AFFILIATED COMPANY and a corporation, firm or association (hereinafter referred to as an "Inside Customer") under which the Company or an AFFILIATED COMPANY has or will receive other consideration (such as, among other things, an option to purchase stock or actual stock ownership, or an arrangement involving division of profits or special rebates or allowances) any royalties on LICENSED PRODUCT sold or LICENSED SERVICE provided by the Company or an AFFILIATED COMPANY to such Inside Customer shall be based upon the greater of: 1) the net selling price at which the Insider Customer resells LICENSED PRODUCTS, 2) the net service revenue received by the Inside Customer from using the LICENSED PRODUCT in providing a service, 3) the fair market value of the LICENSED PRODUCT or 4) the net selling price of LICENSED PRODUCTS paid by the Inside Customer. In the event JHU is requested to consent to an agreement with an Inside Customer, JHU agrees to act promptly in the matter.

4.12 JHU agrees that no royalties shall be due for the internal use of the LICENSED PRODUCTS for research and commercial development purposes by the Company and AFFILIATED COMPANIES or for use by third parties in seeking governmental and professional approvals, certifications or endorsements, or for training purposes, except where the Company or any AFFILIATED COMPANY receives revenues for the sale of the LICENSED PRODUCT to the organization using the device for such stated proposes.

4.13 All payments under this Agreement shall be made in U.S. Dollars.

4.14 The cumulative royalty payments to be paid by the Company under Paragraphs 4.4 and 4.5 above shall not exceed in the aggregate [***] less the fair market value of the JHU SHARES on the fourth anniversary of the EFFECTIVE DATE.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

4.15 The Company shall pay to JHU, as a running royalty one percent (1%) of NET SALES and/or NET SERVICE REVENUES and/or 10% of SUBLICENSE REVENUES received by the Company and any AFFILIATED COMPANY for the term of this Agreement for any IMPROVEMENTS that are covered by a patent granted in the country from which the LICENSED PRODUCT or LICENSED SERVICE is made, used or practiced. Such royalty shall not be accumulative based on the number of patented IMPROVEMENTS but will be 1% of NET SALES or NET SERVICE REVENUES or 10% of SUBLICENSE REVENUES of each product covered by one or more such patented IMPROVEMENTS. Such payments shall be made quarterly as provided in Paragraph 4.7. For IMPROVEMENTS not covered by a patent no royalty shall be paid by the Company.

4.16 The Company shall not pay to JHU any royalty on any IMPROVEMENTS that are not covered by a patent granted in the country from which the LICENSED PRODUCT or LICENSED SERVICE is made, used, sold or practiced.

ARTICLE 5 - PATENT RIGHTS AND CONFIDENTIAL INFORMATION

5.1 The Company, at its own expense, shall file, prosecute and maintain all patents and patent applications specified under PATENT RIGHTS and the Company shall be licensed thereunder. Title to all such patents and patent applications shall reside in JHU. The Company shall have control over all patent matters in connection therewith under the PATENT RIGHTS, subject to review and approval by JHU, such approval not to be unreasonably withheld, and shall keep JHU informed of its actions by sending copies of all filings with the PTO to JHU. In any country where the Company elects not to have a patent application filed or fails to prosecute or maintain a patent application or patent, JHU may file, prosecute, and/or maintain a patent application or patent at its own expense and for its own exclusive benefit and the Company thereafter shall not be licensed under such patent or patent application.

5.2 The Company agrees that all packaging containing individual LICENSED PRODUCT(S) sold by the Company, AFFILIATED COMPANIES and sublicensees of the Company will be marked with the number of the applicable patent(s) licensed hereunder in accordance with each country's patent laws.

5.3 If necessary, the parties will exchange information which they consider to be confidential. The recipient of such information agrees to accept the disclosure of said information which is marked as confidential at the time it is sent to the recipient, and to employ all reasonable efforts to maintain the information secret and confidential, such efforts to be no less than the degree of care employed by the recipient to preserve and safeguard its own confidential information. The information shall not be disclosed or revealed to anyone except employees of the recipient who have a need to know the information and who have entered into a confidentiality agreement with the recipient under which such employees are required to maintain confidential the proprietary information of the recipient and such employees shall be advised by the recipient of the

confidential nature of the information and that the information shall be treated accordingly. The recipient's obligations under this Paragraph 5.3 shall not extend to any part of the information:

a. that can be demonstrated to have been in the public domain or publicly known and readily available to the trade or the public prior to the date of the disclosure; or

b. that can be demonstrated, from written records to have been in the recipient's possession or readily available to the recipient from another source not under obligation of confidentiality to the disclosing party prior to the disclosure; or

c. that becomes part of the public domain or publicly known by publication or otherwise, not due to any unauthorized act by the recipient; or

d. that is demonstrated from written records to have been developed by or for the receiving party without reference to confidential information disclosed by the disclosing party.

The obligations of this Paragraph 5.3 shall also apply to AFFILIATED COMPANIES and/or sublicensees provided such information by the Company. JHU's, the Company's, AFFILIATED COMPANIES, and sublicensees' obligations under this Paragraph 5.3 shall extend until three (3) years after the termination of this Agreement.

ARTICLE 6 - TERM, MILESTONES AND TERMINATION

6.1 This Agreement shall expire in each country on the date the last patent included within PATENT RIGHTS expires or is rendered invalid in that country or if no patents issue, twenty (20) years from the EFFECTIVE DATE.

6.2 After an NDA or PLA has been obtained from the FDA, the Company shall exercise commercially reasonable efforts to market a product included in LICENSED PRODUCTS in the TERRITORY, conditioned upon obtaining regulatory approval in each particular foreign nation or region.

6.3 After clinical or other evidence, provided in writing [***], to the Company, demonstrates the practicality of a particular application or technique which is not being developed or commercialized by the Company, The Company shall either provide JHU with a reasonable development plan and start development or attempt to reasonably sublicense the particular technology to a third party. If within six (6) months of such notification [***], The Company has not initiated such development efforts or sublicensed that particular technique, JHU may terminate this license for such particular application or technique. This Paragraph 6.3 shall not be applicable if the Company reasonably demonstrates to JHU that commercializing such LICENSED PRODUCT(S) or granting such a sublicense would have a potentially adverse

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

commercial effect upon marketing or sales of the LICENSED PRODUCTS developed and being sold by the Company.

6.4 Upon breach or default of any of the terms and conditions of this Agreement, the defaulting party shall be given written notice of such default in writing and a period of sixty (60) days after receipt of such notice to correct the default or breach. If the default or breach is not corrected within said sixty (60) day period, the party not in default shall have the right to terminate this Agreement.

6.5 The Company may terminate this Agreement and the license granted herein, for any reason, upon giving JHU sixty (60) days written notice.

6.6 Termination shall not affect JHU's right to recover unpaid royalties or fees or reimbursement for patent expenses incurred pursuant to Paragraph 4.1 prior to termination. Upon termination all rights in and to the licensed technology shall revert to JHU at no cost to JHU, except as provided in Paragraph 6.7 below.

6.7 In the event the Company sublicenses any of the rights granted it herein, JHU agrees that such sublicense shall survive termination of this Agreement if the default or breach causing termination did not occur under such sublicense and the sublicensee agrees to substitute JHU as the sublicensor and to pay the royalties due thereunder without imposing upon JHU any of the sublicensor's obligations under the sublicense.

ARTICLE 7 - MISCELLANEOUS

7.1 All notices pertaining to this Agreement shall be in writing and sent certified mail, return receipt requested, to the parties at the following addresses or such other address as such party shall have furnished in writing to the other party in accordance with this Paragraph 7.1:

FOR JHU:
Howard Califano, Esq.
Assistant Dean and Director
Office of Technology Licensing
The Johns Hopkins University
School of Medicine
2024 E. Monument St., Suite. 2-100
Baltimore, MD 21205

FOR the Company:
Steve Gorlin
Chairman of the Board
Surgi-Vision, Inc.
150 Gulf Shore Drive
Unit 601
Destin FL 32541

7.2 All written progress reports, royalty and other payments, and any other related correspondence shall be in writing and sent to:

FOR JHU:
Howard Califano, Esq.
Assistant Dean and Director
Office of Technology Licensing
The Johns Hopkins University
School of Medicine
2024 E. Monument St., Suite. 2-100
Baltimore, MD 21205

or such other addressee which JHU may designate in writing from time to time. Checks are to be made payable to "The Johns Hopkins University".

7.3 This Agreement is binding upon and shall inure to the benefit of JHU, its successors and assignees and shall not be assignable to another party without the written consent of JHU, which consent shall not be unreasonably withheld, except that the Company shall have the right to assign this Agreement to another party without the consent of JHU in the case of the sale or transfer by the Company of all, or substantially all, of its assets relating to the LICENSED PRODUCT or LICENSED SERVICE, to that party.

7.4 In the event that any one or more of the provisions of this Agreement should for any reason be held by any court or authority having jurisdiction over this Agreement, or over any of the parties hereto to be invalid, illegal or unenforceable, such provision or provisions shall be reformed to approximate as nearly as possible the intent of the parties, and if unreformable, shall be divisible and deleted in such jurisdictions; elsewhere, this Agreement shall not be affected.

7.5 The construction, performance, and execution of this Agreement shall be governed by the laws of the State of Maryland.

7.6 The Company shall not use the name of THE JOHNS HOPKINS UNIVERSITY or THE JOHNS HOPKINS HEALTH SYSTEM or any of its constituent parts, such as the Johns Hopkins Hospital or any contraction thereof or the name of Inventors of PATENT RIGHTS in any advertising, promotional, sales literature or fundraising

documents without prior written consent from an officer of JHU except to the extent that such disclosures are determined by counsel for the Company to be necessary or desirable to comply with applicable laws and governmental regulations. The Company shall allow at least seven (7) business days notice of any proposed public disclosure for JHU's review and comment or to provide written consent.

7.7 JHU warrants that it has good and marketable title to its interest in the inventions claimed under PATENT RIGHTS WITH THE EXCEPTION OF CERTAIN RETAINED RIGHTS OF THE UNITED STATES GOVERNMENT. JHU DOES NOT WARRANT THE VALIDITY OF ANY PATENTS OR THAT PRACTICE UNDER SUCH PATENTS SHALL BE FREE OF INFRINGEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH 7.7, COMPANY, AFFILIATED COMPANIES AND SUBLICENSEES AGREE THAT THE PATENT RIGHTS ARE PROVIDED "AS IS", AND THAT JHU MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE PERFORMANCE OF LICENSED PRODUCT(S) AND LICENSED SERVICES INCLUDING THEIR SAFETY, EFFECTIVENESS, OR COMMERCIAL VIABILITY. JHU DISCLAIMS ALL WARRANTIES WITH REGARD TO PRODUCT(S) AND SERVICES LICENSED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, JHU ADDITIONALLY DISCLAIMS ALL OBLIGATIONS AND LIABILITIES ON THE PART OF JHU AND INVENTORS, FOR DAMAGES, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS (EVEN IF JHU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FEES OR COSTS), ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, USE, OR SALE OF THE PRODUCT(S) AND SERVICES LICENSED UNDER THIS AGREEMENT. THE COMPANY, AFFILIATED COMPANIES AND SUBLICENSEES EACH ASSUME ALL RESPONSIBILITY AND LIABILITY FOR LOSS OR DAMAGE CAUSED BY A PRODUCT AND SERVICE MANUFACTURED, USED, OR SOLD BY THAT ENTITY WHICH IS A LICENSED PRODUCT OR LICENSED SERVICE AS DEFINED IN THIS AGREEMENT.

7.8 JHU and the Inventors of LICENSED PRODUCT(S) and LICENSED SERVICES will not, under the provisions of this Agreement or otherwise, have control over the manner in which the Company or its AFFILIATED COMPANIES or its sublicensees or those operating for its account or third parties who purchase LICENSED PRODUCT(S) or LICENSED SERVICES from any of the foregoing entities, practice the inventions of LICENSED PRODUCT(S) and LICENSED SERVICES. The Company shall defend and hold JHU, The Johns Hopkins Health Systems, their present and former trustees, officers, Inventors of PATENT RIGHTS, agents, faculty, employees and students harmless as against any judgments, fees, expenses, or other costs arising from or incidental to any product liability or other lawsuit, claim, demand or other action brought as a consequence of the practice of said inventions by any of the foregoing entities,

whether or not JHU or said Inventors, either jointly or severally, is named as a party defendant in any such lawsuit. Practice of the inventions covered by LICENSED PRODUCT(S) and LICENSED SERVICES, by an AFFILIATED COMPANY or an agent or a sublicensee or a third party on behalf of or for the account of the Company or by a third party who purchases LICENSED PRODUCT(S) and LICENSED SERVICES from the Company, shall be considered the Company's practice of said inventions for purposes of this Paragraph 7.8. The obligation of the Company to defend and indemnify as set out in this Paragraph 7.8 shall survive the termination of this Agreement.

7.9 Prior to initial human testing or first commercial sale of any LICENSED PRODUCT or LICENSED SERVICE as the case may be in any particular country, the Company shall, to the best of its ability, establish and maintain, in each country in which the Company, an AFFILIATED COMPANY or sublicensee shall test or sell LICENSED PRODUCT(S) and LICENSED SERVICES, product liability or other appropriate insurance coverage appropriate to the risks involved in marketing LICENSED PRODUCT(S) and LICENSED SERVICES and will annually present evidence to JHU that such coverage is being maintained. Upon JHU's request, the Company will furnish JHU with a Certificate of Insurance of each product liability insurance policy obtained and agrees to increase or change the kind of insurance pertaining to the LICENSED PRODUCT(S) and LICENSED SERVICES at the request of JHU. JHU shall be listed as an additional insured in the Company's said insurance policies.

7.10 JHU may publish manuscripts, abstracts or the like describing the PATENT RIGHTS and inventions contained therein provided the necessary filings for protection of any such rights under applicable patent laws have been made and confidential information of the Company as defined in Paragraph 5.3, is not included or without first obtaining approval from the Company to include such matters for which patents have not been filed or confidential information. Otherwise, unless otherwise agreed to by the parties, JHU and the Inventors shall be free to publish manuscripts and abstracts or the like directed to the work done at JHU related to the licensed technology without prior approval, provided, however, in any such materials the author will note that the Company has been granted the exclusive license to the PATENT RIGHTS.

7.11 JHU represents that the PATENT RIGHTS include all potential patents and patent applications owned or controlled by JHU that describe the CORE TECHNOLOGY as of the EFFECTIVE DATE and that such patents and patent applications are in force or are pending in the appropriate patent offices or being prepared as of the EFFECTIVE DATE.

7.12 This Agreement constitutes the entire understanding between the parties with respect to the obligations of the parties with respect to the subject matter hereof, and supersedes and replaces all prior agreements, understandings, writings, and discussions between the parties relating to said subject matter.

7.13 This Agreement may be amended and any of its terms or conditions may be waived only by a written instrument executed by the authorized officials of the parties or, in the case of a waiver, by the party waiving compliance. The failure of either party at

any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by either party of any condition or term in any one or more instances shall be construed as a further or continuing waiver of such condition or term or of any other condition or term.

7.14 This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

7.15 Upon termination of this Agreement for any reason, Paragraphs 5.3, 7.6,7.7, 7.8, 7.9, and 7.14 shall survive termination of this Agreement.

7.16 This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF the respective parties hereto have executed this Agreement by their duly authorized officers on the date appearing below their signatures.

THE JOHNS HOPKINS UNIVERSITY

By: /s/ Edward D. Miller, M.D.
Edward D. Miller, M.D.
Chief Executive Officer, Johns Hopkins Medicine
Dean of Medical Faculty, School of Medicine

Date: as of June 30, 1998

SURGI-VISION, INC.

By: /s/ Steve Gorlin
Steve Gorlin
Title: President

Date: as of June 30, 1998

I HAVE READ AND AGREE TO ABIDE BY THE TERMS OF THIS AGREEMENT

By : /s/ [***]

Printed Name: [***]

Date : as of June 30, 1998

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

By: /s/ [***]

Printed Name: [***]

Date: 7/6/98

By: /s/ [***]

Printed Name: [***]

Date: 7/6/98

By: /s/ [***]

Printed Name: [***]

Date: 7/8/98

By: /s/ [***]

Printed Name: [***]

Date: 7/13/98

By: /s/ [***]

Printed Name: [***]

Date: 7/7/98

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

By: /s/ [***]

Printed Name: [***]

Date: 7/16/98

By: /s/ [***]

Printed Name: [***]

Date: 7/7/98

By: /s/ [***]

Printed Name: [***]

Date: 7/13/98

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

APPENDIX A

PATENT RIGHTS

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

AMENDMENT TO LICENSE AGREEMENT

THIS AMENDMENT TO LICENSE AGREEMENT (this "Agreement") is made on this 15th day of January 2000, to be effective as of June 30, 1998, by and between The Johns Hopkins University, a non-profit educational institution, having a principal place of business at 3400 N. Charles Street, Baltimore, Maryland, (the "JHU"), and Surgi-Vision, Inc. a Delaware corporation, having an address at Suite 601, 150 Gulf Shore Drive, Destin, Florida 32541 (the "Company"). Unless otherwise defined herein, all capitalized terms have the meanings set forth in the License Agreement dated as of June 30, 1998 by and between JHU and the Company (the "License Agreement").

EXPLANATORY STATEMENT

WHEREAS, JHU and the Company are parties to the License Agreement for certain PATENT RIGHTS involving magnetic resonance coil detection probes; and

WHEREAS, subsequent to the EFFECTIVE DATE of the License Agreement, JHU acquired through assignment rights, title and interest to an invention developed by [***], employees of JHU, entitled [***] for which patent applications have been filed (the "Invention"); and

WHEREAS, JHU and the Company desire to amend the License Agreement to include the Invention within the PATENT RIGHTS set forth on Appendix A of the License Agreement subject to the terms and conditions of the License Agreement as amended as set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

1. License of Invention. JHU and the Company hereby amend the License Agreement to include the Invention under the PATENT RIGHTS licensed to the Company.

2. Amendment of Appendix A. JHU and the Company hereby amend Appendix A of the License Agreement to incorporate the following description of the Invention:

6. [***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

3. Patent Cost Reimbursement. The Company will reimburse JHU for the reasonable costs and efforts of preparing, filing, maintaining, and prosecuting the patent applications for the Invention through the date of this Agreement. The Company shall reimburse JHU within thirty (30) days of receipt of an invoice from JHU.

4. Payments under the License Agreement. The Company acknowledges that the Invention falls within the definition of LICENSED PRODUCT(s) and/or LICENSED SERVICE(s) under the License Agreement and that all payment provisions pertaining to the sale LICENSED PRODUCT(s) or LICENSED SERVICE(s) containing of Article 4 of the License Agreement will apply to the Invention.

5. Statement of Work for Research Agreement.
Contemporaneously with the execution of this Agreement, the Company and JHU are entering into a Statement of Work under the terms of the Research Agreement dated as of June 30, 1998 by and between the Company and JHU which Statement of Work provides for the nonrefundable payment by the Company to JHU of [***] to fund research in the laboratories of [***] for a period of twelve months.

6. Warrant to Purchase Shares of Common Stock.
Contemporaneously with the execution of this Agreement, the Company is issuing to JHU a warrant to purchase [***] shares of the Company's Common Stock at an exercise price of [***] per share (the "Warrant") which Warrant shall be exercisable for a period of ten (10) years.

7. Miscellaneous

(a) Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

(b) Entire Agreement. The License Agreement together with this Agreement, constitute the entire understanding between the parties with respect to the obligations of the parties with respect to the subject matter hereof, and supersedes and replaces all prior agreements, understandings, writings, and discussions between the parties relating to the subject matter of those agreements. Except as modified by this Agreement, all other terms and conditions of the License Agreement remain in full force and effect.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

IN WITNESS WHEREOF, the respective parties hereto have executed this Agreement by their duly authorized officers on the date appearing below their signatures.

SURGI-VISION, INC

By: /s/ Nancy E. Taylor
Name:
Title:

THE JOHNS HOPKINS UNIVERSITY

By: /s/ Estelle A. Fishbein
Name: Estelle A. Fishbein.
Title: Vice President and General Counsel

I HAVE READ AND AGREE TO ABIDE BY THE TERMS OF THIS AGREEMENT:

/s/ [***]
[***]

/s/ [***]
[***]

/s/ [***] 1/14/2000
[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ATTACHMENT A

PATENT RIGHTS

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ADDENDUM TO LICENSE AGREEMENT

This Addendum to License Agreement between The Johns Hopkins University, a corporation of the State of Maryland, having a principal place of business at 100 N. Charles Street, 5th Floor, Baltimore, MD 21201 (hereinafter referred to as "JHU") and Surgi-Vision, Inc., a Delaware corporation (hereinafter "SVI"), having an address at 200 N Cobb Parkway, Suite 140, Marietta, Georgia, is being executed on the date set forth below to clarify and amend that License Agreement entered into by these parties on or about June 30, 1998 and as first Amended on or about January 14, 2000 (hereafter "Agreement").

WITNESSETH:

WHEREAS, JHU and SVI wish to clarify and update the PATENT RIGHTS licensed under the Agreement as outlined in Appendix A of the Agreement;

THE PARTIES HEREBY AGREE AS FOLLOWS:

Licensed PATENT RIGHTS shall include the issued U.S. Patents and pending U.S. Patent Applications listed below:

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed in duplicate by their duly authorized officers.

THE JOHNS HOPKINS UNIVERSITY

By /s/ R. Keith Baker, Ph.D.
R. Keith Baker, Ph.D.
Senior Director,
Technology Licensing

SURGI-VISION, INC.

By /s/ Kim Jenkins
Kim Jenkins
CEO Surgi-Vision, Inc.
Date: 12/09/04

Exhibit 10.10

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is entered into by and between THE JOHNS HOPKINS UNIVERSITY, a Maryland corporation having an address at 3400 N. Charles Street, Baltimore, Maryland, 21218-2695 ("JHU") and Surgi-Vision, Inc. a Delaware corporation having an address at 200 N. Cobb Parkway, Suite 140, Marietta, Georgia ("Company"), with respect to the following:

RECITALS

WHEREAS, as a center for research and education, JHU is interested in licensing PATENT RIGHTS (hereinafter defined) in a manner that will benefit the public by facilitating the distribution of useful products and the utilization of new processes, but is without capacity to commercially develop, manufacture, and distribute any such products or processes; and

WHEREAS, valuable invention(s) entitled [***] developed during the course of research conducted by [***]; and [***] developed during the course of research conducted by [***] (all hereinafter, "Inventors"); and

WHEREAS, JHU has acquired through assignment all rights, title and interest, with the exception of certain retained rights by the United States Government, in its interest in said valuable inventions; and

WHEREAS, Company desires to obtain certain rights in such inventions as herein provided, and to commercially develop, manufacture, use and distribute products and processes based upon or embodying said valuable inventions throughout the world;

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

All references to particular Exhibits, Articles or Paragraphs shall mean the Exhibits to, and Paragraphs and Articles of, this Agreement, unless otherwise specified. For the purposes of this Agreement and the Exhibits hereto, the following words and phrases shall have the following meanings:

1.1 "AFFILIATED COMPANY" as used herein in either singular or plural shall mean any corporation, company, partnership, joint venture or other entity, which controls, is controlled

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

by or is under common control with Company. For purposes of this Paragraph 1.1, control shall mean the direct or indirect ownership of at least fifty- percent (50%).

1.2 "EFFECTIVE DATE" of this License Agreement shall mean the date the last party hereto has executed this Agreement.

1.3 "EXCLUSIVE LICENSE" shall mean a grant by JHU to Company of its entire right and interest in the PATENT RIGHTS subject to rights retained by the United States Government, if any, in accordance with the Bayh-Dole Act of 1980 (established by P.L. 96-517 and amended by P.L. 98-620, codified at 35 USC § 200 et. seq. and implemented according to 37 CFR Part 401), and subject to the retained right of JHU to make, have made, provide and use for its and The Johns Hopkins Health Systems' non-commercial purposes LICENSED PRODUCT(S) and LICENSED SERVICE(S).

1.4 "LICENSED FIELD" shall mean all fields.

1.5 "LICENSED PRODUCT(S)" as used herein in either singular or plural shall mean any process or method, material, compositions, drug, medical devices or other product, the manufacture, use, import, offer for sale or sell of which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of PATENT RIGHTS (infringement shall include, but is not limited to, direct, contributory, or inducement to infringe).

1.6 "LICENSED SERVICE(S)" as used herein in either singular or plural shall mean the performance by Company, AFFILIATED COMPANY or SUBLICENSEE(S) of any method, including drug discovery or screening, or the manufacture of any product or the use of any product or composition which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of the PATENT RIGHTS, (infringement shall include, but not be limited to, direct, contributory or inducement to infringe).

1.7 "NET SALES" shall mean gross sales revenues and fees billed by Company and/or AFFILIATED COMPANY from the sale of LICENSED PRODUCT(S) less trade discounts allowed, refunds, returns and recalls, freight and delivery costs, sales taxes, rebates accrued, incurred or paid to State or Federal agencies such as Medicaid or Medicare or other payors. In the event that Company and/or AFFILIATED COMPANY sells a LICENSED PRODUCT(S) as part of a kit, the NET SALES for purposes of royalty payments shall be based on that portion of the sales revenues and fees derived from that component of the kit which could independently be sold as a LICENSED PRODUCT(S).

1.8 **"NET SERVICE REVENUES"** shall mean gross service revenues and fees billed by Company and/or AFFILIATED COMPANY for the performance of LICENSED SERVICE(S) less sales and/or use taxes imposed upon and with specific reference to the LICENSED SERVICE(S), but only where LICENSED SERVICES are sold or used separately from manufacture or sale of a LICENSED PRODUCT. In the event that Company and/or AFFILIATED COMPANY or sells a LICENSED SERVICE(S) in combination with other services or substances or as part of a kit that does not include a LICENSED PRODUCT, the NET SERVICE REVENUES for purposes of royalty payments shall be based on the sales revenues and fees received from the kit.

1.9 "PATENT RIGHTS" shall mean the PCT patent application Serial No. [***], filed on [***], and assigned to JHU entitled [***]; and US Patent No. [***], issued [***], and assigned to JHU entitled [***] and the invention disclosed and claimed therein, and all divisions, continuations, and continuations-in-part (to the extent that such continuations-in-part are not encumbered by third party rights and the claims in the continuations-in-part are supported by the original disclosures of the parent applications) and reissues based thereof, and any corresponding foreign patent applications, and any patents, or other equivalent foreign PATENT RIGHTS issuing, granted or registered thereon.

1.10 "SUBLICENSEE(S)" as used herein in either singular or plural shall mean any person or entity other than an AFFILIATED COMPANY to which Company has granted a sublicense to the Patent Rights under this Agreement.

1.11 "1998 JHU-SURGIVISION LICENSE AGREEMENT" shall mean the Exclusive License Agreement entered into by JHU and Company on or about June 30, 1998 and as amended by the Addendum to License Agreement executed on or about December 9, 2004.

ARTICLE 2
LICENSE GRANT

2.1 Grant. Subject to the terms and conditions of this Agreement, JHU hereby grants to Company an EXCLUSIVE LICENSE to make, have made, use, import, offer for sale and sell the LICENSED PRODUCT(S) and to provide and practice the LICENSED SERVICE(S) in the United States and worldwide under the PATENT RIGHTS in the LICENSED FIELD each of the above license grants including the right to sublicense and the right to collect for past, present and future damages. This Grant shall apply to the Company and any AFFILIATED COMPANY, except that any AFFILIATED COMPANY shall not have the right to sublicense others as set forth in Paragraph 2.2 below. If any AFFILIATED COMPANY exercises rights under this Agreement, such AFFILIATED COMPANY shall be bound by all terms and conditions of this Agreement, including but not limited to indemnity and insurance provisions and royalty payments, which shall apply to the exercise of the rights, to the same extent as would apply had this Agreement been directly between JHU and the AFFILIATED COMPANY. In addition, Company shall remain fully liable to JHU for all acts and obligations of AFFILIATED COMPANY such that acts of the AFFILIATED COMPANY shall be considered acts of the Company for purposes of this Agreement.

2.2 Sublicense. Company may sublicense to others under this Agreement, subject to the terms and conditions of this Paragraph and subject to JHU's prior written approval of the sublicense agreement. Such approval shall not be unreasonably withheld. As a condition to its validity and enforceability, each sublicense agreement shall: (a) incorporate by reference the

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

terms and conditions of this Agreement, (b) be consistent with the terms, conditions and limitations of this Agreement, (c) prohibit SUBLICENSEE'S further sublicense of the rights delivered hereunder except that such prohibition shall not preclude SUBLICENSEE'S right to use third parties to manufacture or distribute devices on behalf of SUBLICENSEE, (d) name JHU as an intended third party beneficiary of the obligations of SUBLICENSEE without imposition of obligation or liability on the part of JHU or its Inventors to the SUBLICENSEE, (e) specifically incorporate Paragraphs 6.2 "Representations by JHU", 7.1 "Indemnification", 10.1 "Use of Name", 10.4 "Product Liability" into the body of the sublicense agreement, and cause the terms used in therein to have the same meaning as in this Agreement, and, (f) bear signature from JHU indicating JHU's review and approval of the sublicense agreement. Company shall provide to JHU each proposed sublicense agreement, executed by both Company and proposed SUBLICENSEE, for review, approval and signature by JHU. To the extent that any terms, conditions or limitations of any sublicense agreement are inconsistent with this Agreement, those terms, conditions and limitations are null and void against JHU, even though JHU has approved the sublicense in writing.

2.3 Government Rights. The United States Government may have acquired a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the inventions described in PATENT RIGHTS throughout the world. The rights granted herein are additionally subject to: (i) the requirement that any LICENSED PRODUCT(S) produced for use or sale within the United States shall be substantially manufactured in the United States (unless a waiver under 35 USC § 204 or equivalent is granted by the appropriate United States government agency), (ii) the right of the United States government to require JHU, or its licensees, including Company, to grant sublicenses to responsible applicants on reasonable terms when necessary to fulfill health or safety needs, and, (iii) other rights acquired by the United States government under the laws and regulations applicable to the grant/contract award under which the inventions were made.

ARTICLE 3
FEES, ROYALTIES, & PAYMENTS

3.1 License Fee. Company shall pay to JHU a license fee as set forth in Exhibit A. Five thousand dollars shall be due within thirty (30) days following the execution of this License Agreement and the remaining balance shall be due within one hundred eighty (180) days following the execution of this License Agreement. JHU will not submit an invoice for the license fee, which is nonrefundable and shall not be credited against royalties or other fees.

3.2 Minimum Annual Royalties. Company shall pay to JHU minimum annual royalties as set forth in Exhibit A. These minimum annual royalties shall be due, without invoice from JHU, within thirty (30) days of each anniversary of the EFFECTIVE DATE beginning with the second anniversary. Running royalties accrued under Paragraph 3.3 and paid to JHU during the one year period preceding an anniversary of the EFFECTIVE DATE shall be credited against the minimum annual royalties due on that anniversary date.

3.3 Running Royalties. Company shall pay to JHU a running royalty as set forth in Exhibit A, for each LICENSED PRODUCT(S) sold, and for each LICENSED SERVICE(S) provided, by Company or AFFILIATED COMPANIES, based on NET SALES and NET SERVICE REVENUES for the term of this Agreement. Such payments shall be made quarterly. All non-US taxes related to LICENSED PRODUCT(S) or LICENSED SERVICE(S) sold under this Agreement shall be paid by Company and shall not be deducted from royalty or other payments due to JHU.

In order to insure JHU the full royalty payments contemplated hereunder, Company agrees that in the event any LICENSED PRODUCT(S) shall be sold to an AFFILIATED COMPANY or SUBLICENSEE(S) or to a corporation, firm or association with which Company shall have any agreement, understanding or arrangement with respect to consideration (such as, among other things, an option to purchase stock or actual stock ownership, or an arrangement involving division of profits or special rebates or allowances) the royalties to be paid hereunder for such LICENSED PRODUCT(S) shall be based upon the greater of: 1) the net selling price (per NET SALES) at which the purchaser of LICENSED PRODUCT(S) resells such product to the end user, 2) the NET SERVICE REVENUES received from using the LICENSED PRODUCT(S) in providing a service, 3) the fair market value of the LICENSED PRODUCT(S) or 4) the net selling price (per NET SALES) of LICENSED PRODUCT(S) paid by the purchaser.

No multiple royalty shall be due or payable because any LICENSED PRODUCT(S) or LICENSED SERVICE(S) is covered by more than one patent of the PATENT RIGHTS whether in this License Agreement or the 1998 License Agreement. The royalty shall not be cumulative based on the number of patents covering a product or service, but rather shall be capped at five percent (5%) of NET SALES REVENUES and/or NET SERVICE REVENUES.

3.4 Sublicense Consideration. Company shall pay to JHU a percentage of consideration received for sublicenses under this Agreement as set forth in Exhibit A. This sublicense consideration shall be due, without the need for invoice from JHU, within forty-five (45) days of the effective date of each sublicense agreement. Such consideration shall mean consideration of any kind received by the Company or AFFILIATED COMPANIES from a SUBLICENSEE(S) for the grant of a sublicense under this Agreement, such as upfront fees or milestone fees, running royalties and including any premium paid by the SUBLICENSEE(S) over Fair Market Value for stock of the Company or an AFFILIATED COMPANY in consideration for such sublicense. However, not included in such sublicense consideration are amounts paid to the Company or an AFFILIATED COMPANY by the SUBLICENSEE(S) for product development, research work, clinical studies and regulatory approvals performed by or for the Company or AFFILIATED COMPANIES (including third parties on their behalf), each pursuant to a specific agreement including a performance plan and commensurate budget. The term "Fair Market Value" shall mean the average price that the stock in question is publicly trading at for twenty (20) days prior to the announcement of its purchase by the SUBLICENSEE(S) or if the stock is not publicly traded, the value of such stock as determined by the most recent private financing through a financial investor (an entity whose sole interest in the Company or AFFILIATED COMPANY is financial) of the Company or AFFILIATED COMPANY that issued the shares.

The sublicensing income payable to JHU shall be capped such that the aggregate amount payable to JHU shall be capped at twenty percent (20%) of all sublicensing income whether such income is attributed to technology licensed under this License Agreement and/or the 1998 Agreement, each as may be amended from time to time.

3.5 Patent Reimbursement. Company will reimburse JHU, within thirty (30) days of the receipt of an invoice from JHU, for all costs associated with the preparation, filing, maintenance, and prosecution of PATENT RIGHTS incurred by JHU on or before the EFFECTIVE DATE of this Agreement. In accordance with Paragraph 4.1 below, Company will reimburse JHU, within thirty (30) days of the receipt of an invoice from JHU, for all costs associated with the preparation, filing, maintenance, and prosecution of PATENT RIGHTS incurred by JHU subsequent to the EFFECTIVE DATE of this Agreement.

3.6 Form of Payment. All payments under this Agreement shall be made in U.S. Dollars. Checks are to be made payable to "The Johns Hopkins University". Wire transfers may be made through:

[***]

Company shall be responsible for any and all costs associated with wire transfers.

3.7 Late Payments. In the event that any payment due hereunder is not made when due, the payment shall accrue interest beginning on the tenth day following the due date thereof, calculated at the annual rate of the sum of (a) two percent (2%) plus (b) the prime interest rate quoted by The Wall Street Journal on the date said payment is due, the interest being compounded on the last day of each calendar quarter, provided however, that in no event shall said annual interest rate exceed the maximum legal interest rate for corporations. Each such payment when made shall be accompanied by all interest so accrued. Said interest and the payment and acceptance thereof shall not negate or waive the right of JHU to seek any other remedy, legal or equitable, to which it may be entitled because of the delinquency of any payment including, but not limited to termination of this Agreement as set forth in Paragraph 9.2.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ARTICLE 4
PATENT PROSECUTION, MAINTENANCE, & INFRINGEMENT

4.1 Prosecution & Maintenance. Company, at its own expense, shall file, prosecute and maintain all patens and patent applications specified under PATENT RIGHTS and Company shall be licensed thereunder. Title to all such patents and patent applications shall reside in JHU. Company shall control over all patent matters in connection therewith under the PATENT RIGHTS, subject to review and approval by JHU, such approval not to be unreasonably withheld, and shall keep JHU informed of its actions by sending copies of all filings with the PTO to JHU. In any country where Company elects not to have a patent application filed or fails to prosecute or maintain a patent application or patent, JHU may file, prosecute, and/or maintain a patent application or patent at its own expense and for its own exclusive benefit and Company thereafter shall not be licensed under such patent or patent application.

4.2 Notification. Each party will notify the other promptly in writing when any infringement by another is uncovered or suspected.

4.3 Infringement. Company shall have the first right to enforce any patent within PATENT RIGHTS against any infringement or alleged infringement thereof, and shall at all times keep JHU informed as to the status thereof. Before Company commences an action with respect to any infringement of such patents, Company shall give careful consideration to the views of JHU and to potential effects on the public interest in making its decision whether or not to sue. Thereafter, Company may, at its own expense, institute suit against any such infringer or alleged infringer and control and defend such suit in a manner consistent with the terms and provisions hereof and recover any damages, awards or settlements resulting therefrom, subject to Paragraph 4.5. However, no settlement, consent judgment or other voluntary final disposition of the suit may be entered into without the prior written consent of JHU, which consent shall not be unreasonably withheld. This right to sue for infringement shall not be used in an arbitrary or capricious manner. JHU shall reasonably cooperate in any such litigation at Company's expense.

If Company elects not to enforce any patent within the PATENT RIGHTS, then it shall so notify JHU in writing within ninety (90) days of receiving notice that an infringement exists, and JHU may, in its sole judgment and at its own expense, take steps to enforce any patent and control, settle, and defend such suit in a manner consistent with the terms and provisions hereof, and recover, for its own account, any damages, awards or settlements resulting therefrom.

4.4 Patent Invalidity Suit. If a declaratory judgment action is brought naming Company as a defendant and alleging invalidity of any of the PATENT RIGHTS, JHU may elect to take over the sole defense of the action at its own expense. Company shall cooperate fully with JHU in connection with any such action.

4.5 Recovery. Any recovery by Company under Paragraph 4.3 shall be deemed to reflect loss of commercial sales, and Company shall pay to JHU [***] of the recovery net of all reasonable costs and expenses associated with each suit or settlement. If the cost and expenses exceed the recovery, then [***] of the excess shall be credited against royalties payable by Company to JHU hereunder in connection with sales of LICENSED PRODUCT

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

covered in the PATENT RIGHTS which are the subject of the infringement suit, in the country of such legal proceedings, provided, however, that any such credit under this Paragraph shall not exceed [***] of the royalties otherwise payable to JHU with regard to sales in the country of such action in any one calendar year, with any excess credit being carried forward to future calendar years.

ARTICLE 5
OBLIGATIONS OF THE PARTIES

5.1 Reports. Company shall provide to JHU the following written reports according to the following schedules.

(a) Company shall provide quarterly Royalty Reports, substantially in the format of Exhibit B and due within thirty (30) days of the end of each calendar quarter following the EFFECTIVE DATE of this Agreement. Royalty Reports shall disclose the amount of LICENSED PRODUCT(S) and LICENSED SERVICE(S) sold, the total NET SALES and NET SERVICE REVENUES of such LICENSED PRODUCT(S) and LICENSED SERVICE(S), and the running royalties due to JHU as a result of NET SALES and NET SERVICE REVENUES by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) thereof. Payment of any such royalties due shall accompany such Royalty Reports.

(b) Until Company, an AFFILIATED COMPANY or a SUBLICENSEE(S) has achieved a first commercial sale of a LICENSED PRODUCT or LICENSED SERVICE, or received FDA market approval, Company shall provide semiannual Diligence Reports, due within thirty (30) days of the end of every June and December following the EFFECTIVE DATE of this Agreement. These Diligence Reports shall describe Company's, AFFILIATED COMPANIES or any SUBLICENSEE(S)'s technical efforts towards meeting its obligations under the terms of this Agreement.

(c) Company shall provide Annual Reports within thirty (30) days of the end of every December following the EFFECTIVE DATE of this Agreement. Annual Reports shall include:

(i) evidence of insurance as required under Paragraph 10.4, or, a statement of why such insurance is not currently required, and

(ii) identification of all AFFILIATED COMPANIES which have exercised rights pursuant to Paragraph 2.1, or, a statement that no AFFILIATED COMPANY has exercised such rights, and

(iii) notice of all FDA approvals of any LICENSED PRODUCT(S) or LICENSED SERVICE(S) obtained by COMPANY, AFFILIATED COMPANY or SUBLICENSEE, the patent(s) or patent application(s) licensed under this Agreement upon which such product or service is based, and the commercial name of such product or service, or, in the alternative, a statement that no FDA approvals have been obtained.

5.2 Records. Company shall make and retain, for a period of three (3) years following the period of each report required by Paragraph 5.1, true and accurate records, files and books of account containing all the data reasonably required for the full computation and verification of

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

sales and other information required in Paragraph 5.1. Such books and records shall be in accordance with generally accepted accounting principles consistently applied. Company shall permit the inspection and copying of such records, files and books of account by JHU or its agents during regular business hours upon ten (10) business days' written notice to Company. Such inspection shall not be made more than once each calendar year. All costs of such inspection and copying shall be paid by JHU, provided that if any such inspection shall reveal that an error has been made in the amount equal to five percent (5%) or more of such payment, such costs shall be borne by Company. As a condition to entering into any such agreement, Company shall include in any agreement with its AFFILIATED COMPANIES or its SUBLICENSEE(S) which permits such party to make, use, sell or import the LICENSED PRODUCT(S) or provide LICENSED SERVICE(S), a provision requiring such party to retain records of sales of LICENSED PRODUCT(S) and records of LICENSED SERVICE(S) and other information as required in Paragraph 5.1 and permit JHU to inspect such records as required by this Paragraph.

5.3 Reasonable Efforts. Company shall exercise commercially reasonable efforts to develop and to introduce the LICENSED PRODUCT(S) and/or LICENSED SERVICE(S) into the commercial market as soon as practicable, consistent with sound and reasonable business practice and judgment; thereafter, until the expiration or termination of this Agreement, Company shall endeavor to keep LICENSED PRODUCT(S) and/or LICENSED SERVICE(S) reasonably available to the public. Company shall also exercise reasonable efforts to develop LICENSED PRODUCT(S) suitable for different indications within the LICENSED FIELD, so that the PATENT RIGHTS can be commercialized as broadly and as speedily as good scientific and business judgment would deem possible.

5.4 Other Products. After clinical or other evidence, provided in writing [***], to Company, demonstrating the practicality of a particular market or use within the LICENSED FIELD which is not being developed or commercialized by Company, Company shall either provide JHU with a reasonable development plan and start development or attempt to reasonably sublicense the particular market or use to a third party. If within six (6) months of such written notification [***], Company has not initiated such development efforts or sublicensed that particular market or use, JHU may terminate this license for such particular market or use. This Paragraph shall not be applicable if Company reasonably demonstrates to JHU that commercializing such LICENSED PRODUCT(S) or LICENSED SERVICE(S) or granting such a sublicense in said market or use would have a potentially adverse commercial effect upon marketing or sales of the LICENSED PRODUCT(S) developed and being sold by Company.

5.5 Patent Acknowledgement. Company agrees that all packaging containing individual LICENSED PRODUCT(S) sold by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) of Company will be marked with the number of the applicable patent(s) licensed hereunder in accordance with each country's patent laws.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ARTICLE 6
REPRESENTATIONS

6.1 Duties of the Parties. JHU is not a commercial organization. It is an institute of research and education. Therefore, JHU has no ability to evaluate the commercial potential of any PATENT RIGHTS or LICENSED PRODUCT or other license or rights granted in this Agreement. It is therefore incumbent upon Company to evaluate the rights and products in question, to examine the materials and information provided by JHU, and to determine for itself the validity of any PATENT RIGHTS, its freedom to operate, and the value of any LICENSED PRODUCTS or SERVICES or other rights granted.

6.2 Representations by JHU. JHU warrants that it has good and marketable title to its interest in the inventions claimed under PATENT RIGHTS with the exception of certain retained rights of the United States Government, which may apply if any part of the JHU research was funded in whole or in part by the United States Government. JHU does not warrant the validity of any patents or that practice under such patents shall be free of infringement. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH 6.2, COMPANY, AFFILIATED COMPANIES AND SUBLICENSEE(S) AGREE THAT THE PATENT RIGHTS ARE PROVIDED "AS IS", AND THAT JHU MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE PERFORMANCE OF LICENSED PRODUCT(S) AND LICENSED SERVICE(S) INCLUDING THEIR SAFETY, EFFECTIVENESS, OR COMMERCIAL VIABILITY. JHU DISCLAIMS ALL WARRANTIES WITH REGARD TO PRODUCT(S) AND SERVICE(S) LICENSED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES, EXPRESSED OR IMPLIED, OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, JHU ADDITIONALLY DISCLAIMS ALL OBLIGATIONS AND LIABILITIES ON THE PART OF JHU AND INVENTORS, FOR DAMAGES, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS (EVEN IF JHU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FEES OR COSTS), ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, USE, OR SALE OF THE PRODUCT(S) AND SERVICE(S) LICENSED UNDER THIS AGREEMENT. COMPANY, AFFILIATED COMPANIES AND SUBLICENSEE(S) ASSUME ALL RESPONSIBILITY AND LIABILITY FOR LOSS OR DAMAGE CAUSED BY A PRODUCT AND/OR SERVICE MANUFACTURED, USED, OR SOLD BY COMPANY, ITS SUBLICENSEE(S) AND AFFILIATED COMPANIES WHICH IS A LICENSED PRODUCT(S) OR LICENSED SERVICE(S) AS DEFINED IN THIS AGREEMENT.

ARTICLE 7
INDEMNIFICATION

7.1 Indemnification. JHU and the Inventors will have no legal liability exposure to third parties if JHU does not license the LICENSED PRODUCT(S) and LICENSED SERVICE(S), and any royalties JHU and the Inventors may receive is not adequate compensation for such legal liability exposure. Therefore, JHU requires Company to protect JHU and Inventors from such

exposure to the same manner and extent to which insurance, if available, would protect JHU and Inventors. Furthermore, JHU and the Inventors will not, under the provisions of this Agreement or otherwise, have control over the manner in which Company or its AFFILIATED COMPANIES or its SUBLICENSEE(S) or those operating for its account or third parties who purchase LICENSED PRODUCT(S) or LICENSED SERVICE(S) from any of the foregoing entities, develop, manufacture, market or practice the inventions of LICENSED PRODUCT(S) and LICENSED SERVICE(S). Therefore, Company, AFFILIATED COMPANY and SUBLICENSEE shall indemnify, defend with counsel reasonably acceptable to JHU, and hold JHU, The Johns Hopkins Health Systems, their present and former trustees, officers, Inventors of PATENT RIGHTS, agents, faculty, employees and students harmless as against any judgments, fees, expenses, or other costs arising from or incidental to any product liability or other lawsuit, claim, demand or other action brought as a consequence of the practice of said inventions by any of the foregoing entities, whether or not JHU or said Inventors, either jointly or severally, is named as a party defendant in any such lawsuit and whether or not JHU or the Inventors are alleged to be negligent or otherwise responsible for any injuries to persons or property. Practice of the inventions covered by LICENSED PRODUCT(S) and LICENSED SERVICE(S), by an AFFILIATED COMPANY or an agent or a SUBLICENSEE(S) or a third party on behalf of or for the account of Company or by a third party who purchases LICENSED PRODUCT(S) and LICENSED SERVICE(S) from Company, shall be considered Company's practice of said inventions for purposes of this Paragraph. The obligation of Company to defend and indemnify as set out in this Paragraph shall survive the termination of this Agreement, shall continue even after assignment of rights and responsibilities to an affiliate or sublicensee, and shall not be limited by any other limitation of liability elsewhere in this Agreement.

ARTICLE 8
CONFIDENTIALITY

8.1 Confidentiality. If necessary, the parties will exchange information, which they consider to be confidential. The recipient of such information agrees to accept the disclosure of said information which is marked as confidential at the time it is sent to the recipient, and to employ all reasonable efforts to maintain the information secret and confidential, such efforts to be no less than the degree of care employed by the recipient to preserve and safeguard its own confidential information. The information shall not be disclosed or revealed to anyone except employees of the recipient who have a need to know the information and who have entered into a secrecy agreement with the recipient under which such employees are required to maintain confidential the proprietary information of the recipient and such employees shall be advised by the recipient of the confidential nature of the information and that the information shall be treated accordingly.

The obligations of this Paragraph shall also apply to AFFILIATED COMPANIES and/or SUBLICENSEE(S) provided such information by Company. JHU's, Company's, AFFILIATED COMPANIES, and SUBLICENSEES' obligations under this Paragraph shall extend until three (3) years after the termination of this Agreement.

8.2 Exceptions. The recipient's obligations under Paragraph 8.1 shall not extend to any part of the information:

a. that can be demonstrated to have been in the public domain or publicly known and readily available to the trade or the public prior to the date of the disclosure; or

b. that can be demonstrated, from written records to have been in the recipient's possession or readily available to the recipient from another source not under obligation of secrecy to the disclosing party prior to the disclosure; or

c. that becomes part of the public domain or publicly known by publication or otherwise, not due to any unauthorized act by the recipient; or

d. that is demonstrated from written records to have been developed by or for the receiving party without reference to confidential information disclosed by the disclosing party.

e. that is required to be disclosed by law, government regulation or court order.

8.3 Right to Publish. JHU may publish manuscripts, abstracts or the like describing the PATENT RIGHTS and inventions contained therein provided confidential information of Company as defined in Paragraph 8.1, is not included or without first obtaining approval from Company to include such confidential information. Otherwise, JHU and the Inventors shall be free to publish manuscripts and abstracts or the like directed to the work done at JHU related to the licensed technology without prior approval.

ARTICLE 9
TERM & TERMINATION

9.1 Term. The term of this Agreement shall commence on the EFFECTIVE DATE and shall continue, in each country, until the date of expiration of the last to expire patent included within PATENT RIGHTS in that country or if no patents issue then for a term of twenty (20) years from the EFFECTIVE DATE of this Agreement.

9.2 Termination By Either Party. This Agreement may be terminated by either party, in the event that the other party (a) files or has filed against it a petition under the Bankruptcy Act, makes an assignment for the benefit of creditors, has a receiver appointed for it or a substantial part of its assets, or otherwise takes advantage of any statute or law designed for relief of debtors or (b) fails to perform or otherwise breaches any of its obligations hereunder, if, following the giving of notice by the terminating party of its intent to terminate and stating the grounds therefor, the party receiving such notice shall not have cured the failure or breach within thirty (30) days. In no event, however, shall such notice or intention to terminate be deemed to waive any rights to damages or any other remedy which the party giving notice of breach may have as a consequence of such failure or breach.

9.3 Termination by Company. Company may terminate this Agreement and the license granted herein, for any reason, upon giving JHU ninety (90) days written notice.

9.4 Obligations and Duties upon Termination. If this Agreement is terminated, both parties shall be released from all obligations and duties imposed or assumed hereunder to the extent so terminated, except as expressly provided to the contrary in this Agreement. Upon termination, both parties shall cease any further use of the confidential information disclosed to the receiving party by the other party. Termination of this Agreement, for whatever reason, shall not affect the obligation of either party to make any payments for which it is liable prior to or upon such termination. Termination shall not affect JHU's right to recover unpaid royalties, fees, reimbursement for patent expenses, or other forms of financial compensation incurred prior to termination. Upon termination Company shall submit a final royalty report to JHU and any royalty payments, fees, unreimbursed patent expenses and other financial compensation due JHU shall become immediately payable. Furthermore, upon termination of this Agreement, all rights in and to the licensed technology shall revert immediately to JHU at no cost to JHU. Upon termination of this Agreement, any SUBLICENSEE(S) shall become a direct licensee of JHU, provided that JHU's obligations to SUBLICENSEE(S) are no greater than JHU's obligations to Company under this Agreement. Company shall provide written notice of such to each SUBLICENSEE(S) with a copy of such notice provided to JHU.

ARTICLE 10
MISCELLANEOUS

10.1 Use of Name. Company, AFFILIATED COMPANIES and SUBLICENSEE(S) shall not use the name of The Johns Hopkins University or The Johns Hopkins Health System or any of its constituent parts, such as the Johns Hopkins Hospital or any contraction thereof or the name of Inventors in any advertising, promotional, sales literature or fundraising documents without prior written consent from an authorized representative of JHU. Company, AFFILIATED COMPANIES and SUBLICENSEE(S) shall allow at least seven (7) business days notice of any proposed public disclosure for JHU's review and comment or to provide written consent.

10.2 No Partnership. Nothing in this Agreement shall be construed to create any agency, employment, partnership, joint venture or similar relationship between the parties other than that of a licensor/licensee. Neither party shall have any right or authority whatsoever to incur any liability or obligation (express or implied) or otherwise act in any manner in the name or on the behalf of the other, or to make any promise, warranty or representation binding on the other.

10.3 Notice of Claim. Each party shall give the other or its representative immediate notice of any suit or action filed, or prompt notice of any claim made, against them arising out of the performance of this Agreement or arising out of the practice of the inventions licensed hereunder.

10.4 Product Liability. Prior to initial human testing or first commercial sale of any LICENSED PRODUCT(S) or LICENSED SERVICE(S) as the case may be in any particular country, Company shall establish and maintain, in each country in which Company, an AFFILIATED COMPANY or SUBLICENSEE(S) shall test or sell LICENSED PRODUCT(S) and LICENSED SERVICE(S), product liability or other appropriate insurance coverage in the

minimum amount of five million dollars ($5,000,000) per claim and will annually present evidence to JHU that such coverage is being maintained. Upon JHU's request, Company will furnish JHU with a Certificate of Insurance of each product liability insurance policy obtained. JHU shall be listed as an additional insured in Company's said insurance policies. If such Product Liability insurance is underwritten on a 'claims made' basis, Company agrees that any change in underwriters during the term of this Agreement will require the purchase of 'prior acts' coverage to ensure that coverage will be continuous throughout the term of this Agreement.

10.5 Governing Law. This Agreement shall be construed, and legal relations between the parties hereto shall be determined, in accordance with the laws of the State of Maryland applicable to contracts solely executed and wholly to be performed within the State of Maryland without giving effect to the principles of conflicts of laws. Any disputes between the parties to the Agreement shall be brought in the state or federal courts of Maryland. Both parties agree to waive their right to a jury trial.

10.6 Notice. All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail, return receipt requested, or sent by overnight courier, such as Federal Express, to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the third business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

If to Company:

Attn: Kim Jenkins
200 N. Cobb Parkway, Suite 140
Marietta, Georgia 30062-3585

Cc: Julie H. Richardson
Myers Bigel Sibley & Sajovec, P.A.
4140 Parklake Ave., Suite 600
Raleigh, NC 27612

If to JHU:

Technology Transfer
Johns Hopkins University
100 N.Charles Street
5th Floor
Baltimore, MD 21201
Attn: Director

10.7 Compliance with All Laws. In all activities undertaken pursuant to this Agreement, both JHU and Company covenant and agree that each will in all material respects comply with such Federal, state and local laws and statutes, as may be in effect at the time of performance and all valid rules, regulations and orders thereof regulating such activities.

Successors and Assigns. Neither this Agreement nor any of the rights or obligations created herein, except for the right to receive any remuneration hereunder, may be assigned by either party, in whole or in part, without the prior written consent of the other party, except that either party shall be free to assign this Agreement in connection with any sale of substantially all of its assets without the consent of the other. Such assignment shall be subject to JHU approval, which approval shall not be unreasonably withheld. This Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties hereto.

10.8 No Waivers; Severability. No waiver of any breach of this Agreement shall constitute a waiver of any other breach of the same or other provision of this Agreement, and no waiver shall be effective unless made in writing. Any provision hereof prohibited by or unenforceable under any applicable law of any jurisdiction shall as to such jurisdiction be deemed ineffective and deleted herefrom without affecting any other provision of this Agreement. It is the desire of the parties hereto that this Agreement be enforced to the maximum extent permitted by law, and should any provision contained herein be held by any governmental agency or court of competent jurisdiction to be void, illegal and unenforceable, the parties shall negotiate in good faith for a substitute term or provision which carries out the original intent of the parties.

10.10 Entire Agreement; Amendment. Company and JHU acknowledge that they have read this entire Agreement and that this Agreement, including the attached Exhibits constitutes the entire understanding and contract between the parties hereto and supersedes any and all prior or contemporaneous oral or written communications with respect to the subject matter hereof, all of which communications are merged herein. It is expressly understood and agreed that (i) there being no expectations to the contrary between the parties hereto, no usage of trade, verbal agreement or another regular practice or method dealing within any industry or between the parties hereto shall be used to modify, interpret, supplement or alter in any manner the express terms of this Agreement; and (ii) this Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto.

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

10.12 Force Majeure. If either party fails to fulfill its obligations hereunder (other than an obligation for the payment of money), when such failure is due to an act of God, or other circumstances beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, war (declared and undeclared), revolution, or embargoes, then said failure shall be excused for the duration of such event and for such a time thereafter as is reasonable to enable

the parties to resume performance under this Agreement, provided however, that in no event shall such time extend for a period of more than one hundred eighty (180) days.

10.13 Further Assurances. Each party shall, at any time, and from time to time, prior to or after the EFFECTIVE DATE of this Agreement, at reasonable request of the other party, execute and deliver to the other such instruments and documents and shall take such actions as may be required to more effectively carry out the terms of this Agreement.

10.14 Survival. All representations, warranties, covenants and agreements made herein and which by their express terms or by implication are to be performed after the execution and/or termination hereof, or are prospective in nature, shall survive such execution and/or termination, as the case may be. This shall include Paragraphs 3.7 (Late Payments), 5.2 (Records), and Articles 6, 7, 8, 9, and 10.

10.15 No Third Party Beneficiaries. Nothing in this Agreement shall be construed as giving any person, firm, corporation or other entity, other than the parties hereto and their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.

10.16 Headings. Article headings are for convenient reference and not a part of this Agreement. All Exhibits are incorporated herein by this reference.

10.17 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall be deemed but one instrument.

IN WITNESS WHEREOF, this Agreement shall take effect as of the EFFECTIVE DATE when it has been executed below by the duly authorized representatives of the parties.

THE JOHNS HOPKINS UNIVERSITY	**-COMPANY NAME–**
	SurgiVision
/s/ Wesley D. Blakeslee	/s/ Kim Jenkins
Wesley D. Blakeslee	Name: Kim Jenkins
Director	Title: President
Johns Hopkins Technology Transfer	
11/30/06	12/7/06
(Date)	(Date)

EXHIBIT A. LICENSE FEE & ROYALITIES.

EXHIBIT B. SALES & ROYALTY REPORT FORM.

EXHIBIT A
LICENSE FEE & ROYALTIES

1. **License Fee:** The license fee due under Paragraph 3.1 is twenty five thousand dollars ($25,000).
2. **Minimum Annual Royalties:** The minimum annual royalties pursuant to Paragraph 3.2 is ten thousand dollars ($10,000).
3. **Royalties:** The running royalty rate payable under Paragraph 3.3 is five percent (5%).
4. **Sublicense consideration:** The percent sublicense consideration payable under Paragraph 3.4 is twenty percent (20%).

EXHIBIT B

QUARTERLY SALES & ROYALTY REPORT

FOR LICENSE AGREEMENT BETWEEN_____AND THE JOHNS HOPKINS UNIVERSITY DATED

_____

FOR PERIOD OF _____TO _____

TOTAL ROYALTIES DUE FOR THIS PERIOD $_____

PRODUCT ID	PRODUCT NAME	*JHU REFERENCE	1st COMMERCIAL SALE DATE	TOTAL NET SALES/SERVICES	ROYALTY RATE	AMOUNT DUE

* Please provide the JHU Reference Number or Patent Reference

This report format is to be used to report quarterly royalty statements to JHU. It should be placed on Company letterhead and accompany any royalty payments due for the reporting period. This report shall be submitted even if no sales are reported.

TECHNOLOGY LICENSE AGREEMENT

THIS AGREEMENT ("Agreement") is made effective as of December 30, 2005 (the "Effective Date") and entered into by and between Surgi-Vision, Inc., a Delaware corporation ("Licensor") and Advanced Bionics Corporation ("Licensee") (individually, a "Party" and collectively, the "Parties").

BACKGROUND

The Parties have entered into a Lead System and Lead Development and Transfer Agreement (the "Development Agreement") and other agreements ("Other Agreements") referenced therein concurrent with this Agreement wherein the Parties have agreed to develop technology relating to a neuromodulation or deep brain stimulation lead that may be safely reside within a patient who is placed within a magnetic resonance ("MR") machine ("Lead").

Licensor is the sole owner and exclusive licensee of certain confidential and proprietary technology relating to the Lead ("Existing Technology").

Licensor desires to have the Existing Licensed Technology further developed and commercialized (the "Future Technology") and is willing to grant a license to any Future Technology to which Licensor has any right or interest in exchange for the cooperation and other forms of consideration of Licensee set forth in the Other Agreements and set forth as royalty payments in this Agreement.

Licensee desires to acquire an exclusive license under the Licensed Technology (defined below).

AGREEMENT

The Parties agree as follows:

1. DEFINITIONS.

A. "Affiliate" of a person or entity is a person or entity controlling, controlled by or under common control with the person or entity specified, directly or indirectly by any means whatsoever. "Controlling", "controlled" or "control" means owning greater than 50% of the voting equity interests of a person or entity, either directly or indirectly through other entities in which it has such an interest, or otherwise having the power to direct the management of that person or entity.

B. The "Existing Technology" and the "Future Technology" are referred to collectively as the "Licensed Technology" and include without limitation all intellectual property such as patents, trademarks, service marks, trade names, copyrights, know-how, trade secrets, licenses, information and proprietary rights and processes owned by or licensed to Licensor relating in any way to a neuro-related lead, neuro-related lead extension, neuro-related lead-type device, or the "Lead", "Lead Requirements", or "Lead Milestones" defined in the Development Agreement, including without limitation the intellectual property licensed to the Licensor under

the License Agreement by and between the Licensor and the Johns Hopkins University ("JHU") on or around June 30, 1998 and all other appendices, addenda, amendments, and agreements related thereto (the "JHU Agreement").

C. "Licensed Product" means any neuro-related lead, neuro-related lead extension, any other neuro-related lead-type device, or any product related to a neuro-related lead, in each case which incorporates the Licensed Technology.

D. "Net Sales" means the total monetary consideration actually received by Licensee for Licensed Products sold, less any sales person's commissions payable in good faith to non-related third parties, royalties and other similar fees payable in good faith to non-related third parties, trade discounts allowances for conversions and exchanges, returns, freight, insurance and taxes (other than income taxes). For purposes of this definition, Licensed Products will be considered "sold" when Licensee receives payment either from the purchaser or, in the case of Licensed Products sold by a sublicensee, from such sublicensee.

E. "Sublicensee" means any sublicensee(s) of the rights granted to Licensee under this Agreement.

2. LICENSE. Licensor hereby grants to Licensee and its Affiliates, upon and subject to all the terms and conditions of this Agreement, an exclusive, transferable (including without limitation sublicensable), worldwide, perpetual license under the Licensed Technology, to make, use, import, lease, and sell the Licensed Products for the term of this Agreement. For the avoidance of doubt, the license grant of this Agreement includes without limitation an exclusive, transferable (including without limitation sublicensable), worldwide sublicense of all intellectual property licensed to Licensor under the JHU Agreement (to the extent it is Licensed Technology) to make, use, import, lease, and sell the Licensed Products, which sublicense Licensee acknowledges and agrees is subject to the terms of the JHU Agreement. Licensor grants Licensee the right to adapt the Licensed Technology to a commercial form suitable for incorporation into Licensee's product(s).

3. COMPENSATION AND AUDIT.

A. In consideration for the license granted hereunder, Licensee agrees to pay to Licensor the royalty payments recited in Exhibit A based on Licensee's Net Sales of Licensed Products (less accessories or other components or products used in combination with the Licensed Products).

B. Only one royalty will be paid hereunder for each Licensed Product whether such Licensed Product is covered by more than one (1) claim of a licensed patent, by the claims of more than one (1) of the licensed patents, or by the claims of patent of more than one country.

C. The royalty owed Licensor will be calculated on an annual calendar basis and will be payable as indicated in Exhibit A.

D. Licensor will have the right, upon reasonable notice and reasonable request at Licensor's sole expense, to inspect Licensee's relevant books and records and all other documents and material in Licensee's possession or control with respect to ascertaining the royalty payments due.

4. INDEMNITY. Licensor agrees to defend, indemnify and hold Licensee and its officers, directors, agents, Sublicensees, employees, and customers, harmless against all costs, expenses, and losses (including reasonable attorney fees and costs) incurred as a result of any claim that the Licensed Technology infringes or misappropriates any third party's intellectual property. Licensee will deliver written notice of a claim for indemnification with reasonable promptness to Licensor, which notice will describe in reasonable detail the nature of the claim. However, any failure to timely give that notice will not relieve Licensor of any of its indemnification obligations under this Agreement. Licensor has the right, subject t Licensee's consent ("Approval"), to participate in and control the defense of the claim with counsel of its choice. Licensee will have the right to employ separate counsel in any action and to participate in the defense of that action, but the fees and expenses of that counsel will be at the sole expense of the Licensee unless (i) Licensor, upon or after Approval, failed to assume the defense and diligently prosecute or settle the claim, or (ii) in the reasonable judgment of counsel retained by Licensor to represent Licensor, there exists or develops a conflict that would ethically prohibit counsel to Licensor from representing Licensee. If requested by Licensor upon or after Approval, Licensee will cooperate with Licensor and its counsel in contesting any claim that Licensor elects to contest, including, without limitation, by making any counterclaim against the person or entity asserting the claim or any cross-complaint against any person or entity, in each case only to the extent that any counterclaim or cross-complaint arises from the same actions or facts giving rise to the claim. Licensee will be the sole judge of the acceptability of any compromise or settlement of any claim, litigation, or proceeding in respect of which indemnity may be sought under this Agreement. Licensor will not enter into any settlement or compromise of any claim without Licensee's consent.

5. COOPERATION. Both Parties will further cooperate to ensure that both Parties enjoy the benefits of all licenses granted under this Agreement.

6. NOTICE AND PAYMENT. All notices, requests, demands, payments, and other communications which are required to be or may be given under this Agreement to a Party by the other Party must be in writing and will be deemed to have been duly given (a) immediately if delivered in person, (b) the day following dispatch by a nationally recognized overnight courier service (such as Federal Express or UPS, etc.) for next day delivery, (c) five days after dispatch by certified or registered first class mail, postage prepaid, return receipt requested, to the Party to whom the same is so given or made, or (d) upon confirmation of receipt, if by facsimile. Any notice or other communication given hereunder will be addressed to the Licensor, at 200 N. Cobb Parkway, Suite 140, Marietta, GA 30062-3585, Attention: John C. Thomas, Jr., Fax (770) 424- 8236, , with a copy to Kimble L. Jenkins, 50 North Front St., 19th Floor, Memphis, TN 38103, Fax (901) 579-4979, or to the Licensee, at 25129 Rye Canyon Loop, Valencia, CA 91355, Attention: General Counsel, Fax (661) 362-4712.

7. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State of California. The Parties hereby agree that any dispute which may arise between them arising out of or in connection with this Agreement will be adjudicated before a court

located in Los Angeles, California and they hereby submit to the exclusive jurisdiction of the courts of the State of California located in Los Angeles, California and of the federal courts in the Central District of California with respect to any action or legal proceeding commenced by any Party, and irrevocably waive any objection they now or hereafter may have respecting the venue of any such action or proceeding brought in such a court or respecting the fact that such court is an inconvenient forum, relating to or arising out of this Agreement or any acts or omissions relating to the sale of the securities hereunder, and consent to the service of process in any such action or legal proceeding by means of registered or certified mail, return receipt requested, in care of the address set forth below or such other address as the undersigned will furnish in writing to the other.

8. AGREEMENT BINDING ON SUCCESSORS. The provisions of this Agreement will be binding upon and will inure to the benefit of the Parties, their heirs, administrators, successors, and assigns.

9. ASSIGNABILITY. Neither Party may assign this Agreement or the rights and obligations thereunder to any third party without prior express written approval of the other Party, which consent will not be unreasonably withheld.

10. WAIVER. No waiver by either Party of any default will be deemed as a waiver of any prior or subsequent default of the same of other provisions of this Agreement.

11. SEVERABILITY. If any term, clause, or provision herein is held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not affect the validity or operation of any other term, clause or provision, and such invalid term, clause or provision will be deemed to be severed from this Agreement.

12. INTEGRATION; AMENDMENT. Aside from the Development Agreement and the Other Agreements, this Agreement constitutes the entire understanding of the Parties, and revokes and supersedes all prior agreements between the Parties and is intended as a final expression of their agreement. It will not be modified or amended except in writing signed by the Parties and specifically referring to this Agreement.

13. COUNTERPARTS. This Agreement may be executed and delivered in one or more counterparts each of which when executed will be deemed an original, but all of which taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the PARTIES, intending to be legally bound hereby, have each caused to be affixed hereto its or his/her hand the day indicated.

SURGI-VISON, INC.	*ADVANCED BIONICS CORPORATION*
By:	By:
/s/ Kimble L. Jenkins	/s/ Todd Whitehurst
Signature	Signature
Kimble L. Jenkins	Todd Whitehurst
Printed Name	Printed Name
President	VP, Emerging Indications
Title	Title

EXHIBIT A

Royalty Rate for Licensed Technology,

Royalty payments under this Agreement will be as follows:

(1) If Licensee incorporates Licensed Technology into a deep brain stimulation lead ("Licensed DBS Lead"), Licensee will pay Licensor an 8% royalty of Net Sales for all Licensed DBS Leads sold commercially after FDA approval, for so long as such Licensed DBS Leads incorporate technology that is claimed by at least one non-expired, non-abandoned, valid and enforceable Patent included in the Licensed Technology, with a minimum royalty payment of [***] per year in each of the first three years in which Licensee sells the Licensed DBS Leads.

(2) Alternatively, if Licensee incorporates Licensed Technology into a DBS implantable pulse generator ("Licensed DBS IPG") in order to have a system that is MR safe along with the Licensed DBS Lead, Licensee will pay Licensor a 2% royalty of Net Sales for all Licensed DBS Leads and all Licensed DBS IPGs sold commercially after FDA approval, for so long as such Licensed DBS Leads and Licensed DBS IPGs incorporate technology that is claimed by at least one non-expired, non-abandoned, valid and enforceable Patent included in the Licensed Technology, with a minimum royalty payment of [***] per year in each of the first three years in which Licensee sells the Licensed DBS Leads and Licensed DBS IPGs.

(3) If Licensee incorporates Licensed Technology into any lead-related, non-IPG, product other than a Licensed DBS Lead or Licensed DBS IPG ("Other Licensed Products"), Licensee will pay Licensor a 4% royalty of Net Sales for all Other Licensed Products sold commercially after FDA approval, for so long as such Other Licensed Products incorporate technology that is claimed by at least one non-expired, non-abandoned, valid and enforceable Patent included in the Licensed Technology.

(4) If Licensee incorporates Licensed Technology into a non-DBS implantable pulse generator ("Licensed Non-DBS IPG") in order to have a system to sell along with Other Licensed Products, Licensee will pay Licensor a 2% royalty of Net Sales for all Licensed Non-DBS IPGs and all associated Other Licensed Products sold commercially after FDA approval, for so long as such Licensed Non-DBS Leads and Other Licensed Products incorporate technology that is claimed by at least one non-expired, non-abandoned, valid and enforceable Patent included in the Licensed Technology.

For purposes of this EXHIBIT A, the term "Patent" includes existing and future patents with any and all issued and non-expired reissuances, continuations, continuations-in-part, revisions, extensions and re-examinations thereof, but does not include trade secrets or other proprietary technologies that are not expressly claimed by any patent included within the definition of "Patent".

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Execution Version

OMNIBUS AMENDMENT
TO SYSTEM AND LEAD DEVELOPMENT AND TRANSFER AGREEMENT

This **OMNIBUS AMENDMENT** (this **"Amendment")** is dated as of June 30, 2007 and entered into by and between Surgi-Vision, Inc., a Delaware corporation (the **"Company")** and Advanced Bionics Corporation, a Delaware corporation **("Bionics"),** and is made with reference to (i) that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006 (as so amended, supplemented or otherwise modified from time to time, the **"Development Agreement"),** by and between the Company and Bionics, (ii) that certain Multiple Advance Secured Convertible Promissory Note dated as of December 30, 2005 made by the Company and payable to Bionics (as amended, restated, supplemented or otherwise modified from time to time, the "**Note**"), (iii) that certain License Agreement dated as of December 30, 2005 between the Company and Bionics (as amended, supplemented, or otherwise modified from time to time, the **"License Agreement"),** and (iv) that certain Security Agreement dated as of December 30, 2005 by and between the Company and Bionics (as amended, supplemented, or otherwise modified from time to time, the **"Security Agreement").**

RECITALS

WHEREAS, the Company and Bionics desire to (i) amend the Development Agreement to revise the System Milestones and the Lead Milestones (as those terms are defined in the Development Agreement) and (ii) make certain other amendments as set forth below:

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

Section 1. AMENDMENTS TO THE DEVELOPMENT AGREEMENT

1.1 Defined Terms.

Capitalized terms used in Section 1 of this Amendment without definition shall have the same meanings in Section 1 as set forth in the Development Agreement.

1.2 Amendment to the Background

The third paragraph of the Background is hereby amended by deleting it therefrom in its entirety and substituting the following therefor:

"The Company desires to develop for Bionics certain technology (the **"Technology")** solely within the field of neuromodulation including, without limitation, a magnetic resonance ("**MR**") compatible, MR-safe, and MR-optimized Deep Brain Stimulation ("**DBS**") implant system (the **"System")** and MR-compatible, MR-safe, and MR-optimized lead that may safely reside within a patient who is placed within an MR-machine (the **"Lead")."**

1.3 Amendment to Section 1: Issuance of Note

Section 1 of the Development Agreement is hereby amended by deleting the references to "December 31, 2006" and "March 31, 2007" contained therein and substituting "Amendment Effective Date (as defined in the Omnibus Amendment between the Parties dated as of June 30, 2007)" therefor.

1.4 Amendment to Section : Representations and Warranties of the Company

Section 4.8 of the Development Agreement is hereby amended by adding the following sentence at the end thereof:

"From and after June 30, 2007, the definition of the Existing Intellectual Property shall include that certain License Agreement by and between the Company and JHU entered into on or around December 7, 2006, and all other appendices, addenda, amendments, and agreements related thereto **("Second JHU Agreement",** and together with the JHU Agreement, the **"JHU Agreements")."**

1.5 Amendment to Section 7: Company Covenants

A. Section 7.6 of the Development Agreement is hereby amended by deleting a reference to "JHU Agreement" contained therein and substituting "JHU Agreements" therefor.

B. Section 7.6 of the Development Agreement is hereby further amended by adding the following sentences at the end thereof:

"Notwithstanding anything to the contrary contained herein. Future Intellectual Property shall not include any Future Intellectual Property relating to the System (and not relating in any way to the Lead) in development of which Bionics has not contributed to the conception or design. In case of doubt, Bionics will make a determination in its sole discretion as to whether any Future Intellectual Property should be categorized as relating to the System or the Lead and whether Bionics contributed to the conception or design of any Future Intellectual Property relating to the System."

1.6 Amendments to Section 8: General Provisions

A. Section 8.9 of the Development Agreement is hereby amended by deleting the phrase "This Agreement, the Note, the Security Agreement, and the Other Agreements" contained therein and substituting "This Agreement and the Concurrent Agreements" therefor.

B. Section 8.11 of the Development Agreement is hereby amended by deleting all references to "Loan Agreement" contained therein and substituting "Agreement" therefor.

1.7 Amendments to Section 9: System Development License, and Right of First Refusal

Section 9.2 of the Development Agreement is hereby amended by deleting all references to "JHU Agreement" contained therein and substituting "JHU Agreements" therefor,

1.8 Amendments to Section 10: Lead Development and License

A. Section 10.1 of the Development Agreement is hereby amended by deleting the first paragraph therefrom in its entirety and substituting the following therefor:

"10.1 Lead Development. Working together with Bionics and subject to Section 10.1(c), the Company will provide Bionics with a fully functional prototype of the Lead and demonstrate the proper functionality of the prototype of the Lead to Bionics in an MRI phantom, animal or cadaver placed within an MRI machine. The Lead prototype must meet the following objectives (the **"Lead Requirements"):** [***]

B. Section 10.1 of the Development Agreement is hereby further amended by deleting subsection (b) therefrom in its entirety and substituting the following therefor:

"(b) Lead Milestones:

(i) On or before [***], the Company will present to Bionics a prototype Lead body that incorporates the Company's most promising MR/RF safe Lead design. Such prototype Lead body will contain [***].

(ii) The Company shall provide consulting and advisory services (including, without limitation, testing and analyzing of the Lead feasibility models and prototypes) to Bionics, for a period of 12 months from the Amendment Effective Date, in connection with Bionics' effort to develop a [***] that

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

meets the [***] requirements that will be necessary for a final product. The Company will make one full-time equivalent employee or consultant available to Bionics during the twelve-month period to provide the consulting and advisory services as requested by Bionics. Specifically, such full-time employee, if not otherwise engaged in other activities for Bionics, shall work on the development of a new generation of a Lead design (as further defined in Section 10.3) in the case the existing Lead designs do not prove to be manufacturable. As compensation for the consulting services provided pursuant to this clause (ii), Bionics shall pay the Company the amount of $125,000 on the Amendment Effective Date. Any Intellectual Property conceived or developed by the Company pursuant to such consulting arrangement shall be subject to the terms of this Agreement. The Company also agrees to use its best efforts to make [***] available for such consulting arrangement for up to 20 hours per quarter collectively. Bionics shall reimburse the Company for all reasonable, documented out-of-pocket expenses incurred by the Company relating to its consulting arrangement with Bionics. The Company shall be deemed to have achieved and completed the milestone set forth in this clause (ii) upon the expiration of the twelve-month consulting period.

(iii) Bionics will pay the Company $100,000 after Bionics has successfully completed the first live chronic human implantation of the Lead meeting the Lead Requirements as demonstrated to Bionics' reasonable satisfaction.

(iv) Bionics will pay the Company $1,000,000 after Bionics has successfully received FDA approval of MRI-safe labeling of the first Lead meeting the Lead Requirements as demonstrated to Bionics' reasonable satisfaction.

(v) Bionics will pay the Company $500,000 after Bionics has successfully received FDA approval of MRI-safe labeling of the second Lead meeting the Lead Requirements as demonstrated to Bionics' reasonable satisfaction, which $500,000 shall be a prepayment of the future royalty payments by Bionics to the Company solely related to the sale of such second Lead under the License Agreement.

(vi) The milestones described in the preceding clauses (i) through (v) shall constitute the "**Lead Milestones**."

C. Section 10.1 of the Development Agreement is hereby further amended by deleting the first sentence contained in subsection (c) thereof and substituting the following in lieu thereof:

"In the event (i) the Company fails to complete each of the Lead Milestones, other than the Lead Milestone described in Section 10.1(b)(v) above, by December 31, 2012 and (ii) such failure is not the result of Bionics' failure to reasonably cooperate with the Company in pursuing such Lead Milestones, the Company will be in breach of this Agreement."

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

D. Section 10 of the Development Agreement is hereby amended by adding the following Section 10.3:

"10.3 Incentive Payments. For each new generation of a Lead design, Bionics shall pay the Company incentive payments as indicated below. The determination of whether a change in Lead design represents an incremental change or a new generation of design will be decided by Bionics in its sole discretion. Minor changes in design are not a new generation. Substantial changes in design represent a new generation. Different numbers of conductors (e.g., 4-conductor versus 8-conductor) represent different generations.

(i) Bionics shall pay the Company the amount of $75,000 when the Company delivers each new generation (as determined by Bionics in its sole discretion) of a Lead design with at least 3 crude prototypes and supporting test data evaluating heating in a 1.5 Tesla MRI scanner; provided that during the term of this Agreement Bionics shall not pay more than $250,000 in the aggregate pursuant to this Section 10.3(a). Each payment shall be payable when the Company presents the prototypes and a positive summary report of the testing to Bionics to the reasonable satisfaction of Bionics. [***]. Notwithstanding the foregoing to the contrary, a $100,000 payment will be made to the Company if and when it presents the first [***] as reasonably specified by Bionics and agreed to by the Company and supporting data evaluating in a 1.5 Tesla MRI scanner.

(ii) No later than ninety days after Bionics delivers to the Company at least 10 (or, at Bionics" discretion at least 5) pre-production Lead prototypes of each new generation [***] to evaluate heating in a 1.5 Tesla MRI scanner, the Company shall complete the testing of such prototypes and present Bionics with a summary report of the testing, in each case to Bionics' reasonable satisfaction. [***]. Bionics shall pay the Company the amount of $50,000 when the Company tests and submits a report, pursuant to this subsection, each new generation of a Lead design with at least 10 (or, at Bionics' discretion at least 5) pre-production Lead prototypes provided by Bionics to evaluate heating in a 1.5 Tesla MRI scanner. This sum shall be payable when the Company presents a summary report of the testing to Bionics to the reasonable satisfaction of Bionics. Notwithstanding the foregoing to the contrary, Bionics will pay a sum of $75,000 for completion of the testing of the first [***].

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

(iii) No later than ninety days after Bionics delivers to the Company at least 10 final product Leads of each new generation, the Company shall complete the testing of such Leads to evaluate heating in a 1.5 Tesla MRI scanner, present Bionics with a report of testing, and assist Bionics with the preparation of a report for the FDA that includes in-depth discussion of physics underlying principles of operation of MRI safety of the Lead for the purpose of seeking MRI-safe labeling for the final product Lead, in each case to Bionics' reasonable satisfaction. Bionics shall pay the Company the amount of $75,000 when the Company presents a report of the testing to Bionics to the reasonable satisfaction of Bionics. Final product Leads shall meet [***].

1.9 Amendments to Section 11: Intellectual Property Ownership and Protection

A. Section 11.1 (a) of the Development Agreement is hereby amended by deleting clause (v) therein.

B. Section 11.2 of the Development Agreement is hereby amended by deleting paragraph (a) in its entirety and substituting the following therefor:

"(a) Costs. Bionics will pay all foreign and domestic Patent and Application (as such terms are defined below) prosecution costs and expenses for all Patents and Applications subject to its control as set forth in Section 11.2(b) (**"Prosecution Costs**")."

C. Section 11.2 of the Development Agreement is hereby amended by (1) deleting all references to "JHU Agreement" contained in subsection (b) thereof and substituting "JHU Agreements" therefor, and (2) adding the following sentence at the end of subsection (b):

"The term **"Patent"** means a currently issued U.S. or foreign patent. The term **"Application"** means a U.S., PCT or foreign patent application, including provisionals, utilities, designs, national stage filings and any continuations, divisionals, extensions, reissues, reexaminations, continuations in part thereof."

D. Section 11.3 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu therefor:

"11.3 Warranty Regarding Third Party Collaborators. The Parties warrant that all individuals, including without limitation employees and consultants, authorized, invited, or otherwise involved by the Parties, their employees, or consultants, to assist in the development of the System or Lead, have or will have a legal obligation to assign, license, or grant an option to license to the relevant Party all their rights to any Intellectual Property related to, arising from, or based on the development of the System or Lead."

E. Section 11.4 of the Development Agreement is hereby amended by deleting all references to "JHU Agreement" contained therein and substituting "JHU Agreements" therefor.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

F. Section 11.6 of the Development Agreement is hereby amended by adding the following at the end of paragraph (d):

"In addition, notwithstanding the foregoing, Bionics acknowledges and agrees that (i) the Company is permitted to share its Lead information with third parties to develop products for cardiac applications (provided, however, that if such third party is also engaged in the business of developing products for neurological applications, the Company shall ensure that such third party will use the Lead information only in connection with cardiac applications and will not use the Lead information for or with respect to any neuro-related products), (ii) the Company is permitted to share its System information with third parties following the expiration of the Exclusivity Period if the Parties do not execute and deliver the Subsequent System License within the Exclusivity Period, and (iii) in connection with the disclosures contemplated in the preceding clauses (i) and (ii), the Company is permitted to disclose the existence of this Agreement and the scope of any license granted hereunder or pursuant to the License Agreement."

1.10 Amendments to Exhibit C: System Milestones

Exhibit C to the Development Agreement is hereby amended by (1) deleting the reference to [***] contained therein and substituting [***] therefor, and (2) deleting reference to [***] and substituting [***] therefor.

Section 2. AMENDMENTS TO THE NOTE

Bionics and the Company hereby agree to the amendments to the Note that are reflected in the form of the Amended and Restated Multiple Advance Secured Convertible Promissory Note attached hereto as Exhibit A (the **"Amended Note**").

Section 3. AMENDMENT TO THE LICENSE AGREEMENT

3.1 Defined Terms

Capitalized terms used in Section 3 of this Amendment without definition shall have the same meanings in Section 3 as set forth in the License Agreement,

3.2 Amendment to Section 1: Definitions

Section 1 of the License Agreement is hereby amended by adding the following phrase at the end of paragraph B:

"and under the License Agreement by and between the Licensor and JHU entered into on or around December 7, 2006, and all other appendices, addenda, amendments and agreements related thereto (the "Second JHU Agreement", and together with the JHU Agreement, the "JHU Agreements")"

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

3.3 Amendment to Section 2: License

Section 2 of the License Agreement is hereby amended by deleting all references to "JHU Agreement" and substituting "JHU Agreements" therefor.

3.4 Amendment to Section 3: Compensation and Audit

Section 3 of the License Agreement is hereby amended by adding the following new paragraph E:

"E. Licensee agrees that, if required by the JHU Agreements, the packaging containing Licensed Products sold by Licensee, any of its Affiliates or any of its Sublicensees will be marked with the number of the applicable patent(s) licensed hereunder in accordance with each applicable country's patent laws."

Section 4. AMENDMENTS TO THE SECURITY AGREEMENT

4.1 Defined Terms

Capitalized terms used in Section 4 of this Amendment without definition shall have the same meanings in Section 4 as set forth in the Security Agreement.

4.2 Amendments to Section 4: Representations and Warranties

A. Section 4 of the Security Agreement is hereby amended by amending subsection (g) thereof by deleting the second sentence thereof and substituting the following in lieu therefor:

"Grantor owns, possesses or has legal rights to use all Patents, Trademarks, service marks, trade names, copyrights, know-how, trade secrets, licenses, information and proprietary rights and processes necessary for the Grantor's business as now conducted and as proposed to be conducted by the Grantor by developing the System and Lead for commercial manufacture, use, lease, importation, and sale including, without limitation, the intellectual property licensed to Grantor under the License Agreement by and between Grantor and the Johns Hopkins University ("JHU") entered into on or around July 1, 1998 and the License Agreement by and between the Grantor and JHU entered into on or around December 7, 2006, and all other appendices, addenda, amendments, and agreements related thereto (the "JHU Agreements") (the owned and licensed rights of Grantor, collectively, the "Intellectual Property"), without any conflict with, or infringement of, the rights of others.

B. Section 4 of the Security Agreement is hereby further amended by amending subsection (g) thereof by adding "Except as set forth on Schedule 10 annexed hereto," before the fifth sentence.

4.3 Amendments to Section 18: Continuing Security Interest; Termination and Release; Assignment

Section 18 of the Security Agreement is hereby amended by deleting paragraph (b) thereof in its entirety and substituting the following therefor:

"Provided an Event of Default has not occurred and is continuing, Secured Party will terminate and release its liens and security interests in all Collateral at the later of (i) payment in full and in cash or conversion in full of the Note Balance on or before July 15, 2008 or (ii) after the Grantor has achieved the first two Lead Milestones (as defined in the Development Agreement) as stated in Sections 10.1(b)(i) and (ii) of the Development Agreement (the **"Collateral Release").** For the avoidance of doubt, if both conditions (i) and (ii) above have not occurred on or before August 31, 2008, the foregoing termination and release provision and this Section 18(b) shall be null and void and of no force and effect.

4.4 Amendment to Schedules to Security Agreement

Schedule 10 to Security Agreement is hereby deleted in its entirety and replaced with the new Schedule 10 attached as Exhibit B hereto.

Section 5. CONDITIONS TO EFFECTIVENESS

Sections 1 through 4 of this Amendment shall become effective only upon the satisfaction of all of the following conditions precedent (the date of satisfaction of such conditions being referred to herein as the **"Amendment Effective Date"):**

A. On or before the Amendment Effective Date, the Company shall deliver to Bionics the following, each, unless otherwise noted, dated the Amendment Effective Date:

1. Executed copy of this Amendment;

2. Executed copy of the Amended Note;

3. Executed consent from JHU to sublicense to Bionics under the JHU Agreement dated December 7, 2006;

4. Certified copies of its Certificate of Incorporation, together with a good standing certificate from the Secretary of State of the State of Delaware, each dated a recent date prior to the Amendment Effective Date;

5. A certificate, dated as of the Amendment Effective Date, of its corporate secretary or an assistant secretary, certifying that there have been no changes in its Bylaws from the form of Bylaws previously delivered to Bionics;

6. Resolutions of its Board of Directors approving and authorizing the execution, delivery, and performance of this Amendment and the Amended Note,

certified as of the Amendment Effective Date by its corporate secretary or an assistant secretary as being in full force and effect without modification or amendment;

7. Signature and incumbency certificates of its officers executing this Amendment and the Amended Note; and

8. All documents necessary to assign to Bionics all Future Intellectual Property developed from December 30, 2005 and execute all documents necessary to effect that assignment.

B. On or before the Amendment Effective Date, all corporate and other proceedings taken or to be taken in connection with the transactions contemplated hereby and all documents incidental thereto not previously found acceptable by Bionics shall be satisfactory in form and substance to Bionics, and Bionics shall have received all such counterpart originals or certified copies of such documents Bionics may reasonably request.

Section 6. COMPANY'S REPRESENTATIONS AND WARRANTIES

In order to induce Bionics to enter into this Amendment and effect the amendment in the manner provided herein, the Company represents and warrants to Bionics that the following statements are true, correct and complete as of the Amendment Effective Date:

A. Corporate Power and Authority. The Company has all requisite corporate power and authority to enter into this Amendment and to carry out the transactions contemplated by, and perform its obligations under, the Development Agreement, the License Agreement and the Security Agreement, each as amended by this Amendment, and the Amended Note (collectively, the **"Amended Documents").**

B. Authorization of Agreements. The execution and delivery of this Amendment and the Amended Note and the performance of the Amended Documents have been duly authorized by all necessary corporate action on the part of the Company.

C. No Conflict. The execution and delivery by the Company of this Amendment and the Amended Note and the performance by the Company of the Amended Documents do not and will not (i) violate any provision of the Certificate of Incorporation or Bylaws of the Company, (ii) violate any provisions of any law or any governmental rule or regulation applicable to the Company or any order, judgment or decree of any court or other agency of government binding on the Company, (iii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any contractual obligation of the Company, (iv) result in or require the creation or imposition of any lien upon any of the properties or assets of the Company (other than Liens created under any of the Amended Documents in favor of Bionics), or (v) require any approval of the stockholders of the Company, or any approval or consent of any person under any contractual obligation of the Company, which has not already been obtained.

D. Governmental Consents. The Company is not required to obtain any approval, consent or authorization from, or provide any notice to, any federal, state or other

governmental authority or regulatory body as a condition to the execution and delivery of this Amendment and the Amended Note or the performance by the Company of the Amended Documents.

E. Binding Obligation. Each of this Amendment and the Amended Note has been duly executed and delivered by the Company and this Amendment and the Amended Documents are the legally valid and binding obligations of the Company, enforceable against Company in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

F. Incorporation of Representations and Warranties From Development Agreement. Except as set forth in Schedule 6.F attached hereto, the representations and warranties contained in Sections 4.7, 4.8 and 4.12 of the Development Agreement are and will be true, correct and complete in all material respects on and as of the Amendment Effective Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case they were true, correct and complete in all material respects on and as of such earlier date.

Section 7. MISCELLANEOUS

A. Reference to and Effect on the Amended Documents.

(i) On and after the Amendment Effective Date, each reference in the Development Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Development Agreement, and each reference in the Amended Documents to the "Development Agreement", "thereunder", "thereof or words of like import referring to the Development Agreement shall mean and be a reference to the Develop Agreement as amended by this Amendment.

(ii) On and after the Amendment Effective Date, each reference in the Security Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Security Agreement, and each reference in the Amended Documents to the "Security Agreement", "thereunder", "thereof or words of like import referring to the Security Agreement shall mean and be a reference to the Security Agreement as amended by this Amendment.

(iii) On and after the Amendment Effective Date, each reference in the License Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the License Agreement, and each reference in the Amended Documents to the "License Agreement", "thereunder", "thereof or words of like import referring to the License Agreement shall mean and be a reference to the License Agreement as amended by this Amendment.

(iv) On and after the Amendment Effective Date, each reference in the Amended Documents to the "Note", "thereunder", "thereof or words of like import referring to the Note shall mean and be a reference to the Amended Note.

(ii) Except as specifically amended by this Amendment, the Amended Documents shall remain in full force and effect and are hereby ratified and confirmed.

(iii) The execution, delivery and performance of this Amendment shall not, except as expressly provided herein, constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of Bionics or the Company under, any of the Amended Documents.

B. Headings. Section and subsection headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

C. Applicable Law. THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA (INCLUDING WITHOUT LIMITATION SECTION 1646.5 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

D. Clarification of Scope. For the avoidance of any doubt whatsoever, Bionics and the Company acknowledge and agree that the terms "neuromodulation" and "neuro- related" (as used in any of the Amended Documents) do not include, and in no event does any license granted to Bionics under the Development Agreement or the License Agreement relate to, cardiac applications.

E. Counterparts; Effectiveness. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. This Amendment (other than the provisions of Sections 1 through 4 hereof, the effectiveness of which is governed by Section 5 hereof) shall become effective upon the execution of a counterpart hereof by the Company and Bionics and receipt by the Company and Bionics of written or telephonic notification of such execution and authorization of delivery thereof.

F. Return of Original Note. On the Amendment Effective Date, Bionics shall deliver to the Company the original Note for cancellation.

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

BIONICS:

ADVANCED BIONICS CORPORATION

By: /s/ Jeffrey H. Greiner
Jeffrey H. Greiner
Its: President and Co-Chief Executive Officer

COMPANY:

SURGI- VISION, INC.

By: /s/ Kimble Jenkins
Kimble L. Jenkins
Its: President

EXHIBIT A

TO OMNIBUS AMENDMENT

[FORM OF AMENDED NOTE]

THIS NOTE HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES ONLY AND MAY NOT BE TRANSFERRED UNTIL (I) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 (THE "ACT") HAS BECOME EFFECTIVE WITH RESPECT THERETO OR (II) RECEIPT BY THE COMPANY AT LENDER'S SOLE COST AND EXPENSE OF AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY TO THE EFFECT THAT REGISTRATION UNDER THE ACT IS NOT REQUIRED IN CONNECTION WITH SUCH PROPOSED TRANSFER AND THAT SUCH ISSUANCE IS NOT IN VIOLATION OF ANY APPLICABLE STATE SECURITIES LAWS. THIS LEGEND WILL BE ENDORSED UPON ANY NOTE ISSUED IN EXCHANGE FOR THIS NOTE.

AMENDED AND RESTATED MULTIPLE ADVANCE SECURED CONVERTIBLE PROMISSORY NOTE

Up to $1,500,000 **June 30, 2007**

1. Principal. For value received, **SURGI-VISION, INC.**, a Delaware corporation ("**Company**"), promises to pay to **ADVANCED BIONICS CORPORATION,** a Delaware corporation ("**Lender**"), at its office at 25129 Rye Canyon Loop, Valencia, California 91355, or at such other place as Lender may from time to time designate in writing, the principal sum specified on the Schedule of Advances attached to this Note, together with accrued interest from the date of disbursement on the unpaid principal of this Note at the rate set forth in Section 3 hereof. Lender hereby authorizes and directs Company to deliver this Note to Lender's address set forth at the beginning of this Note. Initially capitalized terms used herein without definition are defined in that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006 and by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, and as further amended, supplemented or otherwise modified from time to time, the **"Development Agreement"),** by and between Company and Lender.

2. Maturity Date. Unless Lender has previously exercised its Conversion Right (as defined below), the unpaid principal balance of this Note (plus any interest, fees, and other amounts owing under this Note) (collectively, the "**Note Balance**") is due and payable in full on the Maturity Date. The "**Maturity Date**" is the earliest of (A) the last day of the Negotiation Period or (B) June 30, 2008, regardless of any extensions of the Negotiation Period that Company and Lender may mutually agree on, or (C) the date of an occurrence of an Event of Default. If the Maturity Date falls on a day that is not a business day, payment of the unpaid principal of this Note must be made on the next succeeding business day and such extension of time will be included in computing any interest in respect of such payment.

3. Interest Rate.

(a) This Note bears simple interest at the rate of 0% per annum on its unpaid principal amount from the Closing Date to five days after the Maturity Date. This Note bears simple interest at the rate of 20% per annum (or the highest rate permitted by law, whichever is less) (the **"Default Rate")** on any unpaid principal balance of this Note from five business days after the Maturity Date until the actual date that the entire Note Balance is satisfied (either by (i) Company paying the entire Note Balance in cash, (ii) Lender electing in its sole discretion to convert the entire Note Balance into Conversion Shares (as defined below), or (iii) Lender electing in its sole discretion to convert part of the Note Balance into Conversion Shares and Company paying the entire remaining Note Balance in cash).

(b) All payments of principal and interest due under this Note must be made without deduction of any present and future taxes, levies, imposts, deductions, charges or withholdings, which amounts must be paid by Company. Company will pay the amounts necessary such that the gross amount of the principal and interest received by Lender is not less than that required by this Note. If Company is required by law to deduct any such amounts from or in respect of any principal or interest payment under this Note, then (i) the sum payable to Lender will be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this provision) Lender receives an amount equal to the sum it would have received had no deductions been made, (ii) Company will make such deductions, and (iii) Company will pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. Company will pay all stamp and documentary taxes. If, notwithstanding the foregoing, Lender pays such taxes, Company will reimburse Lender for the amount paid. Company will furnish Lender official tax receipts or other evidence of payment of all taxes.

(c) Throughout the term of this Note, interest will be calculated on the basis of a 360-day year and will be computed for the actual number of days elapsed in the period for which interest is charged. If any payment of interest to be made by Company under this Note becomes due on a day which is not a business day, such payment must be made on the next succeeding business day and such extension of time will be included in computing the interest due in respect of such payment.

4. Conversion.

(a) Conversion at Lender's Option. At any time beginning on the Maturity Date and ending five business days after Company's payment in full of the Note Balance, Lender will have the right, in Lender's sole discretion, to convert this Note, in whole or in part (the **"Conversion Right")** into the number of Conversion Shares obtained by the calculations of Section 4(b)(i) or Section 4(b)(ii), as applicable. If Lender exercises the Conversion Right after Company's payment in full of the Note Balance, Lender will return to Company that part of the Note Balance that Lender is electing to convert to Conversion Shares within five business days of Lender's receipt of Company's payment in full of the Note Balance.

"Conversion Shares" means the aggregate number of fully paid and nonassessable shares of the Common Stock of Company, par value $0.01 per share **("Common Stock")** into which Lender has elected to convert all or part of the Note Balance.

(b) Pricing Terms.

(i) Conversion Calculation. Except for the circumstances described in Section 4(b)(ii) below, the number of Conversion Shares will be determined by dividing (A) the amount of the Note Balance to be converted by (B) the lesser of (1) the 5% Conversion Price (as defined below) or (II) if Company consummates a sale of any of its equity securities after the Closing Date (for the avoidance of doubt, a "sale" of equity securities will not include equity securities issued pursuant to the acquisition of another entity by Company by merger, purchase of all or substantially all of the assets, or other reorganization whereby Company becomes the owner of more than 50% of the voting power of such entity, equity securities issued pursuant to the conversion or exercise of any convertible securities, options or warrants, or equity securities (including derivatives) granted, issued or issuable to employees, officers, directors or consultants pursuant to plans or agreements approved by Company's board of directors), whether in a single or multiple closings or financings, the average price per share paid for such securities by the purchasers thereof. The term **"5% Conversion Price"** means, as of a given date, the price per share determined by dividing $1,500,000 by 5% of Company's Fully Diluted Shares (as defined below). The term **"Fully Diluted Shares"** means, as of a given date, the total number of shares of Common Stock (a) issued and outstanding, (b) issuable upon the exercise of any and all outstanding options, warrants and rights to acquire shares of Common Stock, or upon the conversion of any and all outstanding securities convertible into shares of Common Stock, whether then vested, exercisable or convertible, and (c) authorized and issuable by the Company under any stock option or other equity compensation plan approved by the Company's board of directors other than those shares subject to outstanding options, warrants or other similar rights described in the preceding clause (b).

(ii) If (a) an Event of Default has occurred and is continuing or (b) the Company, in its sole discretion, prepays all or any portion of the Note Balance prior to the Maturity Date pursuant to Section 6 hereof or (c) the Company grants the consent pursuant to Section 10(c) hereof, the number of Conversion Shares will be determined by dividing (A) the amount of the Note Balance to be converted by (B) the lesser of (I) the 10% Conversion Price (as defined below) or (II) if Company consummates a sale of any of its equity securities after the Closing Date (for the avoidance of doubt, a "sale" of equity securities will not include equity securities issued pursuant to the acquisition of another entity by Company by merger, purchase of all or substantially all of the assets, or other

reorganization whereby Company becomes the owner of more than 50% of the voting power of such entity, equity securities issued pursuant to the conversion or exercise of any convertible securities, options or warrants, or equity securities (including derivatives) granted, issued or issuable to employees, officers, directors or consultants pursuant to plans or agreements approved by Company's board of directors), whether in a single or multiple closings or financings, the average price per share paid for such securities by the purchasers thereof. The term **"10% Conversion Price"** means, as of a given date, the price per share determined by dividing $1,500,000 by 10% of Company's Fully Diluted Shares.

(iii) Warrant. If, upon Lender's exercise of its Conversion Right pursuant to Section 4(b)(i), Company and Lender have not executed and delivered the Subsequent System License, in addition to the number of Conversion Shares obtained by the calculation set forth in Section 4(b)(i) above, Lender will receive from the Company a warrant, in substantially the form attached hereto as Exhibit.A (the **"Warrant"),** to purchase the number of shares of Common Stock equal to the difference, if positive, between (A) the amount determined by dividing (I) the amount of the Note Balance converted pursuant to Section 4(b)(i) by (II) the 10% Conversion Price, minus (B) the number of Conversion Shares obtained by the calculation set forth in Section 4(b)(i) above. Such Warrant shall become exercisable if (A) Company and Lender have not executed and delivered the Subsequent System License on or before the last day of the Negotiation Period or (B) an Event of Default has occurred and is continuing prior to the last day of the Negotiation Period.

(iv) Full Conversion. Reference in the Development Agreement, this Note and/or any of the other Concurrent Documents to the "conversion of the Note Balance" or words of like import shall mean and be a reference to Lender's receipt of (A) the number of Conversion Shares obtained by the calculation set forth in Sections 4(b)(i) or 4(b)(ii), as applicable, and (B) if applicable, the Warrant, For the avoidance of doubt, reference in the Development Agreement, this Note and/or any of the other Concurrent Documents to the "conversion of the Note Balance" or words of like import shall not mean or include Lender's exercise of all or any portion of the Warrant.

(c) Conversion Procedure.

(i) In order to convert all or any part of the Note Balance, Lender will deliver to Company a written notice stating (A) that Lender has elected to convert all or part of the Note Balance and (B) the amount of the Note Balance to be converted (the **"Conversion Notice").**

(ii) Within five business days after receipt of the Conversion Notice, Company will deliver to Lender a certificate for the number of Conversion

Shares issuable upon the conversion; provided that Company will not issue any fractional Conversion Shares. In lieu of Company issuing any fractional shares to Lender or its designees upon conversion, Company will pay to Lender the unconverted amount of the Note Balance specified in the Conversion Notice, such payment to be in the form of a wire transfer or check payable to Lender. Each conversion will be deemed to have been effected immediately before the close of business on the date on which this Note is given to the Company pursuant to Section 14 of this Note. Upon conversion of the entire Note Balance, Company will be forever released from all its obligations and liabilities under this Note.

(d) Changes in Common Stock. If, and as often as, there are any changes in the Common Stock by way of stock split, stock dividend, combination or reclassification, or by any other means, appropriate adjustment will be made by Company and Lender to the price at which Conversion Shares are issued and the other provisions of this Note, as may be required, so that the rights and privileges granted hereby will continue with respect to the Conversion Shares as so changed.

(e) Access and Information. Subject to the confidentiality provisions in the Development Agreement, Company will afford to Lender and its accountants, counsel and other representatives full access, upon reasonable request, upon reasonable prior notice and during normal business hours, to all of Company's properties, books, accounts, records, contracts, and personnel and, Company will, and will cause its accountants, counsel and other representatives to furnish promptly to Lender and its representatives all information concerning Company's business, properties and personnel, in each case as Lender or its representatives reasonably requests for the purpose of evaluating the merits and risks of an investment in Conversion Shares in the event Lender may desire to exercise its Conversion Right; provided, however, that Company reserves the right to withhold any information if access to such information could adversely affect the attorney-client privilege between Company and its counsel.

(f) Conversion Shares. Until such time as the Conversion Shares are registered under the Securities Act of 1933, Company will instruct its transfer agent to enter stop transfer orders with respect to such shares and the certificates representing such shares will be endorsed with the following legend:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR THE "BLUE SKY" OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, HYPOTHECATED, DISTRIBUTED OR OTHERWISE DISPOSED OF UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SALE OR AN EXEMPTION FROM SUCH REGISTRATION REQUIREMENT IS AVAILABLE, AND IF AN EXEMPTION IS AVAILABLE, THE COMPANY RECEIVES AN OPINION OF COUNSEL AT THE HOLDER'S SOLE COST AND EXPENSE STATING THAT SUCH OFFER, SALE, TRANSFER, ASSIGNMENT, PLEDGE,

HYPOTHECATION, DISTRIBUTION OR OTHER DISPOSITION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT AND OTHER LAWS. THE RESTRICTIONS CONTAINED HEREIN ARE BINDING ON THE HOLDER HEREOF AND HIS SUCCESSORS AND ASSIGNS,"

5. Schedule of Advances. Lender will, and is hereby authorized by Company to, note on the Schedule of Advances annexed to this Note and constituting a part of this Note, the date and amount of each advance, payment or prepayment of all or any portion of the principal sum. Absent manifest error, such notations are conclusive and binding as to the aggregate unpaid principal sum and all other information; provided, however, the failure of Lender to make such a notation will not limit or otherwise affect the obligation of Company to repay the outstanding principal amount or any interest accrued or accruing thereon or any other amount payable by Company to Lender hereunder.

6. Prepayment Prior to the Maturity Date, Company, in its sole discretion, may prepay all or any portion of the Note Balance at any time, provided that (i) Company will give Lender not less than a 30-day prior written notice of its intention to prepay an amount specified in such notice on the date set forth in the notice, and (ii) notwithstanding any provision hereof to the contrary, Lender will have the right before the anticipated prepayment date set forth in the notice to exercise its Conversion Right, under the pricing terms contained in Section 4(b)(ii) of the Note, to convert all or part of the amount to be prepaid into Conversion Shares, in which case the prepayment notice will have no further force or effect regarding the amount to be converted.

7. Lawful Money. Principal and interest are payable in lawful money of the United States of America,

8. Applications of Payments; Late Charges.

(a) Payments received by Lender hereunder will be applied first to costs and expenses, then to interest and finally to principal unless Lender elects otherwise in its sole discretion.

(b) If any payment of principal or interest is not paid when due, such late payment will bear interest at the Default Rate from the day such payment was due until it is paid. In addition, if any payment is five or more days overdue, Lender will have the option to assess a late charge of $0.03 cents for each dollar so overdue. In connection therewith, Company and Lender agree as follows:

(i) Because of such late payment, Lender will incur certain costs and expenses including, without limitation, administrative costs, collection costs, loss of interest, and other direct and indirect costs in an uncertain amount;

(ii) It would be impractical or extremely difficult to fix the exact amount of such costs in such event;

(iii) The late charge is a reasonable and good faith estimate of such costs; and

(iv) Such late charge will constitute liquidated damages caused by such failure to make a payment of interest or principal when due but only to the extent such late charge is assessed by Lender, paid by Company and accepted by Lender and only upon the condition that such failure is completely cured concurrently with such payment.

The application of the Default Rate or the assessment of a late charge to any such late payment as described in this Section 8(b) will not be interpreted or deemed to extend the period for payment or otherwise limit any of Lender's remedies under this Note, the Security Agreement, the Development Agreement, or the License Agreement.

9. Security. This Note is a secured obligation of Company as set forth in the Security Agreement dated as of December 30, 2005, as amended by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, and as further amended, supplemented or otherwise modified from time to time, the "**Security Agreement**"), by and between Company and Lender.

10. Covenants of Company.

(a) Use of Loan Proceeds. Company covenants and agrees that it will use the proceeds of this Note only (i) to pay the second installment in the amount of $124,052.60 (including accrued interest, fees, and related amounts) due on December 1, 2005, and the third installment in the amount of $120,355.03 (including accrued interest, fees, and related amounts) due on March 1, 2006, under that certain promissory note made by the Company in favor of Trust One Bank of 1715 Aaron Brenner Dr., Memphis, Tennessee 38120 in the principal amount of $690,000 due December 1, 2006 (the "**Trust One Bank Note**"), (ii) to pay direct costs and expenses associated with the development of the System and/or the Lead and (iii) to pay to Bass, Berry & Sims, PLC and Myers Bigel Sibley & Sajovec an aggregate amount no greater than $40,000 to cover Company's actual costs and expenses associated with the negotiation and documentation of this Note, the Security Agreement, the Development Agreement, the License Agreement and the Other Agreements. Company acknowledges that some costs and expenses incurred by Company, such as salaries and consulting fees, may relate both to the development of the System and/or the Lead and to other activities of Company. With respect to such costs and expenses, Company will determine, subject to Lender's approval, which will not be unreasonably withheld, which percentage of the cost or expense is associated with the development of the System and/or the Lead, for which Company will be permitted to use proceeds of this Note, and which percentage is associated with other activities of Company, for which Company will not be permitted to use proceeds of this Note.

(b) No Senior Debt. So long as this Note is outstanding, Company will not incur on or after the Closing Date any indebtedness for borrowed money that is not expressly subordinated to this Note, without the prior written consent of Lender. For the avoidance of doubt, the phrase "indebtedness for borrowed money" will not include ordinary-course obligations to trade creditors.

(c) No Liens or Encumbrances. So long as this Note is outstanding, without the prior written consent of Lender, Company will not (a) pledge or otherwise encumber or permit the encumbrance of any of its assets, including the Collateral (as defined in the Security Agreement); (b) merge or consolidate with any entity, or dissolve; (c) declare, make or pay any distribution or dividend to its stockholders; (d) sell, lease or otherwise dispose of all or any substantial portion of its assets; or (e) engage in any business other than that in which it is presently engaged. Lender may grant or withhold its consent in its sole discretion. Any grant of that consent will give the Lender the right to exercise the Conversion Right for all or any part of the Note Balance under the pricing terms contained in Section 4(b)(ii). For the avoidance of doubt, this Section 10(c) shall not apply with respect to any license and/or sublicense to any of the Intellectual Property Collateral (as defined in the Security Agreement) if such license and/or sublicense is not inconsistent with the terms of the Development Agreement or License Agreement.

11. Defaults and Remedies.

(a) Events of Default. Each of the following events constitutes an event of default ("**Event of Default"):**

(i) if any representation or warranty made by Company in this Note, the Security Agreement, the Development Agreement, the License Agreement or in any report, certificate, financial statement or other instrument furnished in connection with this Note, is false, inaccurate or misleading in any material respect when made or when deemed made hereunder.

(ii) any default in the payment of any principal or interest under this Note within five days after date when due hereunder, whether upon the Maturity Date or by acceleration or otherwise;

(iii) any default by Company in the prompt and complete fulfillment of any of its covenants and obligations under this Note, the Security Agreement, the Development Agreement, the License Agreement, or any and all other agreements and documents executed and delivered in connection herewith or therewith (the **"Other Agreements")** (other than those covenants and obligations referred to in clause (ii) above or clause (vi) below), if such default is not remedied within 15 days after an officer of Company becomes aware of the factual circumstances giving rise to such default;

(iv) if Company: (A) applies for or consents to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties, (B) admits in writing its inability to pay its debts as they mature, (C) makes a general assignment for the benefit of creditors, (D) is adjudicated as bankrupt or insolvent or is the subject of an order for relief under Title 11 of the United States Code, or any successor thereto, or (E) files a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, moratorium, reorganization, insolvency, readjustment of debt, dissolution

or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (F) takes or permits to be taken any action in furtherance of or for purpose of effecting any of the foregoing;

(v) if any order, judgment or decree will be entered, without the application, approval or consent of Company, by any court of competent jurisdiction, approving a petition seeking reorganization of Company, or appointing a receiver, trustee, custodian or liquidator of Company, or of all or any substantial part of its assets, and such order, judgment or decree will continue unstayed and in effect for any period of 60 days;

(vi) if the Company fails to meet, by the required date, any System Milestone or Lead Milestone, which failure is not remedied within 15 days following Lender's written notice to Company; or

(vii) in the event Lender reasonably believes that Company will be unable to perform its obligations under this Note, Lender may request in writing reasonable assurances of further performance from Company. If, within 15 days from such written request, Company fails to give such assurances reasonably showing its ability to perform, Lender may declare an Event of Default, For avoidance of doubt, Lender's reasonable belief of Company's inability to perform its obligations under this Note must be based on a fact or circumstance that occurs or changes after the date of this Note and results in a material adverse effect upon the Company's financial condition. The foregoing is without any derogation of rights under applicable law to demand further assurances and address anticipatory breaches.

(b) Remedies.

(i) Upon the occurrence of any Event of Default, and at all times thereafter during the continuance of an Event of Default: (a) this Note will, in Lender's sole discretion and upon Lender's written notice to Company, become immediately due and payable, as to principal and interest, without presentment, demand, protest, notice or other requirement of any kind, all of which are hereby expressly waived, anything contained herein or in this Note to the contrary notwithstanding (except in the case of any event described in Sections ll(a)(iv) and (v) of this Note, the occurrence of which will automatically effect acceleration, regardless of any action or forbearance in respect of any prior or ongoing default or Event of Default which may be inconsistent with such automatic acceleration), (b) Lender may file suit against Company on this Note and/or seek specific performance or injunctive relief thereunder (whether or not a remedy exists at law or in equity); and (c) Lender will have the right to seek to exercise any and all remedies as it may determine in its discretion (without any requirement of marshalling of assets, or other such requirement) that may be available at law or in equity.

(ii) Lender's rights, remedies and powers, as provided in this Note and the Security Agreement are cumulative and concurrent and may be pursued singly, successively or together against this Company, the Collateral (as defined in the Security Agreement) and any other security given at any time to secure the payment of this Note, all at the sole discretion of Lender. Additionally, Lender may resort to every other right or remedy available at law or in equity without first exhausting the rights and remedies contained herein, all in Lender's sole discretion. Failure of Lender at any one time, for a period of time or on more than one occasion, to exercise any of its rights or remedies hereunder or at law or in equity will not constitute a waiver of the right to exercise the same right or remedy at any time thereafter. Any and all waivers must be in writing to be effective.

(iii) If any suit or action is instituted or attorneys are employed to enforce any of the obligations of this Note, the non-prevailing party hereby promises and agrees to pay all reasonable costs, including reasonable attorneys' fees and court costs incurred by the prevailing party.

12. Subordination. Lender and Company agree and acknowledge that the indebtedness evidenced by this Note is neither subordinate nor subject in right of payment to any other indebtedness issued to third parties.

13. Interest Rate Limitation. It is the intent of Company and Lender in the execution of this Note and all other instruments securing this Note that the loan evidenced hereby be exempt from the restrictions of the usury laws of the State of California. In the event that, for any reason, it should be determined that the California usury law is applicable to the Loan, Lender and Company stipulate and agree that none of the terms and provisions contained herein or in any of the other Credit Documents will ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws of the State of California. In such event, if any holder of this Note collects monies which are deemed to constitute interest which would otherwise increase the effective interest rate on this Note to a rate in excess of the maximum rate permitted to be charged by the laws of the State of California, all such sums deemed to constitute interest in excess of such maximum rate will, at the option of Lender, be credit.

14. Notices. All notices, requests, demands and other communications which are required to be or may be given under this Note to a party by the other party must be in writing and will be deemed to have been duly given (a) immediately if delivered in person, (b) the day following dispatch by a nationally recognized overnight courier service (such as Federal Express or UPS, etc.) for next day delivery, (c) five days after dispatch by certified or registered first class mail, postage prepaid, return receipt requested, to the Party to whom the same is so given or made, or (d) upon confirmation of receipt, if by facsimile. Any notice or other communication

given hereunder will be addressed to the Company, at 200 N. Cobb Parkway, Suite 140, Marietta, Georgia 30062-3585, Attention: John C. Thomas, Jr., Fax (770) 424-8236, with a copy to Kimble L. Jenkins, 50 North Front St., 19th Floor, Memphis, Tennessee 38103, Fax (901) 579-4979, , or to Lender at the address indicated at the beginning of this document, Attention: General Counsel, Fax (661) 362-4712.

15. Counterparts. This Note may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

16. Headings. All headings are inserted for convenience of reference only and will not affect the meaning or interpretation of any such provisions or of this Note, taken as an entirety.

17. Severability. If and to the extent that any court of competent jurisdiction holds any provision (or any part thereof) of this Note to be invalid or unenforceable, such holding will in no way affect the validity of the remainder of this Note.

18. Changes, Waivers, Etc. Neither this Note nor any provision of this Note may be changed, waived, discharged or terminated orally, but rather may only be changed by a statement in writing signed by the Party against which enforcement of the change, waiver, discharge or termination is sought. It is agreed that a waiver by either Lender or Company of a breach of any provision of this Note will not operate, or be construed, as a waiver of any subsequent breach by that same party.

19. Governing Law. This Note will be governed by and construed in accordance with the laws of the State of California. The parties hereby agree that any dispute which may arise between them arising out of or in connection with this Note will be adjudicated before a court located in Los Angeles, California and they hereby submit to the exclusive jurisdiction of the courts of the State of California located in Los Angeles, California and of the federal courts in the Central District of California with respect to any action or legal proceeding commenced by any party, and irrevocably waive any objection they now or hereafter may have respecting the venue of any such action or proceeding brought in such a court or respecting the fact that such court is an inconvenient forum, relating to or arising out of this Note or any acts or omissions relating to the sale of the securities hereunder, and consent to the service of process in any such action or legal proceeding by means of registered or certified mail, return receipt requested, in care of the address set forth below or such other address as the undersigned will furnish in writing to the other.

20. Entire Agreement. This Note, the Security Agreement, the Development Agreement, the License Agreement and the Other Agreements set forth the entire agreement and understanding between Lender and Company as to this subject matter and incorporates and supersedes all prior discussions, agreements and understandings of any and every nature among them.

21. Further Assurances. Lender and Company agree to execute and deliver all such further documents, agreements and instruments and take such other and further action as may be necessary or appropriate to carry out the purposes and intent of this Note.

22. Successors and Assigns. The terms and conditions of this Note will inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties. Nothing in this Note, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Note, except as expressly provided in this Note, This Note is non-negotiable. Neither Company nor Lender may assign or otherwise transfer this Note without the prior written consent of the other party.

23. Relationship of Parties. In all matters relating to this Note, no party will have any right, power or authority to create any obligation, express or implied, on behalf of any other party. Nothing in this Note is intended to create or constitute a joint venture or a partnership between the parties hereto.

24. Amendment and Restatement. This Note constitutes an amendment and restatement of that certain Multiple Advance Secured Convertible Promissory Note dated December 30, 2005, made by Company in favor of Lender in the maximum principal amount of $1,500,000, and replaces and supersedes such promissory note in all respects.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, Company has signed this Note and delivered this Note to Lender as of the date first written above.

COMPANY:

SURGI- VISION, INC.,
a Delaware corporation
By: _____
Name:
Title:

SCHEDULE OF ADVANCES

Date	Amount of Principal Advanced	Unpaid Principal Balance	Amount Paid	Notation Made By
01/04/06	$250,000	$250,000	—	Initial Advance
01/31/06	$250,000	$500,000	—	
06/30/06	$250,000	$750,000	—	
09/30/06	$250,000	$1,000,000	—	
07/__/07	$500,000	$1,500,000	—	

EXHIBIT A
TO AMENDED AND RESTATED MULTIPLE ADVANCE SECURED CONVERTIBLE PROMISSORY NOTE

[FORM OF WARRANT]

THIS WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR APPLICABLE STATE SECURITIES LAWS. THIS WARRANT HAS BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO DISTRIBUTION OR RESALE. THIS WARRANT, AND THE SECURITIES ISSUABLE UPON EXERCISE HEREOF, MAY NOT BE SOLD, MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR THE AVAILABILITY OF AN EXEMPTION FROM THE REGISTRATION PROVISIONS OF THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

_____, 200__

SURGI-VISION, INC.

STOCK PURCHASE WARRANT

This Warrant is issued as of this day of 200 , by SURGI-VISION, INC., a Delaware corporation (the "Company"), to ADVANCED BIONICS CORPORATION, a Delaware corporation (the "Holder").

1. Issuance of Warrant; Term; Price.

(a) Issuance. This Warrant is issued pursuant to Section 4(b)(iii) of that certain Amended and Restated Multiple Advance Secured Convertible Promissory Note dated as of June 30, 2007, payable to the Holder by the Company (together with any and all replacements and renewals thereof, the "Note"). Reference also is made to that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006 and by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, and as further amended, supplemented or otherwise modified from time to time, the "Development Agreement"), by and between the Company and the Holder. Capitalized terms used herein without definition will have the meanings ascribed to such terms in the Development Agreement.

(b) Shares Issuable upon Exercise. The Company hereby grants to the Holder the right to purchase, upon the terms hereof and at the Warrant Price (as defined below), [ ] shares of common stock ("Common Stock") of the Company, subject to adjustment as set forth in Section 2 below (the "Warrant Shares"). [Note: The initial number of Warrant Shares will be determined according to the calculation set forth in Section 4(b)(iii)of the Note.]

(c) Term. This Warrant shall not be exercisable by the Holder unless (A) the Company and the Holder have not executed and delivered the Subsequent System License on or before the last day of the Negotiation Period or (B) at any time prior to the last day of the Negotiation Period, an Event of Default has occurred and is continuing (the "Trigger Date"). If the Company and the Holder have executed and delivered the Subsequent System License on or before the Trigger Date, this Warrant shall expire automatically and become null and void. If the Company and the Holder have not executed and delivered the Subsequent System License on or before the Trigger Date, the Holder may exercise this Warrant at any time after the Trigger Date until 5:00 p.m. (Eastern Time) on the fifth business day following the Trigger Date, at which time this Warrant shall expire automatically and become null and void.

(d) Exercise Price. The exercise price (the "Warrant Price") per share for which all or any of the Warrant Shares may be purchased pursuant to the terms of this Warrant shall be equal to $0.01.

2. Adjustment of Number and Kind of Shares. The number and kind of securities issuable upon the exercise of this Warrant shall be subject to adjustment from time to time as follows:

(a) Dividends in Stock Adjustment. In case at any time or from time to time on or after the date hereof the holders of the Common Stock of the Company (or any shares of stock or other securities at the time receivable upon the exercise of this Warrant) shall have received, or, on or after the record date fixed for the determination of eligible stockholders, shall have become entitled to receive, without payment therefore, other or additional securities or other property (other than cash) of the Company by way of dividend or distribution, then and in each case, the Holder shall, upon the exercise hereof, be entitled to receive, in addition to the number of Warrant Shares receivable thereupon, and without payment of any additional consideration therefore, the amount of such other or additional securities or other property (other than cash) of the Company which such Holder would hold on the date of such exercise had it been the holder of record of such Common Stock on the date hereof and had thereafter, during the period from the date hereof to and including the date of such exercise, retained such shares and/or all other additional securities or other property receivable by it as aforesaid during such period, giving effect to all adjustments called for during such period by this Section 2(a), Section 2(b) and Section 2(c).

(b) Reclassification or Reorganization Adjustment. In case of any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company on or after the date hereof, the Holder, upon the exercise hereof at any time after the consummation of such reclassification, change or reorganization, shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Holder would have been entitled upon such consummation if such holder had exercised this Warrant immediately prior thereto, all subject to further adjustment as provided in Section 2(a) and Section 2(c).

(c) Stock Splits and Reverse Stock Splits. If at any time on or after the date hereof the Company shall subdivide its outstanding shares of Common Stock into a greater number of shares, the number of shares receivable upon exercise of this Warrant shall thereby be proportionately increased; and, conversely, if at any time on or after the date hereof the outstanding number of shares of Common Stock shall be combined into a smaller number of shares, the number of shares receivable upon exercise of this Warrant shall thereby be proportionately decreased.

3. No Fractional Shares. No fractional shares of Warrant Stock will be issued in connection with any subscription hereunder.

4. No Stockholder Rights. This Warrant as such shall not entitle the Holder to any of the rights of a stockholder of the Company until the Holder has exercised this Warrant in accordance with Section 6 hereof.

5. Reservation of Stock. The Company covenants that during the term of this Warrant, the Company will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of this Warrant. The Company agrees that its issuance of this Warrant constitutes full authority to its officers who are charged with the duty of executing stock certificates to execute and issue the necessary certificates for Warrant Shares upon the exercise of this Warrant.

6. Exercise of Warrant. This Warrant may be exercised by the Holder, during the term of this Warrant as provided in Section 1(c) above, by the surrender of this Warrant at the principal office of the Company, accompanied by payment in full of the Warrant Price of the shares purchased thereby. Notwithstanding any provision of the Development Agreement to the contrary, the Holder shall be entitled to offset against any amount owing to the Company under the Development Agreement the Warrant Price of any shares purchased by the Holder upon the exercise of this Warrant. This Warrant shall be deemed to have been exercised immediately prior to the close of business on the date of its surrender for exercise as provided above, and the Holder shall be treated for all purposes as the holder of record of the Warrant Shares as of the close of business on such date. As promptly as practicable, the Company shall issue and deliver to the Holder a certificate or certificates for the number of Warrant Shares issuable upon such exercise. The Warrant Shares issuable upon exercise of this Warrant shall, upon their issuance, be fully paid and nonassessable.

7. Certificate of Adjustment. Whenever the number or type of securities issuable upon exercise of this Warrant is adjusted as herein provided, the Company shall deliver to the Holder a certificate of an officer of the Company setting forth the nature of such adjustment and a brief statement of the facts requiring such adjustment.

8. No Limitation on Corporate Action. No provisions of this Warrant and no right granted or conferred hereunder shall in any way limit, affect or abridge the exercise by the Company of any of its corporate rights or powers to recapitalize, amend its Certificate of Incorporation, reorganize, consolidate or merge with or into another corporation, to transfer all or any part of its property or assets, or to exercise any other corporate rights and powers.

9. Assignment of Warrant. The Holder may not assign or transfer this Warrant without the prior written consent of the Company. Any purported assignment or transfer of this Warrant in violation of this Section 9 shall be void abs initio.

10. Restrictive Legends. To the extent applicable, each certificate evidencing any of the Warrant Shares shall be endorsed with the legends set forth below, and Holder covenants that, except to the extent such restrictions are waived by the Company, Holder shall not transfer the Warrant Shares without complying with the restrictions on transfer described in such legends:

(a) The following legend under the Securities Act:

> "THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR THE "BLUE SKY" OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, HYPOTHECATED, DISTRIBUTED OR OTHERWISE DISPOSED OF UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SALE OR AN EXEMPTION FROM SUCH REGISTRATION REQUIREMENT IS AVAILABLE, AND IF AN EXEMPTION IS AVAILABLE, THE COMPANY RECEIVES AN OPINION OF COUNSEL AT THE HOLDER'S SOLE COST AND EXPENSE STATING THAT SUCH OFFER, SALE, TRANSFER, ASSIGNMENT, PLEDGE, HYPOTHECATION, DISTRIBUTION OR OTHER DISPOSITION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT AND OTHER LAWS. THE RESTRICTIONS CONTAINED HEREIN ARE BINDING ON THE HOLDER HEREOF AND ITS SUCCESSORS AND PERMITTED ASSIGNS."

(d) If required by the authorities of any state in connection with the issuance or sale of the Warrant Shares, the legend required by such state authority.

11. Replacement of Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft or destruction of this Warrant, and on delivery of an indemnity agreement or security reasonably satisfactory in form and amount to the Company, the Company will execute and deliver to the Holder, in lieu thereof, a new Warrant of like tenor.

12. Miscellaneous. This Warrant shall be governed by the laws of the State of Delaware. The headings in this Warrant are for purposes of convenience of reference only, and shall not be deemed to constitute a part hereof. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provisions.

13. Notices. All notices, requests, demands and other communications which are required to be or may be given under this Warrant to a party by the other party must be in writing and will be deemed to have been duly given (a) immediately if delivered in person, (b) the day following dispatch by a nationally recognized overnight courier service (such as Federal Express, UPS, etc.) for next day delivery, (c) five days after dispatch by certified or registered first class

mail, postage prepaid, return receipt requested, to the party to whom the same is so given or made, or (d) upon confirmation of receipt if by facsimile. Any notice or other communication given hereunder will be addressed (x) to the Company at 200 N. Cobb Parkway, Suite 140, Marietta, Georgia 30062-3585, Attention: John C. Thomas, Jr., Fax (770) 424-8236, with a copy to Kimble L. Jenkins, 50 North Front St., 19th Floor, Memphis, Tennessee 38103, Fax (901) 579-4979, or (y) to the Holder at 25129 Rye Canyon Loop, Valencia, California 91355, Attention: General Counsel, Fax (661) 362-4712, or at such other address as one party shall have notified the other party hereto by notice given in conformity with this Section 13.

14. Taxes. The Company shall pay all issue taxes and other governmental charges (but not including any income taxes of the Holder) that may be imposed in respect of the issuance or delivery of the Warrant Shares or any portion thereof.

15. Amendment: Waiver. Any term of this Warrant may be amended or waived with the written consent of the Company and the Holder.

16. Representations by Holder. The Holder represents and warrants to the Company, as of the date hereof and as of the date of any exercise of this Warrant, that (a) the Holder is acquiring this Warrant and the Warrant Shares for its own account, for investment purposes, and not with a present view either to sell, distribute or transfer, or to offer for sale, distribution or transfer, this Warrant or the Warrant Shares, (b) the Holder is experienced in evaluating companies such as the Company, has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of the Holder's investment and has the ability to suffer the total loss of such investment, and (c) the Holder is an "accredited investor" within the meaning of Regulation D under the Securities Act.

SURGI- VISION, INC.

By: _____
Name: _____

Title: _____

AGREED TO AND ACCEPTED BY:

ADVANCED BIONICS CORPORATION

By: _____
Name:

Title: _____

NOTICE OF EXERCISE

To: Surgi-Vision, Inc.

The undersigned hereby elects to purchase "Warrant Shares" pursuant to the provisions of Section 6 of the attached Warrant, and tenders herewith payment of the purchase price for such shares in full. In exercising the attached Warrant, the undersigned hereby confirms and acknowledges its representations and warranties set forth in Section 16 of the attached Warrant.

ADVANCED BIONICS CORPORATION

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT B
TO OMNIBUS AMENDMENT

SCHEDULE 10

TO THE SECURITY AGREEMENT

U.S. Copyright Registrations:

Title	Registration No.	Date of Issue	Registered Owner

None

Foreign Copyright Registrations:

Country	Title	Registration No.	Date of Issue

None

Pending U.S. Copyright Registration Applications:

Title	Appl. No.	Date of Application	Copyright Claimant

None

Pending Foreign Copyright Registration Applications:

Country	Title	Appl. No.	Date of Application

None

The Grantor has granted Secured Party certain licenses to the Intellectual Property pursuant to the Concurrent Agreements.

The Grantor is a party to the JHU Agreements.

Pursuant to the JHU Agreements, JHU has the retained right to make, have made, provide and use for its and The Johns Hopkins Health Systems' internal, non-commercial purposes "Licensed Products" and "Licensed Services" (as such terms are defined in the JHU Agreements).

Patents supported by federal funding are subject to the rights, conditions and limitations imposed by U.S. law.

The Grantor is a party to an option agreement with JHU. Pursuant to that option agreement, the Grantor has notified JHU that the Grantor will exercise its option on a "Microcapsule" patent application that was filed in May 2007. Such patent application is not related to the Lead or the System.

The Grantor is a party to an assignment agreement with [***] for [***].

The Grantor has a pending research collaboration/sponsorship agreement with UCSF.

The Grantor has a pending sponsorship agreement with the University of Utah and Dr. Marrouche (with an option for an exclusive license for any intellectual property arising from the sponsored work). Such intellectual property would not be related to the Lead or the System.

The Grantor has filed on a JHU case (funded by the Grantor) that has not yet been formally licensed from JHU. The case is directed to embolic procedures and is not related to the Lead or the System.

The Grantor is a party to various consulting agreements that include options/licenses/assignments of or to intellectual property or conceived ideas.

The Grantor knows of a third-party attempt to invoke an interference against U.S. 6,904,307.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

SCHEDULE 6.F

TO OMNIBUS AMENDMENT

1. With reference to the second sentence of Section 4.8 of the Development Agreement, the disclosure set forth in Schedule 4.8 to the Development Agreement is replaced and superseded by the following disclosure:

The Company has granted Bionics certain licenses to the Existing Intellectual Property pursuant to this Agreement and the Concurrent Agreements.

The Company is a party to the JHU Agreements.

Pursuant to the JHU Agreements, JHU has the retained right to make, have made, provide and use for its and The Johns Hopkins Health Systems' internal, non-commercial purposes "Licensed Products" and "Licensed Services" (as such terms are defined in the JHU Agreements).

Patents supported by federal funding are subject to the rights, conditions and limitations imposed by U.S. law.

2. With reference to the fourth sentence of Section 4.8 of the Development Agreement, the Company knows of a third-party attempt to invoke an interference against U.S. 6,904,307.

OMNIBUS AMENDMENT #2
TO SYSTEM AND LEAD DEVELOPMENT AND TRANSFER AGREEMENT

This **AMENDMENT** (this **"Amendment")** is dated as of March 19, 2008 and entered into by and between Surgi-Vision, Inc., a Delaware corporation (the **"Company")** and Boston Scientific Neuromodulation Corporation (formerly known as Advanced Bionics Corporation), a Delaware corporation **("Bionics"),** and is made with reference to (i) that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006, as further amended by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, supplemented or otherwise modified from time to time, the **"Development Agreement"),** by and between the Company and Bionics, and (ii) that certain Technology License Agreement dated as of December 30, 2005, as amended by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, supplemented or otherwise modified from time to time, the **"License Agreement"),** by and between the Company and Bionics.

RECITALS

WHEREAS, the Company and Cardiac Pacemakers, Inc. ("CPI"), a wholly-owned indirect subsidiary of Boston Scientific Corporation and an affiliate of Bionics have, concurrent with this Amendment, entered into a Technology License Agreement (the **"CPI License Agreement")** and a Development Agreement (the **"CPI Development Agreement")** (collectively, the CPI License Agreement and the CPI Development Agreement are referred to as the **"CPI Agreements"),** which contain, among other things, certain provisions regarding Intellectual Property ownership, patent prosecution, enforcement and confidentiality;

WHEREAS, the Company and Bionics desire to amend the Development Agreement to be consistent with such Intellectual Property ownership, patent prosecution, enforcement and confidentiality provisions contained in the CPI Agreements; and

WHEREAS, the Company and Bionics desire to amend the License Agreement to reconcile the compensation provisions contained therein with those in the CPI License Agreement:

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

Section 1. AMENDMENTS TO THE DEVELOPMENT AGREEMENT

1.1 Defined Terms.

Capitalized terms used in this Amendment without definition shall have the same meanings as set forth in the Development Agreement.

1.2 Amendments to Section 11: Intellectual Property Ownership and Protection.

A. Section 11.1 (a) of the Development Agreement is hereby amended by deleting the last sentence of such Section in its entirety and substituting the following in lieu thereof:

"Notwithstanding any of the foregoing to the contrary, any Shared Future Intellectual Property shall be solely owned by CPI and Bionics. Bionics hereby grants to the Company an exclusive, fully paid, worldwide license, with right to sublicense, (a) under the Shared Future Intellectual Property for use within the SVI Grant-Back Field (as that term is defined in the CPI Development Agreement), to make, use, import, lease, and sell any system, method, or apparatus, and (b) under all Non-Shared Future Intellectual Property for use outside the field of neuromodulation, to make, use, import, lease, and sell any system, method, or apparatus. The term **"Shared Future Intellectual Property"** means any Future Intellectual Property that constitutes Development IP (as that term is defined in the CPI Development Agreement). The term **"Non-Shared Future Intellectual Property"** means any transferred Future Intellectual Property that does not constitute Development IP (as that term is defined in the CPI Development Agreement).

B. Section 11.1 (b) of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

(b) Intellectual Property Re-transfer and Cross-License. Bionics hereby agrees to assign and transfer to the Company joint ownership for all countries in and to any transferred Non-Shared Future Intellectual Property promptly after the Loan Satisfaction Date **("Re-Transfer").** Upon Re-Transfer, the Non-Shared Future Intellectual Property will become Intellectual Property that is jointly owned by the Parties **("Joint Intellectual Property").** Effective immediately upon the date of Re-Transfer, (i) the Company hereby grants to Bionics an exclusive, fully paid, non-transferable, perpetual worldwide license under the Joint Intellectual Property within the field of neuromodulation, with right to sublicense, to make, use, import, lease, and sell any system, method, or apparatus thereunder, and (ii) Bionics hereby grants to the Company an exclusive, fully paid, non-transferable, perpetual worldwide license under the Joint Intellectual Property outside the field of neuromodulation (but subject to CPI's exclusivity as set forth in the CPI Agreements), with right to sublicense, to make, use, import, lease, and sell any system, method, or apparatus thereunder.

1.3 Amendment to Section 11.2: Patent Prosecution.

A. Section 11.2 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

11.2 Patent Prosecution.

(a) Costs. Bionics and its Affiliates will pay all Patent Prosecution costs and expenses for all Patents subject to their sole control, as set forth in Section 11.2(b) below **("Prosecution Costs")**. The term **"Patent"** means all classes or types of patents, design patents, utility patents, including issued patents, published and non-published patent applications

(including inventors' certificates and utility models) in any country or jurisdiction or under any treaty, including all originals, provisionals, substitutions, continuations, continuations-in-part, divisionals, supplementary protection certificates, renewals, all letters patent granted thereon, and all reissues, reexaminations, extensions, confirmations, revalidations, registrations, patents of addition and foreign counterparts, as well as industrial design registrations. The term **"Prosecution"** means prosecution of any proceeding in the United States Patent and Trademark Office or in any other registration authority in any country, including regarding any application (whether ex parte or inter partes), including interference, reexamination and reissue. The terms **"Affiliate" and "Affiliates"** have the meanings ascribed thereto in the CPI Agreements.

(b) Intellectual Property Protection. Bionics and its Affiliates will jointly control the Prosecution of all Patents included in the Bionics Controlled IP, each at its own expense and with legal counsel of its own choice, and will take such other legal steps as Bionics and its Affiliates will determine in their sole discretion to be necessary to protect their rights for all Bionics Controlled IP. For the avoidance of doubt, neither Bionics nor its Affiliates will be obligated to pay any Prosecution Costs to protect any Intellectual Property if they determine, in their sole discretion, that those Prosecution Costs outweigh the likely benefits to Bionics or such Affiliate. The term **"Bionics Controlled IP"** means all Existing Intellectual Property, Joint Intellectual Property and Future Intellectual Property, except any Existing Intellectual Property that relates to the System.

(c) Company Cooperation. The Company will cooperate with Bionics and its Affiliates in filing, Prosecuting and maintaining Patents and taking such other legal steps as set forth in this Section 11.2 and will execute and deliver any documents and instruments in connection therewith which Bionics or its Affiliates may request at no additional cost or expense to Bionics or such Affiliate.

(d) Company Inspection and Intervention. The Company will have the right upon reasonable notice and reasonable request to inspect, at the Company's sole expense and discretion, the Prosecution documents and strategy of Bionics and its Affiliates with respect to any Bionics Controlled IP that does not constitute Shared Future Intellectual Property. The Parties agree that such information constitutes Confidential Information of Bionics and its Affiliates, and that the disclosure of such information is not intended to constitute a waiver of any privilege, including attorney-client privilege. Bionics (or its applicable Affiliate) will provide written notice to the Company prior to abandoning any patent application or issued Patent that is part of the Bionics Controlled IP. If the Company desires to file and Prosecute any patent application, or to pay maintenance fees or annuities to maintain any issued Patent, in any country that Bionics or its Affiliates determined was not worthwhile to protect Bionics' or such Affiliates' rights, the Company may provide Bionics with a reasonable written request to file and Prosecute or maintain such Patent **("Prosecution Request").** Bionics will have thirty (30) days to fulfill the Prosecution Request. If Bionics (or one of its Affiliates) fails to complete the Prosecution Request within thirty (30) days of receiving the Prosecution Request, then (i) the Company may independently file and Prosecute the patent application or maintain the issued Patent that was the subject of the Prosecution Request, (ii) the Company will bear all Prosecution Costs and will control the remainder of the Prosecution for such patent application or the maintenance of such issued Patent, and (iii) with respect to a Prosecution involving any Future Intellectual Property or Joint Intellectual Property, Bionics and its Affiliates will have the right

(but not the obligation) to participate in an advisory capacity in such Prosecution. The Parties acknowledge and agree that any action by the Company pursuant to this Section 11.2(d) will not confer or convey any ownership rights in the subject Patent to the Company, and will not otherwise adversely affect any of Bionics' or its Affiliates' rights in same.

1.4 Amendment to Section 11.4: Infringement.

A. Section 11.4 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

11.4 Infringement.

(a) Notice of Infringement. If either Party learns of any actual, alleged or threatened Infringement of any Bionics Controlled IP by a Third Party, such Party shall promptly notify the other Party and shall provide such other Party with all available evidence of such Infringement. The term **"Infringe"** means (as applicable, depending on the context of the subject or object of the word Infringe) to infringe, misappropriate, use or disclose without authorization or otherwise violate Intellectual Property rights (whether direct, indirect, contributory, inducement or otherwise). The words **"Infringement"** and **"Infringing"** have corresponding meanings. The term **"Third Party"** means one or more persons or entities other than SVI, Bionics and their respective Affiliates.

(b) Enforcement of Bionics Controlled IP. As between the Parties, [***] shall have the sole right (but not the obligation), each at its own expense and with legal counsel of its own choice, to bring suit (or take other appropriate legal action) against any actual, alleged or threatened Infringement of the Bionics Controlled IP; provided, however, that [***] shall have the right (but, subject to Section 11.4(c) below, not the obligation) to participate in an advisory capacity only in the institution and prosecution of any such Infringement suit, (a) with respect to any Shared Future Intellectual Property only if and to the extent the accused product is related primarily to the [***] and (b) with respect to any other Bionics Controlled IP only if and to the extent the accused product is related primarily to [***].

(c) Join in Action. If either [***] brings any such action or proceeding hereunder, [***] agrees to be joined as party plaintiff if necessary to prosecute such action or proceeding, and, at [***] expense, to give [***] reasonable assistance and authority to file and prosecute the suit; provided, however, that neither Party shall be required to transfer any right, title or interest in or to any property to other Party to confer standing on a Party hereunder.

(d) **Costs.** [***] will pay all costs, fees, and expenses associated with an Infringement action they have initiated and prosecuted. [***] will pay all costs, fees, and expenses associated with [***] participation in an advisory capacity under Section 11.4(b).

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

(e) Recovery. Any recovery obtained in an action initiated and prosecuted solely by [***], and in which [***] does not participate in an advisory capacity, shall belong to [***]. Any recovery obtained in an action initiated and prosecuted by [***], and in which [***] participates in an advisory capacity, shall be allocated in a fair and equitable manner mutually determined by the Parties. For purposes of clarity, any recovery pursuant to this section will be net of litigation costs as provided in Section 11.4(d) above.

(f) Cooperation. [***] agrees to fully cooperate with [***] in the prosecution of any such suit at no additional expense to [***].

(g) Loss of Exclusive Rights Under CPI License Agreement. [***] acknowledges that, notwithstanding the foregoing to the contrary, in the event CPI exercises its Termination Option (as such term is defined in the CPI Development Agreement), [***] of the CPI License Agreement. Therefore, in the event of any conflict between the terms of this Section 11.4 and the terms of [***], the terms of the CPI License Agreement will control.

1.5 Amendment to Section 11.5: Publication and Authorship

A. Section 11.5 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

11.5 Publication and Authorship. Notwithstanding Section 11.6(e) below, the Company will have the right to author, to publish and to retain or transfer copyright to scientific reports describing the methods and results of any or all Bionics Controlled IP that does not constitute Shared Future Intellectual Property; provided that, if the studies were conducted with the financial and/or technical support of Bionics or any of its Affiliates, such reports shall include an acknowledgment to that effect. Prior to publishing any reports or submitting any manuscripts wherein the publication could adversely affect patent rights for any Bionics Controlled IP (i.e., new inventions for which patent applications have not been filed), (i) the Company shall make the manuscripts for such reports available to Bionics or one of Bionics' Affiliates, using reasonable efforts to provide Bionics or such Affiliate copies of such manuscripts at least thirty (30) days before submission to a journal or other publisher so that Bionics can take any steps it deems necessary to protect such Surgi-Vision IP disclosed in such manuscripts, (ii) Bionics will promptly review such manuscripts, and (iii) the Company will delay its submission to such journal or other publisher for up to one hundred eighty (180) days if Bionics, in its reasonable discretion, determines that it needs additional time to protect such Bionics Controlled IP.

1.6 Amendment to Section 11.6: Confidentiality

A. Section 11.6 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

11.6 Confidentiality.

(a) Definition. "Confidential Information" means information which is disclosed or shared by one Party to the other Party, or generated or developed by one or both Parties, that the non-owning Party has a reasonable basis to believe is confidential to the owning Party or has been marked or orally designated by the owning Party as confidential.

(b) Ownership of Confidential Information. The Parties agree that (i) all Shared Future Intellectual Property and Non-Shared Future Intellectual Property will be deemed to be Confidential Information owned by Bionics (irrespective of which Party generated, developed or first shared or disclosed such information), (ii) all Joint Intellectual Property will be deemed to be Confidential Information owned by both Parties (irrespective of which Party generated, developed or first shared or disclosed such information), and (iii) the terms and existence of this Agreement are Confidential Information owned by both Parties. Except as otherwise expressly provided in this Section 11.6, neither Party is subject to the obligations of a "no-owning Party" with respect to Confidential Information that is owned by both Parties. Except as otherwise expressly provided in this Agreement, for all other Confidential Information, the "owning Party" is deemed to be the disclosing Party. Confidential Information shall remain the property of the owning Party, and the non-owning Party shall not be deemed by virtue of this Agreement or any access to the owning Party's Confidential Information to have acquired any right, title or interest in or to any Confidential Information, except the limited right to use such Confidential Information in accordance with the terms of this Agreement or other agreements between the Parties or their Affiliates.

(c) Non-Use and Non-Disclosure. Either Party may make available to the other Party or otherwise generate or develop Confidential Information. The non-owning Party will maintain the owning Party's Confidential Information in confidence and will not use such Confidential Information except as reasonably necessary to perform its obligations and exercise its rights under this Agreement or other agreements between the Parties or their Affiliates. Notwithstanding any provision to the contrary contained in the CPI Agreements, the Company agrees and acknowledges that Bionics and its Affiliates may share all of the Company's Confidential Information with and among each of their respective Affiliates for use solely within the Field (as that term is defined in the CPI Agreements), provided that (i) prior to any such sharing of the Company's Confidential Information such Affiliates are bound by obligations of confidentiality, non-disclosure and non-use substantially similar in scope to those in this Agreement and (ii) Bionics shall be responsible for any breach of confidentiality, non disclosure and non-use by any such Affiliate. Neither Party will disclose the other Party's Confidential Information without the prior written consent of the other Party, except as permissible in Section 11.6(e) below or in other agreements between the Parties or their Affiliates. All Confidential Information will be treated by the non-owning Party with the same care as it would exercise in the handling of its own Confidential Information, but not less than reasonable care. The limitations and undertakings specified in this Section 11.6 shall survive termination of this Agreement for a period of five (5) years.

(d) Standard Exceptions. The obligations of Sections 11.6(c), (f) and (g) do not apply to any of the other Party's Confidential Information: (i) which, other than

Shared Future Intellectual Property and Non-Shared Future Intellectual Property, is already known by the non-owning Party at the time of the disclosure; (ii) following such information becoming publicly known without the wrongful act or breach of this Agreement by the non-owning Party; (iii) following such information becoming rightfully received by the non-owning Party from a Third Party without breaching any confidentiality obligation owed by such Third Party to the owning Party; (iv) following such information becoming approved for release by written authorization of the owning Party; or (v) other than Shared Future Intellectual Property and Non-Shared Future Intellectual Property, following such information becoming subsequently and independently developed by employees or representatives of the non-owning Party without knowledge or use of the owning Party's Confidential Information. The burden of proving the existence of facts which would provide an exception under this Section 11.6(d) rests with the non-owning Party. Notwithstanding any provision herein to the contrary, to the extent required under the JHU Agreements, the Company shall be permitted to disclose the terms of this Agreement to JHU.

(e) Permitted Disclosures. Each Party may disclose the other Party's Confidential Information:

(i) to the extent reasonably necessary for a Party to prepare, file and Prosecute a Patent application under this Agreement or other agreements between the Parties or their Affiliates;

(ii) to the extent permissible under any other agreements between the Parties or their Affiliates;

(iii) to the extent reasonably necessary for a Party to develop or commercialize, directly or indirectly through one or more licensees, products related to or utilizing Intellectual Property within its allocated (or retained) field of rights pursuant to this Agreement or the License Agreement; provided that: (a) such disclosure may include the disclosure of this Agreement's and the License Agreement's existence and the scope of any license granted hereunder or thereunder; and (b) prior to making any such disclosure pursuant to this subsection, such Party will, if reasonably practical, take reasonable steps to limit the scope of such disclosure and its effect on confidentiality;

(iv) to the extent reasonably necessary for the purposes of this Agreement or other agreements between the Parties, to its respective Affiliates, consultants, agents, advisors, attorneys, outside contractors and clinical investigators, but only if those persons are bound by obligations of confidentiality, non-disclosure, and non-use substantially similar in scope to those in this Agreement; provided, such Party shall be responsible for any breaches of confidentiality, non-disclosure and non-use by any such Affiliate, consultant, agent, advisor, attorney, outside contractor or clinical investigator to whom disclosure is made;

(v) in connection with communications to such Party's stockholders and prospective investors; provided that unless otherwise agreed between the Parties: (a) such stockholders and prospective investors are subject to obligations of confidentiality no less stringent than those contained herein; and (b) such disclosure be expressly limited to the existence of this Agreement and the License Agreement and the scope of any license granted hereunder or thereunder;

(vi) to the extent reasonably necessary to enforce this Agreement or other agreements between the Parties or their Affiliates;

(vii) to the extent reasonably necessary to comply with a subpoena, court order, or administrative order. Before complying, the Party subject to such subpoena, court order or administrative order will notify the other Party, allow the other Party a reasonable time to oppose the disclosure, and reasonably cooperate with the other Party's efforts to do so; or

(viii) to the extent reasonably necessary to comply with an applicable law, rule, regulation of any governmental authority or securities exchange, including the FDA, the Securities and Exchange Commission and the New York Stock Exchange. Before complying, the Party subject to such law, rule or regulation will notify the other Party, allow the other Party a reasonable time to seek a protective order (if appropriate), and reasonably cooperate with the other Party's efforts to do so.

(f) Further Limitation on Use and Disclosure of Bionics Controlled IP. Notwithstanding the foregoing, while Bionics recognizes the Company's legitimate right (except to the extent limited by the CPI Agreements or the License Agreement) to commercialize the Bionics Controlled IP outside the Field (as that term is defined in the CPI Agreements), the Parties agree and acknowledge that, in order to give Bionics the full benefit of the exclusive license granted pursuant to the License Agreement, with respect to those portions of the Bionics Controlled IP that constitute Confidential Information owned by the Company, the Company will, if reasonably practical, take reasonable steps to limit the scope of any disclosure of such Bionics Controlled IP; provided, however, that the foregoing obligation on the Company will not apply with respect to disclosure of Bionics Controlled IP by the Company to CPI.

(g) Return of Information. Upon the request of the owning Party at any time after the Loan Satisfaction Date, the non-owning Party will promptly return or destroy (at the other Party's choice) all Confidential Information owned by such other Party then in its possession and, if applicable, provide a certification of such destruction; provided, however, that the foregoing will not apply to any Confidential Information that the non-owning Party needs to retain for purposes of meeting its obligations and exercising its rights under this Agreement and the License Agreement or expressly has the right to retain under this Agreement or the License Agreement. With the exception of the prototypes provided to Bionics, in accordance with this Agreement, each Party will retain custody and ownership of any specimens and original data disclosed to the other Party and will exercise due care in preserving such specimens and original data in a manner consistent with current standards of scientific conduct. The Company will provide Bionics with complete and timely reports and scientific analyses of such data and will make specimens and original data available for inspection by representatives of Bionics at Bionics' request.

(h) Injunctive Relief. Each Party acknowledges and agrees that the breach of this Section 11.6 would be likely to cause serious and irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Each Party therefore agrees that if the other Party breaches this Section 11.6 or if such Party has cause to believe that the other Party intends to or is about to breach such provisions, then such Party will be entitled to seek injunctive relief enjoining the breach and will have the right to specifically enforce this Agreement and the terms and provisions hereof in addition to any other remedy available at law or in equity.

(i) System Information. For the avoidance of any doubt, Bionics acknowledges and agrees that the Company is permitted to share its System information with third parties following the expiration of the Exclusivity Period if the Parties do not execute and deliver the Subsequent System License within the Exclusivity Period.

Section 2. AMENDMENT TO THE LICENSE AGREEMENT

Section 3.B of the License Agreement is hereby amended by adding the following sentence at the end thereof:

"In the event that a product simultaneously falls within the definition of "Licensed Product" under this Agreement and the definition of "Royalty Product" under the CPI License Agreement: (a) Licensor agrees that any sale of such product will only implicate the payment of fees under one of the two agreements, not both (e.g., Licensor will not receive royalty payments both under this Agreement and the CPI License Agreement with respect to the same sale); (b) the Parties will determine which agreement will govern the fees to be paid to Licensor primarily by reference to the product's actual intended use, and whether such use falls within the scope of the neuromodulation field of the Development Agreement or the "Implantable Cardiac Field" of the CPI License Agreement; and (c) if the Parties are unable to determine the governing agreement pursuant to clause (b) above, the Parties shall settle such disagreement pursuant to substantially the same mediation and arbitration provisions set forth in Section 4(E) and (F) of the CPI License Agreement with respect to a "Royalty Product Dispute" (as such term is defined in the CPI License Agreement) (it being understood and agreed that the scope of the arbitration will be limited to determining which agreement will govern the fees to be paid to the Company and that in no event will the Arbitrators have the power or authority to terminate this Agreement or the CPI License Agreement).

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

SURGI-VISION, INC	BOSTON SCIENTIFIC NEUROMODULATION CORPORATION (formerly known as ADVANCED BIONICS CORPORATION)
BY: /s/ Kim Jenkins	BY: /s/ Michael Onuscheck
NAME: Kim Jenkins	NAME: Michael Onuscheck
TITLE: Pres	TITLE: President

Exhibit 10.12

SYSTEM AND LEAD DEVELOPMENT AND TRANSFER AGREEMENT

THIS SYSTEM AND LEAD DEVELOPMENT AND TRANSFER AGREEMENT (this **"Agreement"**) is made effective as of December 30, 2005 between Surgi-Vision, Inc., a Delaware corporation (the **"Company"),** and Advanced Bionics Corporation, with its principal place of business at 25129 Rye Canyon Loop, Valencia, California 91355 **("Bionics").** The Company and Bionics are referred to collectively as the **"Parties"** and individually as a **"Party".**

BACKGROUND

A. The Company desires to borrow from Bionics and Bionics desires to lend to the Company an aggregate principal amount of up to $1,500,000 (the **"Loan")** to be evidenced by a secured convertible promissory note (the "**Note**") of even date herewith, substantially in the form attached as Exhibit A and bearing interest at a rate of 0% per annum.

B. The Company is the sole owner or exclusive licensee of Intellectual Property (defined below) relating to MR-compatible, MR-safe, and MR-optimized technology.

C. The Company desires to develop for Bionics certain technology (the **"Technology")** solely within the field of neuromodulation including without limitation an MR- compatible, MR-safe, and MR-optimized Deep Brain Stimulation **("DBS")** implant system (the **"System")** and MR-compatible, MR-safe, and MR-optimized DBS lead (the **"Lead").**

D. Bionics desires to acquire an initial exclusive license to all Intellectual Property (defined below) relating to the System, a right of first negotiation and a right of first refusal for a subsequent license to the System, and an exclusive perpetual license to the Intellectual Property relating to the Lead as embodied in the Technology License Agreement (the **"License Agreement").**

E. Concurrently herewith, the Company and Bionics have entered into a Security Agreement (the **"Security Agreement",** and together with the Note and the License Agreement, the **"Concurrent Agreements"),** pursuant to which the Company has granted Bionics a security interest in the Collateral (as defined in the Security Agreement).

AGREEMENT

The Parties agree as follows:

Section 1. ISSUANCE OF NOTE. Bionics will disburse to the Company the Loan amounts by certified or bank check made payable to the Company, or by wire transfer of funds, in six quarterly installments of $250,000 each. The first quarterly installment of $250,000 is to be loaned contemporaneously with the execution and delivery of the Note evidencing such Loan. Bionics hereby authorizes and directs the Company to deliver the Note to Bionics' address set forth at the beginning of this Agreement. The remaining five quarterly installments of $250,000 are payable, subject to the terms of this Agreement including without

limitation Section 7.4(a), one installment on or before March 31, 2006; one installment on or before June 30, 2006; one installment on or before September 30, 2006; one installment on or before December 31, 2006; and one installment on or before March 31, 2007.

Section 2. DESCRIPTION OF THE NOTE. The Note has the terms and provisions set forth in the Note.

Section 3. CLOSING. Bionics' disbursement of the initial installment under the Loan and the issuance of the Note by the Company **("Closing")** will take place on the date (the **"Closing Date")** when all of the following conditions precedent are met:

3.1 The Parties will execute and deliver each of the Concurrent Agreements.

3.2 The Company will deliver to Bionics the following, each, unless otherwise noted dated as of the date first written above:

(a) A good standing certificate of the Company from the Secretary of State of the State of Delaware, dated a recent date prior to the Closing Date;

(b) Copy of the certificate of incorporation of the Company, certified by the Secretary of State of the State of Delaware;

(c) Copy of the bylaws of the Company, certified by its corporate secretary or an assistant secretary;

(d) Resolutions of its Board approving and authorizing the execution, delivery, and performance of each of the Concurrent Documents, certified by its corporate secretary or an assistant secretary, as being in full force and effect without modification or amendment; and

(e) Signature and incumbency certificates of the officers of the Company executing each of the Concurrent Agreements.

3.3 [Intentionally Omitted]

3.4 UCC Financing Statements. The Company will have authorized Bionics to prepare and file such UCC financing statements and other instruments as Bionics will require in order to perfect and maintain the continued perfection of the first priority security interest in the Collateral created by the Security Agreement.

3.5 Cover Sheets, etc. The Company will deliver to Bionics all cover sheets or other documents required to by filed with the United States Patent and Trademark Officer, the United States Copyright Officer or any successor or substitute office in which filings are necessary in order to create or perfect Bionic's security interest in respect of the Collateral.

3.6 The representations and warranties contained in each of the Concurrent Agreements will be true, correct and complete in all material respects.

Section 4. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company hereby represents and warrants to Bionics as of the Closing Date as follows:

4.1 Organization and Power. The Company is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware, and has all requisite corporate power and authority to execute, deliver and perform all of its obligations under this Agreement and the Concurrent Agreements. The Company is duly qualified and authorized to transact business and is in good standing in each jurisdiction in which the failure so to qualify would have a material adverse effect on its business, properties, or financial condition.

4.2 Capitalization; Reserved Stock; Preemptive Rights. Immediately before the Closing, and other than as represented by the Note and the Conversion Shares, the authorized capital stock of the Company consists of (A) 40,000,000 shares of Common Stock, of which 19,833,269 shares are outstanding, and (B) 10,000,000 shares of preferred stock, par value $0.01 per share, none of which is outstanding. All of the outstanding shares of Common Stock are duly authorized, are validly issued, fully paid and nonassessable, and were issued in conformity with all applicable state and federal securities laws. The capitalization of the Company is set forth on Schedule 4.2. Except as reflected on Schedule 4.2, the Company has no other equity securities of any class issued, reserved for issuance, or outstanding. Except as described on Schedule 4.2, there are no outstanding options, offers, warrants, conversion rights, agreements, or other rights to subscribe for or to purchase from the Company, or commitments by the Company to issue, transfer, or sell (either written or oral, formal or informal, firm or contingent), shares of or interests in the capital stock or other securities of the Company (whether debt, equity, or a combination thereof) or obligating the Company to grant, extend or enter into any such agreement or commitment. Except as described on Schedule 4.2, no securities of the Company carry, and no shareholder of the Company has been granted, any preemptive rights other than any that have been waived or are not applicable. The Company is not obligated under any agreement, arrangement or understanding to redeem or otherwise purchase any of its shares of capital stock.

4.3 Authorization. The execution and delivery by the Company of this Agreement and the Concurrent Agreements, the performance of the Company's obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action and will not, either before or as a result of the consummation of the transactions contemplated by the Concurrent Agreements: (A) violate any provision of the certificate of incorporation or bylaws of the Company, (B) violate, in any material respect, any provisions of any law or any governmental rule or regulation applicable to the Company, or any contract, indenture, agreement or other instrument to which the Company is a party, or by which the Company or any of its assets or properties are bound, or (C) be in conflict with, result in a breach of, or constitute (after the giving of notice or lapse of time or both) a default under, or result in the creation or imposition of any lien of any nature whatsoever upon any of the material property or assets of the Company pursuant to the provisions of any contract, indenture, agreement or other instrument to which the Company is a party or by which it or its property is bound. Except as set forth in Schedule 4.3, the Company is not required to obtain any approval, consent or authorization from, or to file any declaration or statement with, any governmental instrumentality or agency in connection with or as a condition

to the execution, delivery or performance of this Agreement or the Concurrent Agreements other than the filing of Form D and any applicable state securities law filings, which filing or filings, as the case may be, will be made in accordance with applicable laws and regulations.

4.4 Binding Obligation. This Agreement and the Concurrent Agreements have been duly executed and delivered by the Company and are the legally valid and binding obligation of the Company, enforceable against the Company in accordance with their respective terms.

4.5 Financial Statements. The unaudited balance sheets of the Company as of December 31, 2004 and September 30, 2005, and the unaudited income statements of the Company for the periods ended December 31, 2004 and September 30, 2005 (collectively the **"Financial Statements"),** have been prepared from and are in accordance with the books and records of the Company in conformity with generally accepted accounting principles **("GAAP")** consistently applied throughout the periods indicated on a consistent basis throughout the periods involved. The Financial Statements fairly present the financial condition and results of operations of the Company as at the dates and for the periods stated or covered thereby. The Financial Statements do not omit or fail to identify material nonrecurring income or other specific items, do not omit or fail to identify the existence of material transactions not in the ordinary course of business, and contain no excessive write-downs or write-ups of any material assets. Other than those liabilities reflected or reserved against in the Financial Statements, and except for certain convertible notes in an aggregate principal amount of $50,000, the Company does not have any material liabilities of any nature whatsoever, whether accrued, absolute, contingent, or otherwise, and whether due or to become due, nor does the Company have actual knowledge of any basis for the assertion against the Company of any material liability of any nature whatsoever, unless such liability has been fully reflected or reserved against in the Financial Statements. The Financial Statements are attached hereto as Exhibit 4.5.

4.6 The Conversion Shares. The Conversion Shares have been duly authorized and, when issued and delivered upon conversion of the Note, will be duly and validly issued, fully paid and non-assessable, free and clear of any liens or encumbrances created by the Company.

4.7 Litigation. There is no action, suit, proceeding or investigation pending or, to the Company's knowledge, currently threatened against the Company that questions the validity of this Agreement or the Concurrent Agreements or the right of the Company to enter into it, or to consummate the transactions contemplated hereby or thereby, or that would be reasonably likely to result, either individually or in the aggregate, in any material adverse changes in the assets, business, properties, condition or affairs of the Company, financially or otherwise, or any change in the current equity ownership of the Company, or change in the ability of the Company to perform, or of Bionics to enforce, this Agreement or the Concurrent Agreements. The Company is not a party or subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality.

4.8 Intellectual Property. The Company owns, possesses or has legal rights to use all ideas, inventions, developments and improvements conceived and/or reduced to

practice, patents, trademarks, service marks, trade names, copyrights, know-how, trade secrets, licenses, information and proprietary rights and processes **("Intellectual Property")** necessary for the Company's business as now conducted and as proposed to be conducted by the Company by developing the System and Lead for commercial manufacture, use, lease, importation, and sale, including without limitation the intellectual property licensed to the Company under the License Agreement by and between the Company and the Johns Hopkins University **("JHU")** on or around July 1, 1998 and all other appendices, addenda, amendments, and agreements related thereto (the **"JHU Agreement")** (the owned and licensed rights of the Company, collectively, the **"Existing Intellectual Property")**, without any conflict with, or infringement of, the rights of others. Except as set forth in Schedule 4.8 attached hereto, there are no outstanding options, licenses or agreements of any kind relating to the foregoing, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the Existing Intellectual Property. The Company has not received any communications alleging that the Company has violated or, by conducting its business or developing the System or Lead, would violate the Intellectual Property of any other person or entity. The Company knows of no prior art or other information material to patentability that would invalidate or render unenforceable the Existing Intellectual Property. The Company further represents and warrants that any information it gives to Bionics as part of its duties and obligations under this Agreement and the Concurrent Agreements comprises information which it has the right to freely disclose without incurring legal liability to or violating the rights of others.

4.9 Private Placement. On the assumption that the representations and warranties of Bionics are true and correct, the issuance of the Note as contemplated by this Agreement is exempt from the registration and qualification requirements of the Securities Act of 1933, as amended (the **"Securities Act"**), and neither the Company nor any authorized agent acting on its behalf will take any action hereafter that would cause the loss of such exemption.

4.10 Title to Property and Assets. All assets, tangible and intangible, owned by the Company are owned free and clear of all mortgages, liens, loans, encumbrances and adverse claims, and the security interest of Bionics in the Company's tangible or intangible property will be a first lien thereon.

4.11 Leases. Any property and asset leases entered into by the Company have been made subject to valid and legally binding contracts and are in full force and effect.

4.12 Tax Returns and Payments. The Company has timely filed all required tax returns and reports (federal, state and local) as required by law. These returns and reports are true and correct in all material respects. The Company has paid all taxes and other assessments due. The Company has never had any tax deficiency proposed or assessed against it and has not executed any waiver of any statute of limitations on the assessment or collection of any tax or governmental charge.

4.13 Permits. The Company has all franchises, permits, licenses, and any similar authority necessary for and material to the conduct of its business as currently conducted, the lack of which could have a material adverse effect on the Company's business,

properties or financial condition. The Company is not in default in any material respect under any of such franchises, permits, licenses or other similar authority.

4.14 Material Contracts.

(a) The following types of contracts and agreements to which the Company is a party are required to be set forth in Schedule 4.14, being the **"Material Contracts":**

(i) each contract and agreement, whether or not made in the ordinary course of business, that contemplates an exchange of consideration with a value of more than $25,000, in the aggregate, over the term of such contract or agreement;

(ii) all contracts, arrangements and agreements evidencing indebtedness over $2,500 in borrowed money or other value;

(iii) all joint venture, partnership, strategic alliance and business acquisition or divestiture agreements (and all letters of intent, term sheets and draft agreements relating to any such pending transactions);

(iv) all agreements relating to issuances of securities of the Company;

(v) all exclusive distribution contracts to which any of the Company;

(vi) all leases of real property leased for the use or benefit of the Company;

(vii) all contracts relating in whole or in part to Intellectual Property pursuant to which the Company obtains from any third party any Intellectual Property rights;

(viii) all contracts relating in whole or in part to Intellectual Property pursuant to which the Company grants to any third party any Intellectual Property rights or the right to manufacture, distribute or sell any product of the Company, such subsidiary or such third party;

(ix) all management contracts (excluding contracts for employment) and contracts with other consultants, including any contracts involving the payment of royalties or other amounts calculated based upon the revenues or income of the Company or income or revenues related to any product of the Company to which the Company is a party;

(x) all contracts and agreements with any governmental authority to which the Company;

(xi) all contracts and agreements that limit, or purport to limit, the ability of the Company to compete in any line of business or with any person or entity or in any geographic area or during any period of time;

(xii) all other contracts and agreements, whether or not made in the ordinary course of business, which are material to the Company, or the absence of which would have a material adverse effect on the Company's business, properties, or financial condition.

(b) (i) Each Material Contract is a legal, valid and binding agreement of the Company; (ii) the Company has not received any claim of default under or cancellation of any Material Contract and the Company is not in breach or violation of, or default under, any Material Contract; (iii) to the knowledge of the Company, no other party is in breach or violation of, or default under, any Material Contract; and (iv) neither the execution and delivery of this Agreement or the Concurrent Agreements nor the consummation of any transaction contemplated hereby or thereby will constitute a default under, give rise to cancellation rights under, or otherwise adversely affect any of the material rights of the Company under any Material Contract. The Company has furnished or made available to Bionics true and complete copies of all Material Contracts.

4.15 No Broker. There is no firm, corporation, agency or other entity or person that is entitled to a finder's fee or any type of commission in relation to or in connection with the transactions contemplated by this Agreement or the Concurrent Agreements as a result of any agreement or understanding with the Company or any of its directors, officers, employees or agents.

4.16 Representations and Warranties. The representations and warranties of the Company contained in this Agreement and each of the Concurrent Agreements do not, and as of the Closing Date will not, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the representations, warranties and other statements and information contained in the Concurrent Agreements not misleading.

4.17 Principal Business Address. The principal business address of the Company is 200 N. Cobb Parkway, Suite 140, Marietta, GA 30062-3585.

Section 5. REPRESENTATIONS AND WARRANTIES OF LENDER.

Bionics hereby represents and warrants to the Company as of the Closing Date as follows:

5.1 Authorization of Concurrent Agreements. Bionics is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware, and has all requisite corporate power to execute, deliver and perform all of its obligations under this Agreement and the Concurrent Agreements to which it is a party. The execution and delivery by the Bionics of this Agreement and the Concurrent Agreements to which it is a party, the performance of Bionics' obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all necessary corporate action on the part of Bionics. This Agreement and the Concurrent Agreements to

which it is a party have been duly executed and delivered by Bionics and are the legally valid and binding obligation of Bionics, enforceable against Bionics in accordance with their respective terms.

5.2 Non-contravention. The execution and delivery by Bionics of this Agreement and the Concurrent Agreements to which it is a party, the performance of Bionics' obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby will not, either before or as a result of the consummation of the transactions contemplated by this Agreement or the Concurrent Agreements to which it is a party: (A) violate any provision of the certificate of incorporation or bylaws of Bionics, (B) violate, in any material respect, any provisions of any law or any governmental rule or regulation applicable to Bionics, or any contract, indenture, agreement or other instrument to which Bionics is a party, or by which Bionics or any of its assets or properties are bound, or (C) be in conflict with, result in a breach of, or constitute (after the giving of notice or lapse of time or both) a default under, or result in the creation or imposition of any lien of any nature whatsoever upon any of the material property or assets of Bionics pursuant to the provisions of any contract, indenture, agreement or other instrument to which Bionics is a party or by which it or its property is bound. Bionics is not required to obtain any approval, consent or authorization from, or to file any declaration or statement with, any governmental instrumentality or agency in connection with or as a condition to the execution, delivery or performance of this Agreement or the Concurrent Agreements to which it is a party.

5.3 Accredited Investor. Bionics is an "accredited investor" as that term is defined in Rule 501(a) promulgated under the Securities Act, a copy of which definition is attached hereto as Exhibit B.

5.4 Investment. The Note is being purchased for Bionics' own account, for investment and not for distribution or resale to others. Bionics agrees that Bionics will not sell or otherwise transfer the Note or any Conversion Shares unless such securities, as the case may be, are registered under the Securities Act or unless an exemption from such registration is available, except under circumstances where neither such registration nor such exemption is required by law. Bionics understands that neither the Note nor the Conversion Shares has been registered under the Securities Act and they are or will be issued pursuant to a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent as expressed herein.

5.5 Speculative Nature of Investment. Bionics acknowledges that the purchase of the Note involves a high degree of risk and that (a) an investment in the Company is highly speculative and only investors who can afford the loss of their entire investment should consider investing in the Company and purchasing Note; (b) Bionics may not be able to liquidate its investment; (c) transferability of the Note and the Conversion Shares is extremely limited; and (d) Bionics could sustain the loss of its entire investment.

5.6 Experience. Bionics acknowledges that it has prior investment experience, including investment in non-listed and non-registered securities, or has employed the services of an investment advisor, attorney or accountant to review all of the documents furnished or made available by the Company and to evaluate the merits and risks of such an investment on Bionics' behalf.

5.7 Financial Resources. Bionics hereby represents that it has adequate means of providing for its current financial needs and contingencies, is able to bear the substantial economic risks of an investment in the Company for an indefinite period of time, has no need for liquidity in such investment, and, at the present time, could afford a complete loss of such investment.

5.8 Lack of Liquidity. Bionics understands that there is no public market for the Note or the Conversion Shares. Bionics further understands that even if a public market were to develop for any of the Company's securities, Rule 144 (the **"Rule")** promulgated under the Securities Act limits Bionics' ability to sell any of the Company's securities owned by Bionics. Bionics acknowledges that the Company may, if it desires, permit the transfer of the Note or Conversion Shares out of its name only when its request for transfer is accompanied by an opinion of counsel reasonably satisfactory to the Company that neither the sale nor the proposed transfer results in a violation of the Securities Act or any applicable state "blue sky" laws (collectively **"Securities Laws")**. Bionics agrees to hold the Company and its directors, officers and controlling persons and their respective heirs, representatives, successors and assigns harmless and to indemnify them against all liabilities, costs and expenses incurred by them as a result of any misrepresentation made by Bionics contained herein or any sale or distribution by Bionics in violation of any Securities Laws. Bionics acknowledges that at such time, if ever, as the Note or the Conversion Shares are registered, sales of such securities will be subject to state securities laws, including those of states which may require any securities sold therein to be sold through a registered broker-dealer or in reliance upon an exemption from registration.

5.9 Address. Bionics hereby represents that the address of such Bionics furnished at the beginning of this Agreement is such Bionics' principal business address.

5.10 Purpose. If Bionics is a partnership, corporation, trust or other entity, it was not formed for the purpose of investing in the Company.

5.11 No Broker. There is no firm, corporation, agency or other entity or person that is entitled to a finder's fee or any type of commission in relation to or in connection with the transactions contemplated by this Agreement or the Concurrent Agreements as a result of any agreement or understanding with Bionics or any of its directors, officers, employees or agents.

Section 6. LEGENDS. This Section intentionally omitted.

Section 7. COMPANY COVENANTS

7.1 Information to Bionics. For so long as the Note or any Conversion Shares are outstanding, the Company covenants to provide Bionics with the same financial information that the Company provides to its stockholders. In addition, for so long as the Note and any Conversion Shares are outstanding, the Company will provide Bionics with true, correct and

complete copies of a quarterly balance sheet, income statement and statement of cash flow not later than 45 calendar days following the end of each calendar quarter; provided, however, that the Company will not be obligated to provide such financial statements to Bionics if the Board of Directors of the Company (the **"Board")** reasonably and, with exception of any Board member designated by Bionics under Section 7.4(a), unanimously determines that Bionics is a competitor of the Company.

7.2 Books and Records. The Company will keep complete and accurate books and records in conformity with GAAP.

7.3 Taxes. The Company will pay all material taxes imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises, and all material claims (including, without limitation, claims for labor, services, materials and supplies) for sums that have become due and payable before the same will become a lien upon any of its properties or assets.

7.4 (a) Board Representation. The Company will cause that certain First Amended and Restated Stockholders Agreement dated April 30, 2004 among the Company and certain of its stockholders (the **"Stockholders Agreement")** to be amended to allow Bionics the right to designate in writing to the Company a nominee acceptable to the Company (which acceptance will not be unreasonably withheld) for membership to the Board. Such amendment to the Stockholders Agreement must be in form and substance reasonably satisfactory to the Parties. If the Stockholders Agreement is not satisfactorily amended before 60 days after the Closing Date, Bionics may withhold all remaining Loan installments payable to the Company until the Stockholders Agreement is satisfactorily amended. The Company acknowledges that both Todd K. Whitehurst and Jeffrey D. Goldberg are acceptable candidates for designation by Bionics as nominees for Board membership in the event that Bionics elects to designate either of such individuals as a nominee to the Board. The Parties acknowledge and agree that any amendment to the Stockholder's Agreement will provide that Bionics' right to designate a nominee to the Board will continue (I) only as long as the Note is outstanding or (II) if Bionics elects to exercise its Conversion Right, only so long as Bionics (A) converts at least $1,000,000 of the Note Balance into Conversion Shares and (B) continues to own at least that number of Conversion Shares.

(a) Observer. Effective as of the Closing and continuing during any time before the designation by Bionics of a nominee to the Board as provided herein, Bionics will have the right to designate one representative of Bionics to receive notice of and attend and observe all meetings of the Board in a nonvoting observer capacity and, in this respect, the Company will give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided however, that such representative will agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and, provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel, or result in a conflict of interest. Bionics' rights under this Section 7.4(b) will continue (I) only as long as the Note is outstanding or (II)

if Bionics elects to exercise its Conversion Right, only so long as Bionics (A) converts at least $1,000,000 of the Note Balance into Conversion Shares and (B) continues to own at least that number of Conversion Shares.

Nothing in this Section 7.4 will imply any fiduciary or other duty owed by Bionics to the Company or its stockholders.

7.5 Existence; Liens and Encumbrances; Mergers. Except as otherwise permitted pursuant to the terms of this Agreement, the Company will at all times preserve and keep in full force and effect its corporate existence. .So long as the Note is outstanding, without the prior written consent of Bionics, Company will not (a) pledge or otherwise encumber or permit the encumbrance of any of its assets, including the Collateral (as defined in the Security Agreement); (b) merge or consolidate with any entity, or dissolve; (c) declare, make or pay any distribution or dividend to its stockholders; (d) sell, lease or otherwise dispose of all or any substantial portion of its assets; or (e) engage in any business other than that in which it is presently engaged. Bionics may grant or withhold its consent in its sole discretion.

7.6 Maintenance of Properties. The Company will maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, all material properties used or useful in the business of the Company (including all Existing Intellectual Property and all Intellectual Property developed after the Closing (i) resulting from communication between the Parties or (ii) relating to the System or Lead for commercial manufacture, use, lease, importation, and sale, including without limitation the intellectual property licensed to the Company under the JHU Agreement (collectively, "Future Intellectual Property") and from time to time will make or cause to be made all appropriate repairs, renewals and replacements thereof.

7.7 Insurance. The Company will maintain or cause to be maintained, with financially sound and reputable insurers, insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of the Company as may customarily be carried or maintained under similar circumstances by corporations of established reputation engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as will be customary for corporations similarly situated in the industry. On or prior to 45 days after the Closing Date, the Company will deliver to Bionics a certificate from the Company's insurance broker or other evidence satisfactory to it that all insurance required to be maintained pursuant to this Section 7.7 is in full force and effect and that Bionics has been named as additional insured and/or loss payee thereunder.

7.8 Waiver of Stay, Extension or Usury Laws. The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law which prohibit or forgive the Company from satisfying any obligations owed to Bionics under this Agreement, any of the Concurrent Agreements or other documents executed pursuant hereto or thereto, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Agreement, the Note, the License

Agreement, the Security Agreement and the other documents executed pursuant hereto or thereto; and (to the extent that it may lawfully do so) the Company hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to Bionics, but will suffer and permit the execution of every such power as though no such law had been enacted.

7.9 OFAC.

The Company: (i) will not become a person whose property or interests in property are blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079(2001)), (ii) will not engage in any dealings or transactions prohibited by Section 2 of such executive order, or be otherwise associated with any such person in any manner violative of Section 2, or (iii) will not otherwise become a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other OFAC regulation or executive order.

Section 8. GENERAL PROVISIONS.

8.1 Survival of Representations, Warranties and Agreements. The representations, warranties and agreements contained in this Agreement will survive the execution of this Agreement.

8.2 Notices. All notices, requests, demands and other communications which are required to be or may be given under this Agreement a Party by the other Party must be in writing and will be deemed to have been duly given (a) immediately if delivered in person, (b) the day following dispatch by a nationally recognized overnight courier service (such as Federal Express or UPS, etc.) for next day delivery, (c) five days after dispatch by certified or registered first class mail, postage prepaid, return receipt requested, to the Party to whom the same is so given or made, or (d) upon confirmation of receipt, if by facsimile. Any notice or other communication given hereunder will be addressed to the Company, at 200 N. Cobb Parkway, Suite 140, Marietta, GA 30062-3585, Attention: John C. Thomas, Jr., Fax (770) 424-8236, with a copy to Kimble L. Jenkins, 50 North Front St., 19th Floor, Memphis, TN 38103, Fax (901) 579-4979, or to Bionics at the address indicated at the beginning of this document, Attention: General Counsel, Fax (661) 362-4712.

8.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

8.4 Headings. All headings are inserted for convenience of reference only and will not affect the meaning or interpretation of any such provisions or of this Agreement, taken as an entirety.

8.5 Severability. If and to the extent that any court of competent jurisdiction holds any provision (or any part thereof) of this Agreement to be invalid or unenforceable, such holding will in no way affect the validity of the remainder of this Agreement.

8.6 Changes, Waivers, Etc. Neither this Agreement nor any provision of this Agreement may be changed, waived, discharged or terminated orally, but rather may only be changed by a statement in writing signed by the Party against which enforcement of the change, waiver, discharge or termination is sought. It is agreed that a waiver by either Party of a breach of any provision of this Agreement will not operate, or be construed, as a waiver of any subsequent breach by that same Party.

8.7 Reimbursement of Legal Expenses. Promptly upon the consummation of an equity financing which results in gross proceeds to the Company of at least $2,500,000, the Company will reimburse Bionics for its legal expenses actually incurred, up to a maximum of $25,000, in connection with the (A) negotiation and documentation of this Agreement and the Concurrent Agreements or (B) Bionics' investment in the Company to such date.

8.8 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California. The Parties hereby agree that any dispute which may arise between them arising out of or in connection with this Agreement will be adjudicated before a court located in Los Angeles, California and they hereby submit to the exclusive jurisdiction of the courts of the State of California located in Los Angeles, California and of the federal courts in the Central District of California with respect to any action or legal proceeding commenced by any party, and irrevocably waive any objection they now or hereafter may have respecting the venue of any such action or proceeding brought in such a court or respecting the fact that such court is an inconvenient forum, relating to or arising out of this Agreement or any acts or omissions relating to the sale of the securities hereunder, and consent to the service of process in any such action or legal proceeding by means of registered or certified mail, return receipt requested, in care of the address set forth below or such other address as the undersigned will furnish in writing to the other.

8.9 Entire Agreement This Agreement, the Note, the Security Agreement, and the Other Agreements set forth the entire agreement and understanding between the Parties as to this subject matter and incorporates and supersedes all prior discussions, agreements and understandings of any and every nature among them.

8.10 Further Assurances. The Parties agree to execute and deliver all such further documents, agreements and instruments and take such other and further action as may be necessary or appropriate to carry out the purposes and intent of this Agreement.

8.11 Successors and Assigns. The terms and conditions of this Loan Agreement will inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Loan Agreement, except as

expressly provided in this Loan Agreement. This Agreement may not be assigned by either of the Parties without the prior written consent of the other Party.

8.12 Relationship of Parties. In all matters relating to this Agreement, no Party will have any right, power or authority to create any obligation, express or implied, on behalf of any other Party. Nothing in this Agreement is intended to create or constitute a joint venture or a partnership between the parties hereto.

Section 9. SYSTEM DEVELOPMENT, LICENSE, AND RIGHT OF FIRST REFUSAL.

9.1 System Development. The System prototypes must meet each milestone stated on Exhibit C **("System Milestone")** and [***] **("System Requirements")**.

(a) Collaboration. To assist the Company in the development of the System prototype, Bionics will provide the Company with Bionics' proprietary DBS system and component prototypes if and as developed and available.

(b) Design Specifications. The Company will document the design specifications and changes necessary to build the System, and all test results of the System, and will provide such documentation to Bionics along with any other System design modifications necessary for Bionics to manufacture, use, and sell the System. Bionics' employees and consultants may directly assist with the development of the System and the Company will reasonably cooperate with, and reasonably accept the design suggestions of, Bionics' personnel.

(c) Validation. Upon the due date of each System Milestone, Bionics may test or have the prototype of the System tested to verify compliance with the requirements of the Systems Milestones and Section 9.1.

9.2 Exclusive License. The Company hereby grants to Bionics, upon and subject to all the terms and conditions of this Agreement, an exclusive, fully paid, worldwide license under the Existing Intellectual Property and all Future Intellectual Property, limited to the field of neuromodulation, to make, use, import, lease, and sell the System (the **"System License")** until the later of (i) the full payment of the Note Balance or (ii) the full conversion of the Note Balance. For the avoidance of doubt, the System License includes without limitation a sublicense, limited to the field of neuromodulation, of all Existing Intellectual Property and Future Intellectual Property (if any) licensed to the Company under the JHU Agreement, which sublicense Bionics acknowledges and agrees is subject to the terms of the JHU Agreement. Bionics may grant sublicenses, limited to the duration of the System License, under the Existing Intellectual Property and Future Intellectual Property of the System License.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

9.3 Exclusive Negotiation of Subsequent System License. Within five days after the final System Milestone is achieved, the Parties will enter into exclusive negotiations for a license agreement for all or part of the System (the **"Subsequent System License")** for a period not to exceed 90 days from the date the Parties enter into negotiations (the **"Exclusivity Period")**. This right of first negotiation will not obligate either Party to enter into any future agreement or agree upon any particular terms.

9.4 Right of First Refusal. In the event the Parties do not execute and deliver the Subsequent System License within the Exclusivity Period, then, upon the expiration of the Exclusivity Period, the Company may negotiate with other parties. However, for a period of 90 days following the expiration of the Exclusivity Period (the **"ROFR Period,"** and together with the Exclusivity Period, the **"Negotiation Period")**, Bionics will have a right of first refusal with respect to any commercial license of the System within the field of neuromodulation. Bionics will have no further rights to obtain a license for or relating to the System upon the expiration of the ROFR Period.

Section 10. LEAD DEVELOPMENT AND LICENSE.

10.1 Lead Development. Working together with Bionics and subject to Section 10.1(c), the Company will provide Bionics with a fully functional prototype of the Lead and demonstrate the proper functionality of the prototype of the Lead to Bionics in an animal or cadaver placed within an MRI machine. The Lead prototype must meet the following objectives (the **"Lead Requirements"**): [***].

(a) Development Expenses. Bionics will reimburse the Company for all reasonable expenses directly associated with the development of the Lead for Bionics (including, without limitation, costs associated with animal studies and human trials), when the Company submits a request to Bionics for approval prior to incurring such expenses and such expenses are incurred with Bionics' written approval, provided receipts for such expenses are submitted to Bionics within 30 days after such expenses are incurred. Upon receiving a request for expense authorization from the Company, Bionics will indicate to the Company whether the requested expense is authorized within 15 days for expenses up to $1,000 and within 30 days for expenses over $1,000. Bionics will reimburse the Company within 30 days of receiving reasonably detailed invoices describing the Company's authorized expenses under this Agreement. The Company will provide those invoices to Bionics within 15 days after the end of each month in which the Company incurs any authorized expense.

(b) Lead Milestones.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

(i) Bionics will pay the Company $100,000 after the Company has successfully created the Lead meeting the Lead Requirements as demonstrated to Bionics' reasonable satisfaction.

(ii) Bionics will pay the Company $100,000 after the Company has successfully completed the first live chronic human implantation of the Lead meeting the Lead Requirements as demonstrated to Bionics' reasonable satisfaction.

(iii) Bionics will pay the Company $1,000,000 after Bionics has successfully received FDA approval of the Lead meeting the Lead Requirements as demonstrated to Bionics' reasonable satisfaction.

(c) Performance Obligations; Breach; Damages. In the event that the Company fails to complete each of the milestones of Section 10.1(b) **("Lead Milestones")** by June 30, 2008, and such failure is not the result of Bionics' failure to reasonably cooperate with the Company in pursuing the Lead Milestones, the Company will be in breach of this Agreement. Upon receiving written notice of breach under this Section 10.l(c) by Bionics, the Company will have 60 days to cure the breach. If the Company fails to cure the breach within 60 days after receiving notice of such breach, the Company will immediately pay Bionics a sum of money equal to (i) all Lead Milestone payments disbursed to date, plus (ii) all expense reimbursements previously paid by Bionics to the Company pursuant to Section 10.1(a), plus (iii) all patent prosecution costs incurred by Bionics under Section 11.2(a) with respect to Patents (defined below) related to the Lead.

10.2 Exclusive License. Concurrently with this Agreement, the Company has granted to Bionics in the License Agreement an exclusive, perpetual, transferable, worldwide license, with right of sublicense, under the Existing Intellectual Property and Future Intellectual Property, to make, use, import, lease, and sell any neuro-related lead, neuro-related lead extension, any other neuro-related lead-type device, or any product related to a neuro-related lead.

Section 11. INTELLECTUAL PROPERTY OWNERSHIP AND PROTECTION.

(a) Intellectual Property Transfer and License during Agreement. The Company hereby assigns and transfers to Bionics all right, title, and interest for all countries in and to all Future Intellectual Property developed before the later of (x) the full payment of the Note Balance or (y) the full conversion of the Note Balance **("Loan Satisfaction Date")**. The Company agrees to (i) promptly and fully disclose in writing to Bionics all Future Intellectual Property, (ii) assign all Future Intellectual Property to Bionics and execute all documents necessary to effect that assignment, (iii) assist Bionics as set forth in Section 11.2, at Bionics' expense, in obtaining foreign and domestic intellectual-property protection on all Future Intellectual Property, (iv) execute all documents necessary to obtain such intellectual-property protection in the name of Bionics, and (v) maintain all information relative to all Future Intellectual Property, as confidential information of Bionics subject to the obligations of confidentiality set forth in this Agreement. Bionics hereby grants to the

Company an exclusive, fully paid, worldwide license, with right to sublicense, under that transferred Future Intellectual Property outside the field of neuromodulation, to make, use, import, lease, and sell any system, method, or apparatus.

(b) Intellectual Property Re-transfer and Cross-License. Bionics hereby agrees to assign and transfer to the Company joint ownership for all countries in and to the transferred Future Intellectual Property promptly after the Loan Satisfaction Date **("Re-Transfer")**. Upon Re-Transfer, the transferred Future Intellectual Property will become Intellectual Property that is jointly owned by the Parties **("Joint Intellectual Property")**. Effective immediately upon the date of Retransfer, the Company hereby grants to Bionics an exclusive, fully paid, non-transferable, perpetual worldwide license under the Joint Intellectual Property within the field of neuromodulation, with right to sublicense, to make, use, import, lease, and sell any system, method, or apparatus thereunder. Bionics hereby grants to the Company an exclusive, fully paid, non-transferable, perpetual worldwide license under the Joint Intellectual Property outside the field of neuromodulation, with right to sublicense, to make, use, import, lease, and sell any system, method, or apparatus thereunder.

11.2 Patent Prosecution.

(a) Costs. Bionics will pay all foreign and domestic Patent (defined below) prosecution costs and expenses for all patents and applications subject to its sole control as set forth in Section 11.2(b) **("Prosecution Costs")**.

(b) Intellectual Property Protection. Bionics will control the prosecution of all foreign and domestic Patents and applications thereof and will take such other legal steps as Bionics will determine in its sole discretion to be necessary to protect Bionics' rights for all Existing Intellectual Property and Future Intellectual Property or Joint Intellectual Property during the term of any license to Bionics **("Protected Intellectual Property")**. The Protected Intellectual Property includes all Existing Intellectual Property and Future Intellectual Property (including all Intellectual Property licensed under the JHU Agreement to the extent permitted under the JHU Agreement) and Joint Intellectual Property. As used in this Section 11.2, **"Patents"** means any currently issued U.S. or foreign patent or provisional, nonprovisional, or foreign patent application, any reissues, reexaminations, extensions, divisionals, continuations, continuations in part, counterparts, and foreign counterparts thereof. For the avoidance of doubt, Bionics will not be obligated to pay any Prosecution Costs to protect any Intellectual Property if it determines, in its sole discretion, that those Prosecution Costs outweigh the likely benefits to Bionics.

(c) Company Cooperation. The Company will cooperate with Bionics in filing, prosecuting and maintaining applications and taking such other legal steps as set forth in this Section 11.2 and will execute and deliver any documents and instruments in connection therewith which Bionics may request at no additional cost or expense to Bionics.

(d) Company Inspection and Intervention. The Company will have the right upon reasonable notice and reasonable request to inspect, at the Company's sole expense and discretion, the prosecution documents and strategy of Bionics with respect to the

Protected Intellectual Property. If the Company desires to file and prosecute any patent application in any country that Bionics determined was not worthwhile to protect Bionics' rights, the Company may provide Bionics with a reasonable written request to file and prosecute such patent application **("Prosecution Request")**. Bionics will have 30 days to fulfill the Prosecution Request. If Bionics fails to complete the Prosecution Request after 30 days of receiving the Prosecution Request, the Company may independently file and prosecute the patent application of the Prosecution Request, and the Company will bear all Prosecution Costs and will control the remainder of the prosecution for the patent application of the Prosecution Request.

11.3 Warranty Regarding Third Party Collaborators. The Parties warrant that all individuals, including without limitation employees and consultants, authorized, invited, or otherwise involved by the Parties, their employees, or consultants, to assist in the development of the System or Lead, have assigned to the relevant Party or have a legal obligation to assign to the relevant Party all their rights to any Intellectual Property related to, arising from, or based on the development of the System or Lead.

11.4 Infringement. Both the Company and Bionics will notify the other of any perceived infringement. [***] will defend against infringement by a third party all Existing Intellectual Property (including all intellectual property licensed under the JHU Agreement to the extent permitted under the JHU Agreement), Future Intellectual Property and Joint Intellectual Property under which Bionics holds a license from the Company; provided, however, that [***] will have the right, but not the obligation, to participate in the institution and prosecution of any such infringement suit on terms that are fair and equitable to both Parties. If [***] does not institute an infringement suit within 60 days after [***] written request that it do so, [***] may institute and prosecute such lawsuit.

(a) Costs. [***] will pay all costs, fees, and expenses associated with an infringement action initiated and prosecuted [***]. [***] will pay all costs, fees, and expenses associated with an infringement action initiated and prosecuted [***]. The costs, fees, and expenses associated with an infringement action initiated and prosecuted by both Parties shall be allocated to, and paid by, each Party in a fair and equitable manner mutually determined by the Parties.

(b) Recovery. Any recovery obtained in an action initiated and prosecuted [***]. Any recovery obtained in an action initiated and prosecuted [***]. Any recovery obtained in an action initiated and prosecuted by both Parties as contemplated above will be distributed to the Parties in a fair and equitable manner mutually determined by the Parties.

(c) Cooperation. Each Party agrees to fully cooperate with the other in the prosecution of any such suit at no additional expense to that cooperating Party.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

11.5 Publication and Authorship. The Company will have the right to author, to publish and to retain or transfer copyright to scientific reports describing the methods and results of any or all Intellectual Property licensed to Bionics, provided that the manuscripts for such reports are made available to Bionics at least ninety days before publication or submission to a journal so that Bionics can take any steps deemed necessary to protect Intellectual Property disclosed in said manuscripts and articles and provided that such reports include an Acknowledgement stating that the studies were conducted with the financial and technical support of Bionics.

11.6 Confidentiality.

(a) Definition. "Confidential Information", as used in this Agreement, will include all confidential or proprietary data or information disclosed by either Party to the other Party in writing, orally, or by drawing or other form pursuant to this Agreement or any of the Concurrent Agreements.

(b) Non-Disclosure. To the extent that Confidential Information is shared between the Parties, the receiving Party agrees that it will not disclose any Confidential Information to any third party and, during the term of any license granted to Bionics under this Agreement and for a period of three (3) years thereafter, without the prior written consent of the disclosing Party, will not use Confidential Information of the disclosing Party for any purpose other than for the performance of the rights and obligations hereunder. The receiving Party further agrees that, except as otherwise expressly provided in this Agreement, Confidential Information will remain the sole property of the disclosing Party and that it will take all reasonable precautions to prevent any unauthorized disclosure of Confidential Information by its employees, affiliates, and consultants. No license will be granted by the disclosing Party to the receiving Party with respect to Confidential Information disclosed hereunder unless otherwise expressly provided herein. The non-disclosure obligations of this Section 11.6(b) will not apply to information that: (i) is known to the receiving Party at the time of disclosure or becomes known to the receiving Party without breach of this Agreement (as shown in the receiving Party's written records); (ii) is or becomes publicly known through no wrongful act of the receiving Party or any affiliate of the receiving Party; (iii) is rightfully received from a third party without restriction on disclosure; (iv) is independently developed by the receiving Party or any of its affiliates; (v) is furnished to any third party by the disclosing Party without restriction on its disclosure; (vi) is approved for release upon a prior written consent of the disclosing Party; or (vii) is disclosed pursuant to judicial order, requirement of a governmental agency or as otherwise required by law (in which case the receiving Party will notify the disclosing Party before the receiving Party's disclosure and cooperate with the disclosing Party in the disclosing Party's attempts to seek a proper protective order).

(c) Exchange of Confidential Information. Upon the request of the disclosing Party at any time after the Loan Satisfaction Date, the receiving Party will promptly return all Confidential Information, in whatever form, furnished hereunder and all copies thereof, excluding any information that the receiving Party needs to retain for purposes of meeting its obligations under this Agreement or expressly has the right to retain under this

Agreement. With the exception of the prototypes provided to Bionics, in accordance with this Agreement, each Parties will retain custody and ownership of any specimens and original data disclosed to the other Party and will exercise due care in preserving such specimens and original data in a manner consistent with current standards of scientific conduct. The Company will provide Bionics with complete and timely reports and scientific analyses of such data and will make specimens and original data available for inspection by representatives of Bionics at Bionics' request.

(d) Publicity. The Parties agree that all publicity and public announcements, or other disclosure to any third party, concerning the formation, existence, and content of this Agreement will be jointly planned and coordinated by and among the Parties. Neither Party will disclose any information concerning the formation, existence, and content, including without limitation the specific terms, of this Agreement to any third party without the prior written consent of the other Party, which consent will not be withheld unreasonably. Notwithstanding the foregoing, any Party may disclose information concerning this Agreement as required by the laws, rules, orders, regulations, subpoenas, or directives of a court, government, or governmental agency, after giving prior notice to the other Party.

(e) Breach. If a Party breaches any of its obligations with respect to confidentiality and unauthorized use of Confidential Information as set forth in this Agreement, the non-breaching Party will be entitled to equitable relief to protect its interest therein, including but not limited to injunctive relief, as well as money damages notwithstanding anything to the contrary contained herein.

Section 12. Termination of Licenses.

The Parties are entitled to enjoy the benefits of each license granted pursuant to the License Agreement and Sections 9, 10, and 11, and the termination of any one license is not a termination of any other license even if such licenses grant similar rights.

Section 13. Consent by JHU.

Pursuant to a letter dated as of December 27, 2005, a copy of which has been received by Bionics, JHU consented to the collateral assignment to Bionics, and the grant to Bionics of a security interest in, all of the Company's right, title and interest in and to the JHU Agreement.

[*The remainder of this page has been left intentionally blank*]

In Witness Whereof, the undersigned have executed this Agreement as of the date first written above.

BIONICS:

ADVANCED BIONICS CORPORATION

By: /s/ Jeffrey H. Greiner
Jeffrey H. Greiner
Its: President and Co-Chief Executive Officer

COMPANY:

SURGI- VISION, INC.

/s/ Kimble L. Jenkins
By: Kimble L. Jenkins
Its: President

[Signature Page to System and Lead Development and Transfer Agreement]

SCHEDULE 4.2

CAPITALIZATION

A capitalization table is set forth on the following page.

As of the date of this Agreement, options to purchase an aggregate of 1,375,000 shares of the Company's Common Stock are outstanding.

The Company has issued convertible promissory notes in the aggregate principal amount of $300,000. Such promissory notes are convertible into, among other things, shares of the Company's equity securities (of the type, kind and character sold by the Company in a minimum equity financing) and warrants to purchase shares of the Company's Common Stock.

Pursuant to that certain First Amended and Restated Stockholders' Agreement dated April 30, 2004, among the Company, Dara BioSciences, Inc. ("Dara"), JHU and the other stockholders party thereto, Dara has the right to maintain its then current ownership percentage of the Company (determined on a fully diluted basis) upon the issuance of new securities, subject to customary exceptions. Dara has waived its percentage maintenance right with respect to the Note and any Conversion Shares issued upon conversion thereof.

SCHEDULE 4.3

AUTHORIZATION

JHU's consent is required for the Company to collaterally assign, and to grant a security interest in, the Company's right, title and interest in and to the JHU Agreement. However, the Company has obtained JHU's consent.

SCHEDULE 4.8

INTELLECTUAL PROPERTY

The Company is not a party to any license agreement other than the JHU Agreement.

Pursuant to the JHU Agreement, JHU has the retained right to make, have made, provide and use for its and The Johns Hopkins Health Systems' internal, non-commercial research purposes "Licensed Products" and "Licensed Services" (as such terms are defined in the JHU Agreement).

Patents supported by federal funding are subject to the rights, conditions and limitations imposed by U.S. law (see U.S.C. § 202 et seq.).

SCHEDULE 4.14

MATERIAL CONTRACTS

(a)(i)

Consulting Agreement dated January 22, 2004 between the Company and Neuromodulation Specialists, LLC

Employment Agreement dated September 1, 2004 between the Company and Kimble Jenkins

Consulting Agreement dated April 19, 2004 between the Company and Charles P. Steiner

Consulting and Finder's Agreement dated October 14, 2005 between the Company and James Terwilliger

Consulting Agreement dated November 1, 2005 between the Company and Paul Bottomley

Consulting Agreement dated November 1, 2005 between the Company and Parag Karmarkar

Consulting Agreement dated November 1, 2005 between the Company and Ergin Atalar

The JHU Agreement

The Lead License

(a)(ii)

Promissory note made by the Company in favor of Trust One Bank in the principal amount of $690,000.

The Company has issued convertible promissory notes in the aggregate principal amount of $300,000 (the "Convertible Notes").

(a)(iii)

None

(a)(iv)

The Convertible Notes

The Company's Stock Option Plan

As of the date of this Agreement, options to purchase an aggregate of 1,375,000 shares of the Company's Common Stock are outstanding. Such options were awarded pursuant to individual grant agreements.

Consulting Agreement dated January 22, 2004 between the Company and Neuromodulation Specialists, LLC

Employment Agreement dated September 1, 2004 between the Company and Kimble Jenkins

The First Amended and Restated Stockholders' Agreement dated April 30, 2004, among the Company, Dara BioSciences, Inc., JHU and the other stockholders party thereto.

(a)(v)

None

(a)(vi)

None

(a)(vii)

The JHU Agreement

(a)(viii)

None

(a)(ix)

Consulting Agreement dated January 22, 2004 between the Company and Neuromodulation Specialists, LLC

Employment Agreement dated September 1, 2004 between the Company and Kimble Jenkins

Consulting Agreement dated April 19, 2004 between the Company and Charles P. Steiner

Consulting and Finder's Agreement dated October 14, 2005 between the Company and James Terwilliger

Consulting Agreement dated November 1, 2005 between the Company and Paul Bottomley

Consulting Agreement dated November 1, 2005 between the Company and Parag Karmarkar

Consulting Agreement dated November 1, 2005 between the Company and Ergin Atalar

(a)(x)

None

(a)(xi)

None

(a)(xii)

Second Amended and Restated Investor Rights' Agreement dated April 30, 2004, by and among the Company and certain of its stockholders

Exhibit 4.14-3

EXHIBIT A

FORM OF CONVERTIBLE NOTE

Begins on the following page

THIS NOTE HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES ONLY AND MAY NOT BE TRANSFERRED UNTIL (I) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 (THE "ACT") HAS BECOME EFFECTIVE WITH RESPECT THERETO OR (II) RECEIPT BY THE COMPANY AT LENDER'S SOLE COST AND EXPENSE OF AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY TO THE EFFECT THAT REGISTRATION UNDER THE ACT IS NOT REQUIRED IN CONNECTION WITH SUCH PROPOSED TRANSFER AND THAT SUCH ISSUANCE IS NOT IN VIOLATION OF ANY APPLICABLE STATE SECURITIES LAWS. THIS LEGEND WILL BE ENDORSED UPON ANY NOTE ISSUED IN EXCHANGE FOR THIS NOTE.

MULTIPLE ADVANCE
SECURED CONVERTIBLE PROMISSORY NOTE

Up to $1,500,000 **December 30, 2005**

1. Principal. For value received, **SURGI-VISION, INC**., a Delaware corporation (**"Company"**), promises to pay to **ADVANCED BIONICS CORPORATION**, a Delaware corporation (**"Lender"**), at its office at 25129 Rye Canyon Loop, Valencia, California 91355, or at such other place as Lender may from time to time designate in writing, the principal sum specified on the Schedule of Advances attached to this Note, together with accrued interest from the date of disbursement on the unpaid principal of this Note at the rate set forth in Section 3 hereof. Lender hereby authorizes and directs Company to deliver this Note to Lender's address set forth at the beginning of this Note. Initially capitalized terms used herein without definition are defined in that certain System and Lead Development and Transfer Agreement (the **"Development Agreement"**) of even date herewith between Company and Lender.

2. Maturity Date. Unless Lender has previously exercised its Conversion Right (as defined below), the unpaid principal balance of this Note (plus any interest, fees, and other amounts owing under this Note) (collectively, the "**Note Balance**") is due and payable in full on the Maturity Date. The "**Maturity Date**" is the earliest of (A) the last day of the Negotiation Period or (B) December 31, 2007, regardless of any extensions of the Negotiation Period that Company and Lender may mutually agree on, or (C) the date of an occurrence of an Event of Default. If the Maturity Date falls on a day that is not a business day, payment of the unpaid principal of this Note must be made on the next succeeding business day and such extension of time will be included in computing any interest in respect of such payment.

3. Interest Rate.

(a) This Note bears simple interest at the rate of 0% per annum on its unpaid principal amount from the Closing Date to five days after the Maturity Date. This Note bears simple interest at the rate of 20% per annum (or the highest rate permitted by law, whichever is less) (the "**Default Rate**") on any unpaid principal balance of this Note from five

business days after the Maturity Date until the actual date that the entire Note Balance is satisfied (either by (i) Company paying the entire Note Balance in cash, (ii) Lender electing in its sole discretion to convert the entire Note Balance into Conversion Shares (as defined below), or (iii) Lender electing in its sole discretion to convert part of the Note Balance into Conversion Shares and Company paying the entire remaining Note Balance in cash).

(b) All payments of principal and interest due under this Note must be made without deduction of any present and future taxes, levies, imposts, deductions, charges or withholdings, which amounts must be paid by Company. Company will pay the amounts necessary such that the gross amount of the principal and interest received by Lender is not less than that required by this Note. If Company is required by law to deduct any such amounts from or in respect of any principal or interest payment under this Note, then (i) the sum payable to Lender will be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this provision) Lender receives an amount equal to the sum it would have received had no deductions been made, (ii) Company will make such deductions, and (iii) Company will pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. Company will pay all stamp and documentary taxes. If, notwithstanding the foregoing, Lender pays such taxes, Company will reimburse Lender for the amount paid. Company will furnish Lender official tax receipts or other evidence of payment of all taxes.

(c) Throughout the term of this Note, interest will be calculated on the basis of a 360-day year and will be computed for the actual number of days elapsed in the period for which interest is charged. If any payment of interest to be made by Company under this Note becomes due on a day which is not a business day, such payment must be made on the next succeeding business day and such extension of time will be included in computing the interest due in respect of such payment.

4. Conversion.

(a) Conversion at Lender's Option. At any time beginning on the Maturity Date and ending five business days after Company's payment in full of the Note Balance, Lender will have the right, in Lender's sole discretion, to convert this Note, in whole or in part (the "**Conversion Right**") into the number of Conversion Shares obtained by the calculations of Section 4(b)(i) or Section 4(b)(ii), as applicable. If Lender exercises the Conversion Right after Company's payment in full of the Note Balance, Lender will return to Company that part of the Note Balance that Lender is electing to convert to Conversion Shares within five business days of Lender's receipt of Company's payment in full of the Note Balance.

"Conversion Shares" means the aggregate number of fully paid and nonassessable shares of the Common Stock of Company, par value $0.001 per share ("**Common Stock**") into which Lender has elected to convert all or part of the Note Balance.

(b) Pricing Terms.

(i) Conversion Calculation without Subsequent System License. If Company and Lender have not executed and delivered the Subsequent System License, the number of Conversion Shares will be determined by dividing (A) the amount of the Note Balance to be converted by (B) the lesser of (I) the 10% Conversion Price (as defined below) or (II) if Company consummates a sale of any of its equity securities after the Closing Date (for the avoidance of doubt, a "sale" of equity securities will not include equity securities issued pursuant to the acquisition of another entity by Company by merger, purchase of all or substantially all of the assets, or other reorganization whereby Company becomes the owner of more than 50% of the voting power of such entity, equity securities issued pursuant to the conversion or exercise of any convertible securities, options or warrants, or equity securities (including derivatives) granted, issued or issuable to employees, officers, directors or consultants pursuant to plans or agreements approved by Company's board of directors), whether in a single or multiple closings or financings, the average price per share paid for such securities by the purchasers thereof. The term **"10% Conversion Price"** means, as of a given date, the price per share determined by dividing $1,500,000 by 10% of Company's Fully Diluted Shares (as defined below). The term **"Fully Diluted Shares"** means, as of a given date, the total number of shares of Common Stock (a) issued and outstanding, (b) issuable upon the exercise of any and all outstanding options, warrants and rights to acquire shares of Common Stock, or upon the conversion of any and all outstanding securities convertible into shares of Common Stock, whether then vested, exercisable or convertible, and (c) authorized and issuable by the Company under any stock option or other equity compensation plan approved by the Company's board of directors other than those shares subject to outstanding options, warrants or other similar rights described in the preceding clause (b).

(ii) Conversion Calculation with Subsequent System License. If Company and Lender have executed and delivered the Subsequent System License, the number of Conversion Shares will be determined by dividing (A) the amount of the Note Balance to be converted by (B) the lesser of (I) the 5% Conversion Price (as defined below) or (II) if Company consummates a sale of any of its equity securities after the Closing Date (for the avoidance of doubt, a "sale" of equity securities will not include equity securities issued pursuant to the acquisition of another entity by Company by merger, purchase of all or substantially all of the assets, or other reorganization whereby Company becomes the owner of more than 50% of the voting power of such entity, equity securities issued pursuant to the conversion or exercise of any convertible securities, options or

warrants, or equity securities (including derivatives) granted, issued or issuable to employees, officers, directors or consultants pursuant to plans or agreements approved by Company's board of directors), whether in a single or multiple closings or financings, the average price per share paid for such securities by the purchasers thereof. The term **"5% Conversion Price"** means, as of a given date, the price per share determined by dividing $1,500,000 by 5% of Company's Fully Diluted Shares.

(c) Conversion Procedure.

(i) In order to convert all or any part of the Note Balance, Lender will deliver to Company a written notice stating (A) that Lender has elected to convert all or part of the Note Balance and (B) the amount of the Note Balance to be converted (the **"Conversion Notice"**).

(ii) Within five business days after receipt of the Conversion Notice, Company will deliver to Lender a certificate for the number of Conversion Shares issuable upon the conversion; provided that Company will not issue any fractional Conversion Shares. In lieu of Company issuing any fractional shares to Lender or its designees upon conversion, Company will pay to Lender the unconverted amount of the Note Balance specified in the Conversion Notice, such payment to be in the form of a wire transfer or check payable to Lender. Each conversion will be deemed to have been effected immediately before the close of business on the date on which this Note is given to the Company pursuant to Section 14 of this Note. Upon conversion of the entire Note Balance, Company will be forever released from all its obligations and liabilities under this Note.

(d) Changes in Common Stock. If, and as often as, there are any changes in the Common Stock by way of stock split, stock dividend, combination or reclassification, or by any other means, appropriate adjustment will be made by Company and Lender to the price at which Conversion Shares are issued and the other provisions of this Note, as may be required, so that the rights and privileges granted hereby will continue with respect to the Conversion Shares as so changed.

(e) Access and Information. Subject to the confidentiality provisions in the Development Agreement, Company will afford to Lender and its accountants, counsel and other representatives full access, upon reasonable request, upon reasonable prior notice and during normal business hours, to all of Company's properties, books, accounts, records, contracts, and personnel and, Company will, and will cause its accountants, counsel and other representatives to furnish promptly to Lender and its representatives all information concerning Company's business, properties and personnel, in each case as Lender or its representatives reasonably requests for the purpose of evaluating the merits and risks of an

investment in Conversion Shares in the event Lender may desire to exercise its Conversion Right; provided, however, that Company reserves the right to withhold any information if access to such information could adversely affect the attorney-client privilege between Company and its counsel.

(f) Conversion Shares. Until such time as the Conversion Shares are registered under the Securities Act of 1933, Company will instruct its transfer agent to enter stop transfer orders with respect to such shares and the certificates representing such shares will be endorsed with the following legend:

> "THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR THE "BLUE SKY" OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, HYPOTHECATED, DISTRIBUTED OR OTHERWISE DISPOSED OF UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SALE OR AN EXEMPTION FROM SUCH REGISTRATION REQUIREMENT IS AVAILABLE, AND IF AN EXEMPTION IS AVAILABLE, THE COMPANY RECEIVES AN OPINION OF COUNSEL AT THE HOLDER'S SOLE COST AND EXPENSE STATING THAT SUCH OFFER, SALE, TRANSFER, ASSIGNMENT, PLEDGE, HYPOTHECATION, DISTRIBUTION OR OTHER DISPOSITION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT AND OTHER LAWS. THE RESTRICTIONS CONTAINED HEREIN ARE BINDING ON THE HOLDER HEREOF AND HIS SUCCESSORS AND ASSIGNS."

5. Schedule of Advances. Lender will, and is hereby authorized by Company to, note on the Schedule of Advances annexed to this Note and constituting a part of this Note, the date and amount of each advance, payment or prepayment of all or any portion of the principal sum. Absent manifest error, such notations are conclusive and binding as to the aggregate unpaid principal sum and all other information; provided, however, the failure of Lender to make such a notation will not limit or otherwise affect the obligation of Company to repay the outstanding principal amount or any interest accrued or accruing thereon or any other amount payable by Company to Lender hereunder.

6. Prepayment. Prior to the Maturity Date, Company, in its sole discretion, may prepay all or any portion of the Note Balance at any time, provided that (i) Company will give Lender not less than a 30-day prior written notice of its intention to prepay an amount specified in such notice on the date set forth in the notice, and (ii) notwithstanding any provision hereof to the contrary, Lender will have the right before the anticipated prepayment date set forth in the notice to exercise its Conversion Right, under the pricing terms contained in Section 4(b)(i) of this Note, to convert all or part of the amount to be prepaid into Conversion Shares, in which case the prepayment notice will have no further force or effect regarding the amount to be converted.

7. Lawful Money. Principal and interest are payable in lawful money of the United States of America.

8. Applications of Payments; Late Charges.

(a) Payments received by Lender hereunder will be applied first to costs and expenses, then to interest and finally to principal unless Lender elects otherwise in its sole discretion.

(b) If any payment of principal or interest is not paid when due, such late payment will bear interest at the Default Rate from the day such payment was due until it is paid. In addition, if any payment is five or more days overdue, Lender will have the option to assess a late charge of $0.03 cents for each dollar so overdue. In connection therewith, Company and Lender agree as follows:

(i) Because of such late payment, Lender will incur certain costs and expenses including, without limitation, administrative costs, collection costs, loss of interest, and other direct and indirect costs in an uncertain amount;

(ii) It would be impractical or extremely difficult to fix the exact amount of such costs in such event;

(iii) The late charge is a reasonable and good faith estimate of such costs; and

(iv) Such late charge will constitute liquidated damages caused by such failure to make a payment of interest or principal when due but only to the extent such late charge is assessed by Lender, paid by Company and accepted by Lender and only upon the condition that such failure is completely cured concurrently with such payment.

The application of the Default Rate or the assessment of a late charge to any such late payment as described in this Section 8(b) will not be interpreted or deemed to extend the period for payment or otherwise limit any of Lender's remedies under this Note, the Security Agreement, the Development Agreement, or the License Agreement.

9. Security. This Note is a secured obligation of Company as set forth in the Security Agreement of even date herewith between Company and Lender (the **"Security Agreement").**

10. Covenants of Company.

(a) Use of Loan Proceeds. Company covenants and agrees that it will use the proceeds of this Note only (i) to pay the second installment in the amount of $124,052.60 (including accrued interest, fees, and related amounts) due on December 1, 2005, and the third installment in the amount of $120,355.03 (including accrued interest, fees, and related amounts) due on March 1, 2006, under that certain promissory note made by the Company in favor of Trust

One Bank of 1715 Aaron Brenner Dr., Memphis, Tennessee 38120 in the principal amount of $690,000 due December 1, 2006 (the **"Trust One Bank Note")**, (ii) to pay direct costs and expenses associated with the development of the System and/or the Lead and (iii) to pay to Bass, Berry & Sims, PLC and Myers Bigel Sibley & Sajovec an aggregate amount no greater than $40,000 to cover Company's actual costs and expenses associated with the negotiation and documentation of this Note, the Security Agreement, the Development Agreement, the License Agreement and the Other Agreements. Company acknowledges that some costs and expenses incurred by Company, such as salaries and consulting fees, may relate both to the development of the System and/or the Lead and to other activities of Company. With respect to such costs and expenses, Company will determine, subject to Lender's approval, which will not be unreasonably withheld, which percentage of the cost or expense is associated with the development of the System and/or the Lead, for which Company will be permitted to use proceeds of this Note, and which percentage is associated with other activities of Company, for which Company will not be permitted to use proceeds of this Note.

(b) No Senior Debt. So long as this Note is outstanding, Company will not incur on or after the Closing Date any indebtedness for borrowed money that is not expressly subordinated to this Note, without the prior written consent of Lender. For the avoidance of doubt, the phrase "indebtedness for borrowed money" will not include ordinary-course obligations to trade creditors.

(c) No Liens or Encumbrances. So long as this Note is outstanding, without the prior written consent of Lender, Company will not (a) pledge or otherwise encumber or permit the encumbrance of any of its assets, including the Collateral (as defined in the Security Agreement); (b) merge or consolidate with any entity, or dissolve; (c) declare, make or pay any distribution or dividend to its stockholders; (d) sell, lease or otherwise dispose of all or any substantial portion of its assets; or (e) engage in any business other than that in which it is presently engaged. Lender may grant or withhold its consent in its sole discretion. Any grant of that consent will give the Lender the right to exercise the Conversion Right for all or any part of the Note Balance under the pricing terms contained in Section 4(b)(i).

11. Defaults and Remedies.

(a) Events of Default. Each of the following events constitutes an event of default **("Event of Default"):**

(i) if any representation or warranty made by Company in this Note, the Security Agreement, the Development Agreement, the License Agreement or in any report, certificate, financial statement or other instrument furnished in connection with this Note, is false, inaccurate or misleading in any material respect when made or when deemed made hereunder.

(ii) any default in the payment of any principal or interest under this Note within five days after date when due hereunder, whether upon the Maturity Date or by acceleration or otherwise;

(iii) any default by Company in the prompt and complete fulfillment of any of its covenants and obligations under this Note, the Security Agreement, the Development Agreement, the License Agreement, or any and all other agreements and documents executed and delivered in connection herewith or therewith (the **"Other Agreements")** (other than those covenants and obligations referred to in clause (ii) above or clause (vi) below), if such default is not remedied within 15 days after an officer of Company becomes aware of the factual circumstances giving rise to such default;

(iv) if Company: (A) applies for or consents to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties, (B) admits in writing its inability to pay its debts as they mature, (C) makes a general assignment for the benefit of creditors, (D) is adjudicated as bankrupt or insolvent or is the subject of an order for relief under Title 11 of the United States Code, or any successor thereto, or (E) files a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, moratorium, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (F) takes or permits to be taken any action in furtherance of or for purpose of effecting any of the foregoing;

(v) if any order, judgment or decree will be entered, without the application, approval or consent of Company, by any court of competent jurisdiction, approving a petition seeking reorganization of Company, or appointing a receiver, trustee, custodian or liquidator of Company, or of all or any substantial part of its assets, and such order, judgment or decree will continue unstayed and in effect for any period of 60 days;

(vi) if the Company fails to meet, by the required date, any System Milestone or Lead Milestone, which failure is not remedied within 15 days following Lender's written notice to Company; or

(vii) in the event Lender reasonably believes that Company will be unable to perform its obligations under this Note, Lender may request in writing reasonable assurances of further performance from Company. If, within 15 days from such written request, Company fails to give such assurances reasonably showing its ability to perform, Lender may declare an Event of Default. For avoidance of doubt, Lender's reasonable belief of Company's inability to perform its obligations under this Note must be based on a fact or circumstance that occurs or changes after the date of this Note and results in a material adverse effect upon

the Company's financial condition. The foregoing is without any derogation of rights under applicable law to demand further assurances and address anticipatory breaches.

(b) Remedies.

(i) Upon the occurrence of any Event of Default, and at all times thereafter during the continuance of an Event of Default: (a) this Note will, in Lender's sole discretion and upon Lender's written notice to Company, become immediately due and payable, as to principal and interest, without presentment, demand, protest, notice or other requirement of any kind, all of which are hereby expressly waived, anything contained herein or in this Note to the contrary notwithstanding (except in the case of any event described in Sections ll(a)(iv) and (v) of this Note, the occurrence of which will automatically effect acceleration, regardless of any action or forbearance in respect of any prior or ongoing default or Event of Default which may be inconsistent with such automatic acceleration), (b) Lender may file suit against Company on this Note and/or seek specific performance or injunctive relief thereunder (whether or not a remedy exists at law or in equity); and (c) Lender will have the right to seek to exercise any and all remedies as it may determine in its discretion (without any requirement of marshalling of assets, or other such requirement) that may be available at law or in equity.

(ii) Lender's rights, remedies and powers, as provided in this Note and the Security Agreement are cumulative and concurrent and may be pursued singly, successively or together against this Company, the Collateral (as defined in the Security Agreement) and any other security given at any time to secure the payment of this Note, all at the sole discretion of Lender. Additionally, Lender may resort to every other right or remedy available at law or in equity without first exhausting the rights and remedies contained herein, all in Lender's sole discretion. Failure of Lender at any one time, for a period of time or on more than one occasion, to exercise any of its rights or remedies hereunder or at law or in equity will not constitute a waiver of the right to exercise the same right or remedy at any time thereafter. Any and all waivers must be in writing to be effective.

(iii) If any suit or action is instituted or attorneys are employed to enforce any of the obligations of this Note, the non-prevailing party hereby promises and agrees to pay all reasonable costs, including reasonable attorneys' fees and court costs incurred by the prevailing party.

12. Subordination. Lender and Company agree and acknowledge that the indebtedness evidenced by this Note is neither subordinate nor subject in right of payment to any other indebtedness issued to third parties.

13. Interest Rate Limitation. It is the intent of Company and Lender in the execution of this Note and all other instruments securing this Note that the loan evidenced hereby be exempt from the restrictions of the usury laws of the State of California. In the event that, for any reason, it should be determined that the California usury law is applicable to the Loan, Lender and Company stipulate and agree that none of the terms and provisions contained herein or in any of the other Credit Documents will ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws of the State of California. In such event, if any holder of this Note collects monies which are deemed to constitute interest which would otherwise increase the effective interest rate on this Note to a rate in excess of the maximum rate permitted to be charged by the laws of the State of California, all such sums deemed to constitute interest in excess of such maximum rate will, at the option of Lender, be credit.

14. Notices. All notices, requests, demands and other communications which are required to be or may be given under this Note to a party by the other party must be in writing and will be deemed to have been duly given (a) immediately if delivered in person, (b) the day following dispatch by a nationally recognized overnight courier service (such as Federal Express or UPS, etc.) for next day delivery, (c) five days after dispatch by certified or registered first class mail, postage prepaid, return receipt requested, to the Party to whom the same is so given or made, or (d) upon confirmation of receipt, if by facsimile. Any notice or other communication given hereunder will be addressed to the Company, at 200 N. Cobb Parkway, Suite 140, Marietta, Georgia 30062-3585, Attention: John C. Thomas, Jr., Fax (770) 424-8236, with a copy to Kimble L. Jenkins, 50 North Front St., 19th Floor, Memphis, Tennessee 38103, Fax (901) 579- 4979, , or to Lender at the address indicated at the beginning of this document, Attention: General Counsel, Fax (661) 362-4712.

15. Counterparts. This Note may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

16. Headings. All headings are inserted for convenience of reference only and will not affect the meaning or interpretation of any such provisions or of this Note, taken as an entirety.

17. Severability. If and to the extent that any court of competent jurisdiction holds any provision (or any part thereof) of this Note to be invalid or unenforceable, such holding will in no way affect the validity of the remainder of this Note.

18. Changes, Waivers, Etc. Neither this Note nor any provision of this Note may be changed, waived, discharged or terminated orally, but rather may only be changed by a statement in writing signed by the Party against which enforcement of the change, waiver, discharge or

termination is sought. It is agreed that a waiver by either Lender or Company of a breach of any provision of this Note will not operate, or be construed, as a waiver of any subsequent breach by that same party.

19. Governing Law. This Note will be governed by and construed in accordance with the laws of the State of California. The parties hereby agree that any dispute which may arise between them arising out of or in connection with this Note will be adjudicated before a court located in Los Angeles, California and they hereby submit to the exclusive jurisdiction of the courts of the State of California located in Los Angeles, California and of the federal courts in the Central District of California with respect to any action or legal proceeding commenced by any party, and irrevocably waive any objection they now or hereafter may have respecting the venue of any such action or proceeding brought in such a court or respecting the fact that such court is an inconvenient forum, relating to or arising out of this Note or any acts or omissions relating to the sale of the securities hereunder, and consent to the service of process in any such action or legal proceeding by means of registered or certified mail, return receipt requested, in care of the address set forth below or such other address as the undersigned will furnish in writing to the other.

20. Entire Agreement. This Note, the Security Agreement, the Development Agreement, the License Agreement and the Other Agreements set forth the entire agreement and understanding between Lender and Company as to this subject matter and incorporates and supersedes all prior discussions, agreements and understandings of any and every nature among them.

21. Further Assurances. Lender and Company agree to execute and deliver all such further documents, agreements and instruments and take such other and further action as may be necessary or appropriate to carry out the purposes and intent of this Note.

22. Successors and Assigns. The terms and conditions of this Note will inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties. Nothing in this Note, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Note, except as expressly provided in this Note. This Note is non-negotiable. Neither Company nor Lender may assign or otherwise transfer this Note without the prior written consent of the other party.

23. Relationship of Parties. In all matters relating to this Note, no party will have any right, power or authority to create any obligation, express or implied, on behalf of any other party. Nothing in this Note is intended to create or constitute a joint venture or a partnership between the parties hereto.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, Company has signed this Note and delivered this Note to Lender as of the date first written above.

COMPANY:

SURGI- VISION, INC.,
a Delaware corporation

By: _____
Name:
Title:

SCHEDULE OF ADVANCES

Date	Amount of Principal Advanced	Unpaid Principal Balance	Amount Paid	Notation Made By
01/04/06	**$250,000**	**$250,000**	**–**	**Initial Advance**

Appendix A

EXHIBIT B

DEFINITION OF ACCREDITED INVESTOR

Pursuant to Rule 501(a) of the Securities Act of 1933, as amended, the term "accredited investor" will have the meaning indicated below:

a. Accredited investor. "Accredited investor" will mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

1. Any bank as defined in section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(13) of the Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of $5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of $5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

2. Any private business development company as defined in section 202(a)22 of the Investment Advisers Act of 1940;

3. Any organization described in section 501(c)3 of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000;

4. Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

5. Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds $1,000,000;

6. Any natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

7. Any trust, with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii) and

8. Any entity in which all of the equity owners are accredited investors.

EXHIBIT C

SYSTEM MILESTONES

The Systems Milestones are as follows:

1. The Company will successfully develop and demonstrate, in the brain of an animal or cadaver placed within an MRI machine, a fully functional probe meeting the System Requirements as demonstrated to Bionics' reasonable satisfaction by [***].

2. The Company will successfully acquire or develop, and demonstrate, in an MRI machine, a fully functional prototype of a frameless head mount meeting the System Requirements as demonstrated to Bionics' reasonable satisfaction by [***]. If the Company acquires the prototype from a third party, Bionics must have reached a manufacturing supply agreement with the third party by [***] in order for this System Milestone to be considered achieved. Alternatively, Bionics may provide written notice to the Company that this System Milestone is achieved even without a manufacturing supply agreement with the third party.

3. The Company will successfully develop and demonstrate in an MRI machine a fully functional cannula that is compatible and integrated with the frameless head mount and the probe and that meets the System Requirements as demonstrated to Bionics' reasonable satisfaction by [***].

4. The Company will successfully develop and demonstrate the entire System in a sterile environment within an MRI machine meeting the System Requirements as demonstrated to Bionics' reasonable satisfaction and in accordance with all applicable laws, regulations, and industry standards relevant to a sterile MRI DBS environment by [***].

5. The Company will successfully develop and demonstrate, in the brain of an animal or cadaver placed within an MRI machine, a fully functional prototype of the entire System meeting the System Requirements as demonstrated to Bionics' reasonable satisfaction by [***].

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

EXHIBIT D

TECHNOLOGY LICENSE AGREEMENT

Begins on the following page

TECHNOLOGY LICENSE AGREEMENT

THIS AGREEMENT ("Agreement") is made effective as of December 30, 2005 (the "Effective Date") and entered into by and between Surgi-Vision, Inc., a Delaware corporation ("Licensor") and Advanced Bionics Corporation ("Licensee") (individually, a "Party" and collectively, the "Parties").

BACKGROUND

The Parties have entered into a Lead System and Lead Development and Transfer Agreement (the "Development Agreement") and other agreements ("Other Agreements") referenced therein concurrent with this Agreement wherein the Parties have agreed to develop technology relating to a neuromodulation or deep brain stimulation lead that may be safely reside within a patient who is placed within a magnetic resonance ("MR") machine ("Lead").

Licensor is the sole owner and exclusive licensee of certain confidential and proprietary technology relating to the Lead ("Existing Technology").

Licensor desires to have the Existing Licensed Technology further developed and commercialized (the "Future Technology") and is willing to grant a license to any Future Technology to which Licensor has any right or interest in exchange for the cooperation and other forms of consideration of Licensee set forth in the Other Agreements and set forth as royalty payments in this Agreement.

Licensee desires to acquire an exclusive license under the Licensed Technology (defined below).

AGREEMENT

The Parties agree as follows:

1. DEFINITIONS.

A. "Affiliate" of a person or entity is a person or entity controlling, controlled by or under common control with the person or entity specified, directly or indirectly by any means whatsoever. "Controlling", "controlled" or "control" means owning greater than 50% of the voting equity interests of a person or entity, either directly or indirectly through other entities in which it has such an interest, or otherwise having the power to direct the management of that person or entity.

B. The "Existing Technology" and the "Future Technology" are referred to collectively as the "Licensed Technology" and include without limitation all intellectual property such as patents, trademarks, service marks, trade names, copyrights, know-how, trade secrets, licenses, information and proprietary rights and processes owned by or licensed to Licensor relating in any way to a neuro-related lead, neuro-related lead extension, neuro-related lead-type device, or the "Lead", "Lead Requirements", or "Lead Milestones" defined in the Development Agreement, including without limitation the intellectual property licensed to the Licensor under

the License Agreement by and between the Licensor and the Johns Hopkins University ("JHU") on or around June 30, 1998 and all other appendices, addenda, amendments, and agreements related thereto (the "JHU Agreement").

C. "Licensed Product" means any neuro-related lead, neuro-related lead extension, any other neuro-related lead-type device, or any product related to a neuro-related lead, in each case which incorporates the Licensed Technology.

D. "Net Sales" means the total monetary consideration actually received by Licensee for Licensed Products sold, less any sales person's commissions payable in good faith to non-related third parties, royalties and other similar fees payable in good faith to non-related third parties, trade discounts allowances for conversions and exchanges, returns, freight, insurance and taxes (other than income taxes). For purposes of this definition, Licensed Products will be considered "sold" when Licensee receives payment either from the purchaser or, in the case of Licensed Products sold by a sublicensee, from such sublicensee.

E. "Sublicensee" means any sublicensee(s) of the rights granted to Licensee under this Agreement.

2. LICENSE. Licensor hereby grants to Licensee and its Affiliates, upon and subject to all the terms and conditions of this Agreement, an exclusive, transferable (including without limitation sublicensable), worldwide, perpetual license under the Licensed Technology, to make, use, import, lease, and sell the Licensed Products for the term of this Agreement. For the avoidance of doubt, the license grant of this Agreement includes without limitation an exclusive, transferable (including without limitation sublicensable), worldwide sublicense of all intellectual property licensed to Licensor under the JHU Agreement (to the extent it is Licensed Technology) to make, use, import, lease, and sell the Licensed Products, which sublicense Licensee acknowledges and agrees is subject to the terms of the JHU Agreement. Licensor grants Licensee the right to adapt the Licensed Technology to a commercial form suitable for incorporation into Licensee's product(s).

3. COMPENSATION AND AUDIT.

A. In consideration for the license granted hereunder, Licensee agrees to pay to Licensor the royalty payments recited in Exhibit A based on Licensee's Net Sales of Licensed Products (less accessories or other components or products used in combination with the Licensed Products).

B. Only one royalty will be paid hereunder for each Licensed Product whether such Licensed Product is covered by more than one (1) claim of a licensed patent, by the claims of more than one (1) of the licensed patents, or by the claims of patent of more than one country.

C. The royalty owed Licensor will be calculated on an annual calendar basis and will be payable as indicated in Exhibit A.

D. Licensor will have the right, upon reasonable notice and reasonable request at Licensor's sole expense, to inspect Licensee's relevant books and records and all other documents and material in Licensee's possession or control with respect to ascertaining the royalty payments due.

4. INDEMNITY. Licensor agrees to defend, indemnity and hold Licensee and its officers, directors, agents, Sublicensees, employees, and customers, harmless against all costs, expenses, and losses (including reasonable attorney fees and costs) incurred as a result of any claim that the Licensed Technology infringes or misappropriates any third party's intellectual property. Licensee will deliver written notice of a claim for indemnification with reasonable promptness to Licensor, which notice will describe in reasonable detail the nature of the claim. However, any failure to timely give that notice will not relieve Licensor of any of its indemnification obligations under this Agreement. Licensor has the right, subject t Licensee's consent ("Approval"), to participate in and control the defense of the claim with counsel of its choice. Licensee will have the right to employ separate counsel in any action and to participate in the defense of that action, but the fees and expenses of that counsel will be at the sole expense of the Licensee unless (i) Licensor, upon or after Approval, failed to assume the defense and diligently prosecute or settle the claim, or (ii) in the reasonable judgment of counsel retained by Licensor to represent Licensor, there exists or develops a conflict that would ethically prohibit counsel to Licensor from representing Licensee. If requested by Licensor upon or after Approval, Licensee will cooperate with Licensor and its counsel in contesting any claim that Licensor elects to contest, including, without limitation, by making any counterclaim against the person or entity asserting the claim or any cross-complaint against any person or entity, in each case only to the extent that any counterclaim or cross-complaint arises from the same actions or facts giving rise to the claim. Licensee will be the sole judge of the acceptability of any compromise or settlement of any claim, litigation, or proceeding in respect of which indemnity may be sought under this Agreement. Licensor will not enter into any settlement or compromise of any claim without Licensee's consent.

5. COOPERATION. Both Parties will further cooperate to ensure that both Parties enjoy the benefits of all licenses granted under this Agreement.

6. NOTICE AND PAYMENT. All notices, requests, demands, payments, and other communications which are required to be or may be given under this Agreement to a Party by the other Party must be in writing and will be deemed to have been duly given (a) immediately if delivered in person, (b) the day following dispatch by a nationally recognized overnight courier service (such as Federal Express or UPS, etc.) for next day delivery, (c) five days after dispatch by certified or registered first class mail, postage prepaid, return receipt requested, to the Party to whom the same is so given or made, or (d) upon confirmation of receipt, if by facsimile. Any notice or other communication given hereunder will be addressed to the Licensor, at 200 N. Cobb Parkway, Suite 140, Marietta, GA 30062-3585, Attention: John C. Thomas, Jr., Fax (770) 424- 8236, , with a copy to Kimble L. Jenkins, 50 North Front St., 19th Floor, Memphis, TN 38103, Fax (901) 579-4979, or to the Licensee, at 25129 Rye Canyon Loop, Valencia, CA 91355, Attention: General Counsel, Fax (661) 362-4712.

7. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State of California. The Parties hereby agree that any dispute which may arise between them arising out of or in connection with this Agreement will be adjudicated before a court

located in Los Angeles, California and they hereby submit to the exclusive jurisdiction of the courts of the State of California located in Los Angeles, California and of the federal courts in the Central District of California with respect to any action or legal proceeding commenced by any Party, and irrevocably waive any objection they now or hereafter may have respecting the venue of any such action or proceeding brought in such a court or respecting the fact that such court is an inconvenient forum, relating to or arising out of this Agreement or any acts or omissions relating to the sale of the securities hereunder, and consent to the service of process in any such action or legal proceeding by means of registered or certified mail, return receipt requested, in care of the address set forth below or such other address as the undersigned will furnish in writing to the other.

8. AGREEMENT BINDING ON SUCCESSORS. The provisions of this Agreement will be binding upon and will inure to the benefit of the Parties, their heirs, administrators, successors, and assigns.

9. ASSIGNABILITY. Neither Party may assign this Agreement or the rights and obligations thereunder to any third party without prior express written approval of the other Party, which consent will not be unreasonably withheld.

10. WAIVER. No waiver by either Party of any default will be deemed as a waiver of any prior or subsequent default of the same of other provisions of this Agreement.

11. SEVERABILITY. If any term, clause, or provision herein is held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not affect the validity or operation of any other term, clause or provision, and such invalid term, clause or provision will be deemed to be severed from this Agreement.

12. INTEGRATION; AMENDMENT. Aside from the Development Agreement and the Other Agreements, this Agreement constitutes the entire understanding of the Parties, and revokes and supersedes all prior agreements between the Parties and is intended as a final expression of their agreement. It will not be modified or amended except in writing signed by the Parties and specifically referring to this Agreement.

13. COUNTERPARTS. This Agreement may be executed and delivered in one or more counterparts each of which when executed will be deemed an original, but all of which taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties, intending to be legally bound hereby, have each caused to be affixed hereto its or his/her hand the day indicated.

SURGI-VISON, INC.	*ADVANCED BIONICS CORPORATION*
By:	By:
Signature	Signature
Printed Name	Printed Name
Title	Title

EXHIBIT A

Royalty Rate for Licensed Technology,

Royalty payments under this Agreement will be as follows:

(1) If Licensee incorporates Licensed Technology into a deep brain stimulation lead ("Licensed DBS Lead"), Licensee will pay Licensor an 8% royalty of Net Sales for all Licensed DBS Leads sold commercially after FDA approval, for so long as such Licensed DBS Leads incorporate technology that is claimed by at least one non-expired, non-abandoned, valid and enforceable Patent included in the Licensed Technology, with a minimum royalty payment of [***] per year in each of the first three years in which Licensee sells the Licensed DBS Leads.

(2) Alternatively, if Licensee incorporates Licensed Technology into a DBS implantable pulse generator ("Licensed DBS IPG") in order to have a system that is MR safe along with the Licensed DBS Lead, Licensee will pay Licensor a 2% royalty of Net Sales for all Licensed DBS Leads and all Licensed DBS IPGs sold commercially after FDA approval, for so long as such Licensed DBS Leads and Licensed DBS IPGs incorporate technology that is claimed by at least one non-expired, non-abandoned, valid and enforceable Patent included in the Licensed Technology, with a minimum royalty payment of [***] per year in each of the first three years in which Licensee sells the Licensed DBS Leads and Licensed DBS IPGs.

(3) If Licensee incorporates Licensed Technology into any lead-related, non-IPG, product other than a Licensed DBS Lead or Licensed DBS IPG ("Other Licensed Products"), Licensee will pay Licensor a 4% royalty of Net Sales for all Other Licensed Products sold commercially after FDA approval, for so long as such Other Licensed Products incorporate technology that is claimed by at least one non- expired, non-abandoned, valid and enforceable Patent included in the Licensed Technology.

(4) If Licensee incorporates Licensed Technology into a non-DBS implantable pulse generator ("Licensed Non-DBS IPG") in order to have a system to sell along with Other Licensed Products, Licensee will pay Licensor a 2% royalty of Net Sales for all Licensed Non-DBS IPGs and all associated Other Licensed Products sold commercially after FDA approval, for so long as such Licensed Non-DBS Leads and Other Licensed Products incorporate technology that is claimed by at least one non-expired, non-abandoned, valid and enforceable Patent included in the Licensed Technology.

For purposes of this EXHIBIT A, the term "Patent" includes existing and future patents with any and all issued and non-expired reissuances, continuations, continuations-in-part, revisions, extensions and re-examinations thereof, but does not include trade secrets or other proprietary technologies that are not expressly claimed by any patent included within the definition of "Patent".

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

EXHIBIT 4.5

FINANCIAL STATEMENTS

Begins on the following page

Surgi-Vision, Inc.
Balance Sheet
As of September 30, 2005

ASSETS	
Current Assets	
Cash	73,185.57
Inventory	24,780.00
Total Current Assets	97,965.57
Property, net of depreciation	13,750.00
Other Assets	
Prepaid Consulting Fees	74,913.34
Total Other Assets	74,913.34
TOTAL ASSETS	186,628.91
LIABILITIES & EQUITY	
Liabilities	
Accounts Payable	24,569.85
Payables to Affiliates and Accrued Salaries	728,891.48
Payable to Attorneys	250,772.34
Note Payable and Accrued Interest - 2 Yr Note to Trust One Bank	578,888.89
Convertible Notes	250,000.00
Total Liabilities	1,833,122.56
Equity	
Additional Paid in Capital	22,427,782.29
Common Stock	178,332.75
Retained Earnings	(24,252,608.69)
Total Equity	(1,646,493.65)
TOTAL LIABILITIES & EQUITY	186,628.91

(Unaudited – For Management Purposes Only)

Surgi-Vision, Inc.
Statement of Operations
For the Nine Months Ended September 30, 2005

Ordinary Income/Expense	
Expense	
Corporate Personnel Costs	181,905.95
Depreciation	3,750.00
Interest Expense	44,546.56
Other General & Administrative	198,790.01
Research & Development	191,671.01
Sales, Marketing & Promotion	995.00
Travel & Entertainment	77,474.74
Total Expense	699,133.27
Net Loss	(699,133.27)

(Unaudited – for Management Purposes Only)

Surgi-Vision, Inc.
Balance Sheet
December 31, 2004

ASSETS		
Current Assets		
Cash	$	155,541,26
Total Current Assets		155,541.26
Fixed Assets		
Machinery & Equipment		25,000.00
Accumulated Depreciation		-7,500.00
Total Fixed Assets		17,500.00
Other Assets		
Prepaid Consulting Fees		117,052.08
Total Other Assets		117,052.08
TOTAL ASSETS	$	290,093.34
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
Accounts Payable	$	197,098.51
Accrued Liabilities		67,977.13
Note Payable to ARE		301,308.71
Current Portion of Note Payable to GE		444,444.44
Payroll Liabilities		245.00
Total Current Liabilities		1,011,073.79
Long Term Liabilities		
Note Payable to GE		222,222.34
Total Long Term Liabilities		222,222.34
Total Liabilities		1,233,296.13
Equity		
Additional Paid in Capital		22,427,782.29
Common Stock		178,332.75
Retained Earnings		-23,549,317.83
Total Equity		-943,202.79
TOTAL LIABILITIES & EQUITY	$	290.093.34

Confidential (Unaudited)

Surgi-Vision, Inc.
Statement of Operations
For the Year Ended December 31, 2004

Ordinary Income/Expense	
Income	
Sales of Coils	$ 27,050.00
Total Income	27,050.00
Gross Profit	27,050.00
Expense	
Corporate Personnel Costs	9,926.50
Depreciation	5,000.00
Interest Expense	37,235.92
Occupancy Costs	3,472.12
Other General & Administrative	138,125.82
Payroll Expenses	75,056.00
Professional Fees	268,422.58
Research & Development	554,943.61
Sales, Marketing & Promotion	336.80
Settlement Costs - Sokolov	36,300.00
Travel & Entertainment	97,666.86
Total Expense	1,226,486.21
Net Ordinary Income	-1,199,436.21
Other Income/Expense	
Other Expense	
Allocated Corp Overhead	196,139.79
Total Other Expense	196,139.79
Net Other Income	-196,139.79
Net Income	$ (1,395,576.00)

Confidential (Unaudited)

Execution Version

AMENDMENT #1 TO THE SYSTEM AND LEAD DEVELOPMENT AND TRANSFER AGREEMENT BETWEEN SURGI-VISION, INC. AND ADVANCED BIONICS® CORPORATION

This is an amendment ("Amendment") to the System and Lead Development and Transfer Agreement ("Agreement"), which Agreement has an Effective Date of December 30, 2005 ("Agreement"), between SURGI-VISON, INC ("Company") and ADVANCED BIONICS® CORPORATION. This Amendment #1 is effective on May 31, 2006.

The parties mutually agree as follows:

The first system milestone in Exhibit C System Milestones in the Agreement shall be stricken:

"1. The Company will successfully develop and demonstrate, in the brain of an animal or cadaver placed within an MRI machine, a fully functional probe meeting the System Requirements as demonstrated to Bionics' reasonable satisfaction by [***].

The following system milestone will replace the strickened original, first system milestone in the Agreement:

"1. By [***], the Company will accomplish the following: The Company will design and create a working prototype of an internal MRI probe, consistent with the System Requirements, to be utilized in a 1.5T MRI magnet to guide a DBS lead implantation procedure in humans with Parkinson's Disease. The size and specifications of the internal MRI probe will be designed[***]. The Company will perform safety and imaging studies on the working prototype in a phantom, consistent with clinical protocols [***].

Agreed to and accepted:

ADVANCED BIONICS® CORPORATION	**SURGI-VISION, INC.**
/s/ Todd Whitehurst	/s/ Kim Jenkins
Todd Whitehurst Vice President, Emerging Indications	Kim Jenkins, President

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

OMNIBUS AMENDMENT
TO SYSTEM AND LEAD DEVELOPMENT AND TRANSFER AGREEMENT

This **OMNIBUS AMENDMENT** (this **"Amendment")** is dated as of June 30, 2007 and entered into by and between Surgi-Vision, Inc., a Delaware corporation (the **"Company")** and Advanced Bionics Corporation, a Delaware corporation **("Bionics"),** and is made with reference to (i) that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006 (as so amended, supplemented or otherwise modified from time to time, the **"Development Agreement"),** by and between the Company and Bionics, (ii) that certain Multiple Advance Secured Convertible Promissory Note dated as of December 30, 2005 made by the Company and payable to Bionics (as amended, restated, supplemented or otherwise modified from time to time, the "**Note**"), (iii) that certain License Agreement dated as of December 30, 2005 between the Company and Bionics (as amended, supplemented, or otherwise modified from time to time, the **"License Agreement"),** and (iv) that certain Security Agreement dated as of December 30, 2005 by and between the Company and Bionics (as amended, supplemented, or otherwise modified from time to time, the **"Security Agreement").**

RECITALS

WHEREAS, the Company and Bionics desire to (i) amend the Development Agreement to revise the System Milestones and the Lead Milestones (as those terms are defined in the Development Agreement) and (ii) make certain other amendments as set forth below:

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

Section 1. AMENDMENTS TO THE DEVELOPMENT AGREEMENT

1.1 Defined Terms.

Capitalized terms used in Section 1 of this Amendment without definition shall have the same meanings in Section 1 as set forth in the Development Agreement.

1.2 Amendment to the Background

The third paragraph of the Background is hereby amended by deleting it therefrom in its entirety and substituting the following therefor:

> "The Company desires to develop for Bionics certain technology (the **"Technology")** solely within the field of neuromodulation including, without limitation, a magnetic resonance ("**MR**") compatible, MR-safe, and MR-optimized Deep Brain Stimulation ("**DBS**") implant system (the **"System")** and MR-compatible, MR-safe, and MR-optimized lead that may safely reside within a patient who is placed within an MR-machine (the **"Lead")."**

1.3 Amendment to Section 1: Issuance of Note

Section 1 of the Development Agreement is hereby amended by deleting the references to "December 31, 2006" and "March 31, 2007" contained therein and substituting "Amendment Effective Date (as defined in the Omnibus Amendment between the Parties dated as of June 30, 2007)" therefor.

1.4 Amendment to Section : Representations and Warranties of the Company

Section 4.8 of the Development Agreement is hereby amended by adding the following sentence at the end thereof:

"From and after June 30, 2007, the definition of the Existing Intellectual Property shall include that certain License Agreement by and between the Company and JHU entered into on or around December 7, 2006, and all other appendices, addenda, amendments, and agreements related thereto **("Second JHU Agreement",** and together with the JHU Agreement, the **"JHU Agreements")."**

1.5 Amendment to Section 7: Company Covenants

A. Section 7.6 of the Development Agreement is hereby amended by deleting a reference to "JHU Agreement" contained therein and substituting "JHU Agreements" therefor.

B. Section 7.6 of the Development Agreement is hereby further amended by adding the following sentences at the end thereof:

"Notwithstanding anything to the contrary contained herein. Future Intellectual Property shall not include any Future Intellectual Property relating to the System (and not relating in any way to the Lead) in development of which Bionics has not contributed to the conception or design. In case of doubt, Bionics will make a determination in its sole discretion as to whether any Future Intellectual Property should be categorized as relating to the System or the Lead and whether Bionics contributed to the conception or design of any Future Intellectual Property relating to the System."

1.6 Amendments to Section 8: General Provisions

A. Section 8.9 of the Development Agreement is hereby amended by deleting the phrase "This Agreement, the Note, the Security Agreement, and the Other Agreements" contained therein and substituting "This Agreement and the Concurrent Agreements" therefor.

B. Section 8.11 of the Development Agreement is hereby amended by deleting all references to "Loan Agreement" contained therein and substituting "Agreement" therefor.

1.7 Amendments to Section 9: System Development License, and Right of First Refusal

Section 9.2 of the Development Agreement is hereby amended by deleting all references to "JHU Agreement" contained therein and substituting "JHU Agreements" therefor,

1.8 Amendments to Section 10: Lead Development and License

A. Section 10.1 of the Development Agreement is hereby amended by deleting the first paragraph therefrom in its entirety and substituting the following therefor:

> **"10.1 Lead Development.** Working together with Bionics and subject to Section 10.1(c), the Company will provide Bionics with a fully functional prototype of the Lead and demonstrate the proper functionality of the prototype of the Lead to Bionics in an MRI phantom, animal or cadaver placed within an MRI machine. The Lead prototype must meet the following objectives (the **"Lead Requirements"):** [***]

B. Section 10.1 of the Development Agreement is hereby further amended by deleting subsection (b) therefrom in its entirety and substituting the following therefor:

> **"(b) Lead Milestones:**
>
> (i) On or before [***], the Company will present to Bionics a prototype Lead body that incorporates the Company's most promising MR/RF safe Lead design. Such prototype Lead body will contain[***].
>
> (ii) The Company shall provide consulting and advisory services (including, without limitation, testing and analyzing of the Lead feasibility models and prototypes) to Bionics, for a period of 12 months from the Amendment Effective Date, in connection with Bionics' effort to develop a [***] that

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

meets the [***] requirements that will be necessary for a final product. The Company will make one full-time equivalent employee or consultant available to Bionics during the twelve-month period to provide the consulting and advisory services as requested by Bionics. Specifically, such full-time employee, if not otherwise engaged in other activities for Bionics, shall work on the development of a new generation of a Lead design (as further defined in Section 10.3) in the case the existing Lead designs do not prove to be manufacturable. As compensation for the consulting services provided pursuant to this clause (ii), Bionics shall pay the Company the amount of $125,000 on the Amendment Effective Date. Any Intellectual Property conceived or developed by the Company pursuant to such consulting arrangement shall be subject to the terms of this Agreement. The Company also agrees to use its best efforts to make [***] available for such consulting arrangement for up to 20 hours per quarter collectively. Bionics shall reimburse the Company for all reasonable, documented out-of-pocket expenses incurred by the Company relating to its consulting arrangement with Bionics. The Company shall be deemed to have achieved and completed the milestone set forth in this clause (ii) upon the expiration of the twelve-month consulting period.

(iii) Bionics will pay the Company $100,000 after Bionics has successfully completed the first live chronic human implantation of the Lead meeting the Lead Requirements as demonstrated to Bionics' reasonable satisfaction.

(iv) Bionics will pay the Company $1,000,000 after Bionics has successfully received FDA approval of MRI-safe labeling of the first Lead meeting the Lead Requirements as demonstrated to Bionics' reasonable satisfaction.

(v) Bionics will pay the Company $500,000 after Bionics has successfully received FDA approval of MRI-safe labeling of the second Lead meeting the Lead Requirements as demonstrated to Bionics' reasonable satisfaction, which $500,000 shall be a prepayment of the future royalty payments by Bionics to the Company solely related to the sale of such second Lead under the License Agreement.

(vi) The milestones described in the preceding clauses (i) through (v) shall constitute the "**Lead Milestones**."

C. Section 10.1 of the Development Agreement is hereby further amended by deleting the first sentence contained in subsection (c) thereof and substituting the following in lieu thereof:

"In the event (i) the Company fails to complete each of the Lead Milestones, other than the Lead Milestone described in Section 10.1(b)(v) above, by December 31, 2012 and (ii) such failure is not the result of Bionics' failure to reasonably cooperate with the Company in pursuing such Lead Milestones, the Company will be in breach of this Agreement."

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

D. Section 10 of the Development Agreement is hereby amended by adding the following Section 10.3:

"10.3 Incentive Payments. For each new generation of a Lead design, Bionics shall pay the Company incentive payments as indicated below. The determination of whether a change in Lead design represents an incremental change or a new generation of design will be decided by Bionics in its sole discretion. Minor changes in design are not a new generation. Substantial changes in design represent a new generation. Different numbers of conductors (e.g., 4-conductor versus 8-conductor) represent different generations.

(i) Bionics shall pay the Company the amount of $75,000 when the Company delivers each new generation (as determined by Bionics in its sole discretion) of a Lead design with at least 3 crude prototypes and supporting test data evaluating heating in a 1.5 Tesla MRI scanner; provided that during the term of this Agreement Bionics shall not pay more than $250,000 in the aggregate pursuant to this Section 10.3(a). Each payment shall be payable when the Company presents the prototypes and a positive summary report of the testing to Bionics to the reasonable satisfaction of Bionics. [***]. Notwithstanding the foregoing to the contrary, a $100,000 payment will be made to the Company if and when it presents the first [***] as reasonably specified by Bionics and agreed to by the Company and supporting data evaluating in a 1.5 Tesla MRI scanner.

(ii) No later than ninety days after Bionics delivers to the Company at least 10 (or, at Bionics" discretion at least 5) pre-production Lead prototypes of each new generation [***] to evaluate heating in a 1.5 Tesla MRI scanner, the Company shall complete the testing of such prototypes and present Bionics with a summary report of the testing, in each case to Bionics' reasonable satisfaction. [***]. Bionics shall pay the Company the amount of $50,000 when the Company tests and submits a report, pursuant to this subsection, each new generation of a Lead design with at least 10 (or, at Bionics' discretion at least 5) pre-production Lead prototypes provided by Bionics to evaluate heating in a 1.5 Tesla MRI scanner. This sum shall be payable when the Company presents a summary report of the testing to Bionics to the reasonable satisfaction of Bionics. Notwithstanding the foregoing to the contrary, Bionics will pay a sum of $75,000 for completion of the testing of the first [***].

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

(iii) No later than ninety days after Bionics delivers to the Company at least 10 final product Leads of each new generation, the Company shall complete the testing of such Leads to evaluate heating in a 1.5 Tesla MRI scanner, present Bionics with a report of testing, and assist Bionics with the preparation of a report for the FDA that includes in-depth discussion of physics underlying principles of operation of MRI safety of the Lead for the purpose of seeking MRI-safe labeling for the final product Lead, in each case to Bionics' reasonable satisfaction. Bionics shall pay the Company the amount of $75,000 when the Company presents a report of the testing to Bionics to the reasonable satisfaction of Bionics. Final product Leads shall meet [***].

1.9 Amendments to Section 11: Intellectual Property Ownership and Protection

A. Section 11.1 (a) of the Development Agreement is hereby amended by deleting clause (v) therein.

B. Section 11.2 of the Development Agreement is hereby amended by deleting paragraph (a) in its entirety and substituting the following therefor:

"(a) Costs. Bionics will pay all foreign and domestic Patent and Application (as such terms are defined below) prosecution costs and expenses for all Patents and Applications subject to its control as set forth in Section 11.2(b) (**"Prosecution Costs**")."

C. Section 11.2 of the Development Agreement is hereby amended by (1) deleting all references to "JHU Agreement" contained in subsection (b) thereof and substituting "JHU Agreements" therefor, and (2) adding the following sentence at the end of subsection (b):

"The term **"Patent"** means a currently issued U.S. or foreign patent. The term **"Application"** means a U.S., PCT or foreign patent application, including provisionals, utilities, designs, national stage filings and any continuations, divisionals, extensions, reissues, reexaminations, continuations in part thereof."

D. Section 11.3 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu therefor:

"11.3 Warranty Regarding Third Party Collaborators. The Parties warrant that all individuals, including without limitation employees and consultants, authorized, invited, or otherwise involved by the Parties, their employees, or consultants, to assist in the development of the System or Lead, have or will have a legal obligation to assign, license, or grant an option to license to the relevant Party all their rights to any Intellectual Property related to, arising from, or based on the development of the System or Lead."

E. Section 11.4 of the Development Agreement is hereby amended by deleting all references to "JHU Agreement" contained therein and substituting "JHU Agreements" therefor.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

F. Section 11.6 of the Development Agreement is hereby amended by adding the following at the end of paragraph (d):

"In addition, notwithstanding the foregoing, Bionics acknowledges and agrees that (i) the Company is permitted to share its Lead information with third parties to develop products for cardiac applications (provided, however, that if such third party is also engaged in the business of developing products for neurological applications, the Company shall ensure that such third party will use the Lead information only in connection with cardiac applications and will not use the Lead information for or with respect to any neuro-related products), (ii) the Company is permitted to share its System information with third parties following the expiration of the Exclusivity Period if the Parties do not execute and deliver the Subsequent System License within the Exclusivity Period, and (iii) in connection with the disclosures contemplated in the preceding clauses (i) and (ii), the Company is permitted to disclose the existence of this Agreement and the scope of any license granted hereunder or pursuant to the License Agreement."

1.10 Amendments to Exhibit C: System Milestones

Exhibit C to the Development Agreement is hereby amended by (1) deleting the reference to [***] contained therein and substituting [***] therefor, and (2) deleting the reference to [***] and substituting [***] therefor.

Section 2. AMENDMENTS TO THE NOTE

Bionics and the Company hereby agree to the amendments to the Note that are reflected in the form of the Amended and Restated Multiple Advance Secured Convertible Promissory Note attached hereto as Exhibit A (the **"Amended Note**").

Section 3. AMENDMENT TO THE LICENSE AGREEMENT

3.1 Defined Terms

Capitalized terms used in Section 3 of this Amendment without definition shall have the same meanings in Section 3 as set forth in the License Agreement,

3.2 Amendment to Section 1: Definitions

Section 1 of the License Agreement is hereby amended by adding the following phrase at the end of paragraph B:

"and under the License Agreement by and between the Licensor and JHU entered into on or around December 7, 2006, and all other appendices, addenda, amendments and agreements related thereto (the **"Second JHU Agreement"**, and together with the JHU Agreement, the **"JHU Agreements")"**

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

3.3 Amendment to Section 2: License

Section 2 of the License Agreement is hereby amended by deleting all references to "JHU Agreement" and substituting "JHU Agreements" therefor.

3.4 Amendment to Section 3: Compensation and Audit

Section 3 of the License Agreement is hereby amended by adding the following new paragraph E:

"E. Licensee agrees that, if required by the JHU Agreements, the packaging containing Licensed Products sold by Licensee, any of its Affiliates or any of its Sublicensees will be marked with the number of the applicable patent(s) licensed hereunder in accordance with each applicable country's patent laws."

Section 4. AMENDMENTS TO THE SECURITY AGREEMENT

4.1 Defined Terms

Capitalized terms used in Section 4 of this Amendment without definition shall have the same meanings in Section 4 as set forth in the Security Agreement.

4.2 Amendments to Section 4: Representations and Warranties

A. Section 4 of the Security Agreement is hereby amended by amending subsection (g) thereof by deleting the second sentence thereof and substituting the following in lieu therefor:

"Grantor owns, possesses or has legal rights to use all Patents, Trademarks, service marks, trade names, copyrights, know-how, trade secrets, licenses, information and proprietary rights and processes necessary for the Grantor's business as now conducted and as proposed to be conducted by the Grantor by developing the System and Lead for commercial manufacture, use, lease, importation, and sale including, without limitation, the intellectual property licensed to Grantor under the License Agreement by and between Grantor and the Johns Hopkins University ("JHU") entered into on or around July 1, 1998 and the License Agreement by and between the Grantor and JHU entered into on or around December 7, 2006, and all other appendices, addenda, amendments, and agreements related thereto (the "JHU Agreements") (the owned and licensed rights of Grantor, collectively, the "Intellectual Property"), without any conflict with, or infringement of, the rights of others.

B. Section 4 of the Security Agreement is hereby further amended by amending subsection (g) thereof by adding "Except as set forth on Schedule 10 annexed hereto," before the fifth sentence.

4.3 Amendments to Section 18: Continuing Security Interest; Termination and Release; Assignment

Section 18 of the Security Agreement is hereby amended by deleting paragraph (b) thereof in its entirety and substituting the following therefor:

"Provided an Event of Default has not occurred and is continuing, Secured Party will terminate and release its liens and security interests in all Collateral at the later of (i) payment in full and in cash or conversion in full of the Note Balance on or before July 15, 2008 or (ii) after the Grantor has achieved the first two Lead Milestones (as defined in the Development Agreement) as stated in Sections 10.1(b)(i) and (ii) of the Development Agreement (the **"Collateral Release").** For the avoidance of doubt, if both conditions (i) and (ii) above have not occurred on or before August 31, 2008, the foregoing termination and release provision and this Section 18(b) shall be null and void and of no force and effect.

4.4 Amendment to Schedules to Security Agreement

Schedule 10 to Security Agreement is hereby deleted in its entirety and replaced with the new Schedule 10 attached as Exhibit B hereto.

Section 5. CONDITIONS TO EFFECTIVENESS

Sections 1 through 4 of this Amendment shall become effective only upon the satisfaction of all of the following conditions precedent (the date of satisfaction of such conditions being referred to herein as the **"Amendment Effective Date"):**

A. On or before the Amendment Effective Date, the Company shall deliver to Bionics the following, each, unless otherwise noted, dated the Amendment Effective Date:

1. Executed copy of this Amendment;

2. Executed copy of the Amended Note;

3. Executed consent from JHU to sublicense to Bionics under the JHU Agreement dated December 7, 2006;

4. Certified copies of its Certificate of Incorporation, together with a good standing certificate from the Secretary of State of the State of Delaware, each dated a recent date prior to the Amendment Effective Date;

5. A certificate, dated as of the Amendment Effective Date, of its corporate secretary or an assistant secretary, certifying that there have been no changes in its Bylaws from the form of Bylaws previously delivered to Bionics;

6. Resolutions of its Board of Directors approving and authorizing the execution, delivery, and performance of this Amendment and the Amended Note,

certified as of the Amendment Effective Date by its corporate secretary or an assistant secretary as being in full force and effect without modification or amendment;

7. Signature and incumbency certificates of its officers executing this Amendment and the Amended Note; and

8. All documents necessary to assign to Bionics all Future Intellectual Property developed from December 30, 2005 and execute all documents necessary to effect that assignment.

B. On or before the Amendment Effective Date, all corporate and other proceedings taken or to be taken in connection with the transactions contemplated hereby and all documents incidental thereto not previously found acceptable by Bionics shall be satisfactory in form and substance to Bionics, and Bionics shall have received all such counterpart originals or certified copies of such documents Bionics may reasonably request.

Section 6. COMPANY'S REPRESENTATIONS AND WARRANTIES

In order to induce Bionics to enter into this Amendment and effect the amendment in the manner provided herein, the Company represents and warrants to Bionics that the following statements are true, correct and complete as of the Amendment Effective Date:

A. Corporate Power and Authority. The Company has all requisite corporate power and authority to enter into this Amendment and to carry out the transactions contemplated by, and perform its obligations under, the Development Agreement, the License Agreement and the Security Agreement, each as amended by this Amendment, and the Amended Note (collectively, the **"Amended Documents").**

B. Authorization of Agreements. The execution and delivery of this Amendment and the Amended Note and the performance of the Amended Documents have been duly authorized by all necessary corporate action on the part of the Company.

C. No Conflict. The execution and delivery by the Company of this Amendment and the Amended Note and the performance by the Company of the Amended Documents do not and will not (i) violate any provision of the Certificate of Incorporation or Bylaws of the Company, (ii) violate any provisions of any law or any governmental rule or regulation applicable to the Company or any order, judgment or decree of any court or other agency of government binding on the Company, (iii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any contractual obligation of the Company, (iv) result in or require the creation or imposition of any lien upon any of the properties or assets of the Company (other than Liens created under any of the Amended Documents in favor of Bionics), or (v) require any approval of the stockholders of the Company, or any approval or consent of any person under any contractual obligation of the Company, which has not already been obtained.

D. Governmental Consents. The Company is not required to obtain any approval, consent or authorization from, or provide any notice to, any federal, state or other

governmental authority or regulatory body as a condition to the execution and delivery of this Amendment and the Amended Note or the performance by the Company of the Amended Documents.

E. Binding Obligation. Each of this Amendment and the Amended Note has been duly executed and delivered by the Company and this Amendment and the Amended Documents are the legally valid and binding obligations of the Company, enforceable against Company in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

F. Incorporation of Representations and Warranties From Development Agreement. Except as set forth in Schedule 6.F attached hereto, the representations and warranties contained in Sections 4.7, 4.8 and 4.12 of the Development Agreement are and will be true, correct and complete in all material respects on and as of the Amendment Effective Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case they were true, correct and complete in all material respects on and as of such earlier date.

Section 7. MISCELLANEOUS

A. Reference to and Effect on the Amended Documents.

(i) On and after the Amendment Effective Date, each reference in the Development Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Development Agreement, and each reference in the Amended Documents to the "Development Agreement", "thereunder", "thereof or words of like import referring to the Development Agreement shall mean and be a reference to the Develop Agreement as amended by this Amendment.

(ii) On and after the Amendment Effective Date, each reference in the Security Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Security Agreement, and each reference in the Amended Documents to the "Security Agreement", "thereunder", "thereof or words of like import referring to the Security Agreement shall mean and be a reference to the Security Agreement as amended by this Amendment.

(iii) On and after the Amendment Effective Date, each reference in the License Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the License Agreement, and each reference in the Amended Documents to the "License Agreement", "thereunder", "thereof or words of like import referring to the License Agreement shall mean and be a reference to the License Agreement as amended by this Amendment.

(iv) On and after the Amendment Effective Date, each reference in the Amended Documents to the "Note", "thereunder", "thereof or words of like import referring to the Note shall mean and be a reference to the Amended Note.

(ii) Except as specifically amended by this Amendment, the Amended Documents shall remain in full force and effect and are hereby ratified and confirmed.

(iii) The execution, delivery and performance of this Amendment shall not, except as expressly provided herein, constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of Bionics or the Company under, any of the Amended Documents.

B. Headings. Section and subsection headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

C. Applicable Law. THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA (INCLUDING WITHOUT LIMITATION SECTION 1646.5 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

D. Clarification of Scope. For the avoidance of any doubt whatsoever, Bionics and the Company acknowledge and agree that the terms "neuromodulation" and "neuro- related" (as used in any of the Amended Documents) do not include, and in no event does any license granted to Bionics under the Development Agreement or the License Agreement relate to, cardiac applications.

E. Counterparts; Effectiveness. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. This Amendment (other than the provisions of Sections 1 through 4 hereof, the effectiveness of which is governed by Section 5 hereof) shall become effective upon the execution of a counterpart hereof by the Company and Bionics and receipt by the Company and Bionics of written or telephonic notification of such execution and authorization of delivery thereof.

F. Return of Original Note. On the Amendment Effective Date, Bionics shall deliver to the Company the original Note for cancellation.

[The remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

BIONICS:

ADVANCED BIONICS CORPORATION

By: /s/ Jeffrey H. Greiner

Jeffrey H. Greiner
Its: President and Co-Chief Executive Officer

COMPANY:

SURGI-VISION, INC.

By: /s/ Kimble Jenkins

Kimble L. Jenkins
Its: President

EXHIBIT A

TO OMNIBUS AMENDMENT

[FORM OF AMENDED NOTE]

THIS NOTE HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES ONLY AND MAY NOT BE TRANSFERRED UNTIL (I) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 (THE "ACT") HAS BECOME EFFECTIVE WITH RESPECT THERETO OR (II) RECEIPT BY THE COMPANY AT LENDER'S SOLE COST AND EXPENSE OF AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY TO THE EFFECT THAT REGISTRATION UNDER THE ACT IS NOT REQUIRED IN CONNECTION WITH SUCH PROPOSED TRANSFER AND THAT SUCH ISSUANCE IS NOT IN VIOLATION OF ANY APPLICABLE STATE SECURITIES LAWS. THIS LEGEND WILL BE ENDORSED UPON ANY NOTE ISSUED IN EXCHANGE FOR THIS NOTE.

AMENDED AND RESTATED MULTIPLE ADVANCE SECURED CONVERTIBLE PROMISSORY NOTE

Up to $1,500,000 **June 30, 2007**

1. Principal. For value received, **SURGI-VISION, INC.**, a Delaware corporation ("**Company**"), promises to pay to **ADVANCED BIONICS CORPORATION,** a Delaware corporation ("**Lender**"), at its office at 25129 Rye Canyon Loop, Valencia, California 91355, or at such other place as Lender may from time to time designate in writing, the principal sum specified on the Schedule of Advances attached to this Note, together with accrued interest from the date of disbursement on the unpaid principal of this Note at the rate set forth in Section 3 hereof. Lender hereby authorizes and directs Company to deliver this Note to Lender's address set forth at the beginning of this Note. Initially capitalized terms used herein without definition are defined in that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006 and by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, and as further amended, supplemented or otherwise modified from time to time, the **"Development Agreement"),** by and between Company and Lender.

2. Maturity Date. Unless Lender has previously exercised its Conversion Right (as defined below), the unpaid principal balance of this Note (plus any interest, fees, and other amounts owing under this Note) (collectively, the "**Note Balance**") is due and payable in full on the Maturity Date. The **"Maturity Date"** is the earliest of (A) the last day of the Negotiation Period or (B) June 30, 2008, regardless of any extensions of the Negotiation Period that Company and Lender may mutually agree on, or (C) the date of an occurrence of an Event of Default. If the Maturity Date falls on a day that is not a business day, payment of the unpaid

principal of this Note must be made on the next succeeding business day and such extension of time will be included in computing any interest in respect of such payment.

3. Interest Rate.

(a) This Note bears simple interest at the rate of 0% per annum on its unpaid principal amount from the Closing Date to five days after the Maturity Date. This Note bears simple interest at the rate of 20% per annum (or the highest rate permitted by law, whichever is less) (the **"Default Rate")** on any unpaid principal balance of this Note from five business days after the Maturity Date until the actual date that the entire Note Balance is satisfied (either by (i) Company paying the entire Note Balance in cash, (ii) Lender electing in its sole discretion to convert the entire Note Balance into Conversion Shares (as defined below), or (iii) Lender electing in its sole discretion to convert part of the Note Balance into Conversion Shares and Company paying the entire remaining Note Balance in cash).

(b) All payments of principal and interest due under this Note must be made without deduction of any present and future taxes, levies, imposts, deductions, charges or withholdings, which amounts must be paid by Company. Company will pay the amounts necessary such that the gross amount of the principal and interest received by Lender is not less than that required by this Note. If Company is required by law to deduct any such amounts from or in respect of any principal or interest payment under this Note, then (i) the sum payable to Lender will be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this provision) Lender receives an amount equal to the sum it would have received had no deductions been made, (ii) Company will make such deductions, and (iii) Company will pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. Company will pay all stamp and documentary taxes. If, notwithstanding the foregoing, Lender pays such taxes, Company will reimburse Lender for the amount paid. Company will furnish Lender official tax receipts or other evidence of payment of all taxes.

(c) Throughout the term of this Note, interest will be calculated on the basis of a 360-day year and will be computed for the actual number of days elapsed in the period for which interest is charged. If any payment of interest to be made by Company under this Note becomes due on a day which is not a business day, such payment must be made on the next succeeding business day and such extension of time will be included in computing the interest due in respect of such payment.

4. Conversion.

(a) Conversion at Lender's Option. At any time beginning on the Maturity Date and ending five business days after Company's payment in full of the Note Balance, Lender will have the right, in Lender's sole discretion, to convert this Note, in whole or in part (the **"Conversion Right")** into the number of Conversion Shares obtained by the calculations of Section 4(b)(i) or Section 4(b)(ii), as applicable. If Lender exercises the Conversion Right after Company's payment in full of the Note Balance, Lender will return to Company that part of the Note Balance that Lender is electing to convert to Conversion Shares within five business days of Lender's receipt of Company's payment in full of the Note Balance.

"Conversion Shares" means the aggregate number of fully paid and nonassessable shares of the Common Stock of Company, par value $0.01 per share **("Common Stock")** into which Lender has elected to convert all or part of the Note Balance.

(b) Pricing Terms.

(i) Conversion Calculation. Except for the circumstances described in Section 4(b)(ii) below, the number of Conversion Shares will be determined by dividing (A) the amount of the Note Balance to be converted by (B) the lesser of (1) the 5% Conversion Price (as defined below) or (II) if Company consummates a sale of any of its equity securities after the Closing Date (for the avoidance of doubt, a "sale" of equity securities will not include equity securities issued pursuant to the acquisition of another entity by Company by merger, purchase of all or substantially all of the assets, or other reorganization whereby Company becomes the owner of more than 50% of the voting power of such entity, equity securities issued pursuant to the conversion or exercise of any convertible securities, options or warrants, or equity securities (including derivatives) granted, issued or issuable to employees, officers, directors or consultants pursuant to plans or agreements approved by Company's board of directors), whether in a single or multiple closings or financings, the average price per share paid for such securities by the purchasers thereof. The term **"5% Conversion Price"** means, as of a given date, the price per share determined by dividing $1,500,000 by 5% of Company's Fully Diluted Shares (as defined below). The term **"Fully Diluted Shares"** means, as of a given date, the total number of shares of Common Stock (a) issued and outstanding, (b) issuable upon the exercise of any and all outstanding options, warrants and rights to acquire shares of Common Stock, or upon the conversion of any and all outstanding securities convertible into shares of Common Stock, whether then vested, exercisable or convertible, and (c) authorized and issuable by the Company under any stock option or other equity compensation plan approved by the Company's board of directors other than those shares subject to outstanding options, warrants or other similar rights described in the preceding clause (b).

(ii) If (a) an Event of Default has occurred and is continuing or (b) the Company, in its sole discretion, prepays all or any portion of the Note Balance prior to the Maturity Date pursuant to Section 6 hereof or (c) the Company grants the consent pursuant to Section 10(c) hereof, the number of Conversion Shares will be determined by dividing (A) the amount of the Note Balance to be converted by (B) the lesser of (I) the 10% Conversion Price (as defined below) or (II) if Company consummates a sale of any of its equity securities after the Closing Date (for the avoidance of doubt, a "sale" of equity securities will not include equity securities issued pursuant to the acquisition of another entity by Company by merger, purchase of all or substantially all of the assets, or other

reorganization whereby Company becomes the owner of more than 50% of the voting power of such entity, equity securities issued pursuant to the conversion or exercise of any convertible securities, options or warrants, or equity securities (including derivatives) granted, issued or issuable to employees, officers, directors or consultants pursuant to plans or agreements approved by Company's board of directors), whether in a single or multiple closings or financings, the average price per share paid for such securities by the purchasers thereof. The term **"10% Conversion Price"** means, as of a given date, the price per share determined by dividing $1,500,000 by 10% of Company's Fully Diluted Shares.

(iii) Warrant. If, upon Lender's exercise of its Conversion Right pursuant to Section 4(b)(i), Company and Lender have not executed and delivered the Subsequent System License, in addition to the number of Conversion Shares obtained by the calculation set forth in Section 4(b)(i) above, Lender will receive from the Company a warrant, in substantially the form attached hereto as Exhibit.A (the **"Warrant"),** to purchase the number of shares of Common Stock equal to the difference, if positive, between (A) the amount determined by dividing (I) the amount of the Note Balance converted pursuant to Section 4(b)(i) by (II) the 10% Conversion Price, minus (B) the number of Conversion Shares obtained by the calculation set forth in Section 4(b)(i) above. Such Warrant shall become exercisable if (A) Company and Lender have not executed and delivered the Subsequent System License on or before the last day of the Negotiation Period or (B) an Event of Default has occurred and is continuing prior to the last day of the Negotiation Period.

(iv) Full Conversion. Reference in the Development Agreement, this Note and/or any of the other Concurrent Documents to the "conversion of the Note Balance" or words of like import shall mean and be a reference to Lender's receipt of (A) the number of Conversion Shares obtained by the calculation set forth in Sections 4(b)(i) or 4(b)(ii), as applicable, and (B) if applicable, the Warrant, For the avoidance of doubt, reference in the Development Agreement, this Note and/or any of the other Concurrent Documents to the "conversion of the Note Balance" or words of like import shall not mean or include Lender's exercise of all or any portion of the Warrant.

(c) Conversion Procedure.

(i) In order to convert all or any part of the Note Balance, Lender will deliver to Company a written notice stating (A) that Lender has elected to convert all or part of the Note Balance and (B) the amount of the Note Balance to be converted (the **"Conversion Notice").**

(ii) Within five business days after receipt of the Conversion Notice, Company will deliver to Lender a certificate for the number of Conversion

Shares issuable upon the conversion; provided that Company will not issue any fractional Conversion Shares. In lieu of Company issuing any fractional shares to Lender or its designees upon conversion, Company will pay to Lender the unconverted amount of the Note Balance specified in the Conversion Notice, such payment to be in the form of a wire transfer or check payable to Lender. Each conversion will be deemed to have been effected immediately before the close of business on the date on which this Note is given to the Company pursuant to Section 14 of this Note. Upon conversion of the entire Note Balance, Company will be forever released from all its obligations and liabilities under this Note.

(d) Changes in Common Stock. If, and as often as, there are any changes in the Common Stock by way of stock split, stock dividend, combination or reclassification, or by any other means, appropriate adjustment will be made by Company and Lender to the price at which Conversion Shares are issued and the other provisions of this Note, as may be required, so that the rights and privileges granted hereby will continue with respect to the Conversion Shares as so changed.

(e) Access and Information. Subject to the confidentiality provisions in the Development Agreement, Company will afford to Lender and its accountants, counsel and other representatives full access, upon reasonable request, upon reasonable prior notice and during normal business hours, to all of Company's properties, books, accounts, records, contracts, and personnel and, Company will, and will cause its accountants, counsel and other representatives to furnish promptly to Lender and its representatives all information concerning Company's business, properties and personnel, in each case as Lender or its representatives reasonably requests for the purpose of evaluating the merits and risks of an investment in Conversion Shares in the event Lender may desire to exercise its Conversion Right; provided, however, that Company reserves the right to withhold any information if access to such information could adversely affect the attorney-client privilege between Company and its counsel.

(f) Conversion Shares. Until such time as the Conversion Shares are registered under the Securities Act of 1933, Company will instruct its transfer agent to enter stop transfer orders with respect to such shares and the certificates representing such shares will be endorsed with the following legend:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR THE "BLUE SKY" OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, HYPOTHECATED, DISTRIBUTED OR OTHERWISE DISPOSED OF UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SALE OR AN EXEMPTION FROM SUCH REGISTRATION REQUIREMENT IS AVAILABLE, AND IF AN EXEMPTION IS AVAILABLE, THE COMPANY RECEIVES AN OPINION OF COUNSEL AT THE HOLDER'S SOLE COST AND EXPENSE STATING THAT SUCH OFFER, SALE, TRANSFER, ASSIGNMENT, PLEDGE,

HYPOTHECATION, DISTRIBUTION OR OTHER DISPOSITION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT AND OTHER LAWS. THE RESTRICTIONS CONTAINED HEREIN ARE BINDING ON THE HOLDER HEREOF AND HIS SUCCESSORS AND ASSIGNS,"

5. Schedule of Advances. Lender will, and is hereby authorized by Company to, note on the Schedule of Advances annexed to this Note and constituting a part of this Note, the date and amount of each advance, payment or prepayment of all or any portion of the principal sum. Absent manifest error, such notations are conclusive and binding as to the aggregate unpaid principal sum and all other information; provided, however, the failure of Lender to make such a notation will not limit or otherwise affect the obligation of Company to repay the outstanding principal amount or any interest accrued or accruing thereon or any other amount payable by Company to Lender hereunder.

6. Prepayment Prior to the Maturity Date, Company, in its sole discretion, may prepay all or any portion of the Note Balance at any time, provided that (i) Company will give Lender not less than a 30-day prior written notice of its intention to prepay an amount specified in such notice on the date set forth in the notice, and (ii) notwithstanding any provision hereof to the contrary, Lender will have the right before the anticipated prepayment date set forth in the notice to exercise its Conversion Right, under the pricing terms contained in Section 4(b)(ii) of the Note, to convert all or part of the amount to be prepaid into Conversion Shares, in which case the prepayment notice will have no further force or effect regarding the amount to be converted.

7. Lawful Money. Principal and interest are payable in lawful money of the United States of America,

8. Applications of Payments; Late Charges.

(a) Payments received by Lender hereunder will be applied first to costs and expenses, then to interest and finally to principal unless Lender elects otherwise in its sole discretion.

(b) If any payment of principal or interest is not paid when due, such late payment will bear interest at the Default Rate from the day such payment was due until it is paid. In addition, if any payment is five or more days overdue, Lender will have the option to assess a late charge of $0.03 cents for each dollar so overdue. In connection therewith, Company and Lender agree as follows:

(i) Because of such late payment, Lender will incur certain costs and expenses including, without limitation, administrative costs, collection costs, loss of interest, and other direct and indirect costs in an uncertain amount;

(ii) It would be impractical or extremely difficult to fix the exact amount of such costs in such event;

(iii) The late charge is a reasonable and good faith estimate of such costs; and

(iv) Such late charge will constitute liquidated damages caused by such failure to make a payment of interest or principal when due but only to the extent such late charge is assessed by Lender, paid by Company and accepted by Lender and only upon the condition that such failure is completely cured concurrently with such payment.

The application of the Default Rate or the assessment of a late charge to any such late payment as described in this Section 8(b) will not be interpreted or deemed to extend the period for payment or otherwise limit any of Lender's remedies under this Note, the Security Agreement, the Development Agreement, or the License Agreement.

9. Security. This Note is a secured obligation of Company as set forth in the Security Agreement dated as of December 30, 2005, as amended by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, and as further amended, supplemented or otherwise modified from time to time, the "**Security Agreement**"), by and between Company and Lender.

10. Covenants of Company.

(a) Use of Loan Proceeds. Company covenants and agrees that it will use the proceeds of this Note only (i) to pay the second installment in the amount of $124,052.60 (including accrued interest, fees, and related amounts) due on December 1, 2005, and the third installment in the amount of $120,355.03 (including accrued interest, fees, and related amounts) due on March 1, 2006, under that certain promissory note made by the Company in favor of Trust One Bank of 1715 Aaron Brenner Dr., Memphis, Tennessee 38120 in the principal amount of $690,000 due December 1, 2006 (the "**Trust One Bank Note**"), (ii) to pay direct costs and expenses associated with the development of the System and/or the Lead and (iii) to pay to Bass, Berry & Sims, PLC and Myers Bigel Sibley & Sajovec an aggregate amount no greater than $40,000 to cover Company's actual costs and expenses associated with the negotiation and documentation of this Note, the Security Agreement, the Development Agreement, the License Agreement and the Other Agreements. Company acknowledges that some costs and expenses incurred by Company, such as salaries and consulting fees, may relate both to the development of the System and/or the Lead and to other activities of Company. With respect to such costs and expenses, Company will determine, subject to Lender's approval, which will not be unreasonably withheld, which percentage of the cost or expense is associated with the development of the System and/or the Lead, for which Company will be permitted to use proceeds of this Note, and which percentage is associated with other activities of Company, for which Company will not be permitted to use proceeds of this Note.

(b) No Senior Debt. So long as this Note is outstanding, Company will not incur on or after the Closing Date any indebtedness for borrowed money that is not expressly subordinated to this Note, without the prior written consent of Lender. For the avoidance of doubt, the phrase "indebtedness for borrowed money" will not include ordinary-course obligations to trade creditors.

(c) No Liens or Encumbrances. So long as this Note is outstanding, without the prior written consent of Lender, Company will not (a) pledge or otherwise encumber or permit the encumbrance of any of its assets, including the Collateral (as defined in the Security Agreement); (b) merge or consolidate with any entity, or dissolve; (c) declare, make or pay any distribution or dividend to its stockholders; (d) sell, lease or otherwise dispose of all or any substantial portion of its assets; or (e) engage in any business other than that in which it is presently engaged. Lender may grant or withhold its consent in its sole discretion. Any grant of that consent will give the Lender the right to exercise the Conversion Right for all or any part of the Note Balance under the pricing terms contained in Section 4(b)(ii). For the avoidance of doubt, this Section 10(c) shall not apply with respect to any license and/or sublicense to any of the Intellectual Property Collateral (as defined in the Security Agreement) if such license and/or sublicense is not inconsistent with the terms of the Development Agreement or License Agreement.

11. Defaults and Remedies.

(a) Events of Default. Each of the following events constitutes an event of default ("**Event of Default"):**

(i) if any representation or warranty made by Company in this Note, the Security Agreement, the Development Agreement, the License Agreement or in any report, certificate, financial statement or other instrument furnished in connection with this Note, is false, inaccurate or misleading in any material respect when made or when deemed made hereunder.

(ii) any default in the payment of any principal or interest under this Note within five days after date when due hereunder, whether upon the Maturity Date or by acceleration or otherwise;

(iii) any default by Company in the prompt and complete fulfillment of any of its covenants and obligations under this Note, the Security Agreement, the Development Agreement, the License Agreement, or any and all other agreements and documents executed and delivered in connection herewith or therewith (the **"Other Agreements")** (other than those covenants and obligations referred to in clause (ii) above or clause (vi) below), if such default is not remedied within 15 days after an officer of Company becomes aware of the factual circumstances giving rise to such default;

(iv) if Company: (A) applies for or consents to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties, (B) admits in writing its inability to pay its debts as they mature, (C) makes a general assignment for the benefit of creditors, (D) is adjudicated as bankrupt or insolvent or is the subject of an order for relief under Title 11 of the United States Code, or any successor thereto, or (E) files a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, moratorium, reorganization, insolvency, readjustment of debt, dissolution

or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (F) takes or permits to be taken any action in furtherance of or for purpose of effecting any of the foregoing;

(v) if any order, judgment or decree will be entered, without the application, approval or consent of Company, by any court of competent jurisdiction, approving a petition seeking reorganization of Company, or appointing a receiver, trustee, custodian or liquidator of Company, or of all or any substantial part of its assets, and such order, judgment or decree will continue unstayed and in effect for any period of 60 days;

(vi) if the Company fails to meet, by the required date, any System Milestone or Lead Milestone, which failure is not remedied within 15 days following Lender's written notice to Company; or

(vii) in the event Lender reasonably believes that Company will be unable to perform its obligations under this Note, Lender may request in writing reasonable assurances of further performance from Company. If, within 15 days from such written request, Company fails to give such assurances reasonably showing its ability to perform, Lender may declare an Event of Default, For avoidance of doubt, Lender's reasonable belief of Company's inability to perform its obligations under this Note must be based on a fact or circumstance that occurs or changes after the date of this Note and results in a material adverse effect upon the Company's financial condition. The foregoing is without any derogation of rights under applicable law to demand further assurances and address anticipatory breaches.

(b) Remedies.

(i) Upon the occurrence of any Event of Default, and at all times thereafter during the continuance of an Event of Default: (a) this Note will, in Lender's sole discretion and upon Lender's written notice to Company, become immediately due and payable, as to principal and interest, without presentment, demand, protest, notice or other requirement of any kind, all of which are hereby expressly waived, anything contained herein or in this Note to the contrary notwithstanding (except in the case of any event described in Sections ll(a)(iv) and (v) of this Note, the occurrence of which will automatically effect acceleration, regardless of any action or forbearance in respect of any prior or ongoing default or Event of Default which may be inconsistent with such automatic acceleration), (b) Lender may file suit against Company on this Note and/or seek specific performance or injunctive relief thereunder (whether or not a remedy exists at law or in equity); and (c) Lender will have the right to seek to exercise any and all remedies as it may determine in its discretion (without any requirement of marshalling of assets, or other such requirement) that may be available at law or in equity.

(ii) Lender's rights, remedies and powers, as provided in this Note and the Security Agreement are cumulative and concurrent and may be pursued singly, successively or together against this Company, the Collateral (as defined in the Security Agreement) and any other security given at any time to secure the payment of this Note, all at the sole discretion of Lender. Additionally, Lender may resort to every other right or remedy available at law or in equity without first exhausting the rights and remedies contained herein, all in Lender's sole discretion. Failure of Lender at any one time, for a period of time or on more than one occasion, to exercise any of its rights or remedies hereunder or at law or in equity will not constitute a waiver of the right to exercise the same right or remedy at any time thereafter. Any and all waivers must be in writing to be effective.

(iii) If any suit or action is instituted or attorneys are employed to enforce any of the obligations of this Note, the non-prevailing party hereby promises and agrees to pay all reasonable costs, including reasonable attorneys' fees and court costs incurred by the prevailing party.

12. Subordination. Lender and Company agree and acknowledge that the indebtedness evidenced by this Note is neither subordinate nor subject in right of payment to any other indebtedness issued to third parties.

13. Interest Rate Limitation. It is the intent of Company and Lender in the execution of this Note and all other instruments securing this Note that the loan evidenced hereby be exempt from the restrictions of the usury laws of the State of California. In the event that, for any reason, it should be determined that the California usury law is applicable to the Loan, Lender and Company stipulate and agree that none of the terms and provisions contained herein or in any of the other Credit Documents will ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws of the State of California. In such event, if any holder of this Note collects monies which are deemed to constitute interest which would otherwise increase the effective interest rate on this Note to a rate in excess of the maximum rate permitted to be charged by the laws of the State of California, all such sums deemed to constitute interest in excess of such maximum rate will, at the option of Lender, be credit.

14. Notices. All notices, requests, demands and other communications which are required to be or may be given under this Note to a party by the other party must be in writing and will be deemed to have been duly given (a) immediately if delivered in person, (b) the day following dispatch by a nationally recognized overnight courier service (such as Federal Express or UPS, etc.) for next day delivery, (c) five days after dispatch by certified or registered first class mail, postage prepaid, return receipt requested, to the Party to whom the same is so given or made, or (d) upon confirmation of receipt, if by facsimile. Any notice or other communication

given hereunder will be addressed to the Company, at 200 N. Cobb Parkway, Suite 140, Marietta, Georgia 30062-3585, Attention: John C. Thomas, Jr., Fax (770) 424-8236, with a copy to Kimble L. Jenkins, 50 North Front St., 19th Floor, Memphis, Tennessee 38103, Fax (901) 579-4979, , or to Lender at the address indicated at the beginning of this document, Attention: General Counsel, Fax (661) 362-4712.

15. Counterparts. This Note may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

16. Headings. All headings are inserted for convenience of reference only and will not affect the meaning or interpretation of any such provisions or of this Note, taken as an entirety.

17. Severability. If and to the extent that any court of competent jurisdiction holds any provision (or any part thereof) of this Note to be invalid or unenforceable, such holding will in no way affect the validity of the remainder of this Note.

18. Changes, Waivers, Etc. Neither this Note nor any provision of this Note may be changed, waived, discharged or terminated orally, but rather may only be changed by a statement in writing signed by the Party against which enforcement of the change, waiver, discharge or termination is sought. It is agreed that a waiver by either Lender or Company of a breach of any provision of this Note will not operate, or be construed, as a waiver of any subsequent breach by that same party.

19. Governing Law. This Note will be governed by and construed in accordance with the laws of the State of California. The parties hereby agree that any dispute which may arise between them arising out of or in connection with this Note will be adjudicated before a court located in Los Angeles, California and they hereby submit to the exclusive jurisdiction of the courts of the State of California located in Los Angeles, California and of the federal courts in the Central District of California with respect to any action or legal proceeding commenced by any party, and irrevocably waive any objection they now or hereafter may have respecting the venue of any such action or proceeding brought in such a court or respecting the fact that such court is an inconvenient forum, relating to or arising out of this Note or any acts or omissions relating to the sale of the securities hereunder, and consent to the service of process in any such action or legal proceeding by means of registered or certified mail, return receipt requested, in care of the address set forth below or such other address as the undersigned will furnish in writing to the other.

20. Entire Agreement. This Note, the Security Agreement, the Development Agreement, the License Agreement and the Other Agreements set forth the entire agreement and understanding between Lender and Company as to this subject matter and incorporates and supersedes all prior discussions, agreements and understandings of any and every nature among them.

21. Further Assurances. Lender and Company agree to execute and deliver all such further documents, agreements and instruments and take such other and further action as may be necessary or appropriate to carry out the purposes and intent of this Note.

22. Successors and Assigns. The terms and conditions of this Note will inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties. Nothing in this Note, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Note, except as expressly provided in this Note, This Note is non-negotiable. Neither Company nor Lender may assign or otherwise transfer this Note without the prior written consent of the other party.

23. Relationship of Parties. In all matters relating to this Note, no party will have any right, power or authority to create any obligation, express or implied, on behalf of any other party. Nothing in this Note is intended to create or constitute a joint venture or a partnership between the parties hereto.

24. Amendment and Restatement. This Note constitutes an amendment and restatement of that certain Multiple Advance Secured Convertible Promissory Note dated December 30, 2005, made by Company in favor of Lender in the maximum principal amount of $1,500,000, and replaces and supersedes such promissory note in all respects.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, Company has signed this Note and delivered this Note to Lender as of the date first written above.

COMPANY:

SURGI- VISION, INC.,
a Delaware corporation

By: _____
Name:
Title:

SCHEDULE OF ADVANCES

Date	Amount of Principal Advanced	Unpaid Principal Balance	Amount Paid	Notation Made By
01/04/06	$250,000	$250,000	—	Initial Advance
01/31/06	$250,000	$500,000	—	
06/30/06	$250,000	$750,000	—	
09/30/06	$250,000	$1,000,000	—	
07/ /07	$500,000	$1,500,000	—	

EXHIBIT A
TO AMENDED AND RESTATED MULTIPLE ADVANCE SECURED CONVERTIBLE PROMISSORY NOTE

[FORM OF WARRANT]

THIS WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR APPLICABLE STATE SECURITIES LAWS. THIS WARRANT HAS BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO DISTRIBUTION OR RESALE. THIS WARRANT, AND THE SECURITIES ISSUABLE UPON EXERCISE HEREOF, MAY NOT BE SOLD, MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR THE AVAILABILITY OF AN EXEMPTION FROM THE REGISTRATION PROVISIONS OF THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

_____, 200_

SURGI-VISION, INC.

STOCK PURCHASE WARRANT

This Warrant is issued as of this day of 200 , by SURGI-VISION, INC., a Delaware corporation (the "Company"), to ADVANCED BIONICS CORPORATION, a Delaware corporation (the "Holder").

1. Issuance of Warrant; Term; Price.

(a) Issuance. This Warrant is issued pursuant to Section 4(b)(iii) of that certain Amended and Restated Multiple Advance Secured Convertible Promissory Note dated as of June 30, 2007, payable to the Holder by the Company (together with any and all replacements and renewals thereof, the "Note"). Reference also is made to that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006 and by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, and as further amended, supplemented or otherwise modified from time to time, the "Development Agreement"), by and between the Company and the Holder. Capitalized terms used herein without definition will have the meanings ascribed to such terms in the Development Agreement.

(b) Shares Issuable upon Exercise. The Company hereby grants to the Holder the right to purchase, upon the terms hereof and at the Warrant Price (as defined below), [ ] shares of common stock ("Common Stock") of the Company, subject to adjustment as set forth in Section 2 below (the "Warrant Shares"). [Note: The initial number of Warrant Shares will be determined according to the calculation set forth in Section 4(b)(iii) of the Note.]

(c) Term. This Warrant shall not be exercisable by the Holder unless (A) the Company and the Holder have not executed and delivered the Subsequent System License on or before the last day of the Negotiation Period or (B) at any time prior to the last day of the Negotiation Period, an Event of Default has occurred and is continuing (the 'Trigger Date"). If the Company and the Holder have executed and delivered the Subsequent System License on or before the Trigger Date, this Warrant shall expire automatically and become null and void. If the Company and the Holder have not executed and delivered the Subsequent System License on or before the Trigger Date, the Holder may exercise this Warrant at any time after the Trigger Date until 5:00 p.m. (Eastern Time) on the fifth business day following the Trigger Date, at which time this Warrant shall expire automatically and become null and void.

(d) Exercise Price. The exercise price (the "Warrant Price") per share for which all or any of the Warrant Shares may be purchased pursuant to the terms of this Warrant shall be equal to $0.01.

2. Adjustment of Number and Kind of Shares. The number and kind of securities issuable upon the exercise of this Warrant shall be subject to adjustment from time to time as follows:

(a) Dividends in Stock Adjustment. In case at any time or from time to time on or after the date hereof the holders of the Common Stock of the Company (or any shares of stock or other securities at the time receivable upon the exercise of this Warrant) shall have received, or, on or after the record date fixed for the determination of eligible stockholders, shall have become entitled to receive, without payment therefore, other or additional securities or other property (other than cash) of the Company by way of dividend or distribution, then and in each case, the Holder shall, upon the exercise hereof, be entitled to receive, in addition to the number of Warrant Shares receivable thereupon, and without payment of any additional consideration therefore, the amount of such other or additional securities or other property (other than cash) of the Company which such Holder would hold on the date of such exercise had it been the holder of record of such Common Stock on the date hereof and had thereafter, during the period from the date hereof to and including the date of such exercise, retained such shares and/or all other additional securities or other property receivable by it as aforesaid during such period, giving effect to all adjustments called for during such period by this Section 2(a), Section 2(b) and Section 2(c).

(b) Reclassification or Reorganization Adjustment. In case of any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company on or after the date hereof, the Holder, upon the exercise hereof at any time after the consummation of such reclassification, change or reorganization, shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Holder would have been entitled upon such consummation if such holder had exercised this Warrant immediately prior thereto, all subject to further adjustment as provided in Section 2(a) and Section 2(c).

(c) Stock Splits and Reverse Stock Splits. If at any time on or after the date hereof the Company shall subdivide its outstanding shares of Common Stock into a greater number of shares, the number of shares receivable upon exercise of this Warrant shall thereby be proportionately increased; and, conversely, if at any time on or after the date hereof the outstanding number of shares of Common Stock shall be combined into a smaller number of shares, the number of shares receivable upon exercise of this Warrant shall thereby be proportionately decreased.

3. No Fractional Shares. No fractional shares of Warrant Stock will be issued in connection with any subscription hereunder.

4. No Stockholder Rights. This Warrant as such shall not entitle the Holder to any of the rights of a stockholder of the Company until the Holder has exercised this Warrant in accordance with Section 6 hereof.

5. Reservation of Stock. The Company covenants that during the term of this Warrant, the Company will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of this Warrant. The Company agrees that its issuance of this Warrant constitutes full authority to its officers who are charged with the duty of executing stock certificates to execute and issue the necessary certificates for Warrant Shares upon the exercise of this Warrant.

6. Exercise of Warrant. This Warrant may be exercised by the Holder, during the term of this Warrant as provided in Section 1(c) above, by the surrender of this Warrant at the principal office of the Company, accompanied by payment in full of the Warrant Price of the shares purchased thereby. Notwithstanding any provision of the Development Agreement to the contrary, the Holder shall be entitled to offset against any amount owing to the Company under the Development Agreement the Warrant Price of any shares purchased by the Holder upon the exercise of this Warrant. This Warrant shall be deemed to have been exercised immediately prior to the close of business on the date of its surrender for exercise as provided above, and the Holder shall be treated for all purposes as the holder of record of the Warrant Shares as of the close of business on such date. As promptly as practicable, the Company shall issue and deliver to the Holder a certificate or certificates for the number of Warrant Shares issuable upon such exercise. The Warrant Shares issuable upon exercise of this Warrant shall, upon their issuance, be fully paid and nonassessable.

7. Certificate of Adjustment. Whenever the number or type of securities issuable upon exercise of this Warrant is adjusted as herein provided, the Company shall deliver to the Holder a certificate of an officer of the Company setting forth the nature of such adjustment and a brief statement of the facts requiring such adjustment.

8. No Limitation on Corporate Action. No provisions of this Warrant and no right granted or conferred hereunder shall in any way limit, affect or abridge the exercise by the Company of any of its corporate rights or powers to recapitalize, amend its Certificate of Incorporation, reorganize, consolidate or merge with or into another corporation, to transfer all or any part of its property or assets, or to exercise any other corporate rights and powers.

9. Assignment of Warrant. The Holder may not assign or transfer this Warrant without the prior written consent of the Company. Any purported assignment or transfer of this Warrant in violation of this Section 9 shall be void abs initio.

10. Restrictive Legends. To the extent applicable, each certificate evidencing any of the Warrant Shares shall be endorsed with the legends set forth below, and Holder covenants that, except to the extent such restrictions are waived by the Company, Holder shall not transfer the Warrant Shares without complying with the restrictions on transfer described in such legends:

(a) The following legend under the Securities Act:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR THE "BLUE SKY" OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, HYPOTHECATED, DISTRIBUTED OR OTHERWISE DISPOSED OF UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SALE OR AN EXEMPTION FROM SUCH REGISTRATION REQUIREMENT IS AVAILABLE, AND IF AN EXEMPTION IS AVAILABLE, THE COMPANY RECEIVES AN OPINION OF COUNSEL AT THE HOLDER'S SOLE COST AND EXPENSE STATING THAT SUCH OFFER, SALE, TRANSFER, ASSIGNMENT, PLEDGE, HYPOTHECATION, DISTRIBUTION OR OTHER DISPOSITION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT AND OTHER LAWS. THE RESTRICTIONS CONTAINED HEREIN ARE BINDING ON THE HOLDER HEREOF AND ITS SUCCESSORS AND PERMITTED ASSIGNS."

(d) If required by the authorities of any state in connection with the issuance or sale of the Warrant Shares, the legend required by such state authority.

11. Replacement of Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft or destruction of this Warrant, and on delivery of an indemnity agreement or security reasonably satisfactory in form and amount to the Company, the Company will execute and deliver to the Holder, in lieu thereof, a new Warrant of like tenor.

12. Miscellaneous. This Warrant shall be governed by the laws of the State of Delaware. The headings in this Warrant are for purposes of convenience of reference only, and shall not be deemed to constitute a part hereof. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provisions.

13. Notices. All notices, requests, demands and other communications which are required to be or may be given under this Warrant to a party by the other party must be in writing and will be deemed to have been duly given (a) immediately if delivered in person, (b) the day following dispatch by a nationally recognized overnight courier service (such as Federal Express, UPS, etc.) for next day delivery, (c) five days after dispatch by certified or registered first class

mail, postage prepaid, return receipt requested, to the party to whom the same is so given or made, or (d) upon confirmation of receipt if by facsimile. Any notice or other communication given hereunder will be addressed (x) to the Company at 200 N. Cobb Parkway, Suite 140, Marietta, Georgia 30062-3585, Attention: John C. Thomas, Jr., Fax (770) 424-8236, with a copy to Kimble L. Jenkins, 50 North Front St., 19th Floor, Memphis, Tennessee 38103, Fax (901) 579-4979, or (y) to the Holder at 25129 Rye Canyon Loop, Valencia, California 91355, Attention: General Counsel, Fax (661) 362-4712, or at such other address as one party shall have notified the other party hereto by notice given in conformity with this Section 13.

14. Taxes. The Company shall pay all issue taxes and other governmental charges (but not including any income taxes of the Holder) that may be imposed in respect of the issuance or delivery of the Warrant Shares or any portion thereof.

15. Amendment: Waiver. Any term of this Warrant may be amended or waived with the written consent of the Company and the Holder.

16. Representations by Holder. The Holder represents and warrants to the Company, as of the date hereof and as of the date of any exercise of this Warrant, that (a) the Holder is acquiring this Warrant and the Warrant Shares for its own account, for investment purposes, and not with a present view either to sell, distribute or transfer, or to offer for sale, distribution or transfer, this Warrant or the Warrant Shares, (b) the Holder is experienced in evaluating companies such as the Company, has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of the Holder's investment and has the ability to suffer the total loss of such investment, and (c) the Holder is an "accredited investor" within the meaning of Regulation D under the Securities Act.

SURGI- VISION, INC.

By: _____
Name: _____
Title: _____

AGREED TO AND ACCEPTED BY:

ADVANCED BIONICS CORPORATION

By: _____
Name: _____
Title: _____

NOTICE OF EXERCISE

To: Surgi-Vision, Inc.

The undersigned hereby elects to purchase "Warrant Shares" pursuant to the provisions of Section 6 of the attached Warrant, and tenders herewith payment of the purchase price for such shares in full. In exercising the attached Warrant, the undersigned hereby confirms and acknowledges its representations and warranties set forth in Section 16 of the attached Warrant.

ADVANCED BIONICS CORPORATION

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT B
TO OMNIBUS AMENDMENT

SCHEDULE 10

TO THE SECURITY AGREEMENT

U.S. Copyright Registrations:

Title	Registration No.	Date of Issue	Registered Owner
None			

Foreign Copyright Registrations:

Country	Title	Registration No.	Date of Issue
None			

Pending U.S. Copyright Registration Applications:

Title	Appl. No.	Date of Application	Copyright Claimant
None			

Pending Foreign Copyright Registration Applications:

Country	Title	Appl. No.	Date of Application
None			

The Grantor has granted Secured Party certain licenses to the Intellectual Property pursuant to the Concurrent Agreements.

The Grantor is a party to the JHU Agreements.

Pursuant to the JHU Agreements, JHU has the retained right to make, have made, provide and use for its and The Johns Hopkins Health Systems' internal, non-commercial purposes "Licensed Products" and "Licensed Services" (as such terms are defined in the JHU Agreements).

Patents supported by federal funding are subject to the rights, conditions and limitations imposed by U.S. law.

The Grantor is a party to an option agreement with JHU. Pursuant to that option agreement, the Grantor has notified JHU that the Grantor will exercise its option on a "Microcapsule" patent application that was filed in May 2007. Such patent application is not related to the Lead or the System.

The Grantor is a party to an assignment agreement with [***] for [***].

The Grantor has a pending research collaboration/sponsorship agreement with UCSF.

The Grantor has a pending sponsorship agreement with the University of Utah and Dr. Marrouche (with an option for an exclusive license for any intellectual property arising from the sponsored work). Such intellectual property would not be related to the Lead or the System.

The Grantor has filed on a JHU case (funded by the Grantor) that has not yet been formally licensed from JHU. The case is directed to embolic procedures and is not related to the Lead or the System.

The Grantor is a party to various consulting agreements that include options/licenses/assignments of or to intellectual property or conceived ideas.

The Grantor knows of a third-party attempt to invoke an interference against U.S. 6,904,307.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

SCHEDULE 6.F
TO OMNIBUS AMENDMENT

1. With reference to the second sentence of Section 4.8 of the Development Agreement, the disclosure set forth in Schedule 4.8 to the Development Agreement is replaced and superseded by the following disclosure:

The Company has granted Bionics certain licenses to the Existing Intellectual Property pursuant to this Agreement and the Concurrent Agreements.

The Company is a party to the JHU Agreements.

Pursuant to the JHU Agreements, JHU has the retained right to make, have made, provide and use for its and The Johns Hopkins Health Systems' internal, non-commercial purposes "Licensed Products" and "Licensed Services" (as such terms are defined in the JHU Agreements).

Patents supported by federal funding are subject to the rights, conditions and limitations imposed by U.S. law.

2. With reference to the fourth sentence of Section 4.8 of the Development Agreement, the Company knows of a third-party attempt to invoke an interference against U.S. 6,904,307.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

OMNIBUS AMENDMENT #2
TO SYSTEM AND LEAD DEVELOPMENT AND TRANSFER AGREEMENT

This **AMENDMENT** (this **"Amendment")** is dated as of March 19, 2008 and entered into by and between Surgi-Vision, Inc., a Delaware corporation (the **"Company")** and Boston Scientific Neuromodulation Corporation (formerly known as Advanced Bionics Corporation), a Delaware corporation **("Bionics"),** and is made with reference to (i) that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006, as further amended by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, supplemented or otherwise modified from time to time, the **"Development Agreement"),** by and between the Company and Bionics, and (ii) that certain Technology License Agreement dated as of December 30, 2005, as amended by that certain Omnibus Amendment dated as of June 30, 2007 (as so amended, supplemented or otherwise modified from time to time, the **"License Agreement"),** by and between the Company and Bionics.

RECITALS

WHEREAS, the Company and Cardiac Pacemakers, Inc. ("CPI"), a wholly-owned indirect subsidiary of Boston Scientific Corporation and an affiliate of Bionics have, concurrent with this Amendment, entered into a Technology License Agreement (the **"CPI License Agreement")** and a Development Agreement (the **"CPI Development Agreement")** (collectively, the CPI License Agreement and the CPI Development Agreement are referred to as the **"CPI Agreements"),** which contain, among other things, certain provisions regarding Intellectual Property ownership, patent prosecution, enforcement and confidentiality;

WHEREAS, the Company and Bionics desire to amend the Development Agreement to be consistent with such Intellectual Property ownership, patent prosecution, enforcement and confidentiality provisions contained in the CPI Agreements; and

WHEREAS, the Company and Bionics desire to amend the License Agreement to reconcile the compensation provisions contained therein with those in the CPI License Agreement:

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

Section 1. AMENDMENTS TO THE DEVELOPMENT AGREEMENT

1.1 Defined Terms.

Capitalized terms used in this Amendment without definition shall have the same meanings as set forth in the Development Agreement.

1.2 Amendments to Section 11: Intellectual Property Ownership and Protection.

A. Section 11.1 (a) of the Development Agreement is hereby amended by deleting the last sentence of such Section in its entirety and substituting the following in lieu thereof:

> "Notwithstanding any of the foregoing to the contrary, any Shared Future Intellectual Property shall be solely owned by CPI and Bionics. Bionics hereby grants to the Company an exclusive, fully paid, worldwide license, with right to sublicense, (a) under the Shared Future Intellectual Property for use within the SVI Grant-Back Field (as that term is defined in the CPI Development Agreement), to make, use, import, lease, and sell any system, method, or apparatus, and (b) under all Non-Shared Future Intellectual Property for use outside the field of neuromodulation, to make, use, import, lease, and sell any system, method, or apparatus. The term **"Shared Future Intellectual Property"** means any Future Intellectual Property that constitutes Development IP (as that term is defined in the CPI Development Agreement). The term **"Non-Shared Future Intellectual Property"** means any transferred Future Intellectual Property that does not constitute Development IP (as that term is defined in the CPI Development Agreement).

B. Section 11.1 (b) of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

> **(b) Intellectual Property Re-transfer and Cross-License.** Bionics hereby agrees to assign and transfer to the Company joint ownership for all countries in and to any transferred Non-Shared Future Intellectual Property promptly after the Loan Satisfaction Date **("Re-Transfer").** Upon Re-Transfer, the Non-Shared Future Intellectual Property will become Intellectual Property that is jointly owned by the Parties **("Joint Intellectual Property").** Effective immediately upon the date of Re-Transfer, (i) the Company hereby grants to Bionics an exclusive, fully paid, non-transferable, perpetual worldwide license under the Joint Intellectual Property within the field of neuromodulation, with right to sublicense, to make, use, import, lease, and sell any system, method, or apparatus thereunder, and (ii) Bionics hereby grants to the Company an exclusive, fully paid, non-transferable, perpetual worldwide license under the Joint Intellectual Property outside the field of neuromodulation (but subject to CPI's exclusivity as set forth in the CPI Agreements), with right to sublicense, to make, use, import, lease, and sell any system, method, or apparatus thereunder.

1.3 Amendment to Section 11.2: Patent Prosecution.

A. Section 11.2 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

11.2 Patent Prosecution.

(a) Costs. Bionics and its Affiliates will pay all Patent Prosecution costs and expenses for all Patents subject to their sole control, as set forth in Section 11.2(b) below (**"Prosecution Costs**"**).** The term **"Patent"** means all classes or types of patents, design patents, utility patents, including issued patents, published and non-published patent applications

(including inventors' certificates and utility models) in any country or jurisdiction or under any treaty, including all originals, provisionals, substitutions, continuations, continuations-in-part, divisionals, supplementary protection certificates, renewals, all letters patent granted thereon, and all reissues, reexaminations, extensions, confirmations, revalidations, registrations, patents of addition and foreign counterparts, as well as industrial design registrations. The term **"Prosecution"** means prosecution of any proceeding in the United States Patent and Trademark Office or in any other registration authority in any country, including regarding any application (whether ex parte or inter partes), including interference, reexamination and reissue. The terms **"Affiliate" and "Affiliates"** have the meanings ascribed thereto in the CPI Agreements.

(b) Intellectual Property Protection. Bionics and its Affiliates will jointly control the Prosecution of all Patents included in the Bionics Controlled IP, each at its own expense and with legal counsel of its own choice, and will take such other legal steps as Bionics and its Affiliates will determine in their sole discretion to be necessary to protect their rights for all Bionics Controlled IP. For the avoidance of doubt, neither Bionics nor its Affiliates will be obligated to pay any Prosecution Costs to protect any Intellectual Property if they determine, in their sole discretion, that those Prosecution Costs outweigh the likely benefits to Bionics or such Affiliate. The term **"Bionics Controlled IP"** means all Existing Intellectual Property, Joint Intellectual Property and Future Intellectual Property, except any Existing Intellectual Property that relates to the System.

(c) Company Cooperation. The Company will cooperate with Bionics and its Affiliates in filing, Prosecuting and maintaining Patents and taking such other legal steps as set forth in this Section 11.2 and will execute and deliver any documents and instruments in connection therewith which Bionics or its Affiliates may request at no additional cost or expense to Bionics or such Affiliate.

(d) Company Inspection and Intervention. The Company will have the right upon reasonable notice and reasonable request to inspect, at the Company's sole expense and discretion, the Prosecution documents and strategy of Bionics and its Affiliates with respect to any Bionics Controlled IP that does not constitute Shared Future Intellectual Property. The Parties agree that such information constitutes Confidential Information of Bionics and its Affiliates, and that the disclosure of such information is not intended to constitute a waiver of any privilege, including attorney-client privilege. Bionics (or its applicable Affiliate) will provide written notice to the Company prior to abandoning any patent application or issued Patent that is part of the Bionics Controlled IP. If the Company desires to file and Prosecute any patent application, or to pay maintenance fees or annuities to maintain any issued Patent, in any country that Bionics or its Affiliates determined was not worthwhile to protect Bionics' or such Affiliates' rights, the Company may provide Bionics with a reasonable written request to file and Prosecute or maintain such Patent **("Prosecution Request").** Bionics will have thirty (30) days to fulfill the Prosecution Request. If Bionics (or one of its Affiliates) fails to complete the Prosecution Request within thirty (30) days of receiving the Prosecution Request, then (i) the Company may independently file and Prosecute the patent application or maintain the issued Patent that was the subject of the Prosecution Request, (ii) the Company will bear all Prosecution Costs and will control the remainder of the Prosecution for such patent application or the maintenance of such issued Patent, and (iii) with respect to a Prosecution involving any Future Intellectual Property or Joint Intellectual Property, Bionics and its Affiliates will have the right

(but not the obligation) to participate in an advisory capacity in such Prosecution. The Parties acknowledge and agree that any action by the Company pursuant to this Section 11.2(d) will not confer or convey any ownership rights in the subject Patent to the Company, and will not otherwise adversely affect any of Bionics' or its Affiliates' rights in same.

1.4 Amendment to Section 11.4: Infringement.

A. Section 11.4 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

11.4 Infringement.

(a) Notice of Infringement. If either Party learns of any actual, alleged or threatened Infringement of any Bionics Controlled IP by a Third Party, such Party shall promptly notify the other Party and shall provide such other Party with all available evidence of such Infringement. The term **"Infringe"** means (as applicable, depending on the context of the subject or object of the word Infringe) to infringe, misappropriate, use or disclose without authorization or otherwise violate Intellectual Property rights (whether direct, indirect, contributory, inducement or otherwise). The words **"Infringement"** and **"Infringing"** have corresponding meanings. The term **"Third Party"** means one or more persons or entities other than SVI, Bionics and their respective Affiliates.

(b) Enforcement of Bionics Controlled IP. As between the Parties, [***] shall have the sole right (but not the obligation), each at its own expense and with legal counsel of its own choice, to bring suit (or take other appropriate legal action) against any actual, alleged or threatened Infringement of the Bionics Controlled IP; provided, however, that [***] shall have the right (but, subject to Section 11.4(c) below, not the obligation) to participate in an advisory capacity only in the institution and prosecution of any such Infringement suit, (a) with respect to any Shared Future Intellectual Property only if and to the extent the accused product is related primarily to the [***] and (b) with respect to any other Bionics Controlled IP only if and to the extent the accused product is related primarily to [***].

(c) Join in Action. If either [***] brings any such action or proceeding hereunder, [***] agrees to be joined as party plaintiff if necessary to prosecute such action or proceeding, and, at [***] expense, to give [***] reasonable assistance and authority to file and prosecute the suit; provided, however, that neither Party shall be required to transfer any right, title or interest in or to any property to other Party to confer standing on a Party hereunder.

(d) Costs. [***] will pay all costs, fees, and expenses associated with an Infringement action they have initiated and prosecuted. [***] will pay all costs, fees, and expenses associated with [***] participation in an advisory capacity under Section 11.4(b).

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

(e) Recovery. Any recovery obtained in an action initiated and prosecuted solely by [***], and in which [***] does not participate in an advisory capacity, shall belong to [***]. Any recovery obtained in an action initiated and prosecuted by [***], and in which [***] participates in an advisory capacity, shall be allocated in a fair and equitable manner mutually determined by the Parties. For purposes of clarity, any recovery pursuant to this section will be net of litigation costs as provided in Section 11.4(d) above.

(f) Cooperation. [***] agrees to fully cooperate with [***] in the prosecution of any such suit at no additional expense to [***].

(g) Loss of Exclusive Rights Under CPI License Agreement. [***] acknowledges that, notwith-standing the foregoing to the contrary, in the event CPI exercises its Termination Option (as such term is defined in the CPI Development Agreement), [***] of the CPI License Agreement. Therefore, in the event of any conflict between the terms of this Section 11.4 and the terms of [***], the terms of the CPI License Agreement will control.

1.5 Amendment to Section 11.5: Publication and Authorship

A. Section 11.5 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

11.5 Publication and Authorship. Notwithstanding Section 11.6(e) below, the Company will have the right to author, to publish and to retain or transfer copyright to scientific reports describing the methods and results of any or all Bionics Controlled IP that does not constitute Shared Future Intellectual Property; provided that, if the studies were conducted with the financial and/or technical support of Bionics or any of its Affiliates, such reports shall include an acknowledgment to that effect. Prior to publishing any reports or submitting any manuscripts wherein the publication could adversely affect patent rights for any Bionics Controlled IP (i.e., new inventions for which patent applications have not been filed), (i) the Company shall make the manuscripts for such reports available to Bionics or one of Bionics' Affiliates, using reasonable efforts to provide Bionics or such Affiliate copies of such manuscripts at least thirty (30) days before submission to a journal or other publisher so that Bionics can take any steps it deems necessary to protect such Surgi-Vision IP disclosed in such manuscripts, (ii) Bionics will promptly review such manuscripts, and (iii) the Company will delay its submission to such journal or other publisher for up to one hundred eighty (180) days if Bionics, in its reasonable discretion, determines that it needs additional time to protect such Bionics Controlled IP.

1.6 Amendment to Section 11.6: Confidentiality

A. Section 11.6 of the Development Agreement is hereby amended by deleting such Section in its entirety and substituting the following in lieu thereof:

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

11.6 Confidentiality.

(a) Definition. "Confidential Information" means information which is disclosed or shared by one Party to the other Party, or generated or developed by one or both Parties, that the non-owning Party has a reasonable basis to believe is confidential to the owning Party or has been marked or orally designated by the owning Party as confidential.

(b) Ownership of Confidential Information. The Parties agree that (i) all Shared Future Intellectual Property and Non-Shared Future Intellectual Property will be deemed to be Confidential Information owned by Bionics (irrespective of which Party generated, developed or first shared or disclosed such information), (ii) all Joint Intellectual Property will be deemed to be Confidential Information owned by both Parties (irrespective of which Party generated, developed or first shared or disclosed such information), and (iii) the terms and existence of this Agreement are Confidential Information owned by both Parties. Except as otherwise expressly provided in this Section 11.6, neither Party is subject to the obligations of a "no-owning Party" with respect to Confidential Information that is owned by both Parties. Except as otherwise expressly provided in this Agreement, for all other Confidential Information, the "owning Party" is deemed to be the disclosing Party. Confidential Information shall remain the property of the owning Party, and the non-owning Party shall not be deemed by virtue of this Agreement or any access to the owning Party's Confidential Information to have acquired any right, title or interest in or to any Confidential Information, except the limited right to use such Confidential Information in accordance with the terms of this Agreement or other agreements between the Parties or their Affiliates.

(c) Non-Use and Non-Disclosure. Either Party may make available to the other Party or otherwise generate or develop Confidential Information. The non-owning Party will maintain the owning Party's Confidential Information in confidence and will not use such Confidential Information except as reasonably necessary to perform its obligations and exercise its rights under this Agreement or other agreements between the Parties or their Affiliates. Notwithstanding any provision to the contrary contained in the CPI Agreements, the Company agrees and acknowledges that Bionics and its Affiliates may share all of the Company's Confidential Information with and among each of their respective Affiliates for use solely within the Field (as that term is defined in the CPI Agreements), provided that (i) prior to any such sharing of the Company's Confidential Information such Affiliates are bound by obligations of confidentiality, non-disclosure and non-use substantially similar in scope to those in this Agreement and (ii) Bionics shall be responsible for any breach of confidentiality, non disclosure and non-use by any such Affiliate. Neither Party will disclose the other Party's Confidential Information without the prior written consent of the other Party, except as permissible in Section 11.6(e) below or in other agreements between the Parties or their Affiliates. All Confidential Information will be treated by the non-owning Party with the same care as it would exercise in the handling of its own Confidential Information, but not less than reasonable care. The limitations and undertakings specified in this Section 11.6 shall survive termination of this Agreement for a period of five (5) years.

(d) Standard Exceptions. The obligations of Sections 11.6(c), (f) and (g) do not apply to any of the other Party's Confidential Information: (i) which, other than

Shared Future Intellectual Property and Non-Shared Future Intellectual Property, is already known by the non-owning Party at the time of the disclosure; (ii) following such information becoming publicly known without the wrongful act or breach of this Agreement by the non-owning Party; (iii) following such information becoming rightfully received by the non-owning Party from a Third Party without breaching any confidentiality obligation owed by such Third Party to the owning Party; (iv) following such information becoming approved for release by written authorization of the owning Party; or (v) other than Shared Future Intellectual Property and Non-Shared Future Intellectual Property, following such information becoming subsequently and independently developed by employees or representatives of the non-owning Party without knowledge or use of the owning Party's Confidential Information. The burden of proving the existence of facts which would provide an exception under this Section 11.6(d) rests with the non-owning Party. Notwithstanding any provision herein to the contrary, to the extent required under the JHU Agreements, the Company shall be permitted to disclose the terms of this Agreement to JHU.

(e) Permitted Disclosures. Each Party may disclose the other Party's Confidential Information:

(i) to the extent reasonably necessary for a Party to prepare, file and Prosecute a Patent application under this Agreement or other agreements between the Parties or their Affiliates;

(ii) to the extent permissible under any other agreements between the Parties or their Affiliates;

(iii) to the extent reasonably necessary for a Party to develop or commercialize, directly or indirectly through one or more licensees, products related to or utilizing Intellectual Property within its allocated (or retained) field of rights pursuant to this Agreement or the License Agreement; provided that: (a) such disclosure may include the disclosure of this Agreement's and the License Agreement's existence and the scope of any license granted hereunder or thereunder; and (b) prior to making any such disclosure pursuant to this subsection, such Party will, if reasonably practical, take reasonable steps to limit the scope of such disclosure and its effect on confidentiality;

(iv) to the extent reasonably necessary for the purposes of this Agreement or other agreements between the Parties, to its respective Affiliates, consultants, agents, advisors, attorneys, outside contractors and clinical investigators, but only if those persons are bound by obligations of confidentiality, non-disclosure, and non-use substantially similar in scope to those in this Agreement; provided, such Party shall be responsible for any breaches of confidentiality, non-disclosure and non-use by any such Affiliate, consultant, agent, advisor, attorney, outside contractor or clinical investigator to whom disclosure is made;

(v) in connection with communications to such Party's stockholders and prospective investors; provided that unless otherwise agreed between the Parties: (a) such stockholders and prospective investors are subject to obligations of confidentiality no less stringent than those contained herein; and (b) such disclosure be expressly limited to the existence of this Agreement and the License Agreement and the scope of any license granted hereunder or thereunder;

(vi) to the extent reasonably necessary to enforce this Agreement or other agreements between the Parties or their Affiliates;

(vii) to the extent reasonably necessary to comply with a subpoena, court order, or administrative order. Before complying, the Party subject to such subpoena, court order or administrative order will notify the other Party, allow the other Party a reasonable time to oppose the disclosure, and reasonably cooperate with the other Party's efforts to do so; or

(viii) to the extent reasonably necessary to comply with an applicable law, rule, regulation of any governmental authority or securities exchange, including the FDA, the Securities and Exchange Commission and the New York Stock Exchange. Before complying, the Party subject to such law, rule or regulation will notify the other Party, allow the other Party a reasonable time to seek a protective order (if appropriate), and reasonably cooperate with the other Party's efforts to do so.

(f) Further Limitation on Use and Disclosure of Bionics Controlled IP. Notwithstanding the foregoing, while Bionics recognizes the Company's legitimate right (except to the extent limited by the CPI Agreements or the License Agreement) to commercialize the Bionics Controlled IP outside the Field (as that term is defined in the CPI Agreements), the Parties agree and acknowledge that, in order to give Bionics the full benefit of the exclusive license granted pursuant to the License Agreement, with respect to those portions of the Bionics Controlled IP that constitute Confidential Information owned by the Company, the Company will, if reasonably practical, take reasonable steps to limit the scope of any disclosure of such Bionics Controlled IP; provided, however, that the foregoing obligation on the Company will not apply with respect to disclosure of Bionics Controlled IP by the Company to CPI.

(g) Return of Information. Upon the request of the owning Party at any time after the Loan Satisfaction Date, the non-owning Party will promptly return or destroy (at the other Party's choice) all Confidential Information owned by such other Party then in its possession and, if applicable, provide a certification of such destruction; provided, however, that the foregoing will not apply to any Confidential Information that the non-owning Party needs to retain for purposes of meeting its obligations and exercising its rights under this Agreement and the License Agreement or expressly has the right to retain under this Agreement or the License Agreement. With the exception of the prototypes provided to Bionics, in accordance with this Agreement, each Party will retain custody and ownership of any specimens and original data disclosed to the other Party and will exercise due care in preserving such specimens and original data in a manner consistent with current standards of scientific conduct. The Company will provide Bionics with complete and timely reports and scientific analyses of such data and will make specimens and original data available for inspection by representatives of Bionics at Bionics' request.

(h) Injunctive Relief. Each Party acknowledges and agrees that the breach of this Section 11.6 would be likely to cause serious and irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Each Party therefore agrees that if the other Party breaches this Section 11.6 or if such Party has cause to believe that the other Party intends to or is about to breach such provisions, then such Party will be entitled to seek injunctive relief enjoining the breach and will have the right to specifically enforce this Agreement and the terms and provisions hereof in addition to any other remedy available at law or in equity.

(i) System Information. For the avoidance of any doubt, Bionics acknowledges and agrees that the Company is permitted to share its System information with third parties following the expiration of the Exclusivity Period if the Parties do not execute and deliver the Subsequent System License within the Exclusivity Period.

Section 2. AMENDMENT TO THE LICENSE AGREEMENT

Section 3.B of the License Agreement is hereby amended by adding the following sentence at the end thereof:

"In the event that a product simultaneously falls within the definition of "Licensed Product" under this Agreement and the definition of "Royalty Product" under the CPI License Agreement: (a) Licensor agrees that any sale of such product will only implicate the payment of fees under one of the two agreements, not both (e.g., Licensor will not receive royalty payments both under this Agreement and the CPI License Agreement with respect to the same sale); (b) the Parties will determine which agreement will govern the fees to be paid to Licensor primarily by reference to the product's actual intended use, and whether such use falls within the scope of the neuromodulation field of the Development Agreement or the "Implantable Cardiac Field" of the CPI License Agreement; and (c) if the Parties are unable to determine the governing agreement pursuant to clause (b) above, the Parties shall settle such disagreement pursuant to substantially the same mediation and arbitration provisions set forth in Section 4(E) and (F) of the CPI License Agreement with respect to a "Royalty Product Dispute" (as such term is defined in the CPI License Agreement) (it being understood and agreed that the scope of the arbitration will be limited to determining which agreement will govern the fees to be paid to the Company and that in no event will the Arbitrators have the power or authority to terminate this Agreement or the CPI License Agreement).

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

SURGI-VISION, INC	**BOSTON SCIENTIFIC NEUROMODULATION CORPORATION (formerly known as ADVANCED BIONICS CORPORATION)**
BY: /s/ Kim Jenkins	**BY: /s/ Michael Onuscheck**
NAME: Kim Jenkins	**NAME: Michael Onuscheck**
TITLE: Pres	**TITLE: President**

Exhibit 10.13

TECHNOLOGY LICENSE AGREEMENT

THIS TECHNOLOGY LICENSE AGREEMENT (this "Agreement") is made effective as of March 19, 2008 (the "Effective Date") and entered into by and between Surgi-Vision, Inc., a Delaware corporation ("SVI"), and Cardiac Pacemakers, Inc. ("CPI") (individually, a "Party" and collectively, the "Parties").

WHEREAS, the Parties have entered into a Development Agreement (the "Development Agreement") concurrent with this Agreement wherein the Parties have agreed to develop technology relating to implantable medical leads for cardiac applications;

WHEREAS, SVI is the sole owner or exclusive licensee in the Implantable Cardiac Field of the Surgi-Vision IP;

WHEREAS, SVI has previously entered into the Bionics Agreements with Bionics, pursuant to which Bionics has certain ownership and other exclusive rights to certain of SVI's Intellectual Property in the field of neuromodulation;

WHEREAS, SVI desires to have the Surgi-Vision IP further developed and commercialized and is willing to grant CPI a field-limited license to the Surgi-Vision IP in exchange for the license fee and royalty payments set forth in this Agreement; and

WHEREAS, CPI desires to acquire an exclusive license in the Implantable Cardiac Field under the Surgi-Vision IP.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Definitions.

A. "Affiliate" of a Person is a Person controlling, controlled by or under common control with the Person specified. "Controlling", "controlled" or "control" means owning greater than 50% of the voting equity interests of a Person, either directly or indirectly through one or more intermediaries in which it has such an interest, or otherwise having the power to direct the management of that Person.

B. "Arbitrators" has the meaning ascribed thereto in Section 4(F)(iii).

C. "Billabong Patents" means (i) the Patents listed on Exhibit A, and (ii) any claims of any future Patent which claim and are entitled to claim (in whole but not in part, so long as neither CPI nor any of its Affiliates files any claims in a continuation-in-part Patent which require new matter for support for the primary purpose of avoiding, circumventing, evading or minimizing its payment obligations to SVI hereunder or pursuant to the Development Agreement) priority to a Patent covered by the preceding clause (i) (e.g., claims in a continuation-in-part Patent which require new

matter for support are not Billabong Patents, so long as neither CPI nor any of its Affiliates files any claims in a continuation-in-part Patent which require new matter for support for the primary purpose of avoiding, circumventing, evading or minimizing its payment obligations to SVI hereunder or pursuant to the Development Agreement).

D. "Bionics" means Boston Scientific Neuromodulation Corporation (formerly known as Advanced Bionics Corporation), a wholly-owned indirect subsidiary of Boston Scientific Corporation and an Affiliate of CPI.

E. "Bionics Agreements" means the following agreements: (i) the Bionics Lead Development Agreement, (ii) that certain Amended and Restated Multiple Advance Secured Convertible Promissory Note dated as of June 30, 2007 made by SVI and payable to Bionics (as may be further amended, restated, supplemented or otherwise modified from time to time), (iii) the Bionics License Agreement, and (iv) that certain Security Agreement dated as of December 30, 2005 by and between SVI and Bionics (as amended by that certain Omnibus Amendment dated as of June 30, 2007, and as may be further amended, supplemented, or otherwise modified from time to time).

F. "Bionics Amendment" means that certain Omnibus Amendment No. 2 to the Bionics Lead Development Agreement and Bionics License Agreement dated as of the date hereof by and between SVI and Bionics.

G. "Bionics Lead Development Agreement" means that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006, as further amended by that certain Omnibus Amendment dated June 30, 2007, as further amended by the Bionics Amendment (as may be further amended, supplemented or otherwise modified from time to time).

H. "Bionics License Agreement" means that certain License Agreement dated as of December 30, 2005, as amended by that certain Omnibus Amendment dated June 30, 2007, as further amended by the Bionics Amendment (as may be further amended, supplemented or otherwise modified from time to time).

I. "Brady Lead" has the meaning ascribed thereto in the Project Plan attached as Exhibit A to the Development Agreement.

J. "BSC Controlled Surgi-Vision IP" means the Patents included in (i) the Surgi-Vision IP, (ii) the Existing Intellectual Property under which Bionics holds a license under the Bionics Agreements, and (iii) any Future Intellectual Property and Joint Intellectual Property conceived and reduced to practice prior to the Effective Date and under which Bionics holds a

license under the Bionics Agreements. For the avoidance of any doubt whatsoever, in no event shall BSC Controlled Surgi-Vision IP include any IPR in and to Intellectual Property owned by or licensed to SVI that is not related to the Field.

K. "BSC Core Product Information" means that core product information proprietary to CPI which is listed on Exhibit C hereto (as may be updated from time to time by CPI upon notice to SVI).

L. "Change in Control" means any transaction or series of transactions (whether or not related), including a merger, consolidation, exchange, sale of equity securities, recapitalization, sale of assets, dissolution or liquidation, pursuant to which any Person or group of Persons (within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) acquires (directly or indirectly) (i) equity securities possessing the voting power to elect a majority of a Party's (or a successor's) board of directors (or equivalent body) or a majority of the voting equity interests in a Party (or a successor thereto) or (ii) all or substantially all of the assets of a Party.

M. "Claim" means any allegation, demand, investigation, suit, proceeding, claim, settlement or compromise.

N. "Commercial Sale" means sale by CPI or any of its Affiliates of a Royalty Product to a Third Party (including, without limitation, any of CPI's or its Affiliates' distributors), but specifically excludes (a) transfers to Third Parties for use during pre-clinical or clinical testing, or for physician preference testing, teaching or experimental purposes, provided that neither CPI or its Affiliates receive monetary consideration therefore, and (b) transfers of Royalty Products among CPI and its Affiliates prior to sales to Third Parties.

O. "Confidential Information" means information which, prior to or during the Term (including pursuant to the Earlier Confidentiality Agreement) is disclosed or shared by one Party to the other Party or generated or developed by one or both Parties, including information that was disclosed, shared, generated or developed under the Earlier Confidentiality Agreement, that the non-owning Party has a reasonable basis to believe is confidential to the owning Party or has been marked or orally designated by the owning Party as confidential.

P. "CPR" has the meaning ascribed thereto in Section 4(E)(ii).

Q. "Cure Period" has the meaning ascribed thereto in Section 7(B)(i).

R. "Damages" has the meaning ascribed thereto in Section 13(A).

S. "Definitive Agreements" means this Agreement and the Development Agreement, collectively.

T. "Development IP" has the meaning ascribed thereto in the Development Agreement.

U. "Earlier Confidentiality Agreement" means that certain Mutual Nondisclosure Agreement entered into by the Parties on August 20, 2006, as amended by the First Amendment to the Mutual Nondisclosure Agreement entered into by the Parties on September 5, 2007.

V. "Effective Date" is defined in the introductory paragraph.

W. "Existing Intellectual Property" has the meaning ascribed thereto in Section 4.8 of the Bionics Lead Development Agreement.

X. "Field" means the Implantable Cardiac Field and the Neuro Field, collectively.

Y. "Future Intellectual Property" has the meaning ascribed thereto in Section 7.6 of the Bionics Lead Development Agreement.

Z. "Governmental Authority" means any domestic or foreign, federal, national, state, multi-state, international, multinational or municipal or other local government, any subdivision, agency, commission or authority thereof, or any quasi-governmental or private body exercising any regulatory or taxing authority thereunder or any court or other tribunal or judicial authority.

AA. "Heart Failure Lead" has the meaning ascribed thereto in the Project Plan attached as Exhibit A to the Development Agreement.

BB. "Indemnified Party" has the meaning ascribed thereto in Section 13(A).

CC. "Indemnifying Party" has the meaning ascribed thereto in Section 13(A).

DD. "Implantable Cardiac Field" means the field of implantable medical leads for all cardiac applications (including nerve stimulation for intentionally affecting the heart), including implantable leads for cardiac rhythm management, heart failure and defibrillation, and all uses, applications, research, design, development, manufacturing, and marketing of such implantable leads and all products related to such implantable leads, including but not limited to adaptors and components, for all cardiac applications.

EE. "Infringe" means (as applicable, depending on the context of the subject or object of the word Infringe) to infringe, misappropriate, use or disclose without authorization or otherwise violate Intellectual Property Rights

(whether direct, indirect, contributory, inducement or otherwise). The words "Infringement" and "Infringing" have corresponding meanings.

FF. "Intellectual Property" means intangible property that is legally protectable, including inventions, improvements, discoveries, conceptions, algorithms, integrated circuits, ideas, techniques, processes, designs, products, developments, specifications, methods, drawings, diagrams, tooling, models, software programs (including object code, source code and commenting), data, data analysis, data interpretation, written reports, Know-How, Trade Secrets, Confidential Information, documentation and copyrightable material whether patentable or non-patentable.

GG. "Intellectual Property Rights" or "IPRs" means all rights under or to Intellectual Property.

HH. "JHU" means the Johns Hopkins University.

II. "JHU Agreements" means, collectively, (i) that certain License Agreement by and between SVI and JHU entered into on or around June 20, 1998, as amended by that certain Amendment to License Agreement dated as of January 15, 2000, and as further amended by that certain Addendum to License Agreement entered into on or around December 7, 2004, as in effect as of the Effective Date, (ii) that certain License Agreement by and between SVI and JHU entered into on or around December 7, 2006, as in effect as of the Effective Date; (iii) the consent letter dated December 27, 2005 signed by JHU, (iv) the consent letter dated August 7, 2007 signed by JHU, (v) the letter dated August 7, 2007 signed by Bionics, SVI and JHU, and (vi) the consent letter dated March 19, 2008 signed by SVI and JHU.

JJ. "Joint Intellectual Property" has the meaning ascribed thereto in Section 11.1(b) of the Bionics Lead Development Agreement.

KK. "Know-How" means all factual knowledge and information that gives a Person the ability to produce or market something that it otherwise would not have known how to produce or market with the same accuracy or precision, including all formulae, algorithms, processes, procedures, writings, data, protocols, techniques, proposals, designs, ideas, concepts, strategic, research and development information and related documentation business and other plans, research, inventions, and invention disclosure and all records of the foregoing.

LL. "License" has the meaning ascribed thereto in Section 2(A).

MM. "License Fee" has the meaning ascribed thereto in Section 3(E).

NN. "Licensed Product" means any product in the Implantable Cardiac Field, including but not limited to Royalty Products.

OO. "Net Sales" means the net sales from the Commercial Sale of Royalty Products recorded by CPI and its Affiliates in accordance with United States generally accepted accounting principles, consistently applied by CPI and its Affiliates across all similar product lines, in connection with the preparation of CPI's and its Affiliates' financial statements, and shall be determined in accordance with the procedure listed in Exhibit B hereto. For purposes of this definition, Royalty Products will be considered "sold" when and only when CPI or its Affiliate recognizes the revenue from sales to a Third Party purchaser.

PP. "Neuro Field" means the neuromodulation field of the Bionics Lead Development Agreement. For purposes of clarity, the Neuro Field does not encompass the Implantable Cardiac Field.

QQ. "Non-Billabong Royalty Product" means an implantable lead (alone or in combination with other devices) that if sold by CPI or one of its Affiliates in the Implantable Cardiac Field would (absent the License) Infringe a valid and enforceable claim of an issued Royalty Patent but would not (absent the License) Infringe a valid and enforceable claim of an issued Billabong Patent.

RR. "Opinion" has the meaning ascribed thereto in Section 4(D).

SS. "Patent" means all classes or types of patents, design patents, utility patents, including issued patents, published and non-published patent applications (including inventors' certificates and utility models) in any country or jurisdiction or under any treaty, including all originals, provisionals, substitutions, continuations, continuations-in-part, divisionals, supplementary protection certificates, renewals, all letters patent granted thereon, and all reissues, reexaminations, extensions, confirmations, revalidations, registrations, patents of addition and foreign counterparts, as well as industrial design registrations.

TT. "Person" means an individual, partnership, corporation, business trust, limited liability company, unincorporated association, trust, joint venture or any other entity or Governmental Authority.

UU. "Prosecution" means prosecution of any proceeding in the United States Patent and Trademark Office or in any other registration authority in any country, including regarding any application (whether ex parte or inter partes), including interference, reexamination and reissue.

VV. "Records" means written records sufficient in detail to enable the royalties and percentage of Sub-License Revenue payable under this Agreement by CPI to be determined and verified by SVI or its independent auditors.

WW. "Reduced Royalty Component" means a component of an implantable lead that (a) is either (i) purchased from a Third Party, or (ii) subject to a

royalty or other license payment (whether lump sum, periodic, percentage or otherwise) which CPI or one of its Affiliates pays to a Third Party, and (b) has a purpose related to MR safety.

XX. "Reduced Royalty Product" means a Non-Billabong Royalty Product that includes one or more Reduced Royalty Components.

YY. "Royalty Patent" means (i) a Patent to which SVI has and has granted to CPI exclusive commercial rights in the Implantable Cardiac Field and which is listed on Exhibit D hereto, (ii) any claims of any future Patent for which SVI has and has granted to CPI exclusive commercial rights in the Implantable Cardiac Field, which claim and are entitled to claim (in whole, but not in part) priority to a Patent covered by the preceding clause (i) (e.g., claims in a continuation-in-part Patent which require new matter for support are not Royalty Patents), and (iii) any of the Billabong Patents to which SVI has and has granted to CPI exclusive commercial rights in the Implantable Cardiac Field. For the avoidance of any doubt, CPI acknowledges and agrees that the following shall not be considered in determining whether SVI has and has granted to CPI exclusive commercial rights in the Implantable Cardiac Field with respect to any Patent: (a) any lien or security interest in such Patent; (b) any rights retained by JHU under the JHU Agreements; (c) to the extent the Patent was supported by federal funding obtained by JHU, any rights, conditions and limitations imposed by U.S. law (including any royalty-free nonexclusive license granted to the U.S. government pursuant to U.S. law and any requirement that products used or sold in the U.S. be manufactured substantially in the U.S.); and (d) any right to author, to publish and to retain or transfer copyright to scientific reports retained by SVI or SVI's collaborators or granted by SVI to Third Parties.

ZZ. "Royalty Product" means an implantable lead (alone or in combination with other devices) that if sold by CPI or one of its Affiliates in the Implantable Cardiac Field would (absent the License) Infringe a valid and enforceable claim of an issued Royalty Patent.

AAA. "Royalty Product Dispute" has the meaning ascribed thereto in Section 4.

BBB. "Royalty Product Notice" means a notice from CPI to SVI stating that CPI has determined that a Licensed Product is (or is not) a Royalty Product or will become (or will not become) a Royalty Product upon the issuance of any allowed claims of any pending application for a Royalty Patent.

CCC. "Short Form Registration Statement" means a short-form document suitable for recordation at a local patent office, sufficient to put persons on notice of the license to Patent rights granted pursuant to the Definitive Agreements.

DDD. "Sub-License Revenue" means the cash revenue payments that CPI and its Affiliates actually receive from the license or sub-license to Third Parties of the right to make, have made, import, use, promote, market, distribute, lease, sell, offer for sale or commercialize Royalty Products, recorded by CPI and such Affiliates in accordance with United States generally accepted accounting principles, consistently applied by CPI and such Affiliates across all similar product lines, in connection with the preparation of CPI's and its Affiliates' financial statements. Sub-License Revenue does not include non-monetary value that may be exchanged with any such Third Party *(e.g.,* via a cross license) or sales from such Third Party to CPI or its Affiliates so long as CPI or such Affiliate did not structure the arrangement for the sole purpose of avoiding, circumventing, evading or minimizing its payment obligations to SVI hereunder.

EEE. "Surgi-Vision IP" means all IPR in and to all Intellectual Property in the Implantable Cardiac Field now or hereinafter owned by or exclusively licensed to SVI, including the Billabong Patents.

FFF. "Tachy Lead" has the meaning ascribed thereto in the Project Plan attached as Exhibit A to the Development Agreement.

GGG. "Term" has the meaning ascribed thereto in Section 7(A).

HHH. "Termination Option" has the meaning ascribed thereto in Section 8.

III. "Third Party" and "Third Parties" mean one or more Persons other than SVI, CPI and their respective Affiliates.

JJJ. "Third Party Licensor" means any Third Party that has granted a Party a license to Intellectual Property.

KKK. "Trade Secret" means any Know-How or other information that generally facilitates the production, manufacturing, marketing, or sale of products or services, increases revenues, or provides an advantage over the competition, is not generally known, and is the subject of reasonable efforts to maintain its confidentiality.

2. Grant of Rights.

A. License. Subject to the terms and conditions of this Agreement, SVI hereby grants to CPI an exclusive, sublicensable, worldwide license under the Surgi-Vision IP, including but not limited to the Billabong Patents (the "License"), to make, have made, use, promote, market, import, distribute, lease, sell, offer for sale and commercialize the Licensed Products in the Implantable Cardiac Field for the term of this Agreement. SVI further grants CPI the right to adapt the Surgi-Vision IP to a commercial form suitable for incorporation into CPI's and its Affiliates' product(s) in the Implantable Cardiac Field. For the avoidance of doubt, the sole and

exclusive nature of the License herein granted being acknowledged, SVI, including any transferee, assignee or successor thereof or its Third Party Licensors, shall have no right to deal in any way with (or exercise any right herein granted to CPI with respect to) the Surgi-Vision IP or any Licensed Product (including to manufacture, promote, market, distribute, sell, offer for sale and/or commercialize Licensed Products) within the Implantable Cardiac Field, and any such purported right shall be null and void; provided, however, that the foregoing shall not apply with respect to: (a) any lien or security interest in the Surgi-Vision IP; (b) any rights retained by JHU under the JHU Agreements; (c) to the extent a Patent was supported by federal funding obtained by JHU, any rights, conditions and limitations imposed by U.S. law (including any royalty-free non-exclusive license granted to the U.S. government pursuant to U.S. law and any requirement that products used or sold in the U.S. be manufactured substantially in the U.S.); and (d) any right to author, to publish and to retain or transfer copyright to scientific reports retained by SVI or SVI's collaborators or granted by SVI to Third Parties. The Parties hereby further agree and confirm that the terms and conditions of the License granted herein, including the aforesaid exclusivity, shall survive any Change in Control of SVI or the assignment, transfer or sale of all or substantially all of its assets, by operation of law or otherwise.

B. Publication Rights. Subject to Section 9 ("Confidentiality") herein below, the License granted in Section 2(A) includes the right to disclose or make public any and all information, including results, based on the work or activities carried out by CPI in connection with the development of Licensed Products or their use within the Implantable Cardiac Field.

C. Recordation. SVI and CPI shall cooperate to prepare a Short Form Registration Statement and/or confirmatory assignment(s) and license(s) in any countries as to which either Party so desires. Each Party may, at its own expense, record such Short Form Registration Statements and/or confirmatory assignment(s) and license(s).

D. Reserved Rights. All rights and interests not expressly granted to CPI are reserved by SVI for itself, its Affiliates and other licensees and sublicensees (including Bionics), including, but not limited to, the rights to use and grant licenses under the Surgi-Vision IP to make, have made, import, use, promote, market, distribute, lease, sell, offer for sale or commercialize products (other than in the Implantable Cardiac Field for so long as CPI has an exclusive license in the Implantable Cardiac Field under this Agreement). For the avoidance of any doubt, without limiting the generality of the foregoing sentence, SVI reserves all rights to use and grant licenses under the Surgi-Vision IP to make, have made, import, use, promote, market, distribute, lease, sell, offer for sale or commercialize products in the non-chronically implanted, catheter-based cardiac

electrophysiology field; provided, that such products are not within the Field.

3. Compensation.

A. In consideration of the exclusive license in the Implantable Cardiac Field to the Surgi-Vision IP granted herein, CPI agrees to pay to SVI royalties on Net Sales of Royalty Products as follows: either (i) one and a half (1.5%) percent of the aggregate worldwide Net Sales of all Reduced Royalty Products; or (ii) three and a half (3.5%) percent of the aggregate worldwide Net Sales of Royalty Products which are not Reduced Royalty Products. After the aggregate royalty payments to SVI under this Agreement (which excludes the License Fee, as defined hereunder) reach one hundred million ($100,000,000.00) dollars, the royalty on Net Sales of all Royalty Products which are not Reduced Royalty Products will be reduced from three and a half (3.5%) percent to two (2%) percent.

B. CPI will make royalty payments to SVI on a quarterly basis for the preceding quarter sixty (60) days following the issuance of the consolidated financial statements of CPI and its Affiliates for such quarter, as publicly reported; provided, however, that (i) in no event shall CPI make such royalty payments to SVI later than one hundred twenty (120) days following the end of the quarter, and (ii) in the event such financial statements are no longer publicly reported, CPI will make such royalty payments to SVI within ninety (90) days following the end of the quarter.

C. For each of the first three (3) years following the first Commercial Sale of a Royalty Product (commencing with the first fiscal quarter following (but not including) the first Commercial Sale of a Royalty Product), CPI will pay SVI aggregate royalties (pursuant to Section 3(A) and Section 3(F), collectively) of no less than one hundred fifty thousand ($150,000.00) dollars, regardless of Net Sales of Royalty Products in such year.

D. For purposes of clarity, any Licensed Product that does not constitute a Royalty Product at the time of its Commercial Sale shall not be subject to any retroactive royalty or other payment (except as provided in the Development Agreement) in the event such Licensed Product subsequently becomes a Royalty Product.

E. In further consideration of the exclusive license in the Implantable Cardiac Field to the Billabong Patents granted hereunder, CPI shall pay SVI a one-time, non-refundable license fee of thirteen million ($13,000,000.00) dollars (the “License Fee”), paid in the following installments: (i) five million ($5,000,000.00) dollars paid upon execution of the Definitive Agreements; (ii) three million ($3,000,000.00) dollars paid no later than three (3) months after execution of the Definitive Agreements; (iii) three million ($3,000,000.00) dollars paid no later than six (6) months after

execution of the Definitive Agreements; and (iv) two million ($2,000,000.00) dollars paid no later than nine (9) months after execution of the Definitive Agreements.

F. CPI will pay SVI twenty-five (25%) percent of all Sub-License Revenue, which percentage will be paid on a quarterly basis for the preceding quarter sixty (60) days following the issuance of the consolidated financial statements of CPI and its Affiliates for such quarter, as publicly reported; provided, however, that (i) in no event shall CPI make such Sub-License Revenue payments to SVI later than one hundred twenty (120) days following the end of the quarter, and (ii) in the event such financial statements are no longer publicly reported, CPI will make such Sub-License Revenue payments to SVI within ninety (90) days following the end of the quarter. Examples of what types of transactions do and do not implicate Sub-License Revenue payments are listed in Exhibit E hereto. In keeping with the spirit of this Agreement, CPI agrees that it shall not (and it shall cause its Affiliates not to) structure any license or sub-license to Third Parties for the sole purpose of avoiding, circumvent, evading or minimizing its payment obligations to SVI hereunder.

G. Only one royalty will be paid hereunder for each Royalty Product whether such Royalty Product (i) constitutes more than one type of lead, or (ii) is covered by more than one claim of a Royalty Patent, by the claims of more than one of the Royalty Patents, or by the claims of Royalty Patents of more than one country. CPI has no obligation to pay royalties (and, although SVI will not be obligated to refund any royalties already paid, CPI will have the right to offset in future royalty payments the amounts of royalties already paid) on sales of Royalty Products that are later returned, rejected or recalled.

H. Simultaneously with its quarterly payment of royalties and Sub-License Revenue percentage, CPI will provide SVI with a written report setting forth in reasonable detail the amount of each type of Royalty Product sold during such quarter, the Net Sales for each such type of Royalty Product sold during such quarter, the Sub-License Revenue actually received by CPI and its Affiliates during such quarter, and the amount of the royalties due for such quarter.

I. In the event that a product simultaneously falls within the definition of “Royalty Product” under this Agreement and the definition of “Licensed Product” under the Bionics License Agreement: (a) SVI agrees that any sale of such product will only implicate the payment of fees under one of the two agreements, not both (e.g., SVI will not receive royalty payments both under this Agreement and the Bionics License Agreement with respect to the same sale); (b) the Parties will determine which agreement will govern the fees to be paid to SVI primarily by reference to the product’s actual intended use, and whether such use falls within the scope

of the neuromodulation field of the Bionics Lead Development Agreement or the Implantable Cardiac Field; and (c) if the Parties are unable to determine the governing agreement pursuant to clause (b) above, the Parties shall settle such disagreement pursuant to substantially the same mediation and arbitration provisions set forth in Section 4(E) and (F) below with respect to a Royalty Product Dispute (it being understood and agreed that scope of the arbitration will be limited to determining which agreement will govern the fees to be paid to SVI and that in no event will the Arbitrators have the power or authority to terminate this Agreement or the Bionics License Agreement).

4. Royalty Products Disputes.

A. Prior to the first Commercial Sale of any product which CPI reasonably believes constitutes a Licensed Product, CPI shall deliver to SVI a Royalty Product Notice regarding such Licensed Product. Notwithstanding the foregoing, any failure by CPI to deliver a Royalty Product Notice will not constitute a breach of this Agreement (it being understood, however, that any failure by CPI to deliver a timely Royalty Product Notice could result in SVI having additional time to assert that the Licensed Product is a Royalty Product in accordance with the procedures of this Section 4).

B. Within one hundred twenty (120) days of SVI's Chief Executive Officer, President or Chief Financial Officer obtaining actual knowledge of the first Commercial Sale of any product which SVI reasonably believes constitutes a Licensed Product and which was not previously the subject of a Royalty Product Notice, SVI shall deliver to CPI written notice requesting that CPI deliver a Royalty Product Notice for such product. Within sixty (60) days following CPI's receipt of such a request, CPI shall deliver to SVI a Royalty Product Notice regarding such Licensed Product. Notwithstanding the foregoing, any failure by SVI to deliver a request for Royalty Product Notice will not constitute a breach of this Agreement (it being understood, however, that any failure by SVI to deliver a timely request for Royalty Product Notice could result in SVI losing the opportunity to receive certain royalties or Sub-License Revenue payments otherwise payable hereunder).

C. To the extent there is any dispute between the Parties as to whether a Licensed Product constitutes (or will constitute) a Royalty Product (any such dispute being referred to herein as a "Royalty Product Dispute"), such Royalty Product Dispute shall be exclusively resolved pursuant to the provisions of this Section 4. SVI may deliver to CPI written notice of its intent to begin a Royalty Product Dispute within, and only within, the following timeframes. For the purposes of clarity, if SVI fails to deliver to CPI written notice of a Royalty Product Dispute within the applicable timeframes in subsections (i) or (ii) below, SVI waives its rights to challenge CPI's determination or to otherwise claim that the subject Licensed Product constitutes (or will constitute) a Royalty Product.

(i) If CPI has delivered a Royalty Product Notice for a particular Licensed Product, SVI's written notice of any Royalty Product Dispute regarding such Licensed Product must be delivered to CPI either (x) within thirty (30) days after receiving the applicable Royalty Product Notice, or (y) within thirty (30) days after issuance of a Royalty Patent with a different allowed claim scope than existed at the time of such Royalty Product Notice (in the case of (y), however, the Royalty Product Dispute must be limited to such different allowed claim scope).

(ii) If CPI failed to deliver a Royalty Product Notice for a particular Licensed Product following a written request from SVI pursuant to Section 4(B), SVI's written notice of any Royalty Product Dispute regarding such Licensed Product must be delivered to CPI within ninety (90) days after such written request was delivered to CPI.

(iii) If CPI did not deliver a Royalty Product Notice for a particular Licensed Product and SVI did not provide CPI with a written request for a Royalty Product Notice within the timeframe set forth in Section 4(B), then SVI waives its rights to receive royalties or Sub-License Revenue payments otherwise payable to SVI pursuant to Section 3(A) and Section 3(F), respectively, for that Licensed Product with respect to the period of time preceding SVI's actual delivery to CPI of written notice of a Royalty Product Dispute.

D. In the event the Parties are unable to resolve a Royalty Product Dispute informally within forty-five (45) days after delivery of SVI's written notice of such Royalty Product Dispute, the Parties shall hire an experienced patent attorney who is knowledgeable in the field of intellectual property law relating to medical devices and who (and whose firm) shall have no current or prior (within the preceding five year period) business relationships with the Parties or any of their respective Affiliates to offer an opinion, within a reasonable amount of time as mutually agreed upon by the Parties, as to whether the lead, product or device subject to the Royalty Product Dispute constitutes a Royalty Product (the "Opinion"). If either Party challenges the Opinion, resolution of the Royalty Product Dispute will proceed as follows under this Section 4. The cost of such patent attorney shall be shared equally between the Parties.

E. No Party hereto may invoke, demand, file or otherwise commence an arbitration pursuant to Section 4(F) until the Parties have completed a good faith mediation of the applicable Royalty Product Dispute in accordance with the following provisions:

(i) Within thirty (30) days after a Party receives notice from the other Party that such other Party challenges the Opinion, the Parties shall confer to jointly select a mediator.

(ii) If CPI and SVI cannot agree on a mediator pursuant to Section 4(E)(i) above, such Parties shall request the International Institute for Conflict Prevention & Resolution ("CPR") to provide, within ten (10) days of making such request, a list of ten

(10) neutral proposed mediators who are experienced patent attorneys or attorneys with substantial patent litigation experience, in each case who are knowledgeable in the field of intellectual property law relating to the development of medical devices and who (and whose firms) shall have no current or prior (within the preceding five year period) business relationships with either of the Parties or any of their respective Affiliates.

(iii) CPI and SVI each shall have fifteen (15) days to object to any proposed mediator due to a conflict of interest or other lack of qualifications, and any proposed mediator to which either CPI or SVI objects shall be removed from the list of proposed mediators provided by CPR. Within a period of five (5) days following the end of such fifteen (15) day objection period, CPI and SVI will then separately rank the remaining mediators, and deliver such ranking to the other Party, and the highest combined ranked mediator shall be selected. Any such mediation shall be completed within forty-five (45) days after the date on which the mediator is selected.

(iv) The cost of such mediator shall be shared equally between the Parties.

F. In the event that no agreement is reached by CPI and SVI as to a Royalty Product Dispute following a good faith mediation in accordance with Section 4(E) above, either CPI or SVI, acting alone, may deliver to the other Party written notice demanding arbitration within twenty (20) days following the completion of such mediation undertaken, in which case the following provisions shall apply:

(i) CPI and SVI hereby agree to use their reasonable best efforts to complete such arbitration within one hundred and eighty (180) days of receipt of notice demanding arbitration.

(ii) The arbitration shall be conducted in accordance with the then current CPR Rules for Nonadministered Arbitration, as such rules are modified by this Section 4(F) or by agreement of CPI and SVI.

(iii) The arbitration shall be conducted in Washington, D.C. by a panel of three (3) neutral arbitrators (the "Arbitrators") who shall be experienced patent attorneys or attorneys with substantial patent litigation experience, in each case who are knowledgeable in the field of intellectual property law relating to the development of medical devices and who (and whose firms) shall have no current or prior (within the preceding five year period) business relationships with either of the Parties or any of their respective Affiliates. Within fifteen (15) days after receipt of notice demanding arbitration, CPI and SVI shall request CPR to provide, within ten (10) days of making such request, a list of fifteen (15) qualified neutral proposed Arbitrators.

(iv) CPI and SVI each shall have fifteen (15) days to object to any proposed Arbitrator due to a conflict of interest or other lack of qualifications, and any proposed Arbitrator to which either CPI or SVI objects shall be removed from the list of proposed Arbitrators provided by CPR. Within a period of five (5) days following the end of such fifteen (15) day objection period, CPI and SVI will then separately rank the remaining

proposed Arbitrators, and deliver such ranking to the other Party, and the three (3) highest combined ranked proposed Arbitrators shall be selected to be the Arbitrators.

(v) The Arbitrators shall apply the substantive laws of the Federal Circuit Court of Appeals as to any Patents involved in the Royalty Product Dispute.

(vi) Discovery shall be limited to document requests, requests for admission and depositions. CPI and SVI each shall be entitled to present expert witness testimony regarding the issues of whether the lead, product or device at issue constitutes a Royalty Product pursuant to this Agreement. CPI and SVI each shall, within sixty (60) days after receipt of a written request by the other Party, make a reasonable search for and provide to the other Party documents reasonably relevant to the issues raised by any claim or counterclaim. CPI, on the one hand, and SVI, on the other hand, each shall be limited to twenty (20) hours of non-expert depositions and fourteen (14) hours of expert depositions.

(vii) CPI and SVI shall be entitled to a hearing and a post-hearing briefing, the scheduling and length of which shall be determined by the Arbitrators.

(viii) The arbitration of any Royalty Product Dispute pursuant to this Section 4(F) shall be final and binding upon the Parties and judgment upon the decision may be entered in any court of competent jurisdiction. The Arbitrators shall be entitled to render a determination of the disputed items in any Royalty Product Dispute only and shall not be entitled to award damages or other relief unless the Arbitrators determine that a Party has acted in bad faith with respect to the Royalty Product Dispute.

(ix) The cost of any arbitration pursuant to this Section 4(F), including the cost of the record or transcripts thereof, if any, administrative fees, and all other fees involved including reasonable attorneys' fees incurred by the Party determined by the Arbitrators to be the prevailing Party, shall be borne by the Party determined by the Arbitrators not to be the prevailing Party, or as otherwise determined by the Arbitrators.

(x) Any determinations made pursuant to this Section 4(F) shall, in the absence of fraud or intentional misconduct, be conclusive for all purposes of this Agreement, and CPI, SVI and any Arbitrators appointed pursuant to Section 4(F) each shall be free from any and all liability resultant from such.

5. Records; Audit. CPI will (and will cause its Affiliates to) keep accurate Records and retain such Records for a particular quarter for a period of not less than three (3) years after the end of the applicable quarter. Upon reasonable notice and during regular business hours, CPI will (and will cause its Affiliates to) make available from time to time (but no more frequently than once a year) the Records for audit at SVI's expense by independent representatives selected by SVI to verify the accuracy of the reports provided to SVI. Such representatives must execute a confidentiality agreement reasonably acceptable to CPI prior to conducting such audit. Such representatives may disclose to SVI only the results of their audit regarding the accuracy and completeness of royalty payments, payments of Sub-License Revenue and records related thereto, and will not disclose CPI's or its Affiliates' confidential business information to SVI without the prior written consent of CPI. In the event that such audit

reveals an underpayment by CPI of the actual royalties and/or Sub-License Revenue owed SVI, (i) CPI shall pay SVI the amount of the underpayment plus interest thereon at the lesser of (a) ten percent (10%) per annum or (b) the maximum rate allowed by law, accruing from the date such amounts should have been paid to SVI, and (ii) if such underpayment exceeds five percent (5%) of the actual royalties and/or Sub-License Revenue owed SVI, CPI shall reimburse SVI for all reasonable costs incurred to perform the audit. In the event that such audit reveals an overpayment by CPI of the actual royalties and/or Sub-License Revenue owed SVI, SVI shall refund the difference to CPI.

6. Development and Commercialization of Licensed Products.

A. Commercialization. Subject to Section 6(B) below, on and after the date hereof, CPI shall have full control, authority and discretion over any and all commercialization of Licensed Products, including: (i) all activities relating to the manufacture and supply of the Licensed Products; (ii) all marketing, promotion, sales, distribution, import and export activities relating to the Licensed Products; and (iii) all activities relating to any regulatory filings, registrations, applications and approvals relating to any of the foregoing; provided, that, as between the Parties, all such activities shall be at the sole cost and expense of CPI. Except as set forth in the Development Agreement, as between the Parties, CPI shall own all data, results and all other information arising from any such activities under this Agreement, including all regulatory filings, registrations, applications and approvals relating to Licensed Products, and all of the foregoing information, documentation and materials shall be considered Confidential Information owned solely by CPI.

B. No Obligation to Commercialize. It is hereby acknowledged and agreed that notwithstanding any and all rights herein granted to CPI pursuant to the License, CPI shall have no obligation whatsoever to exercise any such rights, and for greater certainty but without limiting the generality of the foregoing, CPI shall have no obligation to develop, commercialize, sell or otherwise deal with any of the Surgi-Vision IP or any Licensed Products, or to generate or maximize payments to SVI for royalties or Sub-License Revenue, the whole without in any way affecting, limiting or jeopardizing any of the rights herein granted to CPI.

7. Term and Termination.

A. Term. Unless sooner terminated pursuant to this Section 7, the term of this Agreement will begin as of the Effective Date and shall remain in full force and effect until, and shall expire upon, the expiry of the last to expire of the Royalty Patents (the "Term").

B. Termination by Either Party.

(i) *Termination for Breach.* Either Party may terminate this Agreement for cause on thirty (30) days' written notice (the "Cure Period") to the other Party in the

event of a breach of any material provision of this Agreement by such other Party; provided that, during the Cure Period, the breaching Party fails to cure such breach. In the event the noticed breach is incapable of cure, the non-breaching Party may terminate the Agreement immediately upon written notice to the other Party.

(ii) *Termination for Insolvency.* Either Party may terminate this Agreement without notice if the other Party becomes insolvent, makes or has made an assignment for the benefit of creditors, is the subject of proceedings in voluntary or involuntary bankruptcy instituted on behalf of or against such Party (except for involuntary bankruptcies which are dismissed within sixty (60) days), or has a receiver or trustee appointed for substantially all of its property.

(iii) *No Prejudice.* Any termination by any Party under this Section 7(C) shall be without prejudice to any damages or remedies to which it may be entitled from the other Party.

C. Effect of Termination.

(i) Upon expiration of this Agreement or termination of this Agreement by either Party, all rights and obligations under this Agreement shall terminate (except as provided in Section 7(D)) and all License rights arising out of this Agreement shall revert to SVI; provided that (x) with respect to any Licensed Product the Commercial Sale of which occurred prior to such termination, any license which may have attached to such Licensed Product that is already sold (whether explicit or implied) shall survive termination, (y) for one (1) year after such termination, CPI and its licensees may continue to manufacture Royalty Products that, at the time of such termination, were already in the production pipeline (provided that CPI shall bear the burden of establishing to SVI's reasonable satisfaction the type and quantity of Royalty Products that were in the production pipeline at the time of termination), and (z) for a period of two (2) years after such termination, CPI, its distributors and licensees may continue to sell Royalty Products in its existing inventory; provided that any sales pursuant to clause (z) above shall be subject to CPI's payment obligations in Section 3;

(ii) Upon expiration of this Agreement pursuant to Section 7(A), the License in the Implantable Cardiac Field will continue in effect with respect to the non-Patent portions of the Surgi-Vision IP; and

(iii) Upon any termination of this Agreement by either Party, each Party will comply with Section 9(F) ("Return of Information").

D. Survival. Expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination. Without limiting the foregoing, the obligations pursuant t o Sections 1, 3 (including, without limitation, any unpaid installments of the License Fee) (it is understood, however, that Section 3 will survive without prejudice to any right that CPI may have to damages or offset), 5, 7(C), 7(D), 9, 10, 13, 14, 16 and 17 shall survive termination of this Agreement.

Notwithstanding the foregoing, no claim for breach of warranty or representation under Section 10 may be brought unless it is either (i) brought no later than two years following the latter of the termination or expiration of this Agreement or the Development Agreement, or (ii) brought anytime as a counterclaim or a defense.

8. Termination Option Under the Development Agreement. Under the Development Agreement, CPI has the option, within sixty (60) days after successful completion of the first of the lead feasibility studies identified therein, not to continue with further development under that agreement and to terminate that agreement (the "Termination Option"). In the event CPI exercises the Termination Option pursuant to the Development Agreement:

A. The License to CPI will automatically become non-exclusive for Surgi-Vision IP (other than the Billabong Patents) in the Implantable Cardiac Field existing as of the termination date of the Development Agreement, and CPI will not be obligated to make any Sub-License Revenue or royalty payments (including annual minimum royalty payments) based on sales of Licensed Products occurring thereafter.

B. The Billabong Patents will automatically be removed from the scope of the License and, subject to Section 8(C) below, CPI's rights with respect to the Billabong Patents under this Agreement will terminate. In addition, any and all Surgi-Vision IP invented, acquired or licensed to SVI after the termination date of the Development Agreement will automatically be removed from the scope of the License and CPI's rights with respect to such Surgi-Vision IP under this Agreement will terminate.

C. Any sublicenses granted by CPI with respect to the Billabong Patents pursuant to this Agreement will automatically terminate, provided, however, that with respect to any Licensed Product the Commercial Sale of which occurred prior to CPI's exercise of the Termination Option, any license which may have attached to such Licensed Product that is already sold (whether explicit or implied) shall survive such termination.

D. CPI's rights and obligations regarding enforcement of the BSC Controlled Surgi-Vision IP pursuant to Section 11(B) shall terminate (in which event Bionics will have the rights and obligations set forth in the Bionics Lead Development Agreement).

E. CPI's rights and obligations regarding patent Prosecution of the BSC Controlled Surgi-Vision IP pursuant to Section 12 shall terminate (in which event Bionics will have the rights and obligations set forth in the Bionics Lead Development Agreement).

F. CPI will be obligated to make any remaining installments of the License Fee, as scheduled, and such remaining installments (if any) will constitute

a license fee for the non-exclusive license in the Implantable Cardiac Field described in Section 8(A) above.

G. CPI's exercise of the Termination Option will have no effect on Bionics' rights and obligations under the Bionics Lead Development Agreement.

9. Confidentiality.

A. Ownership of Confidential Information. The Parties agree that (i) all BSC Core Product Information generated or developed by CPI, its Affiliates, or a Third Party on behalf of CPI or its Affiliates will be deemed to be Confidential Information owned by CPI, and (ii) the terms and existence of the Definitive Agreements are Confidential Information owned by both Parties. Except as otherwise expressly provided in this Section 9, neither Party is subject to the obligations of a "non-owning Party" with respect to Confidential Information that is owned by both Parties. Except as otherwise expressly provided in this Agreement, for all other Confidential Information, the "owning Party" is deemed to be the disclosing Party. Confidential Information shall remain the property of the owning Party, and the non-owning Party shall not be deemed by virtue of this Agreement or any access to the owning Party's Confidential Information to have acquired any right, title or interest in or to any Confidential Information, except the limited right to use such Confidential Information in accordance with the terms of the Definitive Agreements or other agreements between the Parties or their Affiliates.

B. Non-Use and Non-Disclosure. Prior to the commencement of the Term, certain Confidential Information was exchanged between the Parties under the terms of the Earlier Confidentiality Agreement. Likewise, from time to time during the Term, either Party may make available to the other Party or otherwise generate or develop Confidential Information. The non-owning Party will maintain the owning Party's Confidential Information in confidence and will not use such Confidential Information except as reasonably necessary to perform its obligations and exercise its rights under this Agreement or other agreements between the Parties or their Affiliates. Notwithstanding any provision to the contrary contained in the Bionics Lead Development Agreement, SVI agrees and acknowledges that CPI and its Affiliates may share all of SVI's Confidential Information with and among each of their respective Affiliates for use solely within the Field, provided that (i) prior to any such sharing of SVI's Confidential Information such Affiliates are bound by obligations of confidentiality, non-disclosure and non-use substantially similar in scope to those in this Agreement and (ii) CPI shall be responsible for any breach of confidentiality, non-disclosure and non-use by any such Affiliate. Neither Party will disclose the other Party's Confidential Information without the prior written consent of the other Party, except as permissible in Section 9(D) below or in other agreements

between the Parties or their Affiliates. All Confidential Information will be treated by the non-owning Party with the same care as it would exercise in the handling of its own Confidential Information, but not less than reasonable care. The limitations and undertakings specified in this Section 9 shall survive termination of this Agreement for a period of five (5) years.

C. Standard Exceptions. The obligations of Sections 9(B), (E) and (F) do not apply to any of the other Party's Confidential Information: (i) which, other than the Development IP, is already known by the non-owning Party at the time of the disclosure; (ii) following such information becoming publicly known without the wrongful act or breach of this Agreement by the non- owning Party; (iii) following such information becoming rightfully received by the non-owning Party from a Third Party without breaching any confidentiality obligation owed by such Third Party to the owning Party; (iv) following such information becoming approved for release by written authorization of the owning Party; or (v) other than the Development IP, following such information becoming subsequently and independently developed by employees or representatives of the non- owning Party without knowledge or use of the owning Party's Confidential Information. The burden of proving the existence of facts which would provide an exception under this Section 9(C) rests with the non-owning Party. Notwithstanding any provision herein to the contrary, to the extent required under the JHU Agreements, SVI shall be permitted to disclose the terms of this Agreement to JHU.

D. Permitted Disclosures. Each Party may disclose the other Party's Confidential Information:

(i) to the extent reasonably necessary for a Party to prepare, file and Prosecute a Patent application under this Agreement or other agreements between the Parties or their Affiliates;

(ii) to the extent permissible under any other agreements between the Parties or their Affiliates;

(iii) to the extent reasonably necessary for a Party to develop or commercialize, directly or indirectly through one or more licensees, products related to or utilizing Intellectual Property within its allocated (or retained) field of rights pursuant to this Agreement or the Development Agreement; provided that: (a) such disclosure may include the disclosure of this Agreement's existence and the scope of any license granted hereunder; (b) prior to making any such disclosure pursuant to this subsection, such Party will, if reasonably practical, take reasonable steps to limit the scope of such disclosure and its effect on confidentiality; and (c) this subsection will not apply to any BSC Core Product Information owned by CPI;

(iv) to the extent reasonably necessary for the purposes of this Agreement or other agreements between the Parties, to its respective Affiliates, consultants, agents,

advisors, attorneys, outside contractors and clinical investigators, but only if those Persons are bound by obligations of confidentiality, non-disclosure, and non-use substantially similar in scope to those in this Agreement; provided, such Party shall be responsible for any breaches of confidentiality, non-disclosure and non-use by any such Affiliate, consultant, agent, advisor, attorney, outside contractor or clinical investigator to whom disclosure is made;

(v) in connection with communications to such Party's stockholders and prospective investors; provided that, unless otherwise agreed between the Parties: (a) such stockholders and prospective investors are subject to obligations of confidentiality no less stringent than those contained herein; and (b) such disclosure be expressly limited to the existence of this Agreement and the scope of any license granted hereunder;

(vi) to the extent reasonably necessary to enforce this Agreement or other agreements between the Parties or their Affiliates;

(vii) to the extent reasonably necessary to comply with a subpoena, court order, or administrative order. Before complying, the Party subject to such subpoena, court order or administrative order will notify the other Party, allow the other Party a reasonable time to oppose the disclosure, and reasonably cooperate with the other Party's efforts to do so; or

(viii) to the extent reasonably necessary to comply with an applicable law, rule, regulation of any Governmental Authority or securities exchange, including the FDA, the Securities and Exchange Commission and the New York Stock Exchange. Before complying, the Party subject to such law, rule or regulation will notify the other Party, allow the other Party a reasonable time to seek a protective order (if appropriate), and reasonably cooperate with the other Party's efforts to do so.

E. Further Limitation on Use and Disclosure of Surgi-Vision IP. Notwithstanding the foregoing, while CPI recognizes SVI's legitimate right to commercialize the Surgi-Vision IP outside the Field, the Parties agree and acknowledge that, in order to give CPI the full benefit of the exclusive License granted herein, with respect to those portions of the Surgi-Vision IP that constitute Confidential Information owned by SVI, SVI will, if reasonably practical, take reasonable steps to limit the scope of any disclosure of such Surgi-Vision IP; provided, however, that the foregoing obligation on SVI will not apply with respect to disclosure of Surgi-Vision IP by SVI to Bionics. In the event CPI exercises its Termination Option under the Development Agreement and the License becomes non-exclusive, SVI's obligations under this Section 9(E) shall cease.

F. Return of Information. Upon termination or expiration of this Agreement for any reason, each Party will return or destroy (at the other Party's

choice) all Confidential Information owned by such other Party then in its possession and, if applicable, provide a certification of such destruction.

G. Publication and Authorship. Notwithstanding Section 9(E) above, SVI shall have the right to author, to publish and to retain or transfer copyright to scientific reports describing the methods and results of any or all Surgi-Vision IP licensed to CPI hereunder; provided that, if the studies were conducted with the financial and/or technical support of CPI or any of its Affiliates, such reports shall include an acknowledgment to that effect. Prior to publishing any reports or submitting any manuscripts wherein the publication could adversely affect patent rights for any Surgi-Vision IP (i.e., new inventions for which patent applications have not been filed), (i) SVI shall make the manuscripts for such reports available to CPI, using reasonable efforts to provide CPI copies of such manuscripts at least thirty (30) days before submission to a journal or other publisher so that CPI can take any steps it deems necessary to protect such Surgi-Vision IP disclosed in such manuscripts, (ii) CPI will promptly review such manuscripts, and (iii) SVI will delay its submission to such journal or other publisher for up to one hundred eighty (180) days if CPI, in its reasonable discretion, determines that it needs additional time to protect such Surgi-Vision IP.

H. Injunctive Relief. Each Party acknowledges and agrees that the breach of this Section 9 would be likely to cause serious and irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Each Party therefore agrees that if the other Party breaches this Section 9 or if such Party has cause to believe that the other Party intends to or is about to breach such provisions, then such Party will be entitled to seek injunctive relief enjoining the breach and will have the right to specifically enforce this Agreement and the terms and provisions hereof in addition to any other remedy available at law or in equity.

I. Termination of Earlier Confidentiality Agreement. The Parties agree that the Earlier Confidentiality Agreement will terminate as of the Effective Date, and that any and all Confidential Information exchanged or disclosed by the Parties pursuant to the Earlier Confidentiality Agreement will be subject solely to the terms of this Section 9 and Section 9 of the Development Agreement.

10. Representations, Warranties and Covenants.

A. No Conflicting Agreements. SVI represents, warrants and covenants that, after giving effect to the Bionics Amendment, it has not and will not enter into any agreement or commitment or obligation with any Third Party or Affiliate that conflicts in any way with its obligations under this Agreement. CPI represents, warrants and covenants that it has not and will

not enter into any agreement or commitment or obligation with any Third Party or Affiliate that conflicts in any way with its obligations under this Agreement.

B. Authority. Each Party represents and warrants that, as of the Effective Date and after giving effect to the Bionics Amendment: (i) it has the full right, power, and authority to execute and deliver this Agreement and to perform its terms; (ii) it has taken all required corporate actions to approve and adopt this Agreement; (iii) this Agreement is enforceable against it according to its terms, subject to bankruptcy, insolvency, and other laws relating to or affecting creditors' rights and to general equity principles; and (iv) the person or persons executing this Agreement on its behalf are duly authorized and empowered to do so. Without limiting the generality of the foregoing, SVI represents and warrants as of the Effective Date that, subject to the terms of the JHU Agreements, it has the authority to Prosecute all Patents which are part of the Surgi-Vision IP, including all Patents licensed to SVI under the JHU Agreements, and that SVI has the right to delegate or otherwise pass control of Prosecution to CPI and its Affiliates in the manner set forth in Section 12.

C. JHU Agreements. SVI represents and warrants that it has provided CPI with true and complete copies of the JHU Agreements and all appendices, addenda, amendments, waivers, consents or other agreements related thereto existing as of the Effective Date, and covenants that, subsequent to the Effective Date, it will not execute any appendices, addenda, amendments, waivers, consents or other agreements related to the JHU Agreements that adversely affect CPI's or its Affiliates' rights hereunder, without first obtaining CPI's prior written consent. SVI further represents and warrants that the JHU Agreements are the only license agreements SVI has entered into with respect to Patents in the Implantable Cardiac Field.

D. Sufficiency. SVI represents and warrants that Exhibit A and Exhibit D collectively set forth a true and complete list, as of the Effective Date, of all Patents related to the development of the Licensed Products pursuant to the Development Agreement which are (i) owned or co-owned by SVI, or (ii) licensed to SVI (complete with the name of the Third Party Licensor of each licensed Patent) in the Implantable Cardiac Field. SVI represents and warrants that all items required to be disclosed pursuant to clause (ii) are licensed exclusively to SVI and constitute Surgi-Vision IP.

E. Title. SVI represents, warrants and covenants that, except as provided in this Agreement, the Development Agreement, the Bionics Agreements or the JHU Agreements: (i) SVI owns, and during the Term will continue to own, all legally enforceable right, title and interest to all of the Surgi-Vision IP it purports to own, and SVI has an exclusive license in the Implantable Cardiac Field to all of the Surgi-Vision IP that it does not

purport to own, in each case free and clear of all liens, mortgages, charges, security interests and other encumbrances without an obligation to pay any royalties, license fees or other amounts to any Third Party; and (ii) SVI has and will retain all rights necessary to exclusively license the Surgi-Vision IP to CPI in the Implantable Cardiac Field.

F. Third-Party Infringement. SVI represents and warrants that, as of the Effective Date, to SVI's actual knowledge, (i) there is no Infringement by any Third Party (including any employee or former employee of SVI) of any Surgi-Vision IP, and (ii) there are no violations of any exclusive rights granted to SVI by its Third Party Licensors, except that SVI has filed a patent application (application number [***]) attempting to invoke an interference. SVI further represents and warrants that, as of the Effective Date, no Claims have been made by SVI or, to SVI's actual knowledge, by SVI's Third Party Licensors for any Infringement by others of any rights with respect to any Surgi-Vision IP, except that SVI has filed a patent application (application number [***]) attempting to invoke an interference.

G. Freedom-to-Operate. SVI represents and warrants that, as of the Effective Date, it has not received and has no knowledge of any Claim by a Third Party containing any express or implied allegation that SVI, its Third Party Licensors or the Surgi-Vision IP is or may be Infringing any of such Third Party's Intellectual Property Rights, except that (i) SVI knows of a Third Party's attempt to invoke an interference against U.S. 6,904,307, (ii) SVI has filed a re-issue with respect to U.S. 6,904,307, and (iii) SVI has filed a patent application (application number [***]) attempting to invoke an interference. If, at any time during the Term or thereafter, SVI receives or becomes aware of any such Claim, SVI shall promptly notify CPI of such Claim in writing, describing the Claim in reasonable detail (but, provided CPI has not exercised its Termination Option, performing and providing no written analysis regarding the Claim). Provided CPI has not exercised its Termination Option, upon such notice, CPI may, in its sole discretion, evaluate such Claim to determine whether a license of the Third Party's Intellectual Property is necessary or desirable, or whether such Third Party's Intellectual Property may otherwise have a material effect on the Surgi-Vision IP in the Implantable Cardiac Field. SVI further represents and warrants that, as of the Effective Date, it is not, and to SVI's actual knowledge its Third Party Licensors are not, currently evaluating any Intellectual Property of any Third Party (and neither SVI nor, to SVI's actual knowledge, its Third Party Licensors has conducted any such evaluations in the past three (3) years) to determine whether a license thereof is necessary or desirable, or whether such Intellectual Property may otherwise have a material effect on the Surgi-Vision IP in the Implantable Cardiac Field.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

H. Know-How and Trade Secrets. SVI represents, warrants and covenants that: (i) it has taken, and will continue to take, all actions that a reasonably prudent person would take to maintain its Trade Secrets as confidential and proprietary, and to protect against the loss, theft or unauthorized use of such Trade Secrets; (ii) its Trade Secrets are not in the public domain and have not been divulged or appropriated to the detriment of SVI; (iii) SVI, and to SVI's actual knowledge, its Third Party Licensors, have disclosed no confidential Surgi-Vision IP to any Third Party that was not, at the time of disclosure, under an obligation to maintain such Surgi-Vision IP in confidence, and, to SVI's actual knowledge, there have been no breaches of any such confidentiality obligations; and (iv) SVI's records do and will continue to include sufficient documentation of the Know-How and Trade Secrets, such as manufacturing and engineering plans, blueprints, designs, process instructions, formulae, quality assurance protocols and procedures and the like, to enable persons who are reasonably skilled and proficient in the relevant subject matter to continue the same in the ordinary course of business without unreasonable delay, expense, or reliance on the memory of any individual.

I. Licenses. SVI represents and warrants that, as of the Effective Date, it has not, and to its actual knowledge its Third Party Licensors have not: (i) granted any licenses or other rights, and have no obligation to grant any licenses or other rights, with respect to any Surgi-Vision IP in the Implantable Cardiac Field, except for (a) any rights retained by JHU under the JHU Agreements; and (b) to the extent a Patent was supported by federal funding obtained by JHU, any rights, conditions and limitations imposed by U.S. law (including any royalty-free non-exclusive license granted to the U.S. government pursuant to U.S. law and any requirement that products used or sold in the U.S. be manufactured substantially in the U.S.); or (ii) entered into any covenant not to compete or contract limiting or purporting to limit the ability of SVI to grant any licenses and assignments in fulfillment of its obligations herein. SVI further represents, warrants and covenants that none of the Surgi-Vision IP or Royalty Patents was or will be supported by federal funding obtained by SVI, and that there are and will be no rights, conditions and limitations imposed by U.S. law (including any royalty-free non-exclusive license granted to the U.S. government pursuant to U.S. law) with respect to same.

J. Validity. SVI represents and warrants as of the Effective Date that, to SVI's actual knowledge: (i) there have been no sales, public disclosures, or other events that create a bar to patentability of any Billabong Patents; (ii) none of the Billabong Patents has been abandoned, suppressed, or concealed; (iii) to SVI's actual knowledge, as of the Effective Date there are no impediments to patenting any of the Surgi-Vision IP (other than due to certain Surgi-Vision IP being non-patentable subject matter or as otherwise disclosed in the following clause (iv)); (iv) there is no

interference, opposition, cancellation, reexamination or other contest, proceeding, action, suit, hearing, investigation, charge, complaint, demand, notice, claim, dispute threatened or pending against SVI or its Third Party Licensors relating to the Surgi-Vision IP, except that (a) SVI knows of a Third Party's attempt to invoke an interference against U.S. 6,904,307, (b) SVI has filed a re-issue with respect to U.S. 6,904,307, and (c) SVI has filed a patent application (application number [***]) attempting to invoke an interference; (v) all material statements and representations made by SVI in any pending applications, filings or registrations relating to the Surgi-Vision IP were true in all material respects as of the time they were made, and are still believed to be true; and (vi) no Surgi-Vision IP consisting of Patents is subject to any injunction, judgment, order, decree, ruling or charge or is subject to any pending or threatened oppositions, interferences or other proceedings before the United States Patent and Trademark Office or in any other registration authority in any country, except that (a) SVI knows of a Thirs Party's attempt to invoke an interference against U.S. 6,904,307, (b) SVI has filed a re-issue with respect to U.S. 6,904,304, and (c) SVI has filed a patent application (application number [***]) attempting to invoke an interference.

K. Disclosure. SVI represents and warrants that in the course of diligence and negotiations leading up to the execution of this Agreement, SVI has not misrepresented to CPI any material information regarding the Surgi-Vision IP and the technology related thereto.

L. No Existing Infringement by CPI or CPI's Affiliates. SVI represents and warrants that, as of the Effective Date, it has no actual knowledge that any CPI or CPI Affiliate lead existing as of the Effective Date does or would Infringe (i) a valid and enforceable claim of an issued Royalty Patent or (ii) any allowed claims of a pending patent application for a Royalty Patent, upon the issuance of same.

11. Enforcement.

A. Notice of Infringement. If either Party learns of any actual, alleged or threatened Infringement of any BSC Controlled Surgi-Vision IP by a Third Party, such Party shall promptly notify the other Party and shall provide such other Party with all available evidence of such Infringement.

B. Enforcement [***]. As between the Parties, [***] shall have the sole right (but not the obligation), each at its own expense and with legal counsel of its own choice, to bring suit (or take other appropriate legal action) against any actual, alleged or threatened Infringement of the [***]; provided, however, that [***] shall have the right (but, subject to Section 11(D) below, not the obligation) to participate in an advisory capacity only in the

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

institution and prosecution of any such Infringement suit, [***].

C. Enforcement Following a Loss of Exclusive Rights. Notwithstanding Section 11(B) above to the contrary, in the event [***], as between the Parties, [***] shall have the sole right (but not the obligation), at its own expense and with legal counsel of its own choice, to bring suit (or take other appropriate legal action) against any actual, alleged or threatened Infringement of [***].

D. Join in Action. If a Party brings any such action or proceeding hereunder, the other Party agrees to be joined as party plaintiff if necessary to prosecute such action or proceeding, and to give the Party bringing such action or proceeding reasonable assistance and authority to file and prosecute the suit; provided, however, that neither Party shall be required to transfer any right, title or interest in or to any property to the other Party or any Third Party to confer standing on a Party hereunder.

E. Costs. [***] will pay all costs, fees, and expenses associated with an Infringement action initiated and prosecuted solely by [***]. [***] will pay all costs, fees, and expenses associated with (i) an Infringement action initiated and prosecuted solely by [***], and (ii) [***] participation in an advisory capacity under Section 11(B).

F. Recovery. Any recovery obtained in an action initiated and prosecuted solely by [***], and in which [***] does not participate in an advisory capacity, shall belong to [***]. Any recovery obtained in an action initiated and prosecuted solely by [***] shall belong to [***]. Any recovery obtained in an action initiated and prosecuted by [***], and in which [***] participates in an advisory capacity, shall be allocated in a fair and equitable manner mutually determined by the Parties. For purposes of clarity, any recovery pursuant to this section will be net of litigation costs as provided in Section 11(E) above.

G. Cooperation. Each Party agrees to fully cooperate with the other in the prosecution of any such suit at no additional expense to that cooperating Party.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

12. Patent Prosecution.

A. Costs. CPI and its Affiliates will pay all Patent Prosecution costs and expenses for all Patents subject to their sole control, as set forth in Section 12(B) below ("Prosecution Costs").

B. Intellectual Property Protection. With respect to any BSC Controlled Surgi-Vision IP, CPI and its Affiliates will jointly control the Prosecution of all Patents, each at its own expense and with legal counsel of its own choice, and will take such other legal steps as CPI and its Affiliates will determine in their sole discretion to be necessary to protect their rights for all BSC Controlled Surgi-Vision IP. For the avoidance of doubt, neither CPI nor its Affiliates will be obligated to pay any Prosecution Costs to protect any Intellectual Property if they determine, in their sole discretion, that those Prosecution Costs outweigh the likely benefits to CPI or such Affiliate.

C. SVI Cooperation. SVI will cooperate with CPI and its Affiliates in filing, Prosecuting and maintaining Patents and taking such other legal steps as set forth in this Section 12 and will execute and deliver any documents and instruments in connection therewith which CPI or its Affiliates may request at no additional cost or expense to CPI or such Affiliate.

D. SVI Inspection and Intervention. SVI will have the right upon reasonable notice and reasonable request to inspect, at SVI's sole expense and discretion, the Prosecution documents and strategy of CPI and its Affiliates with respect to the BSC Controlled Surgi-Vision IP. The Parties agree that such information constitutes Confidential Information of CPI and its Affiliates, and that the disclosure of such information is not intended to constitute a waiver of any privilege, including attorney-client privilege. In addition, CPI (or its applicable Affiliate) will provide written notice to SVI prior to abandoning any patent application or issued Patent that is part of the BSC Controlled Surgi-Vision IP. If SVI desires to file and Prosecute any such patent application, or to pay maintenance fees or annuities to maintain any such issued Patent, in any country that CPI or its Affiliates determined was not worthwhile to protect CPI's or such Affiliates' rights, SVI may provide CPI with a reasonable written request to file and Prosecute or maintain such Patent ("Prosecution Request"). CPI will have 30 days to fulfill the Prosecution Request. If CPI or one of its Affiliates fails to complete the Prosecution Request within 30 days of receiving the Prosecution Request, SVI may independently file and Prosecute the patent application or maintain the issued Patent that was the subject of the Prosecution Request, and SVI will bear all Prosecution Costs and will control the remainder of the Prosecution for such patent application or the maintenance of such issued Patent.

13. Indemnification.

A. General Indemnification. Each Party (the "Indemnifying Party") will defend, indemnify and hold harmless the other Party (the "Indemnified Party") and all of such Party's Affiliates from and against any and all liabilities, losses, obligations, claims, damages, penalties, causes of action, costs and expenses (including reasonable attorneys' fees) (collectively "Damages"), to the extent such Damages arise out of any Third Party claim based on allegations that, if true as alleged, would constitute (i) a breach of the representations and warranties made by it in this Agreement, or (ii) a material breach of its obligations pursuant to this Agreement.

B. Indemnification Procedures. An Indemnifying Party's duty to indemnify pursuant to Section 13(A) is subject to the Indemnified Party giving prompt written notice to such Indemnifying Party of any claim against the Indemnified Party covered by the Indemnifying Party's indemnification obligations hereunder; provided, however, that a delay in such notice to the Indemnifying Party shall not terminate indemnification obligations hereunder, unless such delay shall have materially impaired the defense of such claim. The Indemnifying Party shall have sole and exclusive control of the defense of any such claim, including the choice and direction of any legal counsel. The Indemnified Party may not settle or compromise any such claim without the written consent of the Indemnifying Party.

14. Disclaimer of Warranties. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, NEITHER PARTY MAKES ANY REPRESENTATION OR EXTENDS ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, TO THE OTHER PARTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

15. Intentionally Omitted.

16. Conflicts with Bionics Lead Development Agreement. The Parties agree that, in the event of any conflict between the terms or conditions of this Agreement and the Bionics Lead Development Agreement, this Agreement will control.

17. Miscellaneous.

A. Notices. Any notice or other communication in connection with this Agreement must be in writing, must be addressed as provided below and will be deemed delivered when (a) actually delivered in person or by facsimile, provided that delivery is made during normal business hours, (b) three business days have elapsed after deposit in the United States mail, postage prepaid and registered or certified, return receipt requested, or (c) two business days after sent by nationally recognized overnight receipted courier:

To CPI:

Cardiac Pacemakers, Inc. c/o
Boston Scientific Corporation
One Boston Scientific Place
Natick, MA 01760-1537
Attention: Chief Financial Officer
Phone: 508.650.8000
Fax: 508.650.8956

with copies to:

Boston Scientific Corporation
One Boston Scientific Place
Natick, MA 01760-1537
Attention: General Counsel
Phone: 508.650.8000
Fax: 508.650.8960

and

Cardiac Pacemakers,
Inc. 4100 Hamline Avenue North
St. Paul, MN 55112
Attention: Chief Patent Counsel
Phone: 651.582.7196
Fax: 651.582.2926

To SVI:

Kimble L. Jenkins
Surgi-Vision, Inc.
50 North Front Street
19th Floor
Memphis, TN 38103
Phone: 901.531.3236
Fax: 901.579.4979

with copies to:

John C. Thomas, Jr.
Surgi-Vision, Inc.
200 N. Cobb Parkway
Suite 140
Marietta, GA 30062-3585
Phone: 770.514.0077
Fax: 770.424.8236

and

Oscar L. Thomas
Bass, Berry & Sims PLC
100 Peabody Place
Suite 900
Memphis, TN 38103
Phone: 901.543.5905
Fax: 901.543.5999

and in any case at such other address as a Party may specify by written notice in accordance with this Section. All periods of notice will be measured from the date of deemed delivery as provided in this Section.

B. Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties, their successors and permitted assigns. Neither this Agreement nor any right or obligation hereunder will be assignable by a Party without the prior written consent of the other Party and any purported assignment without such consent will be void; provided that, subject to CPI's exercise of its rights pursuant to Section 5(C)(iii) of the Development Agreement, either Party may, without such prior written consent, assign this Agreement to an Affiliate or in connection with a merger or consolidation (or other similar transaction) or the sale of all or substantially all of its assets in the realm of its respective field under this Agreement; provided, further, that such Party must give the other Party thirty (30) days prior written notice of such assignment. Any permitted assignee will assume all obligations of its assignor under this Agreement. No assignment will relieve any Party of responsibility for the performance of any accrued obligation that such Party then has hereunder.

C. Affiliates. To the extent that CPI allows its Affiliates to exercise rights pursuant to this Agreement (including under a sublicense from CPI), CPI agrees (i) to bind such Affiliates to the confidentiality, use restriction, records/audit, intellectual property enforcement and patent Prosecution provisions of this Agreement and (ii) to be responsible for any breaches by its Affiliates of such provisions. Notwithstanding anything to the contrary, but subject to the previous sentence, if and when CPI allows its Affiliates to exercise rights pursuant to this Agreement (including under a sublicense from CPI), CPI may do so under any form of permission or arrangement, whether written, oral or course of conduct, and if done pursuant to a written document irrespective of whether that particular written document contains within its four corners all of the restrictions and requirements set forth in this Agreement.

D. Force Majeure. If the performance of this Agreement or any obligations under this Agreement, except the making of required payments, is prevented, restricted, or interfered with by reason of fire, flood, earthquakes, explosion, or other casualty, accident, or act of God; strikes or labor disturbances; war, whether declared or not, or other violence; sabotage; any law, order, proclamation, regulation, ordinance, demand, or requirement of any government agency; or any other event beyond the reasonable control of the Parties, the affected Party, upon giving prompt notice to the other Party, will be excused from such performance to the extent of such prevention, restriction, or interference. The affected Party will use its reasonable efforts to avoid or remove such cause of non-performance or to limit the impact of the event on such Party's performance and will continue performance with the utmost dispatch whenever such causes are removed.

E. Export Controls. A recipient of technical data or products agrees to comply with all United States Department of Commerce and other United States export controls. Each Party agrees that, unless prior authorization is obtained from the Office of Export Administration, it will not knowingly ship or transfer technical data covered by this Agreement or any direct product of such technical data, directly or indirectly, to any country in contravention of any Office of Export Administration requirement.

F. Entire Agreement. This Agreement and its Exhibits, together with the Development Agreement, set forth the entire agreement between the Parties and supersede all previous agreements and understandings, whether oral or written, between the Parties with respect to the subject matter of this Agreement.

G. Amendment. This Agreement may not be modified, amended or discharged except as expressly stated in this Agreement or by a written agreement signed in ink by an authorized representative of each Party.

H. Separability. The provisions of this Agreement will be deemed separable. If any provision in this Agreement will be found or be held to be invalid or unenforceable in any jurisdiction in which this Agreement is performed, then the meaning of that provision will be construed, to the extent feasible, to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Agreement that will remain in full force and effect unless the provisions that are invalid or unenforceable substantially impair the value of the entire Agreement to either Party. In such event, the Parties will use their respective reasonable efforts to negotiate a substitute, valid and enforceable provision that most nearly reflects the Parties' intent in entering into this Agreement.

I. Waiver. No waiver of any term, provision or condition of this Agreement whether by conduct or otherwise in any one or more instances will be deemed to be or construed as a further or continuing waiver of any such term, provision or condition or of any other term, provision or condition of this Agreement.

J. Relationship of Parties. Each of the Parties hereto is an independent contractor and nothing herein will be deemed to constitute the relationship of partners, joint venturers, nor of principal and agent between the Parties hereto.

K. Counsel/Interpretation. The Parties and their respective counsel have negotiated this Agreement or have had an opportunity to review this Agreement. The Parties hereto acknowledge and agree that: (a) the rule of construction to the effect that any ambiguities are resolved against the drafting Party will not be employed in the interpretation of this Agreement; and (b) the terms and provisions of this Agreement will be construed fairly as to all Parties hereto and not in favor of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement. When used in this Agreement, the words "including" or "includes" are deemed to be followed by the words "without limitation."

L. Governing Law. The construction, validity and performance of this Agreement will be governed exclusively by the laws of the State of Minnesota, U.S.A., without regard to the principles of conflicts of law. Each Party hereby submits itself for the sole purpose of this Agreement and any controversy arising hereunder to the non-exclusive jurisdiction of the federal and state courts located in the State of Minnesota, and any courts of appeal therefrom, and waives any objection (on the grounds of lack of jurisdiction, venue or forum non conveniens or otherwise) to the exercise of such non-exclusive jurisdiction over it by any such courts. With the exception of an arbitration pursuant to Section 4 above, any action brought by SVI against CPI in connection with this Agreement, must be instituted in the federal or state courts located in the State of Minnesota. A Party shall be entitled to seek within such jurisdiction whatever equitable relief it may be entitled to under applicable law.

M. Headings. The article and section headings in this Agreement are inserted for convenience only and will not constitute a part hereof.

N. No Third-Party Beneficiary Rights. Except with respect to CPI's Affiliates and to Persons receiving indemnification under Section 13, no person not a Party to this Agreement is an intended beneficiary of this Agreement, and no person not a Party to this Agreement will have any right to enforce any term of this Agreement.

O. Compliance with Laws. Each Party will comply in all material respects with all applicable U.S. and foreign statutes, laws, ordinances, rules, orders and regulations in all actions relating to this Agreement and its performance hereunder.

P. Counterparts. This Agreement may be executed in any number of counterparts each of which will be deemed to be an original but all of which together will constitute one and the same instrument, and all signatures need not appear on any one counterpart.

Q. Effect of Bankruptcy. No proceeding, or result or adjudication of a proceeding, in which either of the Parties is a debtor, defendant or party seeking an order for its own relief or reorganization, under any foreign, United States or state bankruptcy or insolvency law will (in and of itself) cause a termination of this Agreement or any of the licenses granted under this Agreement.

R. U.S. Dollars. All payments to SVI contemplated in this Agreement, including payments of the License Fee, all royalty payments and payments of Sub-License Revenue, shall be made in U.S. Dollars.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

SURGI-VISION, INC.	CARDIAC PACEMAKERS, INC.
BY : /s/ Kim Jenkins	BY : /s/ Fred A. Colen
NAME: Kim Jenkins	NAME: Fred A. Colen
TITLE: PRES	TITLE: Executive Vice President, Operations and Technology CRM

ACKNOWLEDGEMENT BY BIONICS

Boston Scientific Neuromodulation Corporation (formerly known as Advanced Bionics Corporation) acknowledges that even though it is not a party to this Agreement, it hereby agrees that Section 16 of this Agreement shall be binding upon it.

BY: /s/ Michael Onuscheck
NAME: Michael Onuscheck
TITLE: President

EXHIBIT A

Billabong Patents

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

EXHIBIT B

NET SALES

Cardiac Rhythm Management ("CRM") lead revenue, for purposes of determining a royalty payment for a given period is calculated by the product of:

The number of Royalty Product units sold in a given period, net of returns of Royalty Products made in that period, and

The weighted average selling price of Royalty Products sold in that period.

If a sale of a Royalty Product does not include an explicit sales price because the transaction included multiple products, a sale price for the Royalty Product will be calculated consistent with the methods used for management reporting of average selling prices for CRM leads.

In general, discounts exist when leads are bundled with other CRM components, such as pulse generators, and sold as a system, or when multiple products are sold in bulk quantities. For management reporting, these discounts are applied on a pro rata basis to all of the components in the system or bulk sale.

EXHIBIT C

BSC CORE PRODUCT INFORMATION

BSC Core Product Information is related to the design, development, manufacture, and commercialization of implantable medical leads for all cardiac applications. This includes but is not limited to:

1. Design and development documents, methods, and data
   a. Device specifications
   b. Assembly drawings, including tolerances
   c. Material and component specifications, including tolerances
   d. Material and component supplier capability requirements
   e. Computational design evaluation methods and results, including FEA methods and results
   f. Biomechanics parameters used in design evaluation
   g. Biocompatibility requirements and data
   h. Design verification and validation methods and results, including fatigue testing and biocompatibility testing
   i. Pre-clinical and pre-market human clinical trial methods and results
   j. MRI performance-related testing methods and results
2. Process development, manufacturing, and process control documents, methods, and data
   a. Manufacturing instructions and production methods, including connection methodologies and parameters, materials preparation and assembly techniques
   b. Supplier selection process, CPI's or its Affiliates' supplier identity and status of supplier relationship
   c. Supplier material and component qualification methods and results
   d. Process validation methods and results
   e. Process control methods and results including sampling plans, test and inspection methods and criteria
3. Regulatory submission documents, methods and data
   a. Any non-public information relating to regulatory approval strategy, and communications with regulatory agencies

EXHIBIT D

ROYALTY PATENTS

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

EXHIBIT E

SUB-LICENSE REVENUE EXAMPLES

Transactions subject to Sub-License Revenue:

- A license or sublicense to a Third Party, granting such Third Party the right to make, have made, import, use or sell a Royalty Product
    - e.g., If CPI or its Affiliate(s) sells leads to a Third Party and also grants that Third Party a license/sublicense to make and sell devices which constitute Royalty Products, then CPI (for itself and/or on behalf of its Affiliate(s)) would make royalty payments for the sale of leads to that Third Party and will also make payments on the license/sublicense revenue CPI and/or its Affiliate(s) receives

Transactions not subject to Sub-License Revenue:

- Grant of an implied license accompanying a sale of a Royalty Product (e.g., pursuant to first sale doctrine)
- Grant of an explicit license accompanying a sale of a Royalty Product to use the product

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Exhibit 10.14

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made effective as of March 19, 2008 (the "Effective Date") and entered into by and between Surgi-Vision, Inc., a Delaware corporation ("SVI") and Cardiac Pacemakers, Inc. ("CPI") (individually, a "Party" and collectively, the "Parties").

WHEREAS, the Parties have entered into a License Agreement (the "License Agreement") concurrent with this Agreement wherein SVI has granted CPI exclusive rights within the Implantable Cardiac Field to certain Intellectual Property;

WHEREAS, SVI is the sole owner or exclusive licensee of in the Implantable Cardiac Field of the Surgi-Vision IP;

WHEREAS, SVI has previously entered into the Bionics Agreements with Bionics, pursuant to which Bionics has certain ownership and other exclusive rights to certain of SVI's Intellectual Property in the field of neuromodulation;

WHEREAS, CPI is a developer, manufacturer and distributor of medical devices used for treating, diagnosing and managing heart failure, cardiac rhythm disorders, and co-morbidities thereof, including implantable devices used to treat tachychardia, bradychardia and other heart arrhythmias and heart failure;

WHEREAS, SVI desires to develop for CPI certain implantable leads for use in CPI cardiac rhythm management and heart failure products.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Definitions.

   A. "Affiliate" of a Person is a Person controlling, controlled by or under common control with the Person specified. "Controlling", "controlled" or "control" means owning greater than 50% of the voting equity interests of a Person, either directly or indirectly through one or more intermediaries in which it has such an interest, or otherwise having the power to direct the management of that Person.

   B. "Arbitrators" has the meaning ascribed thereto in Section 3(F)(iii).

   C. "Billabong Patents" means (i) the Patents listed on Exhibit A, and (ii) any claims of any future Patent which claim and are entitled to claim (in whole but not in part, so long as neither CPI nor any of its Affiliates files any claims in a continuation-in-part Patent which require new matter for support for the primary purpose of avoiding, circumventing, evading or minimizing its payment obligations to SVI hereunder or pursuant the License Agreement) priority to a Patent covered by the preceding clause (i) (e.g., claims in a continuation-in-part Patent which require new matter

for support are not Billabong Patents, so long as neither CPI nor any of its Affiliates files any claims in a continuation-in-part Patent which require new matter for support for the primary purpose of avoiding, circumventing, evading or minimizing its payment obligations to SVI hereunder or pursuant to the Development Agreement).

D. "Bionics" means Boston Scientific Neuromodulation Corporation (formerly known as Advanced Bionics Corporation), a wholly-owned indirect subsidiary of Boston Scientific Corporation and an Affiliate of CPI.

E. "Bionics Agreements" means the following agreements: (i) the Bionics Lead Development Agreement, (ii) that certain Amended and Restated Multiple Advance Secured Convertible Promissory Note dated as of June 30, 2007 made by SVI and payable to Bionics (as may be further amended, restated, supplemented or otherwise modified from time to time), (iii) the Bionics License Agreement, and (iv) that certain Security Agreement dated as of December 30, 2005 by and between SVI and Bionics (as amended by that certain Omnibus Amendment dated as of June 30, 2007, and as may be further amended, supplemented, or otherwise modified from time to time).

F. "Bionics Amendment" means that certain Omnibus Amendment No. 2 to the Bionics Lead Development Agreement and Bionics License Agreement dated as of the date hereof by and between SVI and Bionics.

G. "Bionics Lead Development Agreement" means that certain System and Lead Development and Transfer Agreement dated as of December 30, 2005, as amended by that certain Amendment No. 1 dated as of May 31, 2006, as further amended by that certain Omnibus Amendment dated June 30, 2007, as further amended by the Bionics Amendment (as may be further amended, supplemented or otherwise modified from time to time).

H. "Bionics License Agreement" means that certain License Agreement dated as of December 30, 2005, as amended by that certain Omnibus Amendment dated June 30, 2007, as further amended by the Bionics Amendment (as may be further amended, supplemented or otherwise modified from time to time).

I. "Bionics Reserved IP" means any BSC Solely Invented Development IP and any Joint Development IP that is, at least in part, conceived or reduced to practice by Bionics (or its employees, agents or consultants).

J. "Brady Lead" has the meaning ascribed thereto in the Project Plan attached as Exhibit A.

K. "BSC Controlled IP" means the Patents included in Development IP.

L. "BSC Core Product Information" means that core product information proprietary to CPI which is listed on Exhibit C hereto (as may be updated from time to time by CPI upon notice to SVI).

M. "BSC Solely Invented Development IP" means any Intellectual Property Rights conceived or reduced to practice solely (as between the Parties) by CPI or its Affiliates (or their respective employees, agents or consultants) that are (i) related to this Agreement, (ii) primarily related to the Field, or (iii) based on CPI's or its Affiliates' Confidential Information.

N. "Change Control Document" has the meaning ascribed thereto in Section 2(C).

O. "Change in Control" means any transaction or series of transactions (whether or not related), including a merger, consolidation, exchange, sale of equity securities, recapitalization, sale of assets, dissolution or liquidation, pursuant to which any Person or group of Persons (within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) acquires (directly or indirectly) (i) equity securities possessing the voting power to elect a majority of a Party's (or a successor's) board of directors (or equivalent body) or a majority of the voting equity interests in a Party (or a successor thereto) or (ii) all or substantially all of the assets of a Party.

P. "Change Request" has the meaning ascribed thereto in Section 2(C).

Q. "Claim" means any allegation, demand, investigation, suit, proceeding, claim, settlement or compromise.

R. "Confidential Information" means information which, prior to or during the Term (including pursuant to the Earlier Confidentiality Agreement) is disclosed or shared by one Party to the other Party or generated or developed by one or both Parties, including information that was disclosed, shared, generated or developed under the Earlier Confidentiality Agreement, that the non-owning Party has a reasonable basis to believe is confidential to the owning Party or has been marked or orally designated by the owning Party as confidential.

S. "CPR" has the meaning ascribed thereto in Section 3(E)(ii).

T. "Cure Period" has the meaning ascribed thereto in Section 5(C)(i).

U. "Damages" has the meaning ascribed thereto in Section 11(A).

V. "Definitive Agreements" means this Agreement and the License Agreement, collectively.

W. "Determination Notice" means a notice from CPI to SVI stating that CPI has determined that a New Lead is (or is not) a Royalty Product or will become (or will not become) a Royalty Product upon the issuance of any allowed claims of any pending application for a Royalty Patent.

X. "Development IP" means, collectively, the BSC Solely Invented Development IP, the SVI Solely Invented Development IP and the Joint Development IP, in each case that is conceived or reduced to practice during the Term and, unless CPI terminates this Agreement pursuant to Section 5(B) or Section 5(C)(v), a period of two (2) years thereafter. For the avoidance of any doubt, in no event shall the Development IP include (i) the Royalty Patents, (ii) any Existing Intellectual Property, (iii) any Future Intellectual Property or Joint Intellectual Property conceived and reduced to practice prior to the Effective Date, or (iv) IPR in and to any Intellectual Property licensed by SVI pursuant to the JHU Agreements. The Parties agree and acknowledge that any Future Intellectual Property conceived or reduced to practice after the Effective Date may also constitute Development IP.

Y. "Earlier Confidentiality Agreement" means that certain Mutual Nondisclosure Agreement entered into by the Parties on August 20, 2006, as amended by the First Amendment to the Mutual Nondisclosure Agreement entered into by the Parties on September 5, 2007.

Z. "Effective Date" is defined in the introductory paragraph.

AA. "Existing Intellectual Property" has the meaning ascribed thereto in Section 4.8 of the Bionics Lead Development Agreement.

BB. "Feasibility Study" and "Feasibility Studies" have the meaning ascribed thereto in Section 2(A)(i).

CC. "Field" means the Implantable Cardiac Field and the Neuro Field, collectively.

DD. "Future Intellectual Property" has the meaning ascribed thereto in Section 7.6 of the Bionics Lead Development Agreement.

EE. "Heart Failure Lead" has the meaning ascribed thereto in the Project Plan attached as Exhibit A.

FF. "Indemnified Party" has the meaning ascribed thereto in Section 11(A).

GG. "Indemnifying Party" has the meaning ascribed thereto in Section 11(A).

HH. "Implantable Cardiac Field" means the field of implantable medical leads for all cardiac applications (including nerve stimulation for intentionally affecting the heart), including implantable leads for cardiac rhythm

management, heart failure and defibrillation, and all uses, applications, research, design, development, manufacturing, and marketing of such implantable leads and all products related to such implantable leads, including but not limited to adaptors and components, for all cardiac applications.

II. "Infringe" means (as applicable, depending on the context of the subject or object of the word Infringe) to infringe, misappropriate, use or disclose without authorization or otherwise violate Intellectual Property Rights (whether direct, indirect, contributory, inducement or otherwise). The words "Infringement" and "Infringing" have corresponding meanings.

JJ. "Intellectual Property" means intangible property that is legally protectable, including inventions, improvements, discoveries, conceptions, algorithms, integrated circuits, ideas, techniques, processes, designs, products, developments, specifications, methods, drawings, diagrams, tooling, models, software programs (including object code, source code and commenting), data, data analysis, data interpretation, written reports, Know-How, Trade Secrets, Confidential Information, documentation and copyrightable material whether patentable or non-patentable.

KK. "Intellectual Property Rights" or "IPRs" means all rights under or to Intellectual Property.

LL. "JHU" means the Johns Hopkins University.

MM. "JHU Agreements" means, collectively, (i) that certain License Agreement by and between SVI and JHU entered into on or around June 20, 1998, as amended by that certain Amendment to License Agreement dated as of January 15, 2000, and as further amended by that certain Addendum to License Agreement entered into on or around December 7, 2004, as in effect as of the Effective Date, (ii) that certain License Agreement by and between SVI and JHU entered into on or around December 7, 2006, as in effect as of the Effective Date; (iii) the consent letter dated December 27, 2005 signed by JHU, (iv) the consent letter dated August 7, 2007 signed by JHU, (v) the letter dated August 7, 2007 signed by Bionics, SVI and JHU, and (vi) the consent letter dated March 19, 2008 signed by SVI and JHU.

NN. "Joint Development IP" means any Intellectual Property Rights, other than Royalty Patents, conceived or reduced to practice jointly by SVI (or its Affiliates, employees, agents or consultants) and CPI or one of its Affiliates (or their respective employees, agents or consultants) that are (i) related to this Agreement, (ii) primarily related to the Field, or (iii) based on CPI's or its Affiliates' Confidential Information.

OO. "Joint Intellectual Property" has the meaning ascribed thereto in Section 11.1(b) of the Bionics Lead Development Agreement.

PP. "Key Employees" means (i) [***] and (ii) each other employee, agent, consultant and contractor of SVI who has contributed to or participated in the conception, creation, development or reduction to practice of any Development IP or Royalty Patent on behalf of SVI provided such Person is an employee, agent, consultant or contractor of SVI on or after the Effective Date.

QQ. "Know-How" means all factual knowledge and information that gives a Person the ability to produce or market something that it otherwise would not have known how to produce or market with the same accuracy or precision, including all formulae, algorithms, processes, procedures, writings, data, protocols, techniques, proposals, designs, ideas, concepts, strategic, research and development information and related documentation business and other plans, research, inventions, and invention disclosure and all records of the foregoing.

RR. "Licensed Product" means any product in the Implantable Cardiac Field, including but not limited to Royalty Products.

SS. "Milestone One" has the meaning ascribed thereto in Section 4(A).

TT. "Milestone Payment" means the payment due by CPI to SVI upon satisfaction of any of the Milestones.

UU. "Milestones" has the meaning ascribed thereto in Section 4.

VV. "Milestone Three" has the meaning ascribed thereto in Section 4(C).

WW. "Milestone Two" has the meaning ascribed thereto in Section 4(B).

XX. "Neuro Field" means the neuromodulation field of the Bionics Lead Development Agreement. For purposes of clarity, the Neuro Field does not encompass the Implantable Cardiac Field.

YY. "New Lead" means any implantable medical lead developed in connection with the Project Plan.

ZZ. "Opinion" has the meaning ascribed thereto in Section 3(D).

AAA. "Patent" means all classes or types of patents, design patents, utility patents, including issued patents, published and non-published patent applications (including inventors' certificates and utility models) in any country or jurisdiction or under any treaty, including all originals, provisionals, substitutions, continuations, continuations-in-part,

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

divisionals, supplementary protection certificates, renewals, all letters patent granted thereon, and all reissues, reexaminations, extensions, confirmations, revalidations, registrations, patents of addition and foreign counterparts, as well as industrial design registrations.

BBB. "Person" means an individual, partnership, corporation, business trust, limited liability company, unincorporated association, trust, joint venture or any other entity or governmental authority

CCC. "Project" means the research and development to be conducted according to this Agreement to develop implantable medical leads.

DDD. "Project Manager" has the meaning ascribed thereto in Section 2(B).

EEE. "Prosecution" means prosecution of any proceeding in the United States Patent and Trademark Office or in any other registration authority in any country, including regarding any application (whether ex parte or inter partes), including interference, reexamination and reissue.

FFF. "Prosecution Costs" has the meaning ascribed thereto in Section 6(A).

GGG. "Prosecution Request" has the meaning ascribed thereto in Section 6(D).

HHH. "Royalty Patent" means (i) a Patent to which SVI has and has granted to CPI exclusive commercial rights in the Implantable Cardiac Field and which is listed on Exhibit D to the License Agreement, (ii) any claims of any future Patent for which SVI has and has granted to CPI exclusive commercial rights in the Implantable Cardiac Field, which claim and are entitled to claim (in whole, but not in part) priority to a Patent covered by the preceding clause (i) (e.g., claims in a continuation-in-part Patent which require new matter for support are not Royalty Patents), and (iii) any of the Billabong Patents to which SVI has and has granted to CPI exclusive commercial rights in the Implantable Cardiac Field. For the avoidance of any doubt, CPI acknowledges and agrees that the following shall not be considered in determining whether SVI has and has granted to CPI exclusive commercial rights in the Implantable Cardiac Field with respect to any Patent: (a) any lien or security interest in such Patent; (b) any rights retained by JHU under the JHU Agreements; (c) to the extent the Patent was supported by federal funding obtained by JHU, any rights, conditions and limitations imposed by U.S. law (including any royalty-free nonexclusive license granted to the U.S. government pursuant to U.S. law and any requirement that products used or sold in the U.S. be manufactured substantially in the U.S.); and (d) any right to author, to publish and to retain or transfer copyright to scientific reports retained by SVI or SVI's collaborators or granted by SVI to Third Parties.

III. "Royalty Product" means an implantable lead (alone or in combination with other devices) that if sold by CPI or one of its Affiliates in the

Implantable Cardiac Field would (absent the License (as defined in the License Agreement)) Infringe a valid and enforceable claim of an issued Royalty Patent.

JJJ. "Royalty Product Dispute" has the meaning ascribed thereto in Section 3.

KKK. "Short Form Registration Statement" means a short-form document suitable for recordation at a local patent office, sufficient to put persons on notice of the license to Patent rights granted pursuant to the Definitive Agreements.

LLL. "Surgi-Vision IP" means all IPR in and to all Intellectual Property in the Implantable Cardiac Field now or hereinafter owned by or exclusively licensed to SVI, including the Billabong Patents.

MMM. "SVI Grant-Back Field" means all uses which are simultaneously outside both the (i) field of implantable medical devices, and (ii) the Field.

NNN. "SVI Solely Invented Development IP" means any Intellectual Property Rights, other than Royalty Patents, conceived or reduced to practice solely by SVI (or its Affiliates, employees, agents or consultants) that are (i) related to this Agreement, (ii) primarily related to the Field, or (iii) based on CPI's or its Affiliates' Confidential Information; provided, however, that in no event shall SVI Solely Invented Development IP include any Intellectual Property Rights conceived or reduced to practice by SVI (or its Affiliates, employees, agents or consultants) that relate to the System (as defined in the Bionics Lead Development Agreement), but which do not in any way relate to the Lead (as defined in the Bionics Lead Development Agreement), for which Bionics has not contributed to the conception or design.

OOO. "Tachy Lead" has the meaning ascribed thereto in the Project Plan attached as Exhibit A.

PPP. "Technology Transfer" means SVI's transfer to CPI of all relevant information relating to the use of technology in the Implantable Cardiac Field, including (i) all information relating to such technology, including research documentation, designs, design drawings, specification, Know-How and test methodology and data for the technology, (ii) all manufacturing information and Know-How, including manufacturing process details, identification of manufacturing equipment, and descriptions of associated quality control tests, and (iii) training of CPI and CPI Affiliate personnel on product design and manufacturing.

QQQ. "Term" has the meaning ascribed thereto in Section 5(A).

RRR. "Termination Option" has the meaning ascribed thereto in Section 5(B).

SSS. "Third Party" and "Third Parties" mean one or more Persons other than SVI, CPI and their respective Affiliates.

TTT. "Third Party Licensor" means any Third Party that has granted a Party a license to Intellectual Property.

UUU. "Trade Secret" means any Know-How or other information that generally facilitates the production, manufacturing, marketing, or sale of products or services, increases revenues, or provides an advantage over the competition, is not generally known, and is the subject of reasonable efforts to maintain its confidentiality.

2. Development.

A. Feasibility and Development.

(i) Feasibility Studies. SVI shall perform work to assess the feasibility of its implantable medical lead technology for use in designing and developing each of the three (3) types of leads described in the Project Plan, attached hereto as Exhibit A. The Parties shall perform the feasibility tasks set forth in Section II of the Project Plan, including the specific experimentation and testing steps, product specifications, protocols, schedules and assignment of responsibilities required to assess the feasibility of each type of lead (each, a "Feasibility Study" and collectively, the "Feasibility Studies"). A Feasibility Study will only be deemed to have been successfully completed once CPI has determined, in its sole discretion, that such Feasibility Study has resulted in a lead meeting the feasibility determination components listed in the Project Plan, and has provided SVI with written notice of its acceptance of such Feasibility Study.

(ii) Development. Within sixty (60) days after successful completion of the first of the Feasibility Studies, CPI will provide SVI written notice whether it elects to proceed with the Project or to exercise its right to terminate this Agreement pursuant to Section 5(B) below. If CPI fails to provide SVI written notice within such 60-day period, CPI shall be deemed to have elected to proceed with the Project. If CPI elects to proceed with the Project, the Parties will move forward with development under the Project Plan. The Parties shall perform the development tasks set forth in Section III of the Project Plan, including the specific experimentation and testing steps, product specifications, protocols, schedules and assignment of responsibilities, to accomplish the development of each type of New Lead. Development of a New Lead will only be deemed to have been successfully completed once CPI has determined, in its sole discretion, that such New Lead meets the relevant product specifications in the Project Plan, and has provided SVI with written notice of its acceptance of such New Lead.

(iii) Technology Transfer. Upon completion of the development for a New Lead, or upon CPI's earlier request, SVI will transfer to CPI all technology (as more specifically listed in Section IV of the Project Plan) useful to enable CPI

and its Affiliates to manufacture, design, and sell the relevant New Lead. Technology Transfer for any New Lead will only be deemed to have been successfully completed once CPI has determined, in its sole discretion, that such Technology Transfer meets the requirements in the Project Plan, and has provided SVI with written notice of its acceptance of such Technology Transfer.

B. Project Administration. Each of SVI and CPI will appoint a project manager to act on its behalf for the Project (each, a "Project Manager") and each Party may replace its Project Manager at any time upon notice to the other Party. SVI's initial Project Manager will be [***]. CPI's initial Project Manager will be [***]. The Project Managers will act as contact persons between the Parties in conducting the Project, and will meet on an as-needed basis as mutually agreed to monitor and discuss the Project's progress. The Project Manager meetings may take place in person or via telephonic or other electronic means of communication as the Parties may agree.

C. Amending Project Plan. CPI may, upon reasonable notice to SVI in writing, request reasonable changes to the Project Plan by notifying SVI of the requested change, including such detail as will allow SVI to evaluate it (a "Change Request"). Within ten (10) business days after SVI's receipt of a Change Request, SVI will, at its own expense, deliver a document to CPI that (i) assesses whether and the extent to which the requested change causes an increase or decrease in the costs or time required to perform the Project, and (ii) incorporates a description of the requested changes (a "Change Control Document"). If CPI accepts the Change Control Document in writing, then the provisions of this Agreement and the Project Plan shall be deemed amended to incorporate such change in accordance with the Change Control Document. If CPI does not accept the Change Control Document in writing within ten (10) business days after CPI's receipt of the Change Control Document, CPI shall be deemed to have rejected the Change Control Document. Absent CPI's acceptance of the Change Control Document in writing, no change requested by CPI pursuant to the Change Request shall be binding on either SVI or CPI.

D. FDA Approval. SVI will assist CPI, at CPI's sole expense, in obtaining applicable regulatory and legal approvals for any New Lead developed under this Agreement or any product in which a New Lead is used, to the extent reasonably requested by CPI. Without limiting the foregoing, if CPI chooses to conduct one or more clinical trials relating to a New Lead or any product in which a New Lead is used, SVI will provide commercially reasonable cooperation and assistance to CPI, at CPI's sole expense, in developing protocols relating to the trial and in conducting the trial, if requested by CPI.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

3. Royalty Products Disputes.

A. Within sixty (60) days after (i) successful completion of a Feasibility Study with respect to a New Lead, (ii) successful completion of the Technology Transfer relevant to a New Lead, and (iii) receipt of FDA approval for a New Lead, CPI shall deliver to SVI a Determination Notice regarding such New Lead. Notwithstanding the foregoing, any failure by CPI to deliver a Determination Notice will not constitute a breach of this Agreement (it being understood, however, that any failure by CPI to deliver a timely Determination Notice could result in SVI having additional time to assert that the New Lead is a Royalty Product in accordance with the procedures of this Section 3 with respect to the applicable Milestone Payment).

B. Within ninety (90) days of SVI's Chief Executive Officer, President or Chief Financial Officer obtaining actual knowledge of (i) successful completion of a Feasibility Study with respect to a New Lead, (ii) successful completion of the Technology Transfer relevant to a New Lead, or (iii) receipt of FDA approval for a New Lead, in each case where CPI has not already delivered a Determination Notice to SVI, SVI shall deliver to CPI written notice requesting that CPI deliver a Determination Notice for such New Lead with respect to the applicable Milestone Payment. Within sixty (60) days following CPI's receipt of such a request, CPI shall deliver to SVI a Determination Notice regarding such New Lead. Notwithstanding the foregoing, (i) any failure by SVI to deliver a request for Determination Notice will not constitute a breach of this Agreement (it being understood, however, that any failure by SVI to deliver a timely request for Determination Notice could result in SVI losing the opportunity to claim that a New Lead constitutes a Royalty Product for purposes of the applicable Milestone Payment), and (ii) to the extent CPI determines that the New Lead is or will become a Royalty Product, SVI need not request any further Determination Notice(s) from CPI with respect to the same New Lead.

C. To the extent there is any dispute between the Parties as to whether a New Lead constitutes (or will constitute) a Royalty Product (any such dispute being referred to herein as a "Royalty Product Dispute"), such Royalty Product Dispute shall be exclusively resolved pursuant to the provisions of this Section 3. SVI may deliver to CPI written notice of its intent to begin a Royalty Product Dispute within, and only within, the following timeframes. For the purposes of clarity, if SVI fails to deliver to CPI written notice of a Royalty Product Dispute within the following timeframes, SVI waives its rights to challenge CPI's determination or to otherwise claim that a New Lead constitutes (or will constitute) a Royalty Product for purposes of the applicable Milestone Payment.

(i) If CPI has delivered a Determination Notice for a particular New Lead, SVI's written notice of any Royalty Product Dispute regarding such New Lead must be

delivered to CPI either (x) within thirty (30) days after receiving the applicable Determination Notice, or (y) within thirty (30) days after issuance of a Royalty Patent with a different allowed claim scope than existed at the time of such Determination Notice (in the case of (y), however, the Royalty Product Dispute must be limited to such different allowed claim scope).

(ii) If CPI failed to deliver a Determination Notice for a particular New Lead following a written request from SVI pursuant to Section 3(B), SVI's written notice of any Royalty Product Dispute regarding such New Lead must be delivered to CPI within ninety (90) days after such written request was delivered to CPI.

(iii) If CPI did not deliver a Determination Notice for a particular New Lead and SVI was required to, but did not, deliver to CPI a written request for a Determination Notice pursuant to (and in particular, within the timeframe of) Section 3(B), then SVI waives its right to claim that such New Lead is a Royalty Product for purposes of the applicable Milestone Payment.

D. In the event the Parties are unable to resolve a Royalty Product Dispute informally within forty-five (45) days after delivery of SVI's written notice of such Royalty Product Dispute, the Parties shall hire an experienced patent attorney who is knowledgeable in the field of intellectual property law relating to medical devices and who (and whose firm) shall have no current or prior (within the preceding five year period) business relationships with the Parties or any of their respective Affiliates to offer an opinion, within a reasonable amount of time as mutually agreed upon by the Parties, as to whether the New Lead subject to the Royalty Product Dispute constitutes a Royalty Product (the "Opinion"). If either Party challenges the Opinion, resolution of the Royalty Product Dispute will proceed as follows under this Section 3. The cost of such patent attorney shall be shared equally between the Parties.

E. No Party hereto may invoke, demand, file or otherwise commence an arbitration pursuant to Section 3(F) until the Parties have completed a good faith mediation of the applicable Royalty Product Dispute in accordance with the following provisions:

(i) Within thirty (30) days after a Party receives notice from the other Party that such other Party challenges the Opinion, the Parties shall confer to jointly select a mediator.

(ii) If CPI and SVI cannot agree on a mediator pursuant to Section 3(E)(i) above, such Parties shall request the International Institute for Conflict Prevention & Resolution ("CPR") to provide, within ten (10) days of making such request, a list of ten (10) neutral proposed mediators who are experienced patent attorneys or attorneys with substantial patent litigation experience, in each case who are knowledgeable in the field of intellectual property law relating to the development of medical devices and who (and

whose firms) shall have no current or prior (within the preceding five year period) business relationships with either of the Parties or any of their respective Affiliates.

(iii) CPI and SVI each shall have fifteen (15) days to object to any proposed mediator due to a conflict of interest or other lack of qualifications, and any proposed mediator to which either CPI or SVI objects shall be removed from the list of proposed mediators provided by CPR. Within a period of five (5) days following the end of such fifteen (15) day objection period, CPI and SVI will then separately rank the remaining mediators, and deliver such ranking to the other Party, and the highest combined ranked mediator shall be selected. Any such mediation shall be completed within forty-five (45) days after the date on which the mediator is selected.

(iv) The cost of such mediator shall be shared equally between the Parties.

F. In the event that no agreement is reached by CPI and SVI as to a Royalty Product Dispute following a good faith mediation in accordance with Section 3(E) above, either CPI or SVI, acting alone, may deliver to the other Party written notice demanding arbitration within twenty (20) days following the completion of such mediation undertaken, in which case the following provisions shall apply:

(i) CPI and SVI hereby agree to use their reasonable best efforts to complete such arbitration within one hundred and eighty (180) days of receipt of notice demanding arbitration.

(ii) The arbitration shall be conducted in accordance with the then current CPR Rules for Nonadministered Arbitration, as such rules are modified by this Section 3(F) or by agreement of CPI and SVI.

(iii) The arbitration shall be conducted in Washington, D.C. by a panel of three (3) neutral arbitrators (the "Arbitrators") who shall be experienced patent attorneys or attorneys with substantial patent litigation experience, in each case who are knowledgeable in the field of intellectual property law relating to the development of medical devices and who (and whose firms) shall have no current or prior (within the preceding five year period) business relationships with either of the Parties or any of their respective Affiliates. Within fifteen (15) days after receipt of notice demanding arbitration, CPI and SVI shall request CPR to provide, within ten (10) days of making such request, a list of fifteen (15) qualified neutral proposed Arbitrators.

(iv) CPI and SVI each shall have fifteen (15) days to object to any proposed Arbitrator due to a conflict of interest or other lack of qualifications, and any proposed Arbitrator to which either CPI or SVI objects shall be removed from the list of proposed Arbitrators provided by CPR. Within a period of five (5) days following the end of such fifteen (15) day objection period, CPI and SVI will then separately rank the remaining proposed Arbitrators, and deliver such ranking to the other Party, and the three (3) highest combined ranked proposed Arbitrators shall be selected to be the Arbitrators.

(v) The Arbitrators shall apply the substantive laws of the Federal Circuit Court of Appeals as to any Patents involved in the Royalty Product Dispute.

(vi) Discovery shall be limited to document requests, requests for admission and depositions. CPI and SVI each shall be entitled to present expert witness testimony regarding the issues of whether the New Lead at issue constitutes a Royalty Product pursuant to this Agreement. CPI and SVI each shall, within sixty (60) days after receipt of a written request by the other Party, make a reasonable search for and provide to the other Party documents reasonably relevant to the issues raised by any claim or counterclaim. CPI, on the one hand, and SVI, on the other hand, each shall be limited to twenty (20) hours of non-expert depositions and fourteen (14) hours of expert depositions.

(vii) CPI and SVI shall be entitled to a hearing and a post-hearing briefing, the scheduling and length of which shall be determined by the Arbitrators.

(viii) The arbitration of any Royalty Product Dispute pursuant to this Section 3(F) shall be final and binding upon the Parties and judgment upon the decision may be entered in any court of competent jurisdiction. The Arbitrators shall be entitled to render a determination of the disputed items in any Royalty Product Dispute only and shall not be entitled to award damages or other relief unless the Arbitrators determine that a Party has acted in bad faith with respect to the Royalty Product Dispute.

(ix) The cost of any arbitration pursuant to this Section 3(F), including the cost of the record or transcripts thereof, if any, administrative fees, and all other fees involved including reasonable attorneys' fees incurred by the Party determined by the Arbitrators to be the prevailing Party, shall be borne by the Party determined by the Arbitrators not to be the prevailing Party, or as otherwise determined by the Arbitrators.

(x) Any determinations made pursuant to this Section 3(F) shall, in the absence of fraud or intentional misconduct, be conclusive for all purposes of this Agreement, and CPI, SVI and any Arbitrators appointed pursuant to Section 3(F) each shall be free from any and all liability resultant from such.

4. Milestones; Payments. CPI shall make payments to SVI for development of a Royalty Product in accordance with the milestones identified generally below, and described with more particularity in the Project Plan (the "Milestones"). Notwithstanding Section 4(A), 4(B) and 4(C) below, a Milestone Payment is due and payable only if (x) the New Lead is a Royalty Product (i.e., covered by an issued Royalty Patent), and (y) the License Agreement is in full force and effect on the date such Milestone Payment would otherwise become due. If a New Lead that was not a Royalty Product at the time a Milestone Payment otherwise would have been due (as provided below) later becomes a Royalty Product upon issuance of a Royalty Patent, CPI will retroactively make the applicable Milestone Payment(s) to SVI (provided it has not already made such payment(s)) within forty-five (45) days of final determination that such New Lead is a Royalty Product, pursuant to Section 3 above.

A. Milestone One Payment. Within forty-five (45) days after successful completion of the Feasibility Study for a New Lead described in the Project Plan pursuant to Section 2(A)(i) above ("Milestone One"), CPI will pay to SVI the following amounts: Acceptance of the Brady Lead Feasibility Study - five hundred thousand ($500,000.00) dollars; Acceptance of the Heart Failure Lead Feasibility Study - four million ($4,000,000.00) dollars; Acceptance of the Tachy Lead Feasibility Study - four million ($4,000,000.00) dollars.

B. Milestone Two Payment. If Milestone One has been achieved with respect to at least one of the Feasibility Studies, and CPI does not exercise the Termination Option in Section 5(B) below, within forty-five (45) days after successful completion of the first Technology Transfer relevant to a New Lead pursuant to Section 2(A)(iii) above ("Milestone Two"), CPI will pay SVI five hundred thousand ($500,000.00) dollars. For purposes of clarity, there is only a single Milestone Two payment, even if there is Technology Transfer for all three (3) lead types.

C. Milestone Three Payment. If Milestone Two has been achieved, within forty-five (45) days after receipt of FDA approval, if any, for a New Lead described in the Project Plan ("Milestone Three"), CPI will pay SVI the following amounts: Brady Lead FDA approval - one million ($1,000,000.00) dollars; Heart Failure Lead FDA approval - five million ($5,000,000.00) dollars; Tachy Lead FDA approval - five million ($5,000,000.00) dollars. For purposes of clarity, there is only a single Milestone Three payment for each lead type, regardless of FDA approval for multiple lead designs of a single lead type.

D. Subject to Section 6(B) of the License Agreement, on and after the date hereof, CPI shall have full control, authority and discretion over any and all commercialization of Royalty Products, including: (i) all activities relating to clinical trials for Royalty Products, including commencement, termination, patient enrollment, design and timing, (ii) all activities relating to the manufacture and supply of the Royalty Products; (iii) all marketing, promotion, sales, distribution, import and export activities relating to the Royalty Products; and (iv) all activities relating to any regulatory filings, registrations, applications and approvals relating to any of the foregoing. As between the Parties, CPI shall own all data, results and all other information arising from any such activities under this Agreement, including all regulatory filings, registrations, applications and approvals relating to Royalty Products, and all of the foregoing information, documentation and materials shall be considered Confidential Information owned solely by CPI. Other than funding for the activities required to be performed by SVI, as specifically identified in the Project Plan, as between the Parties the funding of these activities will be by CPI. It is hereby acknowledged and agreed that notwithstanding any and all

rights granted to CPI herein, or pursuant to the License Agreement, CPI shall have no obligation whatsoever to exercise such rights.

E. After the completion of Milestone One, SVI will remain, and will use its commercially reasonable efforts to cause its employees and contractors to remain, available for consulting related to the technology and its use in the Implantable Cardiac Field, at commercially reasonable mutually agreed upon terms.

5. Term and Termination.

A. Term. Unless sooner terminated pursuant to this Section 5, the term of this Agreement will begin as of the Effective Date and shall remain in full force and effect until, and shall expire upon, FDA approval of a lead design for each of the three (3) lead types described in the Project Plan ("Term").

B. Termination Option by CPI. CPI may, in its sole discretion, elect not to continue with further development and terminate this Agreement upon written notice to SVI within sixty (60) days after successful completion of the first Feasibility Study pursuant to Section 2(A)(i) above (the "Termination Option").

C. Termination for Cause.

(i) *Termination for Breach.* Either Party may terminate this Agreement for cause on thirty (30) days' written notice (the "Cure Period") to the other Party in the event of a breach of any material provision of this Agreement by such other Party; provided that, during the Cure Period, the breaching Party fails to cure such breach. In the event the noticed breach is incapable of cure, the non-breaching Party may terminate the Agreement immediately upon written notice to the other Party.

(ii) *Cross Termination.* In the event that either Party terminates the License Agreement for the other Party's breach of any material provision thereof, the terminating Party, in its sole discretion, may, at that time, terminate this Agreement for cause upon written notice to the other Party. Termination of this Agreement under this Section 5(C)(ii) shall be effective as of the termination date of the License Agreement.

(iii) *Termination for Insolvency.* Either Party may terminate this Agreement without notice if the other Party becomes insolvent, makes or has made an assignment for the benefit of creditors, is the subject of proceedings in voluntary or involuntary bankruptcy instituted on behalf of or against such Party (except for involuntary bankruptcies which are dismissed within sixty (60) days), or has a receiver or trustee appointed for substantially all of its property.

(iv) *No Prejudice.* Any termination by any Party under this Section 5(C) shall be without prejudice to any damages or remedies to which it may be entitled from the other Party.

(v) *Termination for Change in Control.* Upon any Change in Control of SVI, CPI may, in its sole discretion, terminate this Agreement upon written notice, or, notwithstanding the provisions of Section 16(G), unilaterally amend this Agreement to eliminate any further work on any one or more specific lead types. SVI shall give CPI prompt written notice of any Change in Control of SVI.

D. Effect of Termination. Upon expiration of this Agreement or termination of this Agreement by either Party, (i) each Party will comply with Section 9(E) ("Return of Information"), and (ii) SVI will effect a Technology Transfer of all Development IP in whatever form or stage of completion the subject of such Technology Transfer may be in at the time of such expiration or termination.

E. Survival. Expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination. Without limiting the foregoing, the obligations pursuant to Sections 1, 4(A), 4(B), 4(C) (it is understood, however, that Sections 4(A), 4(B) and 4(C) will survive without prejudice to any right that CPI may have to damages or offset), 5(D), 5(E), 6, 7, 8, 9, 10, 11, 13, 15 and 1 6 shall survive termination of this Agreement. Notwithstanding the foregoing, no claim for breach of warranty or representation under Section 10 may be brought unless it is either (i) brought no later than two years following the latter of the termination or expiration of this Agreement or the License Agreement, or (ii) brought anytime as a counterclaim or a defense.

6. Intellectual Property Ownership; Licenses.

A. Ownership.

(i) *Ownership of Development IP.* Development IP will be solely owned by CPI (or, to the extent Bionics has rights under the Bionics Agreement, then solely owned by CPI and Bionics). SVI waives any and all of its rights contained in Section 11.1(b) of the Bionics Lead Development Agreement ("Intellectual Property Re-Transfer and Cross-License") with respect to any and all Development IP.

(ii) *Restriction on Tail Period.* In no event shall the Development IP include any BSC Solely Invented Development IP, SVI Solely Invented Development IP or Joint Development IP that is conceived and reduced to practice following the Term if CPI terminates this Agreement pursuant to Section 5(B) or Section 5(C)(v).

B. Assignment. SVI hereby assigns and transfers, and shall cause its employees and consultants to assign and transfer, to CPI (or, to the extent

Bionics has rights under the Bionics Agreement, then jointly to CPI and Bionics) all right, title, and interest for all countries in and to all Development IP.

C. Further Assurances. Each Party agrees to (and to cause its Affiliates, and its and their employees, agents and consultants to) promptly and fully disclose in writing to the other Party all Development IP, including all invention disclosure forms or other internal documents as such Party utilizes in the ordinary course of its business to document new inventions. SVI agrees to (and to cause its Affiliates, and its and their employees, agents and consultants to): (i) execute all documents necessary to effect its assignment of such Development IP, (ii) assist CPI and its Affiliates as set forth in Section 7, at CPI's or such Affiliates' expense, in obtaining foreign and domestic intellectual-property protection on all Development IP and enforcing same, (iii) execute all documents necessary to obtain such intellectual-property protection in the name of CPI and its Affiliates, and (iv) maintain all information relative to all Development IP, as Confidential Information of CPI and its Affiliates subject to the confidentiality provisions (including permitted disclosures) set forth in this Agreement.

D. SVI Licenses. CPI hereby grants SVI (i) an exclusive, fully paid, sublicensable, worldwide, perpetual license to all Development IP that is SVI Solely Invented Development IP for use within the SVI Grant-Back Field, and (ii) a non-exclusive, fully paid, sublicensable, worldwide, perpetual license to all Development IP (with the exception of the Bionics Reserved IP) that is BSC Solely Invented Development IP or Joint Development IP, for use within the SVI Grant-Back Field. CPI agrees to (and to cause its Affiliates to) execute confirmatory licenses reasonably requested by SVI to evidence SVI's rights herein set forth.

E. CPI License. SVI hereby grants CPI an exclusive, fully paid, sublicensable, worldwide license in the Field for any Surgi-Vision IP developed or acquired during the Term and a period of two (2) years thereafter, that is not already owned, assigned or licensed to CPI or its Affiliates, provided, that (i) the foregoing license shall terminate in the event CPI exercises the Termination Option, and (ii) in no event shall the foregoing license include any Intellectual Property Rights conceived or reduced to practice by SVI (or its Affiliates, employees, agents or consultants) that relate to the System (as defined in the Bionics Lead Development Agreement), but which do not in any way relate to the Lead (as defined in the Bionics Lead Development Agreement), for which Bionics has not contributed to the conception or design. Subject to the foregoing, the Parties acknowledge that this license is intended to capture Surgi-Vision IP developed or acquired in the time frame described hereinabove which, although related to the Field, is not "primarily" related to the Field. For the avoidance of any doubt, in no event (x) does this

paragraph relate to Royalty Patents, and (y) does the foregoing license affect Bionics' obligation to make royalty payments to SVI otherwise pursuant to the Bionics License Agreement.

F. Recordation. SVI and CPI shall cooperate to prepare a Short Form Registration Statement and/or confirmatory assignment(s) and license(s) in any countries as to which either Party so desires. Each Party may, at its own expense, record such Short Form Registration Statements and/or confirmatory assignment(s) and license(s).

G. Joint Development Agreement. This Development Agreement is and is intended to be a "joint development agreement" within the meaning of 35 U.S.C. § 103(c).

7. Patent Prosecution.

A. Costs. CPI and its Affiliates will pay all Patent Prosecution costs and expenses for all Patents subject to their sole control, as set forth in Section 7(B) below ("Prosecution Costs").

B. Intellectual Property Protection. With respect to any BSC Controlled IP, CPI and its Affiliates will jointly control the Prosecution of all Patents, each at its own expense and with legal counsel of its own choice, and will take such other legal steps as CPI and its Affiliates will determine in their sole discretion to be necessary to protect their rights for all BSC Controlled IP. For the avoidance of doubt, neither CPI nor its Affiliates will be obligated to pay any Prosecution Costs to protect any Intellectual Property if they determine, in their sole discretion, that those Prosecution Costs outweigh the likely benefits to CPI or such Affiliate.

C. SVI Cooperation. SVI will cooperate with CPI and its Affiliates in filing, Prosecuting and maintaining Patents and taking such other legal steps as set forth in this Section 7 and will execute and deliver any documents and instruments in connection therewith which CPI or its Affiliates may request at no additional cost or expense to CPI or such Affiliate.

D. SVI Intervention. CPI (or its applicable Affiliate) will provide written notice to SVI prior to abandoning any patent application or issued Patent that is part of the BSC Controlled IP. If SVI desires to file and Prosecute any patent application, or to pay maintenance fees or annuities to maintain any issued Patent, that CPI or its Affiliates determined was not worthwhile to protect CPI's or such Affiliates' rights, SVI may provide CPI with a reasonable written request to file and Prosecute or maintain such Patent ("Prosecution Request"). If CPI fails to complete the Prosecution Request after thirty (30) days of receiving the Prosecution Request, then as between the Parties: (i) SVI may independently file and Prosecute the patent application or maintain the issued Patent that was the subject of the

Prosecution Request; (ii) SVI will bear all Prosecution Costs with respect to such patent application or issued Patent; (iii) SVI will control the remainder of the Prosecution for the patent application or the maintenance of the issued Patent that was the subject of the Prosecution Request; and (iv) CPI and its Affiliates will have the right (but not the obligation) to participate in an advisory capacity in such Prosecution. The Parties acknowledge and agree that any action by SVI pursuant to this Section 7(D) will not confer or convey any ownership rights in the subject Patent to SVI, and will not otherwise adversely affect any of CPI's or its Affiliates' rights in same.

8. Enforcement.

A. Notice of Infringement. If either Party learns of any actual, alleged or threatened Infringement of any BSC Controlled IP by a Third Party, such Party shall promptly notify the other Party and shall provide such other Party with all available evidence of such Infringement.

B. Enforcement [***]. As between the Parties, [***] shall have the sole right (but not the obligation), each at its own expense and with legal counsel of its own choice, to bring suit (or take other appropriate legal action) against any actual, alleged or threatened Infringement of [***] provided, however, that [***] shall have the right (but, subject to Section 11(C) below, not the obligation) to participate in an advisory capacity only in the institution and prosecution of any such Infringement suit, [***].

C. Join in Action. If either [***] brings any such action or proceeding hereunder, [***] agrees to be joined as party plaintiff if necessary to prosecute such action or proceeding, and, at [***] expense, to give [***] reasonable assistance and authority to file and prosecute the suit; provided, however, that neither [***] shall be required to transfer any right, title or interest in or to any property to [***] or any Third Party to confer standing on [***] hereunder.

D. Costs. [***] will pay all costs, fees, and expenses associated with an Infringement action they have initiated and prosecuted. [***] will pay all costs, fees, and expenses associated with [***] participation in an advisory capacity under Section 8(B).

E. Recovery. Any recovery obtained in an action initiated and prosecuted solely by [***], and in which [***] does not participate in an advisory capacity, shall belong to [***]. Any recovery obtained in an action initiated and prosecuted by [***], and in which [***] participates in an advisory capacity, shall be

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

allocated in a fair and equitable manner mutually determined by the Parties. For purposes of clarity, any recovery pursuant to this section will be net of litigation costs as provided in Section 8(D) above.

F. Cooperation. [***] agrees to fully cooperate with [***] in the prosecution of any such suit at no additional expense to [***].

9. Confidentiality.

A. Ownership of Confidential Information. The Parties agree that (i) all BSC Controlled IP will be deemed to be Confidential Information owned by CPI (irrespective of which Party generated, development or first shared or disclosed such information), (ii) all BSC Core Product Information generated or developed by CPI, its Affiliates, or a Third Party on behalf of CPI or its Affiliates will be deemed to be Confidential Information owned by CPI, and (iii) the terms and existence of the Definitive Agreements are Confidential Information owned by both Parties. Except as otherwise expressly provided in this Section 9, neither Party is subject to the obligations of a "non-owning Party" with respect to Confidential Information that is owned by both Parties. Except as otherwise expressly provided in this Agreement, for all other Confidential Information, the "owning Party" is deemed to be the disclosing Party. Confidential Information shall remain the property of the owning Party, and the non-owning Party shall not be deemed by virtue of this Agreement or any access to the owning Party's Confidential Information to have acquired any right, title or interest in or to any Confidential Information, except the limited right to use such Confidential Information in accordance with the terms of the Definitive Agreements or other agreements between the Parties or their Affiliates.

B. Non-Use and Non-Disclosure. Prior to the commencement of the Term, certain Confidential Information was exchanged between the Parties under the terms of the Earlier Confidentiality Agreement. Likewise, from time to time during the Term, either Party may make available to the other Party or otherwise generate or develop Confidential Information. The non-owning Party will maintain the owning Party's Confidential Information in confidence and will not use such Confidential Information except as reasonably necessary to perform its obligations and exercise its rights under this Agreement or other agreements between the Parties or their Affiliates. Notwithstanding any provision to the contrary contained in the Bionics Lead Development Agreement, SVI agrees and acknowledges that CPI and its Affiliates may share all of SVI's Confidential Information with and among each of their respective Affiliates for use solely within the Field, provided that (i) prior to any such sharing of SVI's Confidential Information such Affiliates are bound by obligations of confidentiality, non-disclosure and non-use substantially similar in scope to those in this Agreement and (ii) CPI shall be

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

responsible for any breach of confidentiality, non-disclosure and non-use by any such Affiliate. Neither Party will disclose the other Party's Confidential Information without the prior written consent of the other Party, except as permissible in Section 9(D) below or in other agreements between the Parties or their Affiliates. All Confidential Information will be treated by the non-owning Party with the same care as it would exercise in the handling of its own Confidential Information, but not less than reasonable care. The limitations and undertakings specified in this Section 9 shall survive termination of this Agreement for a period of five (5) years.

C. Standard Exceptions. The obligations of Sections 9(B), (E) and (F) do not apply to any of the other Party's Confidential Information: (i) which, other than the Development IP, is already known by the non-owning Party at the time of the disclosure; (ii) following such information becoming publicly known without the wrongful act or breach of this Agreement by the non-owning Party; (iii) following such information becoming rightfully received by the non-owning Party from a Third Party without breaching any confidentiality obligation owed by such Third Party to the owning Party; (iv) following such information becoming approved for release by written authorization of the owning Party; or (v) other than the Development IP, following such information becoming subsequently and independently developed by employees or representatives of the non-owning Party without knowledge or use of the owning Party's Confidential Information. The burden of proving the existence of facts which would provide an exception under this Section 9(C) rests with the non-owning Party. Notwithstanding any provision herein to the contrary, to the extent required under the JHU Agreements, SVI shall be permitted to disclose the terms of this Agreement to JHU.

D. Permitted Disclosures. Each Party may disclose the other Party's Confidential Information:

(i) to the extent reasonably necessary for a Party to prepare, file and Prosecute a Patent application under this Agreement or other agreements between the Parties or their Affiliates;

(ii) to the extent permissible under any other agreements between the Parties or their Affiliates;

(iii) to the extent reasonably necessary for a Party to develop or commercialize, directly or indirectly through one or more licensees, products related to or utilizing Intellectual Property within its allocated (or retained) field of rights pursuant to this Agreement or the Development Agreement; provided that: (a) such disclosure may include the disclosure of this Agreement's existence and the scope of any license granted hereunder; (b) prior to making any such disclosure pursuant to this subsection, such Party will, if reasonably practical, take reasonable steps to limit the scope of such disclosure and its effect on confidentiality; and (c) this subsection will not apply to any BSC Core Product Information owned by CPI;

(iv) to the extent reasonably necessary for the purposes of this Agreement or other agreements between the Parties, to its respective Affiliates, consultants, agents, advisors, attorneys, outside contractors and clinical investigators, but only if those Persons are bound by obligations of confidentiality, non-disclosure, and non-use substantially similar in scope to those in this Agreement; provided, such Party shall be responsible for any breaches of confidentiality, non-disclosure and non-use by any such Affiliate, consultant, agent, advisor, attorney, outside contractor or clinical investigator to whom disclosure is made;

(v) in connection with communications to such Party's stockholders and prospective investors; provided that unless otherwise agreed between the Parties: (a) such stockholders and prospective investors are subject to obligations of confidentiality no less stringent than those contained herein; and (b) such disclosure be expressly limited to the existence of this Agreement and the scope of any license granted hereunder;

(vi) to the extent reasonably necessary to enforce this Agreement or other agreements between the Parties or their Affiliates;

(vii) to the extent reasonably necessary to comply with a subpoena, court order, or administrative order. Before complying, the Party subject to such subpoena, court order or administrative order will notify the other Party, allow the other Party a reasonable time to oppose the disclosure, and reasonably cooperate with the other Party's efforts to do so; or

(viii) to the extent reasonably necessary to comply with an applicable law, rule, regulation of any Governmental Authority or securities exchange, including the FDA, the Securities and Exchange Commission and the New York Stock Exchange. Before complying, the Party subject to such law, rule or regulation will notify the other Party, allow the other Party a reasonable time to seek a protective order (if appropriate), and reasonably cooperate with the other Party's efforts to do so.

E. Return of Information. Upon termination or expiration of this Agreement for any reason, each Party will return or destroy (at the other Party's choice) all Confidential Information owned by such other Party then in its possession and, if applicable, provide a certification of such destruction.

F. Injunctive Relief. Each Party acknowledges and agrees that the breach of this Section 9 would be likely to cause serious and irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Each Party therefore agrees that if the other Party breaches this Section 9 or if such Party has cause to

believe that the other Party intends to or is about to breach such provisions, then such Party will be entitled to seek injunctive relief enjoining the breach and will have the right to specifically enforce this Agreement and the terms and provisions hereof in addition to any other remedy available at law or in equity.

G. Termination of Earlier Confidentiality Agreement. The Parties agree that the Earlier Confidentiality Agreement will terminate as of the Effective Date, and that any and all Confidential Information exchanged or disclosed by the Parties pursuant to the Earlier Confidentiality Agreement will be subject solely to the terms of this Section 9 and Section 9 of the License Agreement.

10. Representations, Warranties and Covenants.

A. No Conflicting Agreements. SVI represents, warrants and covenants that, after giving effect to the Bionics Amendment, it has not and will not enter into any agreement or commitment or obligation with any Third Party or Affiliate that conflicts in any way with its obligations under this Agreement. CPI represents, warrants and covenants that it has not and will not enter into any agreement or commitment or obligation with any Third Party or Affiliate that conflicts in any way with its obligations under this Agreement.

B. Authority. Each Party represents and warrants that, as of the Effective Date and after giving effect to the Bionics Amendment: (i) it has the full right, power, and authority to execute and deliver this Agreement and to perform its terms; (ii) it has taken all required corporate actions to approve and adopt this Agreement; (iii) this Agreement is enforceable against it according to its terms, subject to bankruptcy, insolvency, and other laws relating to or affecting creditors' rights and to general equity principles; and (iv) the person or persons executing this Agreement on its behalf are duly authorized and empowered to do so.

C. Sufficiency. SVI represents and warrants that Exhibit A and Exhibit D to the License Agreement collectively set forth a true and complete list, as of the Effective Date, of all Patents related to the development of the Licensed Products pursuant to the Development Agreement which are (i) owned or co-owned by SVI, and (ii) licensed to SVI (complete with the name of the Third Party Licensor of each licensed Patent) in the Implantable Cardiac Field. SVI represents and warrants that all items required to be disclosed pursuant to clause (ii) are licensed exclusively to SVI and constitute Surgi-Vision IP

D. Personnel.

(i) Each Party represents, warrants and covenants that all individuals, including employees and consultants, authorized, invited, or otherwise involved by such Party, its employees, or consultants, to assist in the Project, have or will have a legal obligation to assign, license, or grant an option to license to the relevant Party all their Intellectual Property Rights related to, arising from, or based on the Project.

(ii) During the Term and for one (1) year thereafter, SVI will ensure that no Key Employee will consult, research or develop products for themselves, SVI, any Affiliate of SVI or any Third Party within the Implantable Cardiac Field, other than for or on behalf of SVI pursuant to this Agreement. For the avoidance of doubt, Key Employees will be free to consult, research and develop products for themselves, SVI, any Affiliate of SVI and any Third Party for all use outside the Implantable Cardiac Field (including, for example, MRI-guided cardiac EP systems). Notwithstanding the foregoing, the one-year tail period described in the first sentence of this Section 10(D)(ii) shall not apply if CPI terminates this Agreement pursuant to Section 5(B) or Section 5(C)(iv).

E. Non-Infringement. SVI represents and warrants as of the Effective Date that, to its actual knowledge, the New Leads will not Infringe any Patents, Trade Secrets, copyrights or other Intellectual Property Rights of any Third Party or Affiliate. If, at any time, SVI becomes aware or has reason to believe that the New Leads may Infringe any Patents, Trade Secrets, copyrights or other Intellectual Property Rights of any Third Party or Affiliate, SVI shall promptly notify CPI in writing of such awareness or belief, describing in reasonable detail the basis for same.

F. Freedom to Operate. SVI represents and warrants that, as of the Effective Date, it has not received and has no knowledge of any Claim by a Third Party containing any express or implied allegation that SVI, its Third Party Licensors or the Surgi-Vision IP is or may be Infringing any of such Third Party's Intellectual Property Rights, except that (a) SVI knows of a Third Party's attempt to invoke an interference against U.S. 6,904,307, (b) SVI has filed a re-issue with respect to U.S. 6,904,307, and (c) SVI has filed a patent application (application number [***]) attempting to [***]. If, at any time during the Term, SVI receives or becomes aware of any such Claim, SVI shall promptly notify CPI of such Claim in writing, describing the Claim in reasonable detail (but performing and providing no written analysis regarding the Claim). Provided CPI has not exercised its Termination Option, upon such notice, CPI may, in its sole discretion, evaluate such Claim to determine whether a license of the Third Party's Intellectual Property is necessary or desirable, or whether such Third Party's Intellectual Property may otherwise have a material effect on the Surgi-Vision IP in the Implantable Cardiac Field.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

G. Know-How and Trade Secrets. SVI represents, warrants and covenants that: (i) it has taken, and will continue to take, all actions that a reasonably prudent person would take to maintain its Trade Secrets as confidential and proprietary, and to protect against the loss, theft or unauthorized use of such Trade Secrets; (ii) its Trade Secrets are not in the public domain and have not been divulged or appropriated to the detriment of SVI; and (iii) SVI's records do and will continue to include sufficient documentation of the Know-How and Trade Secrets, such as manufacturing and engineering plans, blueprints, designs, process instructions, formulae, quality assurance protocols and procedures and the like, to enable persons who are reasonably skilled and proficient in the relevant subject matter to continue the same in the ordinary course of business without unreasonable delay, expense, or reliance on the memory of any individual.

H. Disclosure. SVI represents and warrants that in the course of diligence and negotiations leading up to the execution of this Agreement, SVI has not misrepresented to CPI any material information regarding the Surgi-Vision IP, the technology related thereto, the to-be-developed Development IP and the New Leads.

11. Indemnification.

A. General Indemnification. Each Party (the "Indemnifying Party") will defend, indemnify and hold harmless the other Party (the "Indemnified Party") and all of such Party's Affiliates from and against any and all liabilities, losses, obligations, claims, damages, penalties, causes of action, costs and expenses (including attorneys' fees) (collectively "Damages"), to the extent such Damages arise out of any Third Party claim based on allegations that, if true as alleged, would constitute (i) a breach of the representations and warranties made by it in this Agreement, or (ii) a material breach of its obligations pursuant to this Agreement.

B. Indemnification Procedures. An Indemnifying Party's duty to indemnify pursuant to Section 13(A) is subject to the Indemnified Party giving prompt written notice to such Indemnifying Party of any claim against the Indemnified Party covered by the Indemnifying Party's indemnification obligations hereunder; provided, however, that a delay in such notice to the Indemnifying Party shall not terminate indemnification obligations hereunder, unless such delay shall have materially impaired the defense of such claim. The Indemnifying Party shall have sole and exclusive control of the defense of any such claim, including the choice and direction of any legal counsel. The Indemnified Party may not settle or compromise any such claim without the written consent of the Indemnifying Party.

12. Insurance. Each Party shall procure and maintain the following insurance during the term of this Agreement:

A. Commercial General Liability Insurance. The insurance shall provide coverage against all claims arising from or relating to the Definitive Agreements in any manner including, but not limited to, product liability claims and those claims which allege bodily injuries and/or property damage. The liability limits shall not be less than $1,000,000 per occurrence and $1,000,000 in the aggregate for such claims.

B. Excess Liability Insurance. The insurance shall provide excess liability coverage against the risks specified in subsection A above. The liability limits shall not be less than $1,000,000 per occurrence.

Each Party will, upon request, promptly provide a certificate evidencing that it has insurance coverage as required in this Section 11. Each Party agrees that it will not cancel or materially modify such insurance policies without providing the other Party notice at least thirty (30) days prior to such cancellation or change becoming effective (it being understood that such notice does not in any way impact a Party's obligations to maintain insurance coverage as required in this Section 11).

13. Disclaimer of Warranties. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, NEITHER PARTY MAKES ANY REPRESENTATION OR EXTENDS ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, TO THE OTHER PARTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

14. Exclusivity. During the Term of this Agreement, SVI agrees to pursue development efforts with respect to Brady Leads, Tachy Leads and Heart Failure Leads in the Implantable Cardiac Field only with CPI, and not with any Third Party.

15. Conflicts with Bionics Lead Development Agreement. The Parties agree that, in the event of any conflict between the terms or conditions of this Agreement and the Bionics Lead Development Agreement, this Agreement will control.

16. Miscellaneous.

A. Notices. Any notice or other communication in connection with this Agreement must be in writing, must be addressed as provided below and will be deemed delivered when (a) actually delivered in person or by facsimile, provided that delivery is made during normal business hours, (b) three business days have elapsed after deposit in the United States mail, postage prepaid and registered or certified, return receipt requested, or (c) two business days after sent by nationally recognized overnight receipted courier:

To CPI:

Cardiac Pacemakers, Inc. c/o
Boston Scientific Corporation
One Boston Scientific Place
Natick, MA 01760-1537
Attention: Chief Financial Officer
Phone: 508.650.8000
Fax: 508.650.8956

with copies to:

Boston Scientific Corporation
One Boston Scientific Place
Natick, MA 01760-1537
Attention: General Counsel
Phone: 508.650.8000
Fax: 508.650.8960

and

Cardiac Pacemakers, Inc.
4100 Hamline Avenue North
St. Paul, MN 55112
Attention: Chief Patent Counsel
Phone: 651.582.7196
Fax: 651.582.2926

To SVI:

Kimble L. Jenkins
Surgi-Vision, Inc.
50 North Front Street
19th Floor
Memphis, TN 38103
Phone: 901.531.3236
Fax: 901.579.4979

with copies to:

John C. Thomas, Jr.
Surgi-Vision, Inc.
200 N. Cobb Parkway
Suite 140
Marietta, GA 30062-3585
Phone: 770.514.0077
Fax: 770.424.8236

and

Oscar L. Thomas
Bass, Berry & Sims PLC
100 Peabody Place
Suite 900
Memphis, TN 38103
Phone: 901.543.5905
Fax: 901.543.5999

and in any case at such other address as a Party may specify by written notice in accordance with this Section. All periods of notice will be measured from the date of deemed delivery as provided in this Section.

B. Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns. Neither this Agreement nor any right or obligation hereunder will be assignable by a Party without the prior written consent of the other Party and any purported assignment without such consent will be void; provided that, subject to CPI's exercise of its rights pursuant to Section 5(C)(iv), either Party may, without such prior written consent, assign this Agreement to an Affiliate or in connection with a merger or consolidation (or other similar transaction) or the sale of all or substantially all of its assets in the realm of its respective field under this Agreement; provided, further, that such Party must give the other Party thirty (30) days prior written notice of such assignment. Any permitted assignee will assume all obligations of its assignor under this Agreement. No assignment will relieve any Party of responsibility for the performance of any accrued obligation that such Party then has hereunder.

C. Affiliates. To the extent that CPI allows its Affiliates to exercise rights pursuant to this Agreement (including under a sublicense from CPI), CPI agrees (i) to bind such Affiliates to the confidentiality, use restriction, records/audit, intellectual property enforcement and patent Prosecution provisions of this Agreement and (ii) to be responsible for any breaches by its Affiliates of such provisions. Notwithstanding anything to the contrary, but subject to the previous sentence, if and when CPI allows its Affiliates to exercise rights pursuant to this Agreement (including under a sublicense from CPI), CPI may do so under any form of permission or arrangement, whether written, oral or course of conduct, and if done pursuant to a written document irrespective of whether that particular written document contains within its four corners all of the restrictions and requirements set forth in this Agreement.

D. Force Majeure. If the performance of this Agreement or any obligations under this Agreement, except the making of required payments, is

prevented, restricted, or interfered with by reason of fire, flood, earthquakes, explosion, or other casualty, accident, or act of God; strikes or labor disturbances; war, whether declared or not, or other violence; sabotage; any law, order, proclamation, regulation, ordinance, demand, or requirement of any government agency; or any other event beyond the reasonable control of the Parties, the affected Party, upon giving prompt notice to the other Party, will be excused from such performance to the extent of such prevention, restriction, or interference. The affected Party will use its reasonable efforts to avoid or remove such cause of non-performance or to limit the impact of the event on such Party's performance and will continue performance with the utmost dispatch whenever such causes are removed.

E. Export Controls. A recipient of technical data or products agrees to comply with all United States Department of Commerce and other United States export controls. Each Party agrees that, unless prior authorization is obtained from the Office of Export Administration, it will not knowingly ship or transfer technical data covered by this Agreement or any direct product of such technical data, directly or indirectly, to any country in contravention of any Office of Export Administration requirement.

F. Entire Agreement. This Agreement and its Exhibits, together with the License Agreement, set forth the entire agreement between the Parties and supersede all previous agreements and understandings, whether oral or written, between the Parties with respect to the subject matter of this Agreement.

G. Amendment. This Agreement may not be modified, amended or discharged except as expressly stated in this Agreement or by a written agreement signed in ink by an authorized representative of each Party.

H. Separability. The provisions of this Agreement will be deemed separable. If any provision in this Agreement will be found or be held to be invalid or unenforceable in any jurisdiction in which this Agreement is performed, then the meaning of that provision will be construed, to the extent feasible, to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Agreement that will remain in full force and effect unless the provisions that are invalid or unenforceable substantially impair the value of the entire Agreement to either Party. In such event, the Parties will use their respective reasonable efforts to negotiate a substitute, valid and enforceable provision that most nearly reflects the Parties' intent in entering into this Agreement.

I. Waiver. No waiver of any term, provision or condition of this Agreement whether by conduct or otherwise in any one or more instances will be deemed to be or construed as a further or continuing waiver of any such term, provision or condition or of any other term, provision or condition of this Agreement.

J. Relationship of Parties. Each of the Parties hereto is an independent contractor and nothing herein will be deemed to constitute the relationship of partners, joint venturers, nor of principal and agent between the Parties hereto.

K. Counsel/Interpretation. The Parties and their respective counsel have negotiated this Agreement or have had an opportunity to review this Agreement. The Parties hereto acknowledge and agree that: (a) the rule of construction to the effect that any ambiguities are resolved against the drafting Party will not be employed in the interpretation of this Agreement; and (b) the terms and provisions of this Agreement will be construed fairly as to all Parties hereto and not in favor of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement. When used in this Agreement, the words "including" or "includes" are deemed to be followed by the words "without limitation."

L. Governing Law. The construction, validity and performance of this Agreement will be governed exclusively by the laws of the State of Minnesota, U.S.A., without regard to the principles of conflicts of law. Each Party hereby submits itself for the sole purpose of this Agreement and any controversy arising hereunder to the non-exclusive jurisdiction of the federal and state courts located in the State of Minnesota, and any courts of appeal therefrom, and waives any objection (on the grounds of lack of jurisdiction, venue or forum non conveniens or otherwise) to the exercise of such non-exclusive jurisdiction over it by any such courts. With the exception of an arbitration pursuant to Section 3 above, any action brought by SVI against CPI in connection with this Agreement, must be instituted in the federal or state courts located in the State of Minnesota. A Party shall be entitled to seek within such jurisdiction whatever equitable relief it may be entitled to under applicable law.

M. Headings. The article and section headings in this Agreement are inserted for convenience only and will not constitute a part hereof.

N. No Third-Party Beneficiary Rights. Except with respect to CPI's Affiliates and to Persons receiving indemnification under Section 11, no person not a Party to this Agreement is an intended beneficiary of this Agreement, and no person not a Party to this Agreement will have any right to enforce any term of this Agreement.

O. Compliance with Laws. Each Party will comply in all material respects with all applicable U.S. and foreign statutes, laws, ordinances, rules, orders and regulations in all actions relating to this Agreement and its performance hereunder.

P. Counterparts. This Agreement may be executed in any number of counterparts each of which will be deemed to be an original but all of which together will constitute one and the same instrument, and all signatures need not appear on any one counterpart.

Q. Effect of Bankruptcy. No proceeding, or result or adjudication of a proceeding, in which either of the Parties is a debtor, defendant or party seeking an order for its own relief or reorganization, under any foreign, United States or state bankruptcy or insolvency law will (in and of itself) cause a termination of this Agreement or any of the licenses granted under this Agreement.

R. U.S. Dollars. All Milestone Payments to SVI contemplated in this Agreement shall be made in U.S. Dollars.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

SURGI-VISION, INC.	CARDIAC PACEMAKERS, INC.
BY: /s/ Kim Jenkins	BY /s/ Fred Colen
NAME: Kim Jenkins	NAME: Fred A. Colen
TITLE: Pres	TITLE: Executive Vice President, Operations and Technology CRM

ACKNOWLEDGEMENT BY BIONICS

Boston Scientific Neuromodulation Corporation (formerly known as Advanced Bionics Corporation) acknowledges that even though it is not a party to this Agreement, it hereby agrees that Section 15 of this Agreement shall be binding upon it.

BY: /s/ Michael Onuscheck

NAME: Michael Onuscheck

TITLE: President

EXHIBIT A
PROJECT PLAN

I. Definitions

Capitalized terms used but not defined herein are as defined in the Development Agreement.

Brady Lead: A lead that is used primarily in the right atrium or right ventricle for pacing or sensing and does not deliver high voltage defibrillation therapy.

Tachy Lead: A lead that delivers high voltage defibrillation therapy and could include pacing and sensing capabilities.

Heart Failure Lead: A lead that is used primarily in the cardiac veins for pacing and sensing of the left ventricle and does not deliver high voltage defibrillation therapy.

II. Feasibility Studies

A. CPI may use the results of the Feasibility Studies, among other factors, to make a determination as to whether or not CPI will proceed on a path towards commercialization of a potential New Lead that is a Brady Lead, Tachy Lead or Heart Failure Lead.

B. Feasibility Determination Components. [***]

C. The project manager for the Feasibility Studies is [***].

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

D. The Parties' goal is to complete the first Feasibility Study, and for CPI to accept such study pursuant to Section 2(A)(i) of the Development Agreement, within [***]. CPI may initiate other Feasibility Studies during or after the first Feasibility Study.

E. During each Feasibility Study, SVI will provide expertise in MRI-safe lead design, prototyping capabilities, and MRI-induced heating test capabilities. Specifically, SVI will have the following responsibilities:

[***]

F. CPI will provide expertise specific to the design, testing, manufacture, regulatory approval, and commercialization of implantable CRM leads. CPI will also provide the target specifications for the New Lead to be designed and embodied in a prototype during the Feasibility Study.

G. The Parties will conduct the Feasibility Studies in four basic phases; provided that it is expected that progress will not always move linearly from phase to phase, rather, it may be an iterative process:

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

III. Development

After completion of a Feasibility Study, CPI, in its sole discretion, may decide to initiate technology development and product development projects [***].

IV. Technology Transfer

Transfer from SVI to CPI of all relevant information relating to the use of the technology in the Field relating to each New Lead, including:

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

EXHIBIT B

BSC CORE PRODUCT INFORMATION

BSC Core Product Information is related to the design, development, manufacture, and commercialization of implantable medical leads for all cardiac applications. This includes but is not limited to:

1. Design and development documents, methods, and data
    a. Device specifications
    b. Assembly drawings, including tolerances
    c. Material and component specifications, including tolerances
    d. Material and component supplier capability requirements
    e. Computational design evaluation methods and results, including FEA methods and results
    f. Biomechanics parameters used in design evaluation
    g. Biocompatibility requirements and data
    h. Design verification and validation methods and results, including fatigue testing and biocompatibility testing
    i. Pre-clinical and pre-market human clinical trial methods and results j. MRI performance-related testing methods and results
2. Process development, manufacturing, and process control documents, methods, and data
    a. Manufacturing instructions and production methods, including connection methodologies and parameters, materials preparation and assembly techniques
    b. Supplier selection process, CPI's and its Affiliates' supplier identity and status of supplier relationship
    c. Supplier material and component qualification methods and results
    d. Process validation methods and results
    e. Process control methods and results including sampling plans, test and inspection methods and criteria
3. Regulatory submission documents, methods and data

Any non-public information relating to regulatory approval strategy, and communications with regulatory agencies

Exhibit 10.15

Cooperation and Development Agreement

by and between

SURGIVISION, INC., a corporation duly organized and existing under the laws of the state of Delaware (USA) and having offices at Memphis, Tennessee (USA)

(hereinafter referred to as "SURGIVISION")

and

Siemens Aktiengesellschaft, Healthcare Sector, a corporation duly organized and existing under the laws of Germany and having offices at Erlangen, Germany

(hereinafter referred to as "SIEMENS")

- together hereinafter separately referred to as "PARTY" or jointly as "PARTIES" respectively -

Preamble

SURGIVISION is a leading company developing, manufacturing and selling devices as well as developing treatment plans for various medical indications, such as deep brain stimulation or cardiac ablation.

SIEMENS is a leading company in developing, manufacturing and selling Magnetic Resonance ("MR") Imaging systems, which are used worldwide for diagnostics of a wide variety of medical indications. MR imaging is free of ionizing radiation and is therefore well-suited for continued supervision of treatment procedures.

The PARTIES wish to establish a Cooperation and Development Agreement aiming at a combination of the capabilities of Catheter Ablation and MR imaging in developing a product combination that allows performing the treatment of cardiac arrhythmias by catheter mediated ablation and catheter mediated cardiac electrophysiological mapping procedure under simultaneous MR imaging for worldwide marketing and sales. The PARTIES agree that this treatment consists of a procedure with the involvement of different medical devices, including catheters and mapping technology as well as MR imaging guidance. The PARTIES intend to develop an MR workflow with all required components integrated into the special requirements of the MR environment.

SIEMENS will be in charge of development, regulatory release and sales of the software used for MR imaging, localization and visualization of the mapping and ablation catheters, and resulting lesions. SURGIVISION will be in charge of development, regulatory release and sales of the mapping and ablation catheters as well as any other technology or component required for the application. SURGIVISION will also be in charge of the regulatory release of the different medical devices together as one certified product.

Therefore, having regard to the mutual obligations and covenants contained herein, the PARTIES agree as follows.

1. Definitions

1.1. "AFFILIATE" shall mean a company in which either of the PARTIES owns or controls, directly or indirectly, more than fifty percent (50%) of the stock or voting rights.

1.2. "APPLICATION" shall mean the treatment of cardiac arrhythmia by catheter mediated ablation under simultaneous MR imaging and catheter mediated cardiac electrophysiological mapping under simultaneous MR imaging by using the PRODUCT. In the event the width of an APPLICATION is specified through guidelines of regulatory bodies like SFDA, CE, FDA, such specification shall apply.

1.3. "BACKGROUND PATENTS" shall mean patent applications, patents, utility models and other statutory protection with regard to MR SYSTEM, APPLICATION, CATHETER

TECHNOLOGY, PERIPHERAL TECHNOLOGY, SOFTWARE, INTEGRATION or the PRODUCT under which one PARTY is the owner and/or has the right of determination at any time during the term of this Agreement and which are not a DEVELOPMENT RESULT.

1.4. "CATHETER TECHNOLOGY" shall mean and comprise the invasive medical devices (e.g. guidewire, catheters) supplied by SURGIVISION for the use in the PRODUCT and within and in close proximity to an MR SYSTEM and which are defined in more detail in the specifications set forth in ANNEX 2 to this Agreement. ANNEX 2 may upon mutual agreement be amended from time to time. The CATHETER TECHNOLOGY shall be provided by SURGIVISION as a medical product according to applicable local medical product regulations including, but not limited to, the EU and the USA.

1.5. "CATHETER TECHNOLOGY DEVELOPMENT" shall mean all work and activities related to the development of the CATHETER TECHNOLOGY compatible and safe for use with an MR SYSTEM and in the PRODUCT. The CATHETER TECHNOLOGY DEVELOPMENT is specified in more detail in ANNEX 1.

1.6. "CHANGE OF CONTROL" means with respect to SURGIVISION, in an event or series of related events: a) a sale of all or substantially all of SURGIVISION's assets, voting stock or securities or business relating to this Agreement; b) a merger, reorganization or consolidation involving SURGIVISION in which the stockholders of SURGIVISION immediately prior to such transaction cease to own collectively a majority of the voting equity securities of the successor entity; or c) a person or group of persons acting in concert acquire fifty percent (50%) or more of the voting equity securities of SURGIVISION, For purposes of clarity, the term "CHANGE OF CONTROL" does not intend to include (i) an underwritten public offering of SURGIVISION's common stock pursuant to an effective Registration Statement under the Securities Act of 1933, as amended, or (ii) any sale of share or capital stock of SURGIVISION, in a single transaction or series of related transactions principally for bona fide equity financing purposes in which SURGIVISION issues new securities to financial and/or venture capital investors primarily for cash or the cancellation or conversion of indebtedness of SURGIVISION or a combination thereof for the purpose of financing the operations and business of SURGIVISION.

1.7. "DEVELOPMENT WORK" means any and all work to be performed by SIEMENS and/or SURGIVISION in the frame of this Agreement.

1.8. "DEVELOPMENT RESULTS" means any and all results, whether patentable or not, in written or oral form, achieved or created by SIEMENS and/or SURGIVISION in the frame of this Agreement.

1.9. "DIRECT COMPETITOR" with respect to SIEMENS means an entity that (i) has an MR scanner product line; (ii) currently develops an MR scanner product line; or (iii) publicly

announces that it is in the process of acquiring or already acquired an MR scanner product line or an entity owning or developing an MR scanner product line. The company Medtronic Inc. or its affiliates or subsidiaries (hereinafter "Medtronic") shall not be deemed a DIRECT COMPETITOR under (i) and (ii) with regard to Medtronic's existing MR scanner product (ODIN, hereinafter "ODIN"), as long as Medtronic does neither use ODIN in the FIELD, nor develop ODIN for use in the FIELD, nor publicly announces that it intends to use or develop ODIN for use in the FIELD.

1.10. "FIELD" shall mean treatment of cardiac arrhythmia by catheter mediated ablation under simultaneous MR imaging and catheter mediated cardiac electrophysiological mapping under simultaneous MR imaging.

1.11. "INDIRECT COMPETITOR" in respect to SIEMENS means an entity that is not a DIRECT COMPETITOR but which has a product line that competes with the MR scanner product line of SIEMENS.

1.12. "INFLUENCE TEST" shall mean the testing process that determine the influence of an external system (CATHETER TECHNOLOGY and PERIPHERAL TECHNOLOGY) on an SIEMENS MR SYSTEM.

1.13. "INFORMATION" shall mean written and/or oral technical information with regard to MR SYSTEM, APPLICATION, CATHETER TECHNOLOGY, PERIPHERAL TECHNOLOGY, SOFTWARE, INTEGRATION or the PRODUCT, such information being available to one PARTY at any time during the term of this Agreement and not being a DEVELOPMENT RESULT. It is understood that the INFORMATION of SIEMENS shall be limited to information available at its Healthcare Magnetic Resonance (H IM MR) Business Unit; INFORMATION does not include BACKGROUND PATENTS.

1.14. "INTEGRATION WORK" shall mean the combination of the CATHETER TECHNOLOGY, MR SYSTEM, SOFTWARE and PERIPHERAL TECHNOLOGY to the PRODUCT, as well as all work and activities related to such combination and the creation of the PRODUCT.

1.15. "MR SYSTEM" shall mean any applicable SIEMENS MR system. Target MR SYSTEMS for the PRODUCT include the MAGNETOM Verio and the MAGNETOM Espree. Other MR SYSTEMS might be added after mutual agreement. The MR SYSTEM is currently provided by SIEMENS as a medical product according to applicable local medical product regulations in several countries, including, but not limited to, the EU, Canada and the USA.

1.16. "PERIPHERAL TECHNOLOGY" means hardware and software required by the user to perform the APPLICATION with the PRODUCT and which is not already included in CATHETER TECHNOLOGY or SOFTWARE or MR SYSTEM.

1.17. "PERIPHERAL TECHNOLOGY DEVELOPMENT" shall mean all work and activities related to the development of the PERIPHERAL TECHNOLOGY as specified in ANNEX 2 SECTIONS 2.7, 2.8, 2.9 AND APPENDIX A, including but not limited to compatibility and safety for use with the MR SYSTEM.

1.18. "PRODUCT" shall mean and comprise a combination of hardware, software and workflow procedures allowing the performance of the APPLICATION or parts thereof under simultaneous MR imaging, which the PARTIES wish to develop under this Agreement and which is defined in more detail in the specifications set forth in ANNEX 2 to this Agreement. ANNEX 2 may upon mutual agreement be amended from time to time. The PRODUCT shall be integrated and developed by SURGIVISION as a medical product according to applicable local medical product regulations including, but not limited to the EU and the USA, integrating and combining the SOFTWARE, MR SYSTEM, CATHETER TECHNOLOGY and PERIPHERAL TECHNOLOGY.

1.19. "SOFTWARE" means software and dedicated MR sequences, which are developed by SIEMENS according to requirement specifications by SURGIVISION. These specifications are defined in more detail in ANNEX 2 to this Agreement. For the avoidance of doubt, SOFTWARE does not include [***], or any further developments or future versions of [***], but only the dedicated plug in module dedicated to the workflow of the PRODUCT developed under this Agreement.

1.20. "SOFTWARE DEVELOPMENT WORK" shall mean all work and activities related to the development of the SOFTWARE.

2. Obligations of SIEMENS

2.1. SIEMENS shall perform the SOFTWARE DEVELOPMENT WORK, which shall be based on the specifications contained in ANNEX 2 and shall comprise the efforts and activities set forth in ANNEX 3 to this Agreement. SIEMENS will - at its sole discretion - perform developments and tests at SIEMENS' or SIEMENS' AFFILIATES premises or at hospital sites.

2.2. The SOFTWARE DEVELOPMENT WORK and the release of the SOFTWARE shall be generally carried out in accordance with the time schedule and milestones set forth in ANNEX 3 to this Agreement. Due to the fact that the release time of the SOFTWARE depends on SIEMENS' internal software release maps, SIEMENS may need to modify the milestones of the SOFTWARE DEVELOPMENT WORK to reflect any necessities with regard to such software release map. In that event, SIEMENS shall give written notice to SURGIVISION of any anticipated modification, and the PARTIES shall then negotiate in good faith to appropriately amend the applicable milestone(s) in ANNEX 3.

2.3. SIEMENS shall make available to SURGIVISION INFORMATION for the term of this Agreement insofar as such INFORMATION is necessary for SURGIVISION for carrying out the INTEGRATION WORK. Disclosure of INFORMATION will be made without charge to SURGIVISION.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

2.4. SIEMENS, insofar as it lawfully may, shall make available to SURGIVISION SIEMENS' DEVELOPMENT RESULTS achieved during the SOFTWARE DEVELOPMENT WORK. Prototype versions of the SOFTWARE shall be made available to SURGIVISION according to the milestones set forth in ANNEX 3 and in accordance with Section 3.6.

Depending on the demands of the INTEGRATION WORK, INFORMATION and DEVELOPMENT RESULTS regarding the SOFTWARE can be submitted in writing and/or orally. INFORMATION and DEVELOPMENT RESULTS shall be submitted hereunder in the English language. The metric system shall be applied.

2.5. SIEMENS shall be responsible for the regulatory requirements to release the SOFTWARE as a medical device in the EU, Canada and the USA, both for use under clinical study regulations or for clinical use. Further countries may be added by mutual agreement of the PARTIES.

The PARTIES assume that the SOFTWARE will be released as a medical device class 2a in the European Union (CE) and as a class 2 device in Canada and in the USA (FDA). Its intended indication of use is the tracking of a device within a scanner bore. SIEMENS shall be responsible for the payment of the costs of regulatory approval of the SOFTWARE to the respective authorities. Such cost shall be reimbursed by SURGIVISION and are therefore included in the milestone payments according to ANNEX 3. If the SOFTWARE cannot be released in the EU as a medical class 2a device or in the USA and Canada as a class 2 device, the PARTIES will jointly consider in good faith how to proceed and how to share costs. The SOFTWARE shall initially be released for clinical use with the MAGNETOM Espree and MAGNETOM Verio. Other MR scanner platforms will be added as mutually agreed between the PARTIES.

2.6. SIEMENS shall - at SIEMENS reasonable discretion - provide SURGIVISION access to documentation about the SOFTWARE as may be required for regulatory approval of the PRODUCT for the EU, Canada or the USA.

2.7. When SIEMENS forwards to SURGIVISION parts, components, software - including SOFTWARE or any parts or versions thereof - and other articles for purposes of the INTEGRATION WORK, SIEMENS shall remain the owner of such material and the intellectual property embodied therein (except as otherwise provided in Section 14.7).

2.8. After productization of the SOFTWARE, SIEMENS shall pay a fix amount of thirty-five-thousand (35,000) US $ per sold licence for the SOFTWARE to SURGIVISION until a total amount has been paid to SURGIVISION equal to one hundred twenty percent (120%) of the total amount paid by SURGIVISION to SIEMENS pursuant to Section 3.6. If the price SIEMENS expects to receive for the SOFTWARE in the EU, Canada or the USA upon

execution of this Agreement is more than 10% higher than the price SIEMENS is able to receive at market launch of the SOFTWARE in the respective market, SIEMENS is entitled to detract a respective percentage from the aforementioned fix amount for the respective market. If - at any time thereafter - the price decreases more than 10%, SIEMENS is entitled to respectively reduce the aforementioned amount every twelve (12) months. If the price SIEMENS expects to receive for the SOFTWARE in EU, Canada or the USA upon execution of this Agreement is more than 10% lower than the price SIEMENS is able to receive at market launch of the SOFTWARE in the respective market, SIEMENS shall increase the aforementioned fix amount by a respective percentage for the respective market. If - at any time thereafter - the price increases more than 10%, SIEMENS shall respectively increase the aforementioned amount every twelve (12) months.

Until the total amount to be paid to SURGIVISION has been reached, SIEMENS will inform SURGIVISION within fourteen (14) days following each calendar quarter about the number of licenses sold by SIEMENS in the past quarter. Thereafter, SURGIVISION will issue a quarterly bill to SIEMENS. SIEMENS shall not be obliged to effect any payment prior to thirty (30) days following the receipt of the respective invoice.

The obligations under this Section 2.8 of SIEMENS shall end - irrespective, whether the aforementioned total amount had been reached - with the termination of this Agreement according to Sections 15.3.1(i) or 15.3.1 (iii) or 15.3.2(i) or 15.3.2(ii) or 15.3.2 (iv) or 15.3.2 (v) or 15.3.2 (vi) or 17.1.

If the Agreement is terminated according to Section 15.3.1(ii) or 15.3.2(iii) the obligations under this Section 2.8 of SIEMENS to pay SURGIVISION a fix amount based on sold licenses for the SOFTWARE will continue but only until a total amount has been paid to SURGIVISION equal to the amount actually paid by SURGIVISION to SIEMENS pursuant to Section 3.6. In case the Agreement is terminated according to Section 15.3.1(ii) or 15.3.2(iii) before the Release of the SOFTWARE in the specific market and if SIEMENS thereafter markets a software that is functionally equivalent to the SOFTWARE within 3 years from the date of termination of the Agreement in the FIELD, which software is substantially based on the DEVELOPMENT RESULTS, the obligations under this Section 2.8 of SIEMENS to pay SURGIVISION a fix amount based on sold licenses for the SOFTWARE will continue but only until a total amount has been paid to SURGIVISION equal to the amount actually paid by SURGIVISION to SIEMENS pursuant to Section 3.6.

SURGIVISION will have the right, upon reasonable prior notice and reasonable prior request at SURGIVISION's sole expense, to designate an independent certified public auditor (hereinafter referred to as "Auditor") who, upon executing a SIEMENS confidentiality agreement, shall be permitted to enter SIEMENS' premises during regular business hours and inspect SIEMENS relevant books and records with respect to ascertaining the amounts due to SURGIVISION under this Section 2.8. The Auditor shall not be allowed to disclose information obtained during such audits unless such

information relates to SIEMENS' breach of the payment obligations according to this Section 2.8. Any information disclosed pursuant to the foregoing is strictly confidential and may only be used to enforce the rights arising from such a breach. Such audits shall be permitted not more than once in a calendar year. Any unpaid amounts that are detected shall be paid by SIEMENS. SURGIVISION shall endeavor to minimize disruption of SIEMENS' business activities to the extent reasonably practicable.

2.9. The PARTIES agree that SIEMENS is entitled to provide a maximum of three (3) of its development partners with free licences including updates and upgrades of the SOFTWARE. With regard to these free licences SIEMENS is not obliged to make payments to SURGIVISION. The PARTIES will agree in good faith whether additional development partners will need to be provided with free licences of the SOFTWARE or about special conditions for sale for certain customers or development partners. The foregoing shall in no way obligate SURGIVISION to provide SIEMENS' development partners with CATHETER TECHNOLOGY or PERIPHERAL TECHNOLOGY free of charge.

2.10. The SOFTWARE remains SIEMENS' property.

3. Obligations of SURGIVISION

3.1. SURGIVISION shall perform the CATHETER TECHNOLOGY DEVELOPMENT, the PERIPHERAL TECHNOLOGY DEVELOPMENT and the INTEGRATION WORK required to create and provide the PRODUCT and SURGIVISION shall be responsible for initiation and execution of any procedures in connection with all related regulatory requirements in the EU, Canada and the USA, both for use under clinical study regulations or for clinical use. Further countries may be added by mutual agreement of the PARTIES. This includes SURGIVISION's responsibility for the testing of risks and special requirements that arise from the joint clinical use of the MR SYSTEM, the SOFTWARE, the CATHETER TECHNOLOGY and the PERIPHERAL TECHNOLOGY for use in the PRODUCT for the APPLICATION. The following MR SYSTEMS shall be covered in the INTEGRATION WORK: MAGNETOM Espree and MAGNETOM Verio.

3.2. SURGIVISION shall bear the costs incurred by SURGIVISION for its efforts under or in connection with the CATHETER TECHNOLOGY DEVELOPMENT, the PERIPHERAL TECHNOLOGY DEVELOPMENT and the INTEGRATION WORK and integration testing as well as the costs of regulatory approval of the PRODUCT.

3.3. SURGIVISION shall comply with all safety notices, risk assessments (if applicable), instruction, etc. as supplied by SIEMENS in the documentation of the SOFTWARE.

3.4. SURGIVISION, insofar as it lawfully may, shall make available to SIEMENS according to the milestones in ANNEX 3, SURGIVISION's INFORMATION and DEVELOPMENT RESULTS insofar as such INFORMATION and DEVELOPMENT RESULTS are

necessary for SIEMENS to carry out the SOFTWARE DEVELOPMENT WORK. The supply of all specifications and the disclosure of INFORMATION and DEVELOPMENT RESULTS is free of charge. INFORMATION and DEVELOPMENT RESULTS shall be submitted hereunder in the English language. The metric system shall be applied.

3.5. For SURGIVISION to be able to perform the INTEGRATION WORK, SIEMENS will provide engineering (prototype) releases of the SOFTWARE according to Section 2.4 clearly labeled and specified as "not for clinical use". SIEMENS shall not safety test these releases, and shall only provide limited documentation and limited risk analysis information to SURGIVISION. SIEMENS does neither guarantee nor warrant the stability or reliability of this software release. SURGIVISION specifically agrees to use the engineering software at its own risk and to not use for clinical or human diagnosis and/or treatment. SURGIVISION shall indemnify, defend and hold harmless SIEMENS from any and all claim, liability, damage, loss, or expense imposed upon SIEMENS by third parties due to the use of such engineering (prototype) releases of the SOFTWARE. This provision is not subject to any limitation of liability under this Agreement.

3.6. SURGIVISION shall pay to SIEMENS an aggregate of two million four hundred seventy six thousand (2,476,000) US$ in installments according to the milestones reached by SIEMENS in the SOFTWARE DEVELOPMENT WORK and as specified in ANNEX 3. The payment is due thirty (30) days following SURGIVISION's receipt of a respective invoice issued by SIEMENS. The invoice shall not be issued prior to the achievement of the respective milestone.

3.7. Upon the conclusion of each of the CATHETER TECHNOLOGY DEVELOPMENT and the PERIPHERAL TECHNOLOGY DEVELOPMENT SURGIVISION shall deliver to SIEMENS the respective DEVELOPMENT RESULTS for SIEMENS' performance of the INFLUENCE TEST according to Section 6. Upon completion of the INTEGRATION WORK, SURGIVISION shall deliver to SIEMENS the information about the PRODUCT and the APPLICATION necessary for risk analysis according to Section 6.2 and fully cooperate with SIEMENS to obtain the risk analysis.

3.8. SURGIVISION shall establish or contract a marketing and sales force to make the CATHETER TECHNOLOGY and PERIPHERAL TECHNOLOGY in the PRODUCT commercially available to customers in the EU and the US.

3.9. SURGIVISION shall be responsible to perform or have performed by a third party customer training, service and support for the CATHETER TECHNOLOGY and PERIPHERAL TECHNOLOGY in the PRODUCT.

3.10. For the event SURGIVISION is not able to fulfill Sections 3.8 or 3.9 within 6 months after the completion of the INTEGRATION WORK required to create and provide the PRODUCT and the receipt of regulatory approval to release the PRODUCT in the applicable market, SIEMENS is herewith granted - and SIEMENS already accepts this grant - a 90-day option free of charge to

(i) terminate the exclusivity according to Section 9.2 in the countries SURGIVISION is not able to fulfill Sections 3.8 or 3.9, or

(ii) acquire a non-exclusive, sublicensable license in the FIELD for the countries SURGIVISION is not able to fulfil Sections 3.8 or 3.9 to use and exploit the CATHETER TECHNOLOGY, PERIPHERAL TECHNOLOGY or the PRODUCT, or any and all intellectual property rights related to CATHETER TECHNOLOGY, PERIPHERAL TECHNOLOGY or PRODUCT, to the extent related to the APPLICATION (hereinafter "OPTION TO LICENSE"). This license is granted upon execution of the OPTION TO LICENSE and already accepted by SIEMENS.

If SIEMENS exercises the OPTION TO LICENSE, SIEMENS is additionally granted - and SIEMENS already accepts - a non-exclusive, sublicensable licence in the FIELD for the countries SURGIVISION is not able to fulfill Sections 3.8 or 3.9 to use any BACKGROUND PATENTS necessary for the use and exploitation of the CATHETER TECHNOLOGY, PERIPHERAL TECHNOLOGY or PRODUCT to the extent related to the APPLICATION. Following the exercise of the OPTION TO LICENSE, SIEMENS shall no longer be bound by the exclusivity provisions according to Section 9.2 - 9.6 with respect to the countries SURGIVISION failed to fulfill Sections 3.8 or 3.9.

In return for the aforementioned grant of rights following SIEMENS exercise of the OPTION TO LICENSE, SIEMENS agrees to pay royalties to SURGIVISION of five percent (5%) of the NET SALES of CATHETER TECHNOLOGY and/or PERIPHERAL TECHNOLOGY, beginning with market launch of such CATHETER TECHNOLOGY and/or PERIPHERAL TECHNOLOGY provided the fact that the CATHETER TECHNOLOGY and/or PERIPHERAL TECHNOLOGY contains the licensed intellectual property rights of SURGIVISION. As PERIPHERAL TECHNOLOGY may contain different technology components the obligation to pay royalties shall be limited and related to such components that contain the licensed intellectual property rights of SURGIVISION. Payment of royalties will be limited to the scope of protection of the respective intellectual property rights. "NET SALES" shall mean gross revenue from sales by SIEMENS and/or SIEMENS' AFFILIATES, SIEMENS' distributors, SIEMENS' sublicensees and other third parties sublicensing the aforementioned rights from SIEMENS, without value-added, consumption or other taxes imposed on the transaction. If SIEMENS exercises the OPTION TO LICENSE, the fifth paragraph of Section 2.8 shall apply analogously.

4. Communication, Contacts and Meetings

4.1. Each PARTY shall, within one (1) month after this Agreement is signed by the PARTIES, appoint a project manager who will act as a point of contact during the term of this Agreement.

4.2. SURGIVISION and SIEMENS shall schedule regular meetings. At these meetings, the project managers appointed as per Section 4.1 and any relevant other personnel of the PARTIES will review the status of the INTEGRATION WORK, the CATHETER TECHNOLOGY DEVELOPMENT, the PERIPHERAL TECHNOLOGY DEVELOPMENT and the SOFTWARE DEVELOPMENT WORK. The location of the meetings will be alternately appointed by the PARTIES or the PARTIES will jointly decide where the meeting will be held. Both PARTIES shall cover their own travel costs.

In addition, the PARTIES shall keep each other informed on any major progress achieved during the INTEGRATION WORK, the CATHETER TECHNOLOGY DEVELOPMENT, the PERIPHERAL TECHNOLOGY DEVELOPMENT and the SOFTWARE DEVELOPMENT WORK. Moreover, the PARTIES will inform each other of technical changes to the CATHETER TECHNOLOGY, PERIPHERAL TECHNOLOGY or SOFTWARE that might influence the INTEGRATION WORK or the PRODUCT.

4.3. In the event that either PARTY realizes that the SOFTWARE DEVELOPMENT WORK or the INTEGRATION WORK cannot be efficiently performed according to the milestones, time schedules and development plans, each PARTY shall immediately inform the other PARTY thereof. The PARTIES shall then review the situation and mutually agree on changes with respect to the further performance of the INTEGRATION WORK and the SOFTWARE DEVELOPMENT WORK. Section 2.2 shall remain unaffected.

4.4. SIEMENS and SURGIVISION intend to create a scientific advisory board consisting of at least two (2) clinical partners for preference testing of the PRODUCT. The creation of such advisory board shall be subject to separate agreements between SIEMENS and/or SURGIVISION and the respective clinical partner. The PARTIES agree that, prior to entering into any such agreement with a clinical partner, the PARTIES will confer with each other and agree on how all technical information and intellectual property rights created under such agreement will be handled (i.e., what rights SIEMENS and SURGIVISION, respectively, will have in and to such technical information and intellectual property). If the PARTIES cannot agree otherwise, SIEMENS shall at least be granted a non-exclusive, perpetual, worldwide, irrevocable, and unrestricted and royalty free right to use, have used or sublicense, in the FIELD, any and all technical information and intellectual property rights created by the clinical partner under such agreement that relates to the SOFTWARE.

The clinical partners will consult SIEMENS and SURGIVISON to a varying degree and level during the term of this Agreement, from early consulting to customer preference testing. Within the first two months after the execution of this Agreement, SIEMENS and SURGIVISION will agree upon the clinical partners and their level of involvement. At least one of the clinical partners should be based in Europe, preferably Germany. SIEMENS and SURGIVISON will share travel costs and expenses required for the clinical partners, as long as the clinical partners do not cover their travel costs themselves. It is intended to

create regular meetings with the advisory board to obtain differentiated user opinions about the PRODUCT. Depending on the level of involvement of the clinical partner, SIEMENS and SURGIVISON will provide them with loaned equipment at SIEMENS and SURGIVISION's own expenses according to Section 5.9.

5. Loaned Equipment

5.1. SIEMENS shall make available to SURGIVISION on loan medical equipment, items and software products listed in ANNEX 4 ("LOANED EQUIPMENT") for the purpose of performing the INTEGRATION WORK.

5.2. Shipment costs of the LOANED EQUIPMENT from SIEMENS premises to SURGIVISION shall be borne by SIEMENS.

5.3. LOANED EQUIPMENT provided by SIEMENS in accordance with Section 5.1 hereinabove shall exclusively be used for the performance of the INTEGRATION WORK and shall not be handed over or otherwise made available to any third party without SIEMENS' prior written consent. Insofar as software products are part of the LOANED EQUIPMENT, SURGIVISION shall have the right to use such software products on the systems or hardware identified in ANNEX 4 for the purpose of performing the DEVELOPMENT WORK. Unless and to the extent expressly authorized by SIEMENS in writing, SURGIVISION shall not be entitled to copy, redevelop, recompile, change or extract parts of any software products. SIEMENS may at any time replace LOANED EQUIPMENT by other equipment as deemed useful by SIEMENS, provided however, that such other equipment is substantially as suitable as the original LOANED EQUIPMENT to carry out the INTEGRATION WORK.

5.4. During the term of this agreement SIEMENS shall carry out service and maintenance of the LOANED EQUIPMENT. The incurred costs shall be borne by SIEMENS.

5.5. No additional costs shall be borne by SIEMENS in connection with the LOANED EQUIPMENT other than those explicitly mentioned herein. In particular, without limitation, infrastructure costs, such as costs for water or electricity shall be borne by SURGIVISION.

5.6. Within eight (8) weeks upon termination of this Agreement, the LOANED EQUIPMENT shall be returned to SIEMENS by SURGIVISION, unless otherwise agreed. Shipment costs from SURGIVISION to SIEMENS shall be borne by SURGIVISION.

5.7. Without prejudice to the terms and conditions stated in this Section 5, the loan conditions set forth in ANNEX 5 shall apply with respect to the loan of LOANED EQUIPMENT.

5.8. SURGIVISION shall provide SIEMENS with prototypes of the CATHETER TECHNOLOGY and PERIPHERAL TECHNOLOGY as defined in the milestones in ANNEX 3 for performing the SOFTWARE DEVELOPMENT WORK and for performing the

INFLUENCE TEST. The costs incurred shall be borne by SURGIVISION. Shipment costs from SURGIVISION to SIEMENS shall be borne by SURGIVISION.

5.9. The PARTIES agree that equipment of any of the PARTIES which should be loaned to clinical partners is, unless otherwise required by mandatory law, made available to such partners by SIEMENS or SURGIVISION without additional payment under and in connection with this Agreement and is subject to separate contracts between the respective PARTY and the clinical partner.

6. Compatibility Testing and Risk Analysis

6.1. SURGIVISION is responsible for risk analysis and testing of CATHETER TECHNOLOGY and PERIPHERAL TECHNOLOGY. SIEMENS is responsible for the INFLUENCE TEST and for a SIEMENS risk analysis.

6.2. SURGIVISION is responsible for the INTEGRATION WORK, the testing of all the components after the INTEGRATION WORK and the risk analysis that covers the complete PRODUCT after the INTEGRATION WORK. The mentioned testing and risk analysis are a subset of the requirements for regulatory approval in the EU, Canada and the USA for use under clinical study regulations or for clinical use (section 3.1).

6.3. SIEMENS shall perform an INFLUENCE TEST of the CATHETER TECHNOLOGY and the PERIPHERAL TECHNOLOGY with the MR SYSTEM. SURGIVISION shall provide respective components and prototypes of the CATHETER TECHNOLOGY and the PERIPHERAL TECHNOLOGY to SIEMENS as listed in ANNEX 3 and according to the timeline in ANNEX 3. The result of such an INFLUENCE TEST consists of INFORMATION on the proper functioning of the MR SYSTEM while the CATHETER TECHNOLOGY or the PERIPHERAL TECHNOLOGY is connected or in close proximity to the MR SYSTEM. SIEMENS shall provide the test results in a format that complies to the SIEMENS quality system.

6.4. Upon SURGIVISIONs request SIEMENS shall provide SURGIVISION with the results of such an INFLUENCE TEST that SURGIVISION may use for application to regulatory approval of the PRODUCT.

6.5. However, SIEMENS neither guarantees nor warrants that the result of such an INFLUENCE TEST or the result of the SIEMENS risk analysis will support or allow for a regulatory approval by the competent authorities.

6.6. SIEMENS shall neither cover any costs related to necessary changes to the CATHETER TECHNOLOGY nor PERIPHERAL TECHNOLOGY nor the PRODUCT as a result of the INFLUENCE TEST or the SIEMENS risk analysis nor perform or cover the costs for any changes to the MR SYSTEM.

6.7. SIEMENS shall define a location where the INFLUENCE TEST will be performed (e.g. Europe or USA or China). SURGIVISION shall cover the costs of shipping the CATHETER TECHNOLOGY and the PERIPHERAL TECHNOLOGY to the defined location and back.

6.8. SURGIVISION shall bear the costs for the INFLUENCE TEST. SIEMENS will perform the INFLUENCE TEST as already reflected in ANNEX 3. The PARTIES may mutually agree on repeated INFLUENCE TEST not yet reflected in ANNEX 3. The fee for repeated INFLUENCE TESTS will be determined by SIEMENS on a time and material base. In the event INFLUENCE TESTS become necessary in future due to future porting of SOFTWARE or due to the involvement of other or future MR SYSTEMS involved, SURGIVISION shall bear all costs related to such INFLUENCE TESTS.

6.9. SURGIVISION shall be responsible for the performance of the compatibility tests to ensure that the CATHETER TECHNOLOGY and the PERIPHERAL TECHNOLOGY is compatible with the MR SYSTEM, meaning the proper functioning of the CATHETER TECHNOLOGY and the PERIPHERAL TECHNOLOGY in close proximity or in connection with the MR SYSTEM and in its intended use in the PRODUCT. SURGIVISION shall bear the costs of such tests.

6.10. Any payment according to this Section 6 becomes due thirty (30) days following SURGIVISIONS receipt of a respective invoice issued by SIEMENS. The invoice shall not be issued prior to the performance of the respective INFLUENCE TEST or SIEMENS risk analysis.

7. Completion

7.1. This Agreement is completed, if all SOFTWARE DEVELOPMENT WORK as per ANNEX 2 and all CATHETER TECHNOLOGY DEVELOPMENT, PERIPHERAL TECHNOLOGY DEVELOPMENT and INTEGRATION WORK - including compatibility testing or risk analysis according to Section 6 - have been successfully completed, SIEMENS obtained the approvals for the SOFTWARE according to Section 2.5 with respect to the USA, Canada, the EU and any further countries that may be mutually agreed by the PARTIES, SURGIVISION obtained the approvals for the PRODUCT according to Section 3.1 with respect to the USA, Canada, the EU and any further countries that may be mutually agreed by the PARTIES, and the PRODUCT is clinically released in the USA, Canada, the EU and the aforementioned further countries.

7.2. Later maintenance of SOFTWARE (including service, support, modifications and upgrades) by SIEMENS shall be subject to a separate marketing and sales agreement according to Section 10.

8. Changes of Specifications

8.1. The PARTIES will agree in good faith about changes in the SOFTWARE specifications as specified in ANNEX 2 during the SOFTWARE DEVELOPMENT WORK in accordance with this Section 8.

8.2. SURGIVISION shall inform SIEMENS in writing of any requested changes and/or amendments and specifying the requested changes (hereinafter referred to as "Change Request").

8.3. After receiving the Change Request, SIEMENS shall submit a written proposal (e-mail is sufficient) to SURGIVISION describing the work packages, required resource time, the costs and milestone changes to the SOFTWARE DEVELOPMENT WORK. Costs shall be based upon a calculation rate of four thousand seven hundred (4,700) US$ per man week. Small changes in the specifications (equalling a change on the time schedule of less than three (3) man days in addition) shall be borne by SIEMENS and shall be covered by the fixed payment from SURGIVISION as specified in Section 3.6. Other changes in the specifications equaling more than three (3) man days shall be borne by SURGIVISION in accordance with SIEMENS' proposal or any of its amendments during the negotiation of the Change Request.

8.4. The PARTIES shall mutually agree whether and by whom an analysis of the IP situation in regards to the specific Change Request will be performed (either by employees of the PARTIES or by an external specialist). If an analysis of the IP situation is mutually agreed upon, SURGIVISON will cover any costs related to the IP Analysis. If SURGIVISION unilaterally decides that the IP Analysis to a Change Request shall not be performed, section 13.5.2 (ii) applies.

8.5. SIEMENS is not obliged to submit such proposal, if - according to SIEMENS' reasonable determination - the preparation of such proposal takes more than one (1) man week or the performance of the Change Request probably causes a delay of the release of the SOFTWARE of more than two (2) men weeks. In these events SIEMENS is additionally entitled to reject the Change Request.

8.6. If SURGIVISION accepts the proposal, the Parties will execute a written change order (hereinafter referred to as "Change Order"). The Change Order will become part of this Agreement. Failure to accept the proposal within five (5) working days following SURGIVISION's receipt of the proposal shall be deemed as an abandoning of the Change Request, unless the Parties agreed otherwise.

9. Exclusivity

9.1. Until five (5) years after regulatory approval respectively in the EU, Canada, USA or other applicable region mutually agreed by the PARTIES (measured from the date of such approval of the PRODUCT for each respective region) SURGIVISION shall not, directly or indirectly through one or more Affiliates or other third parties, sell or offer any device,

product or other solution in the FIELD in the respective region that is combined or intended to be used with a non-SIEMENS MR scanner for medical procedures in the FIELD or officially communicate in the respective market that such device, product or solution that is combined or intended to be used with a non-SIEMENS MR scanner for procedures in the FIELD will be supplied in the respective region in the future. SURGIVISION's obligations in this Section 9.1 with respect to a particular region are subject to the condition that, once the INTEGRATION WORK is completed and the PRODUCT is commercially available in that region, SIEMENS thereafter continues to maintain the commercial availability of the SOFTWARE in the region.

9.2. Until five (5) years after regulatory approval respectively in the EU, Canada, USA or other applicable region mutually agreed by the PARTIES (measured from the date of such approval of the PRODUCT for each respective region) SIEMENS shall not, directly or indirectly through one or more Affiliates or other third parties, market or offer SOFTWARE or modified or copied versions of the SOFTWARE or software that is functionally similar to the SOFTWARE in the respective region with the intention of a combination of the SOFTWARE or modified or copied versions of the SOFTWARE or functionally similar software with non-SURGIVISION catheters, guidewires and/or other similar devices and products for medical procedures in the FIELD or officially communicate in the respective market that SOFTWARE or modified or copied versions of SOFTWARE or functionally similar software that is combined or can be used with any such non-SURGIVISION device or product for procedures in the FIELD will be supplied in the respective region in the future. SIEMENS' obligations in this Section 9.2 with respect to a particular region are subject to the condition that, once the INTEGRATION WORK is completed and the PRODUCT is commercially available in that region, SURGIVISION thereafter continues to maintain the commercial availability of the CATHETER TECHNOLOGY and the PERIPHERAL TECHNOLOGY in the region. Notwithstanding the foregoing to the contrary, this Section 9.2 will not apply with respect to SIEMENS' [***] including further developments to, or future versions of, such base modules.

9.3. In case rumours arise in the market that one of the PARTIES may be violating the provisions of Section 9.1 or 9.2, as applicable, such PARTY shall confirm the exclusivity of the cooperation of the PARTIES in the FIELD with a public statement.

9.4. After the expiration of the exclusivity periods set forth in Sections 9.1 and 9.2, both PARTIES are generally free to enter into relationships with third parties. However, neither SIEMENS nor SURGIVISION shall enter into a development, sales, marketing or other similar relationship with a third party for a product or system in the FIELD generally excluding or preventing the other PARTY from sale, marketing or distribution of the PRODUCT, SOFTWARE, CATHETER TECHNOLOGY or PERIPHERAL TECHNOLOGY for a further period of two (2) years beyond the aforementioned exclusivity periods (i.e., neither SURGIVISION nor SIEMENS may enter into any such relationship that excludes or prevents the use of SURGIVISION's CATHETER TECHNOLOGY/PERIPHERAL TECHNOLOGY with SIEMENS' SOFTWARE/ MR SYSTEM in the FIELD, and vice versa).

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

9.5. The exclusivity may expire or be terminated according to Sections 3.10, 15, 16 and 17.

9.6. The PARTIES acknowledge and understand that the FIELD is [***].

10. Marketing Support

After clinical release of the PRODUCT in the EU, Canada or the USA, the PARTIES shall support each other in marketing activities as seen appropriate by each PARTY. Within nine (9) months before the commercial availability of the PRODUCT in the EU, Canada or

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the USA, the PARTIES shall enter into negotiations about a separate marketing and sales agreement in form and substance reasonably satisfactory to each PARTY. The PARTIES may agree to use the SIEMENS sales and distribution channels for sales activities of the CATHETER TECHNOLOGY and PERIPHERAL TECHNOLOGIES.

11. Secrecy

11.1. "Confidential Information" shall mean any information and data, including without limitation, any kind of business, commercial or technical information and data disclosed between the PARTIES in connection with the execution or performance of this Agreement, irrespective of the medium in which such information or data is embedded, which is-when disclosed in tangible form - marked "Confidential" by the disclosing PARTY or which is-when disclosed orally or visually - identified as such prior to disclosure and summarized in writing by the disclosing PARTY and said summary is given to the receiving PARTY within thirty (30) days after such disclosure marked "Confidential". In case of disagreement, the receiving PARTY must present its objections to the summary in writing within thirty (30) days of receipt. Confidential Information shall include any copies or abstracts made thereof as well as any apparatus, modules, samples, prototypes or parts thereof. INFORMATION and DEVELOPMENT RESULTS shall be deemed Confidential Information, even if not marked "Confidential". Each PARTY will maintain Confidential Information received by the other PARTY in confidence and will use such Confidential Information solely for the purposes of this Agreement, provided, however, that such PARTY may disclose such information to its officers, AFFILIATES, and those of its employees and subcontractors who need to know it for the purposes of this Agreement. Each PARTY shall impose on its officers, AFFILIATES, and its employees and subcontractors obligations no less stringent than such PARTY'S confidentiality obligations under this Agreement, and each PARTY will be responsible for any violation of such PARTY's confidentiality obligations under this Agreement by any of its officers, AFFILIATES, employees or subcontractors.

11.2. Neither PARTY shall be liable for disclosure and/or any use of Confidential Information as described in Section 11.1 above insofar as such information

- is in, or becomes part of, the public domain other than through a breach of this Agreement by such PARTY or such PARTY's officers, AFFILIATES, employees or subcontractors;
- is already known to such PARTY at or before the time it receives the same from the other PARTY or is disclosed to such PARTY by a third party as a matter of right;
- is lawfully obtained by the receiving PARTY from a third party without an obligation of confidentiality;

- is independently developed by such PARTY without the benefit of Confidential Information received from the other PARTY, unless received under the exceptions set out in this Section 11.2;
- is required to be disclosed by any ruling of a governmental or regulatory authority or court or by mandatory law, provided that written notice of such ruling is given without undue delay to the disclosing PARTY so as to give the disclosing PARTY an opportunity to intervene and further provided that the receiving PARTY uses reasonable efforts to obtain assurance that the Confidential Information will be treated confidentially; or
- is disclosed and/or used by such PARTY with the prior written consent of the other PARTY.

Notwithstanding the above, each PARTY has the right to disclose the other PARTY'S INFORMATION and/or DEVELOPMENT RESULTS which it received under this Agreement to its customers insofar and to the extent as is customary in the medical device industry (e.g., listing or identifying catheters in the SOFTWARE customer manual).

12. Warranties

12.1. SURGIVISION shall inform SIEMENS without delay in writing of any malfunction or defect of any LOANED EQUIPMENT. SIEMENS shall take appropriate steps in order to rectify any such malfunction or defect. However, if SIEMENS considers a malfunction or defect to be safety-relevant, SIEMENS shall be entitled to require that SURGIVISION immediately cease the use of affected equipment, components and/or software, and that SURGIVISION delete all copies of such affected software, in which event SIEMENS shall provide SURGIVISION substitute LOANED EQUIPMENT that is substantially as suitable as the affected LOANED EQUIPMENT to carry out the INTEGRATION WORK. Further rights against SIEMENS in the event of malfunction or defect of LOANED EQUIPMENT shall be excluded.

12.2. The PARTIES shall undertake reasonable efforts to ensure that their DEVELOPMENT WORK and DEVELOPMENT RESULTS do not infringe intellectual property rights of any third party. The PARTIES represent and warrant to conduct the DEVELOPMENT WORK in a lawful and professional manner utilizing generally accepted scientific methods and to use reasonable commercial efforts to achieve the tasks of this Agreement.

12.3. SIEMENS warrants using all reasonable efforts to ensure that the SOFTWARE meets the applicable specifications according to ANNEX 2 and all applicable regulatory requirements in the countries where SIEMENS uses the SOFTWARE for clinical studies on patients or for clinical use, and to use all reasonable efforts that the respective approvals can be achieved without undue delay.

12.4. SURGIVISION warrants using all reasonable efforts that the CATHETER TECHNOLOGY and the PERIPHERAL TECHNOLOGY meet the specifications according to the respective Annexes. SURGIVISION warrants performing the INTEGRATION WORK in a manner suitable to create the PRODUCT according to the specifications in ANNEX 2.

12.5. SURGIVISION warrants to use all reasonable efforts to ensure that the PRODUCT meets the specifications in ANNEX 2 and all applicable regulatory requirements in the countries where SURGIVISION uses the PRODUCT for clinical studies on patients or for clinical use, and to use all reasonable efforts that the respective approvals can be achieved without undue delay.

12.6. The sole obligation of each PARTY with respect to the aforementioned warranties shall be to correct or remedy any defects, errors, malfunctions or non-compliance with the warranties, especially with the respective specifications defined in the Annexes to this Agreement, (hereinafter "ERRORS") that might have occurred without undue delay after such ERRORS become known to the PARTY which provided the respective DEVELOPMENT RESULTS. Following the correction of the ERRORS, the correcting PARTY shall immediately provide the other PARTY with the corrected DEVELOPMENT RESULTS.

12.7. If INFORMATION is incorrect or incomplete, then the PARTY having provided such incorrect or incomplete INFORMATION (the "one PARTY") shall, as soon as the one PARTY becomes aware of such error or incompleteness or at the other PARTY's written request specifying the error or incompleteness, correct the error, if such is possible, or provide the missing INFORMATION to the extent such INFORMATION is available with the one PARTY. Other than correcting errors or incompleteness as set forth hereinbefore neither PARTY shall assume any warranty or liability with regard to INFORMATION.

12.8. The warranties set forth in this Section 12 shall be the sole warranties under this Agreement, and no other warranties shall apply, in particular, without limitation, with regard to INFORMATION, SOFTWARE, CATHETER TECHNOLOGY, PERIPHERAL TECHNOLOGY and the LOANED EQUIPMENT.

13. Liability and Indemnification

13.1. SURGIVISION shall in its sole responsibility ensure fulfillment of the instructions received from SIEMENS or its AFFILIATES pertaining to the LOANED EQUIPMENT and safe handling thereof. SURGIVISION shall indemnify, defend and hold harmless SIEMENS and its AFFILIATES from any and all claims, proceedings, costs, expenses, damages, penalties, and losses (including reasonable attorneys' fees) resulting from a nonfulfillment or breach of the aforesaid responsibilities.

13.2. SURGIVISION agrees to defend, indemnify and hold SIEMENS and its AFFILIATES harmless from any and all claims, proceedings, costs, expenses, damages, penalties, and

losses (including reasonable attorneys' fees) resulting from SIEMENS use or sale of the PRODUCT (other than the SOFTWARE or MR SYSTEM), CATHETER TECHNOLOGY and/or PERIPHERAL TECHNOLOGY or SIEMENS or its AFFILIATES use of any of SURGIVISION's INFORMATION, DEVELOPMENT RESULTS or BACKGROUND PATENTS as permitted under the terms of this Agreement.

13.3. Unless provided otherwise in Section 13.4 below, each PARTY shall be liable for personal injury for which it can be held responsible in accordance with the applicable legal regulations. It will be liable for physical damage to the other PARTY'S property for which it can be held responsible up to a maximum amount of [***] per incident up to a maximum amount of [***] for all incidents in the aggregate.

13.4. Except as provided herein, any other claims for damages of the PARTIES shall be excluded, regardless of the legal grounds, in particular, but not limited to, any claims for damages arising from interruption of business, lost profits or loss of data. The aforesaid limitations and exclusions of liability shall also apply to subcontractors of the PARTIES, including, without limitation, AFFILIATES. This exclusion shall not apply with regard to Sections 13.1 and 13.2, if this Agreement excludes a limitation of liability or where mandatory law stipulates otherwise under applicable product liability law or in cases of willful misconduct, of gross negligence or of the non-performance of essential contractual obligations. However, liability for damages arising from non-performance of essential contractual obligations shall be limited to the foreseeable damage typical for this Agreement except for cases of willful misconduct and gross negligence.

13.5. Indemnification by SIEMENS

13.5.1. In the event a third party claims that SURGIVISION's use of SIEMENS' INFORMATION, SIEMENS' DEVELOPMENT RESULTS or SIEMENS' BACKGROUND PATENTS infringes the proprietary or intellectual property rights of such third party, SIEMENS shall, at its own choice and as SIEMENS' sole obligation with regard to such infringement, either procure at its own cost those licenses necessary for such use of the relevant INFORMATION, DEVELOPMENT RESULTS or BACKGROUND PATENTS as described above, or, with respect to DEVELOPMENT RESULTS, modify the relevant DEVELOPMENT RESULTS in a way that they remain functionally equivalent but become non-infringing.

13.5.2. However, the aforesaid obligations shall not be applicable insofar as the infringement arises in whole or in part out of SURGIVISION's responsibility, especially out of - without being limited to - (i) the acts or omissions of SURGIVISION; (ii) compliance with specifications provided by SURGIVISION, where SURGIVSION was informed following the respective IP Analysis according to ANNEX 3 that the underlying specifications contain risk to infringe intellectual property of third party; (iii) combination or use of the SOFTWARE with other

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

software, technology or products except when such combination or use is necessary for the INTEGRATION WORK and specified in an ANNEX to this Agreement, (iv) modification of the SOFTWARE by persons other than SIEMENS, or (v) with respect to infringement of patents or copyrights resulting from any use of the SOFTWARE outside of the EU, Canada and the US.

13.5.3. A prerequisite for the liability of SIEMENS under the terms of Section 13.5.1 shall be that SURGIVISION immediately notifies SIEMENS in writing of any third party claims on account of the infringement of their property or intellectual property rights, that the alleged infringement is not admitted by SURGIVISION and that SURGIVISION conducts no dispute resolution and reaches no out-of-court settlements other than with the consent of SIEMENS.

14. DEVELOPMENT RESULTS, INFORMATION and Rights Thereunder

14.1. SURGIVISION shall provide SIEMENS with no costs within fifteen (15) days after the signing of this Agreement with a thorough patent analysis demonstrating the patent protection of its CATHETER TECHNOLOGY and related patents by competitors. The patent analysis shall inter alia -without being limited to - include information about (i) the current owner/assignee; (ii) any and all of SURGIVISIONS' existing license agreements, transfer agreements or any other agreements regarding ownership of the patents with third party companies; as well as (iii) information about the abandoning of any of SURGIVISION's patents .

SIEMENS shall have the right to review the patent analysis for forty five (45) days. SIEMENS shall have the right to terminate this Agreement without further reasons and without any reimbursement made to SURGIVISION, if SIEMENS comes to the conclusion that information contained in the patent analysis will prevent a successful or economical reasonable fulfillment of the Agreement; provided, however, that SIEMENS shall reimburse SURGIVISION for any milestone payments already paid by SURGIVISION. SURGIVISION shall provide further clarification on the patent analysis upon request by SIEMENS.

If SURGIVISION intends to abandon a patent relating to its CATHETER TECHNOLOGY during the term of the Agreement and during the exclusivity periods according to Section 9, SURGIVISION shall inform SIEMENS thereof at least four (4) months prior to the date of the next renewal fee becoming due.

If SURGIVISION intends selling or transfering any patents relating to SURGIVISION's CATHETER TECHNOLOGY during the term of the Agreement and during the exclusivity periods according to Section 9, SURGIVISION shall inform SIEMENS duly in advance about such sale or transfer, at least four (4) weeks prior to the conclusion of the respective sale or transfer agreement. For the avoidance of any doubt, the foregoing does not apply to the grant of any non-exclusive license in the FIELD or the grant of any license outside the FIELD.

14.2. Each PARTY shall remain the owner of its INFORMATION, BACKGROUND PATENTS and DEVELOPMENT RESULTS (if applicable), and shall retain the ability to grant rights, licenses and submit patents at its discretion.

14.3. Each PARTY hereby grants to the other PARTY a non-exclusive, non-transferable, fully paid license in the FIELD to use its INFORMATION, BACKGROUND PATENTS and DEVELOPMENT RESULTS (if applicable) during the term of this Agreement for the purpose of carrying out the tasks of this Agreement. This license is sublicenseable solely to AFFILIATES of the respective licensee.

14.4. Insofar as SURGIVISION needs to make use of SIEMENS' BACKGROUND PATENTS in the course of the performance of its part of the DEVELOPMENT WORK, or SURGIVISION needs to make use of such BACKGROUND PATENTS in order to be able to use the DEVELOPMENT RESULTS in accordance with this Agreement, SURGIVISION is herewith granted a non-exclusive, non-transferable right in the FIELD to use such BACKGROUND PATENTS during the term of this Agreement free of charge for the performance of this Agreement, especially including the development of the PRODUCT and the performance of the INTEGRATION WORK, insofar as the DEVELOPMENT WORK relates to the creation of the PRODUCT and as long as the PRODUCT is using or including a MR SYSTEM by SIEMENS. This right is sublicensable solely to SURGIVISION AFFILIATES.

14.5. Insofar as SIEMENS needs to make use of SURGIVISION's BACKGROUND PATENTS in the course of the performance of its part of the DEVELOPMENT WORK, or SIEMENS needs to make use of such BACKGROUND PATENTS in order to be able to use the DEVELOPMENT RESULTS in accordance with this Agreement, SIEMENS is herewith granted a non-exclusive, non-transferable right in the FIELD to use such BACKGROUND PATENTS during the term of this Agreement free of charge for the performance of this Agreement, especially the development of the SOFTWARE insofar as the DEVELOPMENT WORK relates to the creation of the PRODUCT and as long as the PRODUCT is using or including SURGIVISION's CATHETER TECHNOLOGY and PERIPHERAL TECHNOLOGY. This right is sublicenseable solely to SIEMENS AFFILIATES.

14.6. Each PARTY shall be the sole owner of all rights and title to DEVELOPMENT RESULTS solely created during the execution of the DEVELOPMENT WORK in the course of this Agreement. For the avoidance of any doubt, any DEVELOPMENT RESULTS solely created by SURGIVISION that consist of software shall be solely owned by SURGIVISION, any DEVELOPMENT RESULTS solely created by SIEMENS that consist of catheter technology shall be solely owned by SIEMENS.

14.7. DEVELOPMENT RESULTS - including any and all rights contained therein – created jointly under this Agreement shall be jointly owned by both PARTIES. Any PARTY shall be free to use such DEVELOPMENT RESULTS as if they were solely created by such PARTY. Section 9 shall be applied. For such joint DEVELOPMENT RESULTS which are eligible for statutory protection, the PARTIES will agree upon the details for filing for such protection. For joint statutory protection rights each PARTY grants the other PARTY the non-exclusive, non-transferable, sublicenseable and fully paid right to use it at its own discretion.

For the avoidance of doubt, SOFTWARE shall not be regarded as a joint development but a sole development by SIEMENS, even if and insofar SOFTWARE is based on specifications provided by SURGIVISION. For the avoidance of any doubt, any other DEVELOPMENT RESULTS jointly created by SIEMENS and SURGIVISION that consist of software shall be jointly owned by SIEMENS and SURGIVISION.

14.8. Each PARTY hereby already grants to the other PARTY - and the other PARTY already accepts such grant - the non-exclusive, non-transferable and fully paid license in the FIELD to use and have used the other PARTY's INFORMATION, BACKGROUND PATENTS and DEVELOPMENT RESULTS during the exclusivity periods according to Section 9 as far as this is necessary for

(i) SIEMENS' sales of the SOFTWARE for the PRODUCT in each region in which the PRODUCT has received regulatory approval and has been clinically released, and

(ii) SURGIVISION's sales of CATHETER TECHNOLOGY or PERIPHERAL TECHNOLOGY for the PRODUCT in each region in which the PRODUCT has received regulatory approval and has been clinically released.

Each PARTY hereby already grants to the other PARTY - and the other PARTY already accepts such grant - the non-exclusive, non-transferable and fully paid license in the FIELD to use and have used the other PARTY's INFORMATION, BACKROUND PATENTS and DEVELOPMENT RESULTS following expiration of the exclusivity periods according to Section 9 as far as this is necessary for

(i) SIEMENS' sales of the SOFTWARE for the PRODUCT in each region in which the PRODUCT has received regulatory approval, as such SOFTWARE exists as of the expiration of the exclusivity periods according to Section 9; and

(ii) SURGIVISION's sales of the CATHETER TECHNOLOGY or PERIPHERAL TECHNOLOGY for the PRODUCT in each region in which the PRODUCT has received regulatory approval, as such CATHETER TECHNOLOGY or PERIPHERAL TECHNOLOGY exists as of the expiration of the exclusivity periods according to Section 9.

For the avoidance of doubt, the foregoing license will not permit a PARTY to use or have used the other PARTY's INFORMATION, BACKGROUND RIGHTS or DEVELOPMENT RESULTS for any change, modification or improvement to the SOFTWARE or CATHETER TECHNOLOGY or PERIPHERAL TECHNOLOGY, as applicable, following expiration of the exclusivity periods according to Section 9.

The licenses granted under this Section 14.8 shall be sublicensable solely to AFFILIATES of the respective licensee.

Any further regulations shall be agreed upon in the separate marketing and sales agreement according to Section 10.

15. Term and Termination

15.1. This Agreement shall become effective on the date it is signed by both PARTIES.

15.2. This Agreement (unless terminated earlier under a relevant provision set forth in this Agreement) shall terminate thirty (30) days after successful completion as per Section 7.

15.3.

15.3.1 This Agreement may be terminated by SURGIVISION without reimbursement to SIEMENS at any time by giving not less than four weeks' prior written notice to SIEMENS

(i) if SIEMENS is declared bankrupt or otherwise cannot fulfill its financial obligations;

(ii) if SIEMENS substantially defaults in the performance of this Agreement and does not remedy the default within 4 weeks after receipt of a relevant request of SURGIVISION;

(iii) if SURGIVISION reasonably comes to the conclusion that [***], the tasks of this Agreement cannot be carried out at all or would not be economically reasonable; provided, however, that before SURGIVISION may exercise this termination right (i.e., giving written notice of termination pursuant to this provision), SURGIVISION must have (1) notified SIEMENS in writing of SURGIVISION's technical, market or economic concerns and (2) exercised commercially reasonable efforts to work with SIEMENS to address or resolve those concerns, [***];

15.3.2 This Agreement may be terminated by SIEMENS without reimbursement to SURGIVISION at any time by giving not less than four weeks prior written notice to SURGIVISION

(i) if SURGIVISION is declared bankrupt or otherwise cannot fulfill its financial obligations;

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

(ii) if SURGIVISION substantially defaults in the performance of this Agreement and does not remedy the default within four (4) weeks after receipt of a relevant request of SIEMENS;

(iii) if SIEMENS reasonably comes to the conclusion that due to [***], the tasks of this Agreement cannot be carried out at all or would not be economically reasonable; provided, however, that before SIEMENS may exercise this termination right (i.e., giving written notice of termination pursuant to this provision), SIEMENS must have (1) notified SURGIVISION in writing of SIEMENS' technical, market or economic concerns and (2) exercised commercially reasonable efforts to work with SURGIVISION to address or resolve those concerns, [***];

(iv) if SURGIVISION knowingly provides wrong or misleading information to SIEMENS according to Section 14.1 or purposefully omits information relevant for the FIELD or the PRODUCT that would prevent SIEMENS from making an informed decision according to Section 14.1;

(v) if SURGIVISION sells or transfers any of its patents relating to its CATHETER TECHNOLOGY or PERIPHERAL TECHNOLOGY, as contemplated in Section 14.1, without the prior consent of SIEMENS;

(vi) If the CATHETER TECHNOLOGY is not completely developed on May 1st, 2010, as defined in ANNEX 3, and therefore the INTEGRATION WORK cannot be completed.

15.4. Except as expressly provided to the contrary in this Agreement, Sections 2.5, 2.7, 2.8, 3.2, 3.3, 3.6., 3.10, 9, 10, 11, 13, 14, 15, 16, 17.2, 17.3. 17.4, 18 and 19 shall survive any termination of this Agreement; provided, however, that Sections 2.5, 3.2 and 3.6 shall survive only to the extent of any obligation accruing prior to termination. During the exclusivity periods according to Section 9, Section 15.3 (other than 15.3.1(iii) and 15.3.2(iii)) shall apply analogously with regard to the termination of the exclusivity.

15.5. In the event this Agreement is terminated prior to the expiration of its term according to Section 15.2, (i) Section 9 shall not survive the termination of this Agreement with respect to any region in which the PRODUCT has not received regulatory approval and been clinically released as of the date of termination, and (ii) Section 14.8 shall survive the termination of this Agreement only for any region in which the PRODUCT has received regulatory approval and been clinically released as of the date of termination.

15.6. In case of termination of this Agreement according to Sections 15.3.1 (iii) or 15.3.2 (ii) SURGIVISION shall pay SIEMENS the actual costs accumulated after the last milestone payment. Costs include actual costs regarding SOFTWARE DEVELOPMENT WORK which are accumulated after the last milestone payment, additional SOFTWARE DEVELOPMENT WORK reimbursed according to Section 8.6, as well as other additional actual costs, if any, incurred by SIEMENS in the USA caused by the termination of this Agreement. SIEMENS will use all reasonable efforts to keep additional costs as low as possible. In case of termination of this Agreement according to Sections 15.3.1(i) or 15.3.1(ii) or 15.3.2(iii) SURGIVISION shall not be obliged to pay SIEMENS any upcoming milestone payments for the SOFTWARE DEVELOPMENT WORK according to ANNEX 3.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

16. Beneficial interest in case of Insolvency of SURGIVISION

16.1. Subject to the terms of Section 16.2 below, SURGIVISION already grants - and SIEMENS accepts this grant - a beneficial interest (*"NieBbrauch"*) in the FIELD with regard to the rights and title to the CATHETER TECHNOLOGY, the PERIPHERAL TECHNOLOGY, SURGIVISION's DEVELOPMENT RESULTS and the PRODUCT, including any BACKGROUND PATENTS in the FIELD necessary for the use and exploitation of the aforementioned rights and titles with respect to the APPLICATION. For the avoidance of doubt, this beneficial interest shall be a right of use and shall not convey to SIEMENS title to any of SURGIVISION's CATHETER TECHNOLOGY, PERIPHERAL TECHNOLOGY, DEVELOPMENT RESULTS or BACKGROUND PATENTS.

16.2 This beneficial interest is granted to secure SIEMENS' ability to use the CATHETER TECHNOLOGY, the PERIPHERAL TECHNOLOGY, SURGIVISION's DEVELOPMENT RESULTS and the PRODUCT, including any BACKGROUND PATENTS, in the FIELD for SIEMENS' purposes with regard to sale, marketing and distribution of the PRODUCT. SIEMENS' shall only be entitled to exercise this beneficial interest, if SURGIVISION becomes subject to an insolvency proceeding (other than an involuntary insolvency proceeding against SURGIVISION that is dismissed within ninety (90) days).

16.3 In the event that SIEMENS becomes entitled to exercise the beneficial interest according to Section 16.2, the provision of the second paragraph of Section 17.3 shall apply analogously. SIEMENS shall no longer be bound by the exclusivity provisions according to Section 9.

17. Change of Control

17.1. If SURGIVISION obligates itself with respect to a CHANGE of CONTROL with a third party that is an INDIRECT COMPETITOR of SIEMENS, the PARTIES will discuss in good faith within thirty (30) days after such CHANGE of CONTROL is publicly announced, how such CHANGE of CONTROL would impact the relationship contemplated by this Agreement, including whether SURGIVISION or such INDIRECT COMPETITOR will terminate this AGREEMENT after the closing of such CHANGE OF CONTROL transaction. SIEMENS shall be entitled to terminate this Agreement within a period of thirty (30) days following the receipt of such a notification and discussion if it is not reasonably assured that such CHANGE of CONTROL will not adversely affect the prospects for commercial success of the transactions contemplated by this Agreement. With respect to a CHANGE of CONTROL involving a DIRECT COMPETITOR, SIEMENS shall be entitled to terminate this Agreement within a period of thirty (30) days following the receipt of such a notification at its own discretion.

17.2. In case of termination of this Agreement by SURGIVISION following a CHANGE OF CONTROL involving a DIRECT COMPETITOR or INDIRECT COMPETITOR prior to the regular termination of this Agreement (other than an earlier termination permitted under Section 15.3.1(i) and 15.3.1(ii)), SURGIVISION shall pay SIEMENS the actual costs accumulated after the last milestone payment. Costs include actual costs regarding SOFTWARE DEVELOPMENT WORK which are accumulated after the last milestone payment, additional SOFTWARE DEVELOPMENT WORK reimbursed according to Section 8.6, as well as other additional actual costs, if any, incurred by SIEMENS in the USA caused by the termination of this Agreement.

17.3. For the event of a CHANGE OF CONTROL involving a DIRECT COMPETITOR during the term of this Agreement or during the exclusivity period according to Section 9, SIEMENS is herewith granted - and SIEMENS accepts this grant - a 90-day option - starting with the closing of the transaction or SIEMENS being informed about the transaction whichever is later - free of charge to acquire all rights and title to or - if and insofar this is not legally possible - a world-wide, sub-licensable, transferable licence in the FIELD to use and exploit, SURGIVISION's DEVELOPMENT RESULTS relating to the SOFTWARE and/or CATHETER TECHNOLOGY and/or PERIPHERAL TECHNOLOGY. If SIEMENS exercises such option, (i) SIEMENS is additionally granted a non-exclusive, world-wide, sublicensable, non-transferable licence in the FIELD to use any BACKGROUND PATENTS necessary for the use and exploitation of the SOFTWARE and/or CATHETER TECHNOLOGY and/or PERIPHERAL TECHNOLOGY, and (ii) to the extent SIEMENS acquires all rights and title to SURGIVISION's DEVELOPMENT RESULTS, SIEMENS hereby grants to SURGIVISION an exclusive, fully paid, world-wide, sublicensable, non-transferable license under such DEVELOPMENT RESULTS in all fields other than the FIELD. Insofar as the DEVELOPMENT RESULTS relate to SOFTWARE, (ii) is not applicable. Following the exercise of the option, SIEMENS shall no longer be bound by the exclusivity provisions according to Section 9.

In return for the aforementioned transfer of title and/or grant of rights following SIEMENS exercise of the option, SIEMENS agrees to pay royalties to SURGIVISION of five percent (5%) of the NET SALES of CATHETER TECHNOLOGY and/or PERIPHERAL TECHNOLOGY, beginning with market launch of such CATHETER TECHNOLOGY or PERIPHERAL TECHNOLOGY, provided, however, that CATHETER TECHNOLOGY and/or PERIPHERAL TECHNOLOGY contain SURGIVISION DEVELOPMENT RESULTS or BACKGROUND PATENTS. The five percent (5%) royalty of the NET SALES does only refer to such NET SALES of CATHETER TECHNOLOGY or PERIPHERAL

TECHNOLOGY individual items (e.g. individual catheters or peripheral technology items) that contain SURGIVISION DEVELOPMENT RESULTS or BACKGROUND PATENTS. Payment of such royalties is limited to the scope of protection of the respective intellectual property rights. "NET SALES" shall mean gross revenue from sales by SIEMENS and/or SIEMENS' AFFILIATES, SIEMENS' distributors and other third parties sublicensing the aforementioned rights from SIEMENS, without value-added, consumption or other taxes imposed on the transaction. If SIEMENS exercises the option described in this Section 17.3, the fifth (5.) paragraph of Section 2.8 shall apply analogously.

17.4 If a CHANGE OF CONTROL occurs involving an INDIRECT COMPETITOR and SIEMENS thereafter terminates this Agreement, or thereafter SIEMENS terminates the exclusivity, according to Sections 3.10 or 15.3.1(iii) or 15.3.2(i) or 15.3.2(ii) or 15.3.2(iv) or 15.3.2(v) or 15.3.2(vi), SURGIVISION (including any successor in interest to SURGIVISION) shall pay to SIEMENS the amount equal to two million (2,000,000) US $ eight (8) weeks after such termination of the Agreement or the exclusivity.

18. Arbitration

18.1. Any differences or disputes arising from this Agreement or from agreements regarding its performance shall be settled by an amicable effort on the part of both PARTIES to the Agreement. An attempt to arrive at a settlement shall be deemed to have failed as soon as one of the PARTIES to the Agreement so notifies the other PARTY in writing.

18.2. If an attempt of settlement has failed, the disputes shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce in Paris (the "Rules") by three arbitrators appointed in accordance with the Rules. The place of arbitration shall be Munich, Germany. The procedural law of this place shall apply where the Rules are silent.

18.3. The arbitration procedures shall be held in the English language. The arbitral tribunal shall decide on the matter of costs of the arbitration.

19. Substantive Law

All disputes shall be settled in accordance with the provisions of this Agreement and all other agreements regarding its performance, otherwise in accordance with the substantive law in force in Germany, without reference to conflict of law rules. This Agreement will be executed in the English language, and the English version shall prevail if there is a dispute regarding the interpretation of a translated copy of this Agreement.

20. Miscellaneous

20.1. This Agreement together with its annexes and any regulation being based on this Agreement is the PARTIES' entire agreement relating to the subject matter herein. It

supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to its subject matter.

20.2. This Agreement may not be released, discharged, abandoned, changed or modified in any manner, except by an instrument in writing signed on behalf of each of the PARTIES hereto by their duly authorized representatives.

20.3. Unless otherwise agreed upon or provided in this Agreement, neither PARTY shall, without the prior written consent of the other, transfer or assign to third parties this Agreement or any rights and obligations arising therefrom, except that SURGIVISION may assign this Agreement in connection with a CHANGE OF CONTROL transaction (subject to the provisions of Section 17). Consent hereto shall not be unreasonably withheld. However, AFFILIATES of SIEMENS or SURGIVISION shall not be regarded as third parties hereunder.

20.4. Failure of a PARTY to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of any such provision, nor in any way to affect the validity of this Agreement or any part thereof or the right of any PARTY thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

20.5. All notices or other communications required or permitted hereunder with regard to the interpretation, validity etc. of the Agreement shall be in writing and shall be given by certified mail addressed,

if to SURGIVISION, to:
Kim Jenkins
SurgiVision, Inc.
One Commerce Square
Suite 2550
Memphis, TN (US) 38103

with a copy to:
Oscar Thomas
SurgiVision, Inc.
One Commerce Square

Suite 2550

Memphis, TN (US) 38103

and, if to SIEMENS, to:
Siemens Aktiengesellschaft
Healthcare Sector
Imaging & IT Division - MR Business Unit
Alle am Rothelheimpark 2
91052 Erlangen

or to such other address that the PARTIES might identify to each other for this purpose and with reference to this Agreement.

20.6. Except otherwise agreed herein, no PARTY hereto shall issue any press release or public announcement or otherwise divulge the existence of this Agreement or the transactions contemplated hereby without the prior approval of the other PARTY hereto.

20.7. This Agreement shall be binding upon and insure to the benefit of the PARTIES hereto and the successors or permitted assigns of the PARTIES hereto.

20.8. Titles and headings to Sections herein are inserted for the convenience or reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

20.9. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement.

IN WITNESS WHEREOF, the PARTIES hereto have caused this agreement to be executed by their duly authorized representatives:

place, date
SURGIVISION

Kim Jenkins, CEO
Name, Function

/s/ Kim Jenkins
Signature

place, date
Siemens Aktiengesellschaft
Healthcare Sector

Waller Maerfendorfer, CEO H/M MR
Name, Function

/s/ Waller Maerfendorfer
Signature

Holger Liebel, CFO H/M MR
Name, Function

/s/ Holger Liebel
Signature

ANNEX 1 CATHETER TECHNOLOGY DEVELOPMENT

SURGIVISION shall develop one prototype [***] that includes [***], and one prototype [***] (as described in ANNEX 2). The two prototype catheters shall be provided by SURGIVISION to SIEMENS by [***] (consistent with the dependency described in Prototype Phase 3 as described in detail in ANNEX 3).

SURGIVISION shall develop one final Prototype [***]* (one each) ("final" meaning in final development stage, so that further changes will not influence the implementation / functionality of the SOFTWARE). The final Prototype [***] shall be provided by SURGIVISION to SIEMENS by [***] (consistent with the dependency described in Prototype Phase 6A of the Development Milestones as described in detail in ANNEX 3).

SURGIVISION shall develop the final [***]*. The final [***] shall be provided by SURGIVISION to SIEMENS by [***] (or [***]**) (consistent with the dependencies described in Prototype Phase 9A of the Development Milestones as in ANNEX 3).

SURGIVISION shall develop the Final [***] and provide it to SIEMENS by a date that is [***]** (consistent with the dependencies described in Prototype Phase 9A of the Development Milestones attached in ANNEX 3).

SURGIVISION shall provide all catheters, equipment and RF room modifications according to final specifications as described in ANNEX 2 at one of the clinical test site by [***]** (consistent with the dependencies described in Prototype Phases 10A of the Development Milestones attached in ANNEX 3).

**As described in ANNEX 2*
**[***]
***Assumed start of project 15 May 2009 — all dates will shift in relation to actual start date.
[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ANNEX 2 Description of PRODUCT

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ANNEX 3 DEVELOPMENT MILESTONES

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

[***]

ANNEX 4 LOANED EQUIPMENT (SIEMENS to SURGIVISION)

Hardware

— Coil Connectors

Software

— Prototype versions of SOFTWARE as available

— XIP development environment

ANNEX 5 Loan Conditions (SIEMENS to SURGIVISION)

1. The delivery of the LOANED ITEMS to the installation site, installation, initial operation, possible dismantling and return of the loaned items to SIEMENS shall be performed by SIEMENS at its own expense. Taking the necessary measures, if any, for pre-installation preparations or post-removal restoration remains the responsibility of SURGIVISION. Changing the location of the LOANED ITEMS or connecting other equipment to them shall be conditional on SIEMENS ' prior consent, regardless of and without prejudice to the requirements of the laws on medical devices and other statutory regulations. SURGIVISION agrees to use the LOANED ITEMS in the proper manner and with appropriate care, pursuant to the instructions set forth in the user manuals.

2. Should a third party, in connection with the loan or the use of LOANED ITEMS by SURGIVISION under the Agreement, advance justified claims arising out of industrial property rights, then SIEMENS shall have the right to terminate the loan and/or use of such LOANED ITEMS under this Agreement at any time with immediate effect.

3. SURGIVISION shall be responsible for complying with the relevant radiation protection regulations where applicable. SURGIVISION will also be responsible for obtaining any licenses and other approvals which may be required for the use or operation of the LOANED ITEMS in its facility.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Co-Development and Distribution Agreement

between

SurgiVision, Inc.

and

Brainlab Aktiengesellschaft

This Co-Development and Distribution Agreement (the "**Agreement**") is entered into between **SurgiVision, Inc.**, having its principal office located at 5 Musick, Irvine, California 92618, United States ("**SurgiVision**"), and **Brainlab AG**, a German corporation having its principal office located at Kapellenstrasse 12, 85622 Feldkirchen, Germany ("**Brainlab**"), as of April 5, 2011 ("**Effective Date**").

WHEREAS, SurgiVision is in the business of developing medical devices that provide guidance for the placement and operation of instruments or devices during the planning and operation of neurological procedures within the magnetic resonance imaging ("**MRI**") environment and that are intended to be used as an integral part of neurological procedures, such as biopsies and catheter and electrode insertion, which have traditionally been performed using other methods, and has licensed and developed proprietary technology and the proprietary and confidential information, trade secrets and know-how associated therewith; and

WHEREAS, Brainlab, in its business of developing and marketing software-driven medical devices, has licensed and developed proprietary technology and the proprietary and confidential information, trade secrets and know-how associated therewith for computer-assisted planning and navigation of direct infusion of agents into targeted tissues within the body; and

WHEREAS, SurgiVision and Brainlab desire to enter into an agreement granting Brainlab certain distribution rights for the ClearPoint Products (as defined below); and

WHEREAS, the Parties (as defined below) are interested in developing a relationship pursuant to which they shall jointly develop, market and promote certain products integrating each Party's technologies for the Fields of Use (as defined below), with Brainlab acting as the distributor for such products; and

WHEREAS, Brainlab desires to make an investment in SurgiVision in the amount of US$2,000,000, upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual covenants of the Parties contained herein, the Parties hereto agree as follows:

I. Definitions

The following terms shall have the following meanings.

1. "**Affiliate**" means any Person which controls, is controlled by or is under common control with another Person, for so long as such control exists. For purposes of this section, "**control**" means (i) in the case of corporate entities, direct or indirect ownership of fifty percent (50%) or more of the stock or shares entitled to vote for the election of directors, and (ii) in the case of non- corporate entities, direct or indirect ownership of fifty percent (50%) or more of the equity or income interest therein.

2. "**Agreement**" means this Co-Development and Distribution Agreement, together with all appendices now and hereafter annexed hereto or incorporated herein by reference, as it or they may be amended, supplemented, replaced, re-stated or otherwise modified from time to time.
3. **Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, (i) any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, order or other requirement having the force of law, including all applicable GMPs, and (ii) any policy, practice, protocol, standard or guideline of any Regulatory Authority which, although not necessarily having the force of law, is regarded by such Regulatory Authority as requiring compliance as if it had the force of law relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of any of the foregoing (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.
4. "**Brainlab Technology**" means Brainlab's technology incorporated into its BrainSuite product line and any and all disposables associated therewith.
5. "**ClearPoint Customer Account**" means any customer site equipped with reusable components of SurgiVision's ClearPoint System.
6. "**ClearPoint Product**" or "**ClearPoint Products**" means any of the specific reusable hardware components, disposable components or software components of SurgiVision's ClearPoint System that are set forth in Appendix A, as the same may be amended from time to time upon mutual agreement of the Parties.
7. "**CNS**" means the human central nervous system.
8. "**Commercial Use**" means, in respect of a Product, use on a commercial, non-trial basis after all necessary Regulatory Approvals have been obtained for such Product.
9. "**Commercially Reasonable Efforts**" means, with respect to a Party, the efforts and resources normally applied thereby to its other medical device products of similar commercial potential at a similar stage in its product life, but no less than those normally applied in the medical device industry for products of similar commercial potential at a similar stage in its product life.
10. "**Conversion Date**" means the closing date of a Qualified Financing.
11. "**Conversion Shares**" means shares of Qualified Financing Stock issued upon conversion of the Note (as defined herein).
12. "**Documentation**" means user guides, operating manuals, training materials, product descriptions and specifications, technical manuals, product supporting materials and other similar information provided, or to be provided, by either Party to the other, whether in print, magnetic, electronic or video format.
13. "**Fields of Use**" means, collectively, the MR Guided Stereotactic Placement Field of Use and the Therapeutic Delivery Field of Use.

14. "**FDA**" means the United States Food and Drug Administration or any successor agency.
15. "**GMP**" means good manufacturing practice requirements of Applicable Law, including the guidelines, policies, codes, requirements and standards from time to time promulgated or issued by any Regulatory Authority with respect to the manufacture of a Product.
16. "**Integrated Product**" or "**Integrated Products**" means (a) any product integrating Brainlab Technology and SurgiVision Technology as contemplated in section II or section III of this Agreement, or (b) any jointly developed product in the Therapeutic Delivery Field of Use as contemplated in section III of this Agreement.
17. "**MR Guided Stereotactic Placement Field of Use**" means stereotactic guidance for the placement and operation of instruments or devices during planning and operation of neurological procedures within the MRI environment and in conjunction with Real Time MRI.
18. "**Party**" means, as appropriate, SurgiVision or Brainlab, singly and "**Parties**" means, collectively, SurgiVision and Brainlab.
19. "**Person**" is to be broadly interpreted and includes an individual, a corporation, a limited liability corporation, a partnership, a limited partnership, a trust, an unincorporated association, an unincorporated organization, the government of a country, any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity.
20. "**Product**" or "**Products**" means any ClearPoint Product and/or Integrated Product.
21. "**Project**" means the development and Regulatory Approval of the Therapeutic Delivery Field of Use Products as contemplated in section III of this Agreement.
22. "**Project Plan**" shall have the meaning set out in section III.1.
23. "**Project Steering Committee**" shall have the meaning set out in section III.2.
24. "**Qualified Financing**" means any bona fide, third-party, arms-length negotiated equity financing with net proceeds to the Company of at least $10,000,000, pursuant to a single transaction or series of related transactions, occurring after the Effective Date in which shares of SurgiVision's preferred stock are issued in exchange for cash proceeds.
25. "**Qualified Financing Stock**" means shares of a series of SurgiVision's preferred stock issued in a Qualified Financing after the Effective Date.
26. "**Real Time MRI**" means any setting where the patient is physically present in the MRI scanner throughout the entirety of a surgical procedure.
27. "**Regulatory Approval**" means any FDA 510(k), CE and equivalent approvals (including supplements, variations, amendments, pre- and post-approvals), import licenses, registrations or authorizations of Regulatory Authorities necessary for the sale, importation or commercialization of any particular Product in the Territory.
28. "**Regulatory Authority**" means the relevant body or bodies for granting Regulatory Approval in each country in the Territory.

29. "**Regulatory Filings**" means all applications, filings, dossiers and the like (excluding routine adverse event expedited or periodic reporting), submitted to a Regulatory Authority for the purpose of obtaining Regulatory Approval from that Regulatory Authority.
30. "**Special Rights**" means rights granted to any third party with respect to Products beyond the normal course provision of Products and services contemplated by this Agreement.
31. "**SurgiVision Technology**" means the technology embodied in or incorporated into the ClearPoint Products.
32. "**Territory**" means the United States of America, the European Union and Canada. The Parties will work together collaboratively and, in good faith, to expand the Territory as they mutually determine to be appropriate and shall modify this Agreement as necessary as a result thereof and any expansion thereof shall be included in the definition of Territory.
33. "**Therapeutic Agent**" means any substance delivered into the central nervous system.
34. "**Therapeutic Delivery Field of Use**" means stereotactic guidance for the placement and operation of instruments or devices during planning and operation of neurological procedures for the delivery of Therapeutic Agents to the CNS within the MRI environment and in conjunction with Real Time MRI. For the avoidance of doubt, the Therapeutic Delivery Field of Use is a subset of the MR Guided Stereotactic Placement Field of Use.
35. "**Validate**" or "**Validation**" means to validate a Product for compliance with Applicable Law, including in accordance with GMP.

II. Integration of Brainlab Technology and SurgiVision Technology

1. Brainlab shall use Commercially Reasonable Efforts to integrate, at its expense, the SurgiVision Technology with the Brainlab Technology to facilitate an optimal clinical workflow for a neurological procedure using Integrated Products within the MR Guided Stereotactic Placement Field of Use. SurgiVision shall support Brainlab's integration efforts by providing information and Documentation regarding the SurgiVision Technology and other usual and customary cooperation as requested by Brainlab that is necessary for its integration work.
2. Each Party shall use Commercially Reasonable Efforts to ensure, during the Term (as defined below), an adequate supply of their respective technologies and services for research and Commercial Use in the MR Guided Stereotactic Placement Field of Use, and for any related support and maintenance service in the Territory.
3. During the Term, not less than every six months, the appropriate representatives of each Party shall meet, in person, at a mutually agreeable time and place to discuss the effectiveness, economics, safety and other relevant characteristics of the Products, the integration of their respective technologies as contemplated in this section II, and applicable sales and marketing strategies, policies and procedures (each such meeting, a "**Commercial Review**").
4. Each Party agrees that during the Term such Party will use Commercially Reasonable Efforts to improve its technologies based upon the results of the Commercial Review and shall work jointly with the other Party to make such changes and adjustments to their respective technologies and marketing and sales policies and procedures, based upon the results of the Commercial Review, as are technically and commercially reasonable in an effort to maintain the competitiveness of the integrated technologies in the MR Guided Stereotactic Placement Field of Use.

5. The costs of integration of the Brainlab Technology with the SurgiVision Technology, and any improvements of the Brainlab Technology for use in the MR Guided Stereotactic Placement Field of Use, shall be borne by Brainlab.

6. To the extent determined by either Party to be required by Applicable Law or beneficial for marketing of Integrated Products, the Parties shall jointly Validate such Integrated Product(s) for the MR Guided Stereotactic Placement Field of Use. Under such circumstances, the Parties shall work together collaboratively and in good faith to determine the appropriate process and procedures for such Validation.

III. Therapeutic Delivery Field of Use Development

1. The Parties shall, within 90 days of the Effective Date, work together collaboratively and in good faith to agree on a written project plan for developing Integrated Products for the Therapeutic Delivery Field of Use ("**Project Plan**"). Such Project Plan shall include, among other agreed upon items, listings of the various tasks in the Project, reasonable Project milestones, which can be used to track the progress of the Project, responsible persons and partners for the tasks, and an estimated duration of the Project along with estimated timelines for achievement of the various Project milestones. Such Project Plan may be amended as provided for in this Agreement.

2. A committee of representatives of each Party (the "**Project Steering Committee**") shall be responsible for the management of the Project, including reviewing and approving the Project Plan, reviewing project reports, escalation of issues and general coordination of the Project among the Parties. The Project Steering Committee shall be made up of four (4) members, including two (2) members designated by SurgiVision and two (2) members designated by Brainlab. SurgiVision's initial designees to the Project Steering Committee will be [***] and [***]. Brainlab's initial designees to the Project Steering Committee will be [***] and [***]. Meetings of the Project Steering Committee shall be held as provided in the Project Plan or as otherwise deemed necessary or appropriate.

3. In addition to (or as part of) the Project Plan, the Parties shall work together collaboratively and in good faith to create a sales and marketing plan for Products in the Therapeutic Delivery Field of Use. The Project Steering Committee shall be responsible for reviewing, approving and administering such plan.

4. Neither Party shall enter into any other collaboration or other cooperative arrangement during the Term for the commercial development, sales or marketing of products for the Therapeutic Delivery Field of Use.

IV. Regulatory Approvals, Adverse Reactions; Product Recalls

1. Brainlab shall be responsible for obtaining Regulatory Approvals from all applicable Regulatory Authorities for any Brainlab Technology, whether or not integrated with SurgiVision Technology, and all Integrated Products. SurgiVision shall support Brainlab's efforts to obtain such Regulatory Approvals by providing information and Documentation regarding the SurgiVision Technology reasonably requested by Brainlab.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

2. SurgiVision shall be responsible for obtaining Regulatory Approvals from all applicable Regulatory Authorities for any SurgiVision Technology that is not integrated with any Brainlab Technology. Brainlab shall support SurgiVision's efforts to obtain such Regulatory Approvals by providing information and Documentation regarding the Brainlab Technology reasonably requested by SurgiVision.
3. Brainlab and SurgiVision shall each comply with all applicable regulatory requirements, including the provision of information necessary for each Party to comply with the requirements of any Regulatory Authority. Brainlab and SurgiVision shall each comply with all applicable health registration and privacy laws, regulations and orders of any Regulatory Authority where marketable Products are sold and with all other governmental requirements relating to the promotion, marketing and sale of Products in such country to the extent applicable to such Party. Upon request by any properly authorized officer or employee of a Regulatory Authority, the Parties shall permit such officer or employee, at reasonable times, to have access to and copy and verify any records and reports in the Party's possession or under the Party's custody or control relating to the activities of the Parties pursuant to this Agreement, and shall submit such records or reports (or copies thereof) upon the Regulatory Authority's request. Upon notification of an impending inspection by a Regulatory Authority at either Party's premises, the Party receiving such notification shall notify the other Party immediately.
4. Brainlab shall be responsible for reviewing and investigating complaints regarding Brainlab Technology and Integrated Products. SurgiVision shall be responsible for reviewing and investigation complaints regarding SurgiVision Technology, but not including Integrated Products. SurgiVision and Brainlab will each promptly notify the other Party regarding safety critical complaints and in the event a report is required to be submitted to a health and safety regulatory agency or body related to the use of the other Party's product.
5. Brainlab and SurgiVision will each promptly notify the other if, to the best of that Party's belief, a scheduled modification of that Party's technology (a "**Modified Product**") is likely to affect the intended use, the safety or the effectiveness of the other Party's technology or of any Integrated Product. Such modifications may include, but are not limited to design changes, technical changes, modifications of the software or hardware, changes in the product status (i.e. product removed from the market) and changes that affect compliance of the other Party's technology or any Integrated Product with applicable health and safety regulations (such as FDA or CE regulations). Such notification shall be made as soon as commercially feasible, but in any event, prior to the manufacture of a Modified Product intended for Commercial Use.
6. All communication and exchange of technical data and other information, including any litigation, must be performed in English unless otherwise agreed by both Parties in writing.

V. Intellectual Property

1. Brainlab shall maintain such title to, and interest in, all intellectual property and the intellectual property rights therein which it may have and all improvements and developments authored, invented (as invented is determined under the patent laws of the United States), otherwise made, created or generated by Brainlab related to the Brainlab Technology or otherwise solely developed by Brainlab and the intellectual property rights therein. Nothing in this Agreement shall be deemed to grant to SurgiVision any right, title or license to any such intellectual property, except for the licenses expressly granted pursuant to this Agreement.

2. SurgiVision shall maintain such title to, and interest in, all intellectual property and the intellectual property rights therein which it may have and all improvements and developments authored, invented (as invented is determined under the patent laws of the United States), otherwise made, created or generated by SurgiVision related to the SurgiVision Technology or otherwise solely developed by SurgiVision and the intellectual property rights therein. Nothing in this Agreement shall be deemed to grant to Brainlab any right, title or license to any such intellectual property, except for the licenses expressly granted pursuant to this Agreement.
3. As among the Parties, all intellectual property which is authored, invented (as invented is determined under the patent laws of the United States), otherwise made, created or generated by the Parties jointly, shall be owned jointly and equally by such Parties and may be exploited by each of the joint owners, as the case may be, without a duty to account.
4. Each of Brainlab and SurgiVision shall promptly provide written notice to the other, of any allegations of which they or their Affiliates become aware that the activities of either Party undertaken in the performance of this Agreement or otherwise relating to the collaboration established by this Agreement infringes upon any patent or other intellectual property right of any other Person. The Parties shall thereupon promptly confer and work together collaboratively and in good faith to determine what steps are to be taken in response to such allegations.
5. SurgiVision hereby grants to Brainlab a non-exclusive, non-transferable, non-sublicensable license in the Therapeutic Delivery Field of Use to use, during the Term, such intellectual property owned or controlled by SurgiVision only as may be required for Brainlab to market the Products in the Territory pursuant to the terms of this Agreement or to otherwise perform its obligations under this Agreement. SurgiVision hereby grants to Brainlab a non-exclusive, non-transferable, non-sublicensable license in the MR Guided Stereotactic Placement Field of Use to use, during the Term, such intellectual property owned or controlled by SurgiVision only as may be required for the marketing of the Products in the Territory pursuant to the terms of this Agreement.

VI. Product Distribution

1. Subject to the terms and conditions of this Agreement, SurgiVision hereby appoints Brainlab, and Brainlab hereby accepts appointment, during the Term, as a non-exclusive distributor of, and an authorized provider of maintenance and support for, Products in the Territory in the MR Guided Stereotactic Placement Field of Use, except for those sites identified in Appendix B (with respect to which SurgiVision retains all rights). Notwithstanding the non-exclusive nature of this appointment, for any ClearPoint Customer Accounts created through Brainlab's sales activities (i.e., the customer site purchased the reusable components through Brainlab), Brainlab shall, during the Term, be the exclusive provider of Products in the MR Guided Stereotactic Placement Field of Use.
2. Subject to the terms and conditions of this Agreement, SurgiVision hereby appoints Brainlab, and Brainlab hereby accepts appointment, during the Term, as the exclusive distributor of, and the authorized provider of maintenance and support for, Products in the Territory in the Therapeutic Delivery Field of Use, except for those sites identified in Appendix B (with respect to which SurgiVision retains all rights).
3. During the Term, Brainlab agrees to use Commercially Reasonable Efforts to adhere to the agreed-upon Project Plan and to commercialize, market, promote, sell, service and support Products in the Therapeutic Delivery Field of Use throughout the Territory. SurgiVision may render assistance to Brainlab in optimizing Brainlab's commercialization activities and user satisfaction in the Therapeutic Delivery Field of Use.

4. In furtherance of its Commercially Reasonable Efforts, during the Term, Brainlab shall not anywhere in the Territory develop, market or sell in the Therapeutic Delivery Field of Use any product that performs substantially the same function as, or competes with, any of the ClearPoint Products, except for Integrated Products as contemplated under this Agreement. In addition, without the prior written consent of SurgiVision (which consent may be withheld in its sole discretion), Brainlab shall not enter into or become bound by any agreement that restricts in any manner its ability to commercialize Products in the Therapeutic Delivery Field of Use.
5. In the event that either Party shall fail or refuses to (a) make its respective technology available in the Territory within mutually agreed upon timeframes or (b) modify its own technology to meet reasonable specifications set forth by end customers, the other Party may, upon written notice to such Party, terminate the exclusivity provisions related to the Therapeutic Delivery Field of Use.
6. Subject to SurgiVision's prior written consent (which consent shall not be unreasonably withheld or delayed), Brainlab may appoint one or more third parties as subagents or subdistributors (individually and collectively, "**Subdistributors**") to act on its behalf, provided that Brainlab shall cause all such Subdistributors to abide by the applicable terms and conditions of this Agreement and Brainlab shall remain responsible for all of its obligations under this Agreement.
7. As soon as reasonably practicable following the Effective Date, the Parties will work together collaboratively and in good faith to agree on standard customer documentation to be used by Brainlab in connection with any sale of ClearPoint Products.
8. All rights and interests not expressly granted to Brainlab under this Agreement are reserved and retained by SurgiVision, and SurgiVision may exploit such rights and interests in any manner. Without limiting the generality of the foregoing, SurgiVision retains all rights (a) to make improvements and modifications to the ClearPoint Products, (b) to enter into collaborative or cooperative agreements with other Persons regarding the ClearPoint Products in the MR Guided Stereotactic Placement Field of Use, which agreements Brainlab understands could affect the use of the ClearPoint Products in the MR Guided Stereotactic Placement Field of Use, (c) to market, promote and sell ClearPoint Products to those sites identified in Appendix B, (d) to market and promote, but not to sell other than collaboratively with Brainlab, ClearPoint Products for use in the Therapeutic Delivery Field of Use, and (e) to collaboratively with Brainlab, enter into research arrangements in the Therapeutic Delivery Field of Use.

VII. Service and Support

1. Brainlab shall be responsible for providing service and support for the Brainlab Technology in all Fields of Use. Brainlab shall be responsible for providing Level 1 and Level 2 service and support to customers for Products sold by Brainlab in the Therapeutic Delivery Field of Use and for Integrated Products sold by Brainlab in the MR Guided Stereotactic Placement Field of Use. Level 1 support shall include onsite training, help desk services, reseller interfacing, problem isolation and diagnosis, and Level 2 support shall include loading bug fixes, patches, and minor repair services. To the extent relating to SurgiVision Technology, SurgiVision shall provide Level 3 support, which shall include backup support services to assist Brainlab in meeting Level 1 and Level 2 support obligations by addressing certain technical support issues that are beyond the scope of Brainlab's expertise. Brainlab will pay SurgiVision for Level 3 support services at standard rates as described in Appendix C, provided that such services were not required for

warranty repair as contemplated in section X.3 below. Appendix C may be changed from time to time, as appropriate upon the mutual agreement of Brainlab and SurgiVision. SurgiVision will provide spare parts and other items for service to Brainlab at a price equal to [***]. Brainlab reserves the right to offer service packages to the end customer at its discretion.

2. SurgiVision shall be responsible for providing service and support to customers in the United States for ClearPoint Products sold in the MR Guided Stereotactic Placement Field of Use; provided, however, that SurgiVision shall be responsible for attending only the initial clinical cases using the ClearPoint Products (to the extent attendance is requested by the customer). For the avoidance of any doubt, the foregoing obligation does not apply to Integrated Products. To the extent Brainlab has a service package with the end user customer that covers ClearPoint Products (not including Integrated Products), SurgiVision shall be entitled to reasonable compensation from Brainlab under such arrangement in an amount to be agreed.

3. SurgiVision shall provide training on the ClearPoint Products, including joint attendance of SurgiVision and Brainlab personnel in initial clinical cases in the applicable region, to Brainlab personnel to enable Brainlab personnel to provide service and support to customers outside of the United States.

VIII. Training

1. SurgiVision shall provide training on the ClearPoint Products at intervals as reasonably required by Brainlab's product technical specialists, sales force, marketing personnel and service and support personnel with each Party paying their own travel expenses. The scope, location, and scheduling of such product training shall be determined by mutual agreement of the Parties. SurgiVision shall provide Brainlab with sales training manuals and literature for the ClearPoint Products, and shall further provide reasonable quantities of literature, brochures, product specifications and other promotional materials for the ClearPoint Products. SurgiVision shall have the right to prior review and to approve (or not approve) any copy, layout or other advertising, promotional or other distributed materials, if any, prepared by or on behalf of Brainlab with respect to any ClearPoint Products or that use any SurgiVision trademarks, service marks or trade names, provided, however, that such approval shall not unreasonably be withheld or delayed. Brainlab shall not use any such material prior to SurgiVision's approval.

2. Brainlab shall provide training to customers in the use and operation of the Products it sells. The Parties shall consult on the joint development and funding of training programs for customers for use of the Products in the Fields of Use. SurgiVision will train Brainlab staff that will provide training to customers.

IX. Prices, Payments and Delivery

1. During the Term, ClearPoint Products shall be provided by SurgiVision to Brainlab at SurgiVision's transfer prices defined in Appendix A, [***]. In the event SurgiVision makes new versions or major modifications to any of the ClearPoint Products, which could include, without limitation, release of a new version of a software product, the Parties will work together in good faith to determine whether an increase in the transfer price for such product is appropriate.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

2. The transfer prices defined in Appendix A are [***]. Payment terms for sales of ClearPoint Products from SurgiVision to Brainlab shall be as follows: [***]. SurgiVision will not invoice prior to actual shipment. Brainlab shall ensure that ClearPoint Products shipped are stored and handled in accordance with the specifications SurgiVision shall from time to time provide.
3. All payments between Brainlab and SurgiVision will be in U.S. dollars, unless mutually agreed in writing.
4. All Brainlab purchase orders for Products shall include all information reasonably required by SurgiVision. SurgiVision shall promptly notify Brainlab of any purchase orders (or parts of purchase orders) accepted, rejected or delayed. Delivery schedule shall be promulgated by Brainlab from time to time through routine purchase orders. However, the Parties will work together collaboratively and in good faith to create a 12-month sales forecast, which forecast Brainlab shall thereafter update on a quarterly basis (i.e., a rolling 12-month forecast) and provide to SurgiVision.
5. Title and risk of loss or damage to any ClearPoint Product(s) shall pass from SurgiVision to Brainlab upon shipment from SurgiVision's shipping point in the United States.
6. In no event shall Brainlab distribute, market, sell or otherwise commercialize any Integrated Product unless and until the Parties have agreed on the prices to be paid to SurgiVision for the SurgiVision Technology involved in such Integrated Product. The Parties will work together in good faith to establish such prices.
7. In addition to any other amounts payable under this Agreement, Brainlab and SurgiVision shall meet and, in good faith, determine a proper allocation of any consideration to be received by Brainlab or any of its Affiliates in exchange for the granting of any Special Rights. Brainlab agrees to notify SurgiVision prior to entering into any binding obligation that will result in the grant of such Special Rights, and in no event shall Brainlab or any of its Affiliates enter into any such binding obligation unless the parties have agreed to the allocation as contemplated in this paragraph.
8. Notwithstanding any of the foregoing to the contrary, upon any termination of this Agreement, Brainlab shall pay in full any amounts then due to SurgiVision.

X. Warranties and Liability

1. Each Party, to the extent that it is the licensor of any intellectual property hereunder, other than jointly owned intellectual property, hereby represents and warrants that it is the proper owner or licensee of such intellectual property and that it has the proper authority, without consent of any other party, to so license such intellectual property. Each Party, to the extent that it is the licensor of any intellectual property hereunder, other than jointly owned intellectual property, hereby represents and warrants that such licensed intellectual property does not, and will not, infringe upon the intellectual property rights of third parties.
2. Each Party warrants and represents that neither it nor any of its employees, agents or representatives who will be rendering any services under this Agreement have ever been debarred or convicted or a crime for which a person can be debarred under 21 U.S.C. 335a, nor to the

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

3. knowledge of such Party, threatened to be debarred or indicted for a crime or otherwise engaged in conduct for which a person can be debarred. Each party agrees to notify the other immediately in the event of any such debarment, conviction, threat or indictment occurring during the term of this Agreement, or the three (3) year period following the termination or expiration of this Agreement.
4. SurgiVision agrees to extend to Brainlab and to Brainlab's customers SurgiVision's standard product warranty for the ClearPoint Products, as the same may be modified from time to time. EXCEPT AS PROVIDED IN THE PRECEDING SENTENCE, SURGIVISION MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, IN CONNECTION WITH THE CLEARPOINT PRODUCTS, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY. SURGIVISION MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY INTEGRATED PRODUCT.
5. **Neither Party shall be liable to the other party for any indirect, consequential or special damage or the loss of revenue or profit.**

XI. Indemnification

1. Brainlab shall indemnify, defend and hold SurgiVision, its Affiliates and their respective officers, directors, employees, agents and representatives (collectively the "**SurgiVision Indemnitees**") harmless from and against any and all damage, loss, liability, costs and other expenses (including reasonable attorneys' fees), actions, suits, claims, proceedings, investigations, audits, demands, assessments, fines or judgments (collectively "**Damages**") resulting from or arising out of or in connection with (a) any misrepresentation or breach of any representation, warranty or covenant in this Agreement by Brainlab, or (b) any violation or non-compliance with Applicable Law by Brainlab.
2. SurgiVision shall indemnify, defend and hold Brainlab, its Affiliates and their respective officers, directors, employees, agents and representatives (collectively the "**Brainlab Indemnitees**"), harmless from and against any and all Damages (as defined above) resulting from or arising out of or in connection with (a) any misrepresentation or breach of any representation, warranty or covenant in this Agreement by SurgiVision, or (b) any violation or non-compliance with Applicable Law by SurgiVision.
3. Brainlab will indemnify and hold harmless the SurgiVision Indemnitees, and SurgiVision will indemnify and hold harmless the Brainlab Indemnitees, from any Damages relating to claims of product liability from the indemnifying Party's technology, provided that such Damages are not the result of the other Party's negligent or intentional action or inaction.
4. During the Term and for a period of five years thereafter both Parties shall maintain a comprehensive business and product liability insurance in amounts and subject to conditions generally used in their respective businesses. The Parties shall each provide the other Party with written insurance certificates upon the other Party's request.

XII. Term and Termination.

1. Unless terminated in accordance with its terms, the term of this Agreement (the "**Term**") will commence on the Effective Date and continue through the fifth anniversary of the Effective Date.

2. Prior to the expiration of the Term, this Agreement may only be terminated by mutual agreement of the Parties, or as provided in paragraph 3 or 4 below.

3. Either Party shall have the right to terminate this Agreement in its entirety if: (i) the other Party fails or neglects to perform, keep or observe any term, provision, condition or covenant contained in this Agreement and the same is not cured or being cured to the non-breaching Party's reasonable satisfaction within 30 days after the non-breaching Party gives the breaching Party written notice identifying such default; (ii) an application is made by the other Party for the appointment of a receiver, trustee or custodian for any of the other Party's assets, a petition under any section or chapter of the federal Bankruptcy Code or any similar law or regulation is filed by or against the other Party and is not dismissed within 60 days, or the other Party makes an assignment for the benefit of his creditors; or (iii) the other Party files articles of dissolution or otherwise ceases to conduct its business in the ordinary course.

4. In the event that either Party is convicted of a felony by any court of competent jurisdiction, the other Party may terminate this Agreement immediately upon notice within thirty (30) days following such conviction.

5. Except as expressly set out in this Agreement, the licenses for intellectual property granted under this Agreement, and licenses by either Party to the other to use confidential information or property belonging to it, shall expire upon termination of this Agreement.

6. The following provisions of this Agreement shall survive the completion, expiration, termination or cancellation of this Agreement: Sections I, IV (other than paragraphs 1 and 2), V (other than paragraph 5), IX, XI, XII and XIV.

XIII. Investment in SurgiVision

1. On the Effective Date, Brainlab shall make a loan to SurgiVision in the aggregate principal amount of US$2,000,000, which loan shall be evidenced a convertible promissory note (the "**Note**") in the form attached hereto as Appendix D.

2. On the Conversion Date, except as otherwise provided in the Note, the principal amount outstanding and all accrued interest then outstanding under the Note shall automatically convert into that number of Conversion Shares equal to (a) the sum of the outstanding principal amount and accrued interest on the Note on the Conversion Date divided by (b) the price per share paid by investors in the Qualified Financing for a share of Qualified Financing Stock.

3. Brainlab shall be deemed to be the holder of the Conversion Shares as of the Conversion Date. At that time, Brainlab shall cease to have any rights pursuant to the Note with respect to the principal amount and accrued interest that is converted, but shall have all of the rights granted to it as a holder of the Conversion Shares into which the Note converts. To receive a certificate representing the Conversion Shares into which the Notes converts, Brainlab shall surrender the Note to SurgiVision. As soon as practicable after the surrender of the Note, SurgiVision shall issue and deliver to Brainlab a certificate for the number of whole shares issuable upon conversion. Upon conversion of the outstanding principal amount and accrued but unpaid interest on the Note into Conversion Shares as provided herein, the provisions of the Note relating to the obligations of SurgiVision to pay principal and interest to Brainlab (as set forth therein) shall be null and void and no payment of principal and interest shall be owed or paid by SurgiVision to Brainlab.

4. Brainlab represents and warrants to SurgiVision that: Brainlab is acquiring the Note (and the Conversion Shares) for investment for Brainlab's own account, not as nominee or agent, and not with a view to the resale or distribution of any part thereof; Brainlab is an "accredited investor" as defined in Regulation D under the U.S. Securities Act of 1933, as amended (the "**Securities Act**"); Brainlab understands that its investment in SurgiVision involves a high degree of risk; Brainlab is experienced in evaluating and investing in securities of companies in a similar stage of development as SurgiVision; Brainlab is able to fend for itself, it can bear the economic risk of its investment in SurgiVision, and it has the knowledge and experience in financial and business matters to be capable of making an informed decision with respect to its investment in SurgiVision; and Brainlab has all information and materials relating to SurgiVision's operations, business and properties that Brainlab deems necessary or appropriate to evaluate its investment in SurgiVision. Brainlab understands that the Note has not been, and at the time of issuance the Conversion Shares to be acquired on conversion thereof will not be, registered under the Securities Act. Brainlab further understands and agrees that such securities may not be sold, transferred or otherwise disposed of without registration under the Securities Act or an exemption therefrom.

XIV. Miscellaneous

1. The rights and obligations set out in this Agreement are personal to each Party and for this reason, except as expressly set out in this Agreement, this Agreement will not be assignable by either Party in whole or in part, nor will either Party subcontract any of its obligations hereunder, without the prior written consent of the other Party, which consent shall not be withheld or delayed unreasonably; provided, however, that the restriction contained herein will in no way limit the rights of either Party to assign this Agreement to any Person that (i) purchases all or substantially all of its assets to which this Agreement relates, (ii) purchases all or substantially all of the stock of such Party; or (iii) acquires or is combined with such Party in a merger or some other form of business combination.
2. This Agreement will be binding upon and will enure to the benefit of the parties hereto and to any permitted assignee or successor of either Party.
3. Subject to other provisions of this Section XIV, if one Party validly assigns or subcontracts any or all of its obligations hereunder, such assigning or subcontracting Party agrees to remain bound by all of its responsibilities and obligations hereunder.
4. For the avoidance of doubt, nothing with this Agreement shall restrict Brainlab from providing technology compatible with its own frameless, image guided placement tools, so long as Brainlab complies with its obligations set forth in section VI.4 above.
5. Any and all assignments of this Agreement or any interest herein not made in accordance with this Section XIII will be void *ab initio*.
6. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
7. Each exhibit or appendix hereto is incorporated by reference and made a part of this Agreement.
8. This Agreement represents the final understanding of the Parties with respect to its subject matter and supersedes all prior agreements and discussions with respect thereto. This Agreement shall be governed by Illinois law, without regard to choice of law principles.

9. It is distinctly understood and agreed that the Parties shall at all times be acting as independent contractors hereunder and not as an agent of the other Party. Except as explicitly set forth herein, nothing herein shall be deemed to constitute either Party as the agent or representative of the other Party, or both Parties as joint venturers or partners for any purpose. Neither Party shall be responsible for the acts or omissions of the other Party, and neither Party will have authority to speak for, represent or obligate the other Party in any way without prior written authority from the other Party.

10. Each Party hereto agrees to execute, acknowledge and deliver such further instruments and do all such further acts as may be necessary or appropriate to carry out the purposes and intent of this Agreement and that are consistent with the terms hereof.

11. No waiver, alteration or modification of any of the provisions hereof shall be binding unless made in writing and signed by the Parties by their respective officers thereunto duly authorized.

12. Any notice or other communication in connection with this Agreement must be in writing and if by mail, by registered mail, return receipt requested, and shall be effective when delivered to the addressee at the address listed on the signature page hereto or such other address as the addressee shall have specified in a notice actually received by the addressor.

13. Except as expressly set out in this Agreement, nothing in this Agreement is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature whatsoever.

14. The waiver by either Party of a breach or a default of any provision of this Agreement by the other Party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power or privilege by such Party.

15. Each Party shall keep the confidential information of the other Party confidential, except that the receiving Party may disclose or permit the disclosure of any confidential information to its, and its Affiliates', directors, officers, employees, consultants and advisors who are obligated to maintain the confidential nature of such confidential information and who need to know such information for the purposes set forth in this Agreement. The receiving Party shall use all confidential information of the other Party solely for the purposes set forth in, or as permitted by, this Agreement. Each Party will immediately cease using the confidential information of the other Party upon any termination of this Agreement.

16. If the performance of this Agreement or any obligations under this Agreement, except the making of required payments, is prevented, restricted or interfered with by reason of fire, flood, earthquakes, explosion, or other casualty, accident or act of God; strikes or labor disturbances; war, whether declared or not, or other violence; sabotage; any law, order, proclamation, regulation, ordinance, demand or requirement of any government agency; or any other event beyond the reasonable control of the Parties, the affected Party, upon giving prompt notice to the other Party, will be excused from such performance to the extent of such prevention, restriction, or interference. However, the affected Party will use its reasonable efforts to avoid or remove such cause of non-performance or to limit the impact of the event on such Party's performance and will continue performance with the utmost dispatch whenever such causes are removed.

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

SurgiVision, Inc.

By: /s/ Kimble Jenkins
Name: Kimble Jenkins
Title: CEO

Notice Address:
SurgiVision, Inc.
One Commerce Square
Suite 2550
Memphis, TN (USA) 38103
Attention: Vice President, Business Affairs
Fax: +901.522.9400

Brainlab AG

By: /s/ Joseph Doyle
Name: Joseph Doyle
Title: CFO

Notice Address:

Legal Department
Attention: General Counsel
Kapellenstr. 12,
85622 Feldkirchen, Germany
Fax: +49.89.991.568-497

APPENDIX A TO THE
CO-DEVELOPMENT AND DISTRIBUTION AGREEMENT

Transfer Price List

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

APPENDIX B TO THE
CO-DEVELOPMENT AND DISTRIBUTION AGREEMENT

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

APPENDIX C TO THE
CO-DEVELOPMENT AND DISTRIBUTION AGREEMENT

Service Price List

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

FIRST AMENDMENT TO
CO-DEVELOPMENT AND DISTRIBUTION AGREEMENT

This First Amendment to Co-Development and Distribution Agreement (this "**Amendment**") is entered into between MRI Interventions, Inc. f/k/a SurgiVision, Inc. ("**MRI Interventions**") and Brainlab AG ("**Brainlab**"), as of July 18, 2011.

WHEREAS, MRI Interventions and Brainlab entered into that certain Co-Development and Distribution Agreement dated as of April 5, 2011 (the "**Agreement**"); and

WHEREAS, MRI Interventions and Brainlab desire to amend the terms of the Agreement as set forth below;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MRI Interventions and Brainlab hereby agree as follows:

1. Defined Terms. Capitalized terms used in this Amendment without definition shall have the same meanings ascribed to such terms in the Agreement.

2. SurgiVision Name Change. Each reference in the Agreement to "SurgiVision" will mean and be a reference to "MRI Interventions".

3. Amendment of Section IV. Section IV of the Agreement (Regulatory Approvals, Adverse Reactions; Product Recalls) is hereby amended by adding the following new paragraph at the end thereof:

"7. Notwithstanding any provision herein to the contrary, Brainlab hereby covenants that it will be responsible as the first point of contact for technical support with the customer and/or end-users for ClearPoint Products it sells in the European Union, and Brainlab will provide a line of communication to MRI Interventions and MRI Interventions' Authorized Representative in Europe (see contact information below) directly in matters of vigilance and post-market surveillance (early warning) in accordance with the European Commission Guidelines on a Medical Device Vigilance System. Brainlab will further provide this technical support on the usage of ClearPoint Products to the customers based on information supplied by MRI Interventions. Brainlab reporting should follow the European Commission Guidelines on a Medical Device Vigilance System.

Contact Details:
Authorized Representative in Europe
(Regulatory affairs only)
Emergo Europe
Molenstraat 15
2513 BH The Hague
The Netherlands
Tel: (31) (0) 70 345-8570
Fax: (31) (0) 70 346-7299"

4. Ratification and Confirmation. The terms and provisions of the Agreement, as modified by the terms of this Amendment, are hereby ratified and confirmed in all respects. On and after the date hereof, each reference in the Agreement to "this Agreement," "hereunder," "hereof," "herein" or words of like import referring to the Agreement will mean and be a reference to the Agreement as amended by this Amendment.

IN WITNESS WHEREOF, the parties have executed this Amendment to be effective as of the date first written above.

MRI Interventions, Inc.

By: /s/ Oscar Thomas
Name: Oscar L. Thomas
Title: Vice President, Business Affairs

Brainlab AG

By: /s/ Joseph Doyle
Name: Joseph Doyle
Title: CFO

Exhibit 10.18

Execution Copy

MASTER SECURITY AGREEMENT

THIS MASTER SECURITY AGREEMENT (this "**Agreement**") is made and entered into effective as of April 5, 2011, between **SURGIVISION, INC.**, a Delaware corporation (the "**Company**") and **BRAINLAB AG**, a corporation organized under the laws of the Federal Republic of Germany (the "**Secured Party**").

Background Information:

As of April 5, 2011, the Company has issued to the Secured Party that certain 10% Subordinated Secured Convertible Note in the original principal amount of Two Million Dollars (U.S. $2,000,000) (the "**Note**"). The Secured Party has required the execution and delivery of this Agreement by the Company as a material inducement for the Secured Party to purchase the Note and to otherwise consummate the transactions contemplated thereby.

NOW THEREFORE, in consideration of the foregoing background information, the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties to this Agreement, intending to be legally bound, hereby agree as follows:

Article 1
Grant of Security Interest; Etc.

The Company hereby grants to the Secured Party a continuing second priority security interest in and lien on the properties, assets, and rights of the Company, as set forth on Exhibit A attached hereto and incorporated herein by this reference, wherever located and whether now owned or hereafter acquired or arising, and all proceeds and products thereof (all such properties, assets, rights, proceeds and products hereinafter sometimes called, collectively, the "**Collateral**").

Article 2
Obligations Secured

The Collateral hereunder constitutes and will constitute continuing security for all the obligations of the Company to the Secured Party and its successors and assigns, now existing or hereafter arising or created, direct, indirect or secondary, absolute or contingent, due or to become due, matured or unmatured, liquidated or unliquidated, under (a) this Agreement, (b) the Note and any and all modifications, extensions or renewals thereof from time to time, including, without limitation, any increase in the principal amount of the Note, and (c) any and all other indebtedness, liabilities or obligations of the Company to the Secured Party for borrowed money, and any and all modifications, extensions or renewals thereof (all of the foregoing hereinafter collectively referred to as the "Obligations").

Article 3
Pro Rata Security;
Application of Proceeds of Collateral

All amounts owing with respect to the Obligations shall be secured by the Collateral without distinction as to whether some Obligations are then due and payable and other Obligations are not then due and payable. Subject to the subordination provisions contained in the Note with respect to the Senior

Debt and the Senior Debt Documents (as such terms are defined in the Note), upon any realization upon the Collateral by the Secured Party, the Company and the Secured Party agree that the proceeds thereof shall be applied (a) first, to the payment of expenses incurred with respect to maintenance and protection of the Collateral pursuant to Article 4 and of expenses incurred pursuant to Article 11 with respect to the sale of or realization upon, any of the Collateral or the perfection, enforcement or protection of the rights of the Secured Party (including reasonable attorneys' fees and expenses of every kind, including, without limitation, reasonable allocated costs of staff counsel) and (b) second, to all amounts of interest, expenses, and fees outstanding which constitute the Obligations, and (c) third, to the unpaid principal amount of the Obligations. The Company and the Secured Party agree that all amounts received with respect to any of the Obligations, whether by realization on the Collateral or otherwise, shall be applied to the payment of the Obligations in accordance with the provisions of this Article 3.

Article 4
Representations, Warranties, and Covenants of the Company

Section 4.1. Real Property. The Company represents and warrants to the Secured Party that the real property listed in Section II of the Perfection Certificate, attached hereto as Exhibit B (the "Perfection Certificate"), constitutes all of the real property that the Company leases and that the Company owns no real property. The Company agrees to notify the Secured Party of any other real property that it may hereafter acquire or lease. The Company agrees that it will execute and deliver to the Secured Party mortgages and other instruments and file the same in the appropriate recording offices at such times as any mortgageable right, title or interest is acquired in the future by the Company in any other real property and, if requested by the Secured Party, will use its best efforts to obtain landlords' waivers with respect to any real property the Company leases in the future. All such mortgages and other instruments shall secure all of the Obligations pro rata and shall be on terms and conditions satisfactory to the Secured Party as evidenced by its written consent thereto.

Section 4.2. Certificates of Title; Location of Collateral. The Company represents and warrants to the Secured Party that Collateral for which certificates of title are required will be titled in the jurisdictions listed in Section II(G) of the Perfection Certificate. Collateral for which no certificate of title is required but for which registration under motor vehicle laws is required will be registered in the jurisdictions listed in Section II(G) of the Perfection Certificate. Collateral for which no registration or certificate of title is required will be located at the facilities of the Company listed on Section II(A) of the Perfection Certificate. The Company will not permit any Collateral to be removed from the locations specified on Section II of the Perfection Certificate without the prior written consent of the Secured Party, other in the ordinary course of the Company's business.

Section 4.3. Locations of Chief Executive Office. The Company represents and warrants to the Secured Party that the location of the Company's executive offices and the location where the books and records of the Company are kept are listed in Section II of the Perfection Certificate. The Company agrees that it will not change the location of its chief executive office or the location where its books and records are kept without giving the Secured Party thirty (30) days prior written notice of its relocation address.

Section 4.4. Ownership of Collateral.

(a) The Company represents and warrants to the Secured Party that it is the owner of the Collateral free from any adverse lien, security interest or encumbrance, other than Permitted Encumbrances (as identified in the Note).

(b) Except for the security interests herein granted and the Permitted Encumbrances (as identified in the Note), the Company is and shall at all times be the owner of the Collateral free of any lien, security interest or encumbrance, and the Company shall defend the same against all claims and demands of all persons at any time claiming the same or any interest therein adverse to the Secured Party.

Section 4.5. Sale or Disposition of the Collateral. Except for sales from inventories of finished goods in the ordinary course of the Company's business, the Company will not sell or offer to sell or otherwise transfer the Collateral or any interest therein without the prior written consent of the Secured Party.

Section 4.6. Insurance. The Company shall have and maintain at all times with respect to the Collateral such insurance as is customarily held by similarly situated businesses, but in any event, such insurance coverage shall not be less than the coverage set forth in the insurance policies held by the Company as of the date hereof. All policies of insurance shall provide for thirty (30) calendar days' written minimum cancellation notice to the Secured Party. In the event of failure to provide and maintain insurance as herein provided, the Secured Party may, at its option, provide such insurance, and the Company hereby promises to pay to the Secured Party on demand the amount of any disbursements made by the Secured Party for such purpose. The Company shall furnish to the Secured Party certificates or other evidence satisfactory to the Secured Party of compliance with the foregoing insurance provisions.

Section 4.7. Acknowledgement. The Company acknowledges receipt of the following notice: "Unless you [the Company] provide evidence of the insurance coverage required by your agreement with us [the Secured Party], we may purchase insurance at your expense to protect our interests in your collateral. This insurance may, but need not, protect your interests. The coverage that we purchase may not pay any claim that you make or any claim that is made against you in connection with the collateral. You may later cancel any insurance purchased by us, but only after providing evidence that you have obtained insurance as required by our agreement. If we purchase insurance for the collateral, you will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges we may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to your total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance you may be able to obtain on your own."

Section 4.8. Maintenance of Collateral. The Company will keep the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon. The Secured Party may inspect the Collateral at any reasonable time, wherever located. The Company will pay promptly when due all taxes and assessments upon the Collateral, the use or operation of the Collateral, or as a result of this Agreement. In its discretion, the Secured Party may discharge taxes and other encumbrances at any time levied or placed on the Collateral which remain unpaid and make repairs thereof and pay any necessary filing fees. The Company agrees to reimburse the Secured Party on demand for any and all expenditures so made, and until paid the amount thereof shall be a debt secured by the Collateral. The Secured Party shall have no obligation to the Company to make any such expenditures, nor shall the making thereof relieve the Company of any default.

Section 4.9. Other Covenants Regarding Collateral. The Company makes the following covenants with Secured Party regarding the Collateral:

(a) the Company shall use the Collateral only in the ordinary course of its business and will not permit the Collateral to be used in violation of any applicable law or policy of insurance;

(b) the Company, as agent for Secured Party, shall defend the Collateral against all claims and demands of all Persons, except for Permitted Encumbrances;

(c) the Company shall, at Secured Party's reasonable request, use its best efforts to obtain and deliver to Secured Party such waivers as Secured Party may require waiving the landlord's, mortgagee's or other lienholder's enforcement rights against the Collateral and assuring Secured Party's access to the Collateral in exercise of its rights hereunder;

(d) the Company shall not sell, assign or discount any of its Accounts, Chattel Paper or any promissory notes other than the discount of such Accounts, Chattel Paper or any promissory notes in the ordinary course of business for collection;

(e) subject to the subordination provisions contained in the Note with respect to the Senior Debt and the Senior Debt Documents (as such terms are defined in the Note), the Company shall promptly deliver to Secured Party all promissory notes, drafts, trade acceptances, chattel paper, instruments or documents of title which are Collateral, appropriately endorsed to Secured Party's order;

(f) except for sales of Inventory in the ordinary course of business, the Company shall not sell, assign, lease, transfer, pledge, hypothecate or otherwise dispose of or encumber any Collateral or any interest therein;

(g) the Company shall promptly notify Secured Party of any future patents, trademarks or copyrights owned by the Company and any license agreements entered into by the Company authorizing the Company to use any patents, trademarks or copyrights owned by third parties; and

(h) the Company shall not, unless it shall have given thirty (30) days' advance written notice thereof to Secured Party, (a) change its name or use any new trade or fictitious name, or (b) change the location of its chief executive office or other office where books or records are kept.

Section 4.10. Further Assurances by the Company. The Company agrees to execute and deliver to the Secured Party from time to time at its request all documents and instruments, including financial statements, and to take all action as the Secured Party may reasonably deem necessary or proper to perfect or otherwise protect the security interest and lien created hereby.

Section 4.11. Ordinary Course Activities. Notwithstanding any provision of this Agreement to the contrary, the Company shall be permitted, without consent from the Secured Party, to conduct ordinary course activities with respect to the Collateral, including, without limitation, (a) abandoning, terminating, canceling, releasing or making alterations in or substitutions of any leases or contracts subject to the security interest and lien of this Agreement, (b) surrendering or modifying any franchise, license or permit subject to the security interest or lien of this Agreement that the Company may own or under which it may be operating, (c) altering, repairing, replacing, changing the location or position of or adding to the Company's structures, machinery, systems, equipment, fixtures and appurtenances; (d) granting a license of any intellectual property; (e) selling, transferring or otherwise disposing of inventory in the ordinary course of business; (f) collecting accounts receivable in the ordinary course of business; (g) making payments (including for the repayment of trade payables) from cash that is at any time part of the Collateral in the ordinary course of business; and (h) abandoning any intellectual property that is no longer used or useful in the Company's business, provided, however, that any of the foregoing would not reasonably be expected to have a materially adverse impact on the Secured Party's overall security provided for hereby.

Article 5
Concerning Financing Statement

The Company shall do, make, execute, and deliver all such additional and further acts, things, deeds, assurances and instruments the Secured Party may reasonably require more completely to vest in and assure to the Secured Party its rights under or in any of the Collateral, including without limitation execution and delivery of financing statements which the Secured Party deems appropriate to perfect and continue the security interests hereby granted; and the Company irrevocably authorizes the Secured Party or its designee, at the Company's expense, to file such financing statements with respect hereto, with or without the Company's signature, as the Secured Party may deem appropriate, and appoint the Secured Party as the Company's attorney-in-fact to execute such financing statements. Subject to the subordination provisions contained in the Note with respect to the Senior Debt and the Senior Debt Documents (as such terms are defined in the Note), the Company expressly agrees to deliver to the Secured Party any and all certificates of title, together with fully completed applications for title, issued under any motor vehicle registration or like law with respect to any Collateral. The Company hereby authorizes the Secured Party to record its lien upon each such certificate of title and appoints the Secured Party as its attorney-in-fact to take whatever action is necessary (including, but not limited to, the execution and recordation of any lien notice) to cause such lien to appear on each such certificate of title. The Company also ratifies their authorization for the Secured Party to have filed in any UCC jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

Article 6
Securities as Collateral

Subject to the subordination provisions contained in the Note with respect to the Senior Debt and the Senior Debt Documents (as such terms are defined in the Note), the Company agrees that all securities constituting Collateral shall be delivered to and held by or on behalf of Secured Party pursuant hereto and shall be in suitable form for transfer by delivery or, as applicable, shall be accompanied by the Company's endorsement, where necessary, or duly executed instruments of transfer or assignments in blank, all in form and substance reasonably satisfactory to the Secured Party. So long as no Event of Default (as defined below) shall have occurred and be continuing, (a) the Company shall be entitled to exercise any and all voting and other consensual rights pertaining to such securities or any part thereof for any purpose not prohibited by the terms of this Agreement or the Note; provided, that the Company shall not exercise or refrain from exercising any such right if the Secured Party shall have notified the Company that, in Secured Party's judgment, such action would have a material adverse effect on the value of such securities or any part thereof; and (b) the Company shall be entitled to receive and retain any and all dividends, other distributions, principal and interest paid in respect of such securities.

Article 7
Remedies

Section 7.1. Events of Default. The Secured Party shall be entitled to exercise the remedies provided by Section 7.2 hereof in accordance with the terms thereof if one or more of the following events (each an "Event of Default") shall occur:

(a) there shall have occurred any "Event of Default" (as such term is defined in the Note); or

(b) the Company shall fail to perform or observe any covenant set forth in this Agreement and such failure shall not be cured to the satisfaction of Secured Party within thirty (30) calendar days after written notice from Secured Party.

Section 7.2. Remedies. Upon the occurrence of any Event of Default under Section 7.1 hereof and after acceleration of the maturity of the amount due in respect of any of the Obligations shall have occurred, subject to the subordination provisions of the Note with respect to the Senior Debt and the Senior Debt Documents (as such terms are defined in the Note), to the fullest extent permitted by applicable law:

(a) The Secured Party shall have, in addition to all other rights and remedies given it by any instrument or other agreement evidencing, or executed and delivered in connection with any of the Obligations or otherwise allowed by law, the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Company is organized or in which the Collateral may be located, and without limiting the generality of the foregoing, the Secured Party may, without (to the fullest extent permitted by law) demand of performance or advertisement or notice of intention to sell or of time or place of sale or of redemption or other notice or demand whatsoever, (except that the Secured Party shall give to the Company at least ten (10) days' notice of the time and place of any proposed sale or other disposition), all of which are hereby expressly waived to the fullest extent permitted by law, sell at public or private sale or otherwise realize upon the whole or from time to time any part of the Collateral in or upon which the Secured Party shall have a security interest or lien hereunder or any interest which the Company may have therein. Such sale shall be at such locations as the Secured Party may designate in such notice. The Secured Party shall have the right to conduct such sales on the Company's premises. All public or private sales may be adjourned from time to time in accordance with applicable law. The Secured Party shall have the right to sell, lease, or otherwise dispose of the Collateral, or any part thereof, for cash, credit or any combination thereof. After deducting from the proceeds of sale or other disposition of the Collateral all expenses (including all reasonable expenses for legal services) as provided in Article 11, the Secured Party shall apply the residue of such proceeds toward the payment of the Obligations in accordance with Article 3 of this Agreement, the Company remaining liable for any deficiency remaining unpaid after such application. If notice of any sale or other disposition is required by law to be given to the Company, the Company hereby agrees that a notice given as provided herein shall be reasonable notice of such sale or other disposition. The Company also agrees to assemble the Collateral at such place or places as the Secured Party reasonably designates by written notice. At such sale or other disposition the Secured Party may itself, and any other person or entity owed any Obligation may itself, purchase the whole or any part of the Collateral sold, free from any right of redemption on the part of the Company, which right is hereby waived and released to the fullest extent permitted by law. Any purchaser owed any Obligation may set-off the amount of the purchase price against such Obligations.

(b) Furthermore, without limiting the generality of any of the rights and remedies conferred upon the Secured Party under Section 7.2(a) hereof, the Secured Party, to the fullest extent permitted by law, may enter upon the premises of the Company, exclude the Company therefrom and take immediate possession of the Collateral, either personally or by means of a receiver appointed by a court therefor, using all necessary force to do so, and may, at its option, use, operate, manage and control the Collateral in any lawful manner and may collect and receive all rents, income, revenue, earnings, issues and profits therefrom, and may maintain, repair, renovate, alter or remove the Collateral as the Secured Party may determine in its discretion, and any such moneys so collected or received by the Secured Party shall be applied to, or may be accumulated for application upon, the Obligations in accordance with this Agreement.

(c) The Secured Party may, upon written notice to the Company (unless, in the Secured Party's sole discretion, providing notice may prejudice or impair the Secured Party's rights or remedies), (i) proceed to protect and enforce rights by suit in equity, action at law, and/or other appropriate proceeding either for specific performance of any covenant, provision or condition contained or

incorporated by reference in this Agreement or the Note, (ii) exercise any other remedy or right available to the Secured Party under this Agreement or the Note, or at law or equity or (iii) (unless the unpaid balance of the Note shall automatically become due and payable pursuant to the terms thereof) may, subject to the terms of the Note, declare all or any part of the unpaid principal amount of the Note, then outstanding to be forthwith due and payable, and thereupon such unpaid principal amount or part thereof, together with interest accrued thereon shall become so due and payable without presentation, presentment, protest or further demand or notice of any kind, all of which are hereby expressly waived, and proceed to enforce payment of such amount or part thereof in such manner as it may elect.

Section 7.3. Waivers. In connection with the occurrence of any Event of Default or the exercise of any remedy available to the Secured Party, the Company hereby waives, to the extent not prohibited by applicable law, (a) all presentments, demands for performance and notices of nonperformance (except to the extent specifically required by the provisions hereof), (b) any requirement of diligence or promptness on the part of any holder of the Note in the enforcement of its rights under the provisions thereof or this Agreement, and (c) any and all notices of every kind and description that may be required to be given by any statute or rule of law.

Section 7.4. Course of Dealing. No course of dealing between the Company on the one hand, and the Secured Party on the other hand, shall operate as a waiver of any rights under this Agreement or the Note. No delay or omission in exercising any right under this Agreement shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any other occasion.

Section 7.5. Remedies Not Exclusive. Each of the remedies hereunder that are available to the Secured Party, are cumulative and not exclusive, and the Secured Party may exercise any or all such remedies at such time and in such manner in its sole discretion. Nothing herein shall limit any right or remedy set forth in the Note.

Section 7.6. Notice of Enforcement Action. The Secured Party agrees that it will give notice to the Company of any enforcement action taken by it pursuant to this Article 7 promptly after commencing such action.

Article 8
Marshalling

The Secured Party shall not be required to marshal any present or future security for (including but not limited to this Agreement and the Collateral subject to the security interest created hereby), or guaranties of, the Obligations or any of them, or to resort to such security or guaranties in any particular order; and all of its rights hereunder and in respect of such securities and guaranties shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, each of the Company hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of the Secured Party's rights under this Agreement or under any agreement under which any of the Obligations is outstanding or under any agreement under which any of the Obligations is secured or guaranteed, and to the extent that it lawfully may, each of the Company hereby irrevocably waives the benefits of all such laws.

Article 9
Company's Obligations Not Affected

To the extent permitted by law, the obligations of the Company under this Agreement shall remain in full force and effect without regard to, and shall not be impaired by (a) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of the Company, to the extent permitted by law; (b) any exercise or nonexercise, or any waiver, by the Secured Party of any right, remedy, power or privilege under or in respect of any of the Obligations or any security therefor (including this Agreement); (c) any amendment to or modification of this Agreement, the Note or any instrument evidencing any of the Obligations or pursuant to which any of them were issued; (d) any amendment to or modification of any instrument or agreement (other than this Agreement) securing any of the Obligations; or (e) the taking of additional security for or any guaranty of any of the Obligations or the release or discharge or termination of any security or guaranty for any of the Obligations; and whether or not the Company shall have notice or knowledge of any of the foregoing.

Article 10
No Waiver

No failure on the part of the Secured Party to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Secured Party of any right, remedy or power hereunder preclude any other or future exercise of any other right, remedy or power. Each and every right, remedy and power hereby granted to the Secured Party or the future holders of any of the Obligations or allowed to any of them by law or other agreement, including without limitation, the Note or any other document evidencing security therefor, shall be cumulative and not exclusive of any other, and, subject to the provisions of this Agreement, may be exercised by the Secured Party or the future holders of any of the Obligations from time to time.

Article 11
Expenses

The Company agrees to pay, on demand, all reasonable costs and expenses (including reasonable attorneys' fees and expenses for legal services of every kind, including, without limitation, reasonable allocated costs of staff counsel) of the Secured Party incidental to the sale of or realization upon, any of the Collateral or in any way relating to the perfection, enforcement or protection of the rights of the Secured Party hereunder. The Secured Party may at any time apply to the payment of all such costs and expenses all moneys of the Company or other proceeds arising from its possession or disposition of all or any portion of the Collateral.

Article 12
Consents, Amendments, Waivers

Any term of this Agreement may be amended and the performance or observance by the Company of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a written instrument signed by the Company and the Secured Party.

Article 13
Applicable Law; Dispute Resolution

This Agreement shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Agreement shall be governed by, the internal laws of the State of Delaware, without giving effect to provisions thereof regarding conflict of laws, and the laws of the State of Delaware shall govern the perfection of security interests in the Collateral or realization upon the Collateral. The dispute resolution provisions of the Note are incorporated herein by reference.

Article 14
Parties in Interest

No party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party, except that Secured Party may assign, in writing, any of its rights and delegate any of its obligations under this Agreement to any of its subsidiaries or affiliates. Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the parties. Nothing expressed or referred to in this Agreement will be construed to give any Person other than the parties to this Agreement any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement, except such rights as shall inure to a successor or permitted assignee pursuant to this Article 14.

Article 15
Termination

Upon payment in full, or other satisfaction, of all of the Obligations, including without limitation the principal balance of the Note and all accrued unpaid interest thereon in accordance with their terms, and the termination of the Note pursuant to its terms, this Agreement shall terminate, the security interest and lien created by this Agreement shall be released, the Company shall be entitled to the return, at their expense, of such Collateral in the possession or control of the Secured Party as has not theretofore been disposed of pursuant to the provisions hereof, and the Secured Party shall execute and deliver, at the Company's expense, such instruments to evidence the release of the Collateral as the Company may reasonably request.

Article 16
Notices

All notices, consents, waivers and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a party when (a) delivered to the appropriate address by hand, (b) one (1) business day following delivery to a nationally recognized overnight courier service (costs prepaid), or (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses and marked to the attention of the person (by name or title) designated below (or to such other address or person as a party may designate by notice to the other party):

the Company:	SurgiVision, Inc. Attention: Chief Financial Officer One Commerce Square Suite 2550 Memphis, TN 38103
With copy to:	SurgiVision, Inc. Attention: VP, Business Affairs One Commerce Square Suite 2550 Memphis, TN 38103

Brainlab:	Brainlab AG. Attention: Chief Financial Officer Kapellenstr. 12, 85622 Feldkirchen, Germany
With copy to:	Legal Department Attention: General Counsel, Brainlab AG Kapellenstr. 12, 85622 Feldkirchen, Germany

Article 17
Counterparts; Delivery by Facsimile

Any number of counterparts of this Agreement may be executed and each such executed counterpart shall be deemed an original. This Agreement and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent such agreement or instrument is originally signed and delivered by means of a facsimile machine or email, shall be treated in all manner and respects and for all purposes as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or email to deliver an original signature or the fact that any original signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or email as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

Article 18
Subordination

Notwithstanding any provision of this Agreement to the contrary, the Secured Party agrees that, until such time as all amounts owing by the Company under the Senior Debt have been indefeasibly converted into equity of the Company or paid in full in cash, the Secured Party's security interest and lien in the Collateral shall be subordinate and inferior to the security interest and lien of Senior Lender under the Senior Debt Documents. The priorities set forth in this Article 18 are applicable irrespective of the order or time of attachment, or the order, time or manner of perfection, or the order or time of filing or recordation of any document or instrument, or other method of perfecting the security interest or lien, and notwithstanding any conflicting terms or conditions which may be contained in any of the Senior Debt Documents or any other documents. The terms "Senior Debt", "Senior Debt Documents" and "Senior Lender" shall have the meanings ascribed to such terms in the Note.

[The remainder of this page intentionally has been left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their authorized representatives as of the date first above written.

COMPANY:

SURGIVISION, INC., a Delaware corporation

By: /s/ Oscar L. Thomas
Name: Oscar L. Thomas
Title: Vice President, Business Affairs

SECURED PARTY:

BRAINLAB AG

By: /s/ Joseph Doyle
Name: Joseph Doyle
Title: CFO

EXHIBIT A
Description of Collateral

This financing statement covers all of the Company's (as that term is defined in this Master Security Agreement) right, title and interest in and to the following types (or items) of property, whether now owned or existing or hereafter acquired or arising (the "Collateral"):

Accounts; Chattel Paper; Commercial Tort Claims; Controlled Property; Data Processing Records and Systems; Deposit Accounts; Documents; Equipment and Fixtures; General Intangibles; Goods; Instruments; Inventory; Investment Property; Letter-of-Credit Rights; Proceeds (whether cash or non-cash Proceeds, including Insurance Proceeds and non-cash Proceeds of all types); Products of all the foregoing; and Supporting Obligations.

For purposes of this financing statement, the following items shall have the following meanings:

"Accounts" shall have the meaning provided in the UCC.

"Chattel Paper" shall have the meaning provided in the UCC and shall include, without limitation, all Electronic Chattel Paper and Tangible Chattel Paper.

"Commercial Tort Claim" shall have the meaning provided in the UCC.

"Controlled Property" shall mean property of every kind and description in which Debtor has or may acquire any interest, now or hereafter at any time in the possession or control of Secured Party for any reason and all dividends and distributions on or other rights in connection with such property.

"Data Processing Records and Systems" shall mean all of Debtor's now existing or hereafter acquired electronic data processing and computer records, software (including, without limitation, all "Software" as defined in the UCC), systems, manuals, procedures, disks, tapes and all other storage media and memory.

"Deposit Accounts" shall have the meaning provided in the UCC and shall include, without limitation, any demand, time, savings, passbook or similar account maintained with a bank.

"Document" shall have the meaning provided in the UCC.

"Electronic Chattel Paper" shall have the meaning provided in the UCC.

"Equipment" shall have the meaning provided in the UCC.

"Fixtures" shall have the meaning provided in the UCC.

"General Intangibles" shall have the meaning provided in the UCC and shall include, without limitation, all Payment Intangibles.

"Goods" shall have the meaning provided in the UCC and shall include embedded "Software" to the extent included in "Goods" as defined in the UCC.

"Instruments" shall have the meaning provided in the UCC.

EXHIBIT A
Description of Collateral

"Insurance Proceeds" shall mean all proceeds of any and all insurance policies payable to Debtor with respect to any Collateral, or on behalf of any Collateral, whether or not such policies are issued to or owned by Debtor.

"Inventory" shall have the meaning provided in the UCC.

"Investment Property" shall have the meaning provided in the UCC.

"Letter-of-Credit Rights" shall have the meaning provided in the UCC.

"Payment Intangibles" shall have the meaning provided in the UCC.

"Proceeds" shall have the meaning provided in the UCC.

"Products" shall mean any goods now or hereafter manufactured, processed or assembled with any of the Collateral.

"Supporting Obligations" shall have the meaning provided in the UCC.

"Tangible Chattel Paper" shall have the meaning provided in the UCC.

"UCC" shall mean the Uniform Commercial Code as enacted in the State of Delaware, as amended from time to time; provided, however, that: (a) to the extent that the UCC is used to define any term herein, and such term is defined differently in different Articles of the UCC, the definition of such term contained in Article 9 shall govern; and (b) if, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of, or remedies with respect to, the Secured Party's security interest in any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of Delaware, the term "UCC" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection or priority of, or remedies with respect to, the Secured Party's security interest and for purposes of definitions related to such provisions.

EXHIBIT B

Perfection Certificate

The undersigned officer of SURGIVISION INC., a Delaware corporation (the "Company"), hereby certifies, with reference to the Security Agreement dated as of April [____], 2011, between the Company and BRAINLAB AG ("Secured Party") (terms defined therein being used herein as therein defined), to Secured Party as follows:

I. ***Names***.

A. The exact corporate name of the Company as it appears in its certificate of incorporation is as follows: SurgiVision, Inc.

B. Set forth below is each other corporate name the Company has had since its organization, together with the date of the relevant change: Surgi-Vision, Inc. (March 12, 1998 until November 12, 2008)

C. The following is a list of all other names (including trade names or similar appellations) used by the Company or any of its divisions or other business units at any time during the past five years: None

D. Except as set forth in Schedule 1 to this Certificate, the Company has not changed its identity or corporate structure in any way within the past five years. N/A

II. ***Current Locations***.

A. The chief executive office of the Company is located at the following address:

Street Address	County	State
One Commerce Square, Suite 2550, Memphis, Shelby County, TN 38103		

B. The following are all the places of business of the Company not identified above:

Street Address	County	State
5 Musick, Irvine, Orange County, CA 92618		
1101 East 33rd St., Suite B307, Baltimore, Baltimore County, MD 21218		

C. The following are all the locations where the Company maintains any books or records relating to any of the Collateral:

Street Address	County	State

See II.A and II.B above.

D. The following are all the locations not identified above where the Company maintains any Inventory, Equipment, Instruments, documents of title, warehouse receipts or other tangible Collateral:

Street Address	County	State	Collateral Description	Does Collateral Include Fixtures?

The Company has loaned, on an interim basis, certain Inventory to certain hospitals to enable those hospitals to clinically evaluate the products.

E. The following are the names and addresses of all Persons other than the Company that have possession of any of the Company's Inventory, Equipment, Instruments, documents of title, warehouse receipts or other tangible Collateral:

Name	Street Address	County	State	Collateral Description

See II.D above

F. The following are the names and jurisdictions of incorporation of each company with respect to which the Company holds uncertificated securities: None

G. The following are all items of Collateral with respect to which a certificate of title has been issued by any jurisdiction or with respect to which the Company has or intends to file an application for title. Attached hereto as Schedule 2(G) are all certificates of title, applications for title or similar evidence of ownership of such Collateral. Collateral for which certificates of title are required will be titled in the jurisdictions listed in Schedule 2(G). Collateral for which no certificate of title is required but for which registration under motor vehicle laws is required will be registered in the jurisdictions listed in Schedule 2(G): None

III. ***Prior Locations***.

A. Set forth below is the information required by subparagraphs (a), (b) and (c) of paragraph 2 with respect to each location or place of business maintained by the Company at any time during the past five years:

200 N. Cobb Parkway, Suite 140, Marietta, Cobb County, GA 30062

B. Set forth below is the information required by subparagraphs (d), (e) and (f) of paragraph 2 with respect to each location or bailee where or with whom Collateral has been lodged at any time during the past four months: N/A

IV. ***Unusual Transactions***. Except as set forth in Schedule 1 to this Certificate, all Accounts have been originated by the Company and all Inventory and Equipment has been acquired by the Company in the ordinary course of its business from a dealer in goods of that type.

V. ***Existing Liens***. As of the date hereof, there are no (i) UCC financing statements naming the Company as debtor or seller and covering any of the Collateral, (ii) notices of the filing of any federal tax lien (filed pursuant to section 6323 of the Code) or any lien of the PBGC (filed pursuant to Section 4068 of ERISA) covering any of the Collateral or (iii) judgment liens filed against the Company, except as set forth in Schedule 5 hereto.

VI. ***Patents, Trademarks, Copyrights and Software***. All patents, trademarks, copyrights and software owned by the Company as of the date hereof and all patent licenses, trademark licenses, copyright licenses and software licenses to which the Company is a party, as licensor or licensee, as of the date hereof are listed on Schedule 6 hereto.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of April, 2011.

COMPANY:

SURGIVISION, INC., a Delaware corporation

By: /s/ Oscar L. Thomas
Name: Oscar L. Thomas
Title: Vice President, Business Affairs

SCHEDULE 1 TO PERFECTION CERTIFICATE

CHANGES OF NAME, IDENTITY OR CORPORATE STRUCTURE;

UNUSUAL TRANSACTIONS

None

SCHEDULE 2(G) TO PERFECTION CERTIFICATE

CERTIFICATES OF TITLE

None

SCHEDULE 5 TO PERFECTION CERTIFICATE

LIST OF EXISTING LIENS

UCC-1 filed with the Delaware Secretary of State naming the Company as the debtor and Boston Scientific Corporation as the secured party.

UCC-1 filed with the Delaware Secretary of State naming the Company as the debtor and Landmark Community Bank, as Collateral Agent, as the secured party.

Master Security Agreement (eHealth)

SCHEDULE 6 TO PERFECTION CERTIFICATE

LIST OF PATENTS, TRADEMARKS, COPYRIGHTS AND SOFTWARE

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ATTACHMENT A
OWNED U.S. PATENTS

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ATTACHMENT B
OWNED U.S. PATENT APPLICATIONS

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ATTACHMENT C
LICENSED U.S. PATENTS

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ATTACHMENT D
LICENSED U.S. PATENT APPLICATIONS

[***]

Exhibit 10.19

PUBLIC HEALTH SERVICE

PATENT LICENSE AGREEMENT-*NONEXCLUSIVE*

COVER PAGE

For PHS internal use only:

License Number:

License Application Number: A-067-2009

Serial Number(s) of Licensed Patent(s) or Patent Application(s):

[***]

Licensee: SurgiVision, Inc.

Cooperative Research and Development Agreement (CRADA) Number (if a subject invention):

N/A

Additional Remarks: none

Public Benefit(s): Minimally invasive medical procedures

This Patent License Agreement, hereinafter referred to as the "**Agreement**", consists of this Cover Page, an attached **Agreement**, a Signature Page, Appendix A (List of Patent(s) or Patent Application(s)), Appendix B (Fields of Use and Territory), Appendix C (Royalties), Appendix D ((Benchmarks and Performance), Appendix E (Commercial Development Plan), Appendix F (Example Royalty Report), and Appendix G (Royalty Payment Options). The Parties to this **Agreement** are:

1) The National Institutes of Health ("**NIH**") or the Food and Drug Administration ("**FDA**"), hereinafter singly or collectively referred to as "**PHS**", agencies of (he United States Public Health Service within the Department of Health and Human Services ("**HHS**"); and

2) The person, corporation, or institution identified above and on the Signature Page, having offices at the address indicated on the Signature Page, hereinafter referred to as "**Company**." **Company** and its **Affiliates** are hereinafter referred to as "**Licensee**."

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

PHS PATENT LICENSE AGREEMENT-*NONEXCLUSIVE*

PHS and **Licensee** agree as follows:

1. BACKGROUND

1.1 In the course of conducting biomedical and behavioral research, **PHS** investigators made inventions that may have commercial applicability.

1.2 By assignment of rights from **PHS** employees and other inventors, **HHS**, on behalf of the **Government**, owns intellectual property rights claimed in any United States or foreign patent applications or patents corresponding to the assigned inventions. **HHS** also owns any tangible embodiments of these inventions actually reduced to practice by **PHS**.

1.3 The Secretary of **HHS** has delegated to **PHS** the authority to enter into this **Agreement** for the licensing of rights to these inventions under 35 U.S.C. §§200-212, the Federal Technology Transfer Act of 1986, 15 U.S.C. §3710(a), and the regulations governing the licensing of Government-owned inventions, 37 CFR Part 404.

1.4 **PHS** desires to transfer these inventions to the private sector through commercialization licenses to facilitate the commercial development of products and processes for public use and benefit.

1.5 **Licensee** desires to acquire commercialization rights to certain of these inventions in order to develop processes, methods, or marketable products for public use and benefit.

2. DEFINITIONS

2.1 "**Affiliate(s)**" means a corporation or other business entity, which directly or indirectly is controlled by or controls, or is under common control with **Licensee**. For this purpose, the term "control" shall mean (a) having ownership of more than fifty percent (50%) of the voting stock or other ownership interest of the corporation or other business entity, (b) having the power to elect or appoint more than fifty percent (50%) of the members of the governing body of the corporation or other business entity, or (c) otherwise having the power to direct the management of the corporation or other business entity.

2.2 "**Benchmarks**" mean the performance milestones that are set forth in Appendix D.

2.3 "**Commercial Development Plan**" means the written commercialization plan attached as Appendix E.

2.4 "**First Commercial Sale**" means the initial transfer by or on behalf of **Licensee** or its sublicensees of **Licensed Products** or the initial practice of a **Licensed Process** by or on behalf of **Licensee** or its sublicensees in exchange for cash or some equivalent to which value can be assigned for the purpose of determining **Net Sales.**

2.5 "**Government**" means the Government of the United States of America.

2.6 "**Licensed Fields of Use**" means the fields of use identified in Appendix B.

2.7 **"Licensed Patent Rights"** shall mean:

(a) Patent applications (including provisional patent applications and PCT patent applications) or patents listed in Appendix A, all divisions and continuations of these applications, all patents issuing from these applications, divisions, and continuations, and any reissues, reexaminations, and extensions of all these patents;

(b) to the extent that the following contain one or more claims directed to the invention or inventions disclosed in 2.7(a):

(i) continuations-in-part of 2.7(a);

(ii) all divisions and continuations of these continuations-in-part;

(iii) all patents issuing from these continuations-in-part, divisions, and continuations;

(iv) priority patent application(s) of 2.7(a); and

(v) any reissues, reexaminations, and extensions of all these patents;

(c) to the extent that the following contain one or more claims directed to the invention or inventions disclosed in 2.7(a): all counterpart foreign and U.S. patent applications and patents to 2.7(a) and 2.7(b), including those listed in Appendix A; and

(d) **Licensed Patent Rights** shall *not* include 2.7(b) or 2.7(c) to the extent that they contain one or more claims directed to new matter which is not the subject matter disclosed in 2.7(a).

2.8 "**Licensed Process(es)**" means methods, processes or software implementations thereof, which in the course of being practiced, would be or derived from the **Materials** or would be within the scope of one or more claims of the **Licensed Patent Rights** that have not been held unpatentable, invalid or unenforceable by an unappealed or unappealable judgment of a court of competent jurisdiction.

2.9 "**Licensed Product(s)**" means tangible materials, products, or systems or devices which in the course of manufacture, use, sale, or importation, enable the **Licensed Process(es)** derived from the **Materials** or would be within the scope of one or more claims of the **Licensed Patent Rights** that have not been held unpatentable, invalid or unenforceable by an unappealed or unappealable judgment of a court of competent jurisdiction.

2.10 "**Material(s)**" means documentation and software, including without limitation, any computer readable or executable object or source code, that enable, carry out or support a **Licensed Process** or that is used to produce or operate a **Licensed Product**. For the avoidance of any doubt, the **Materials** include, without limitation, any software that enables, carries out or supports (a) the inventions included in the **Licensed Patent Rights**, (b) the invention(s) disclosed and described in [***] and (c) the invention(s) disclosed and described in [***]

2.11 "**Licensed Territory**" means the geographical areas identified in Appendix B.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

2.12 "**Net Sales**" means the total gross receipts for sales **of Licensed Products,** unmodified **Materials** or the practice **of Licensed Processes** by or on behalf of **Licensee** or its sublicensees, and from leasing, renting, or otherwise making **Licensed Products** available to others without sale or other dispositions, whether invoiced or not, less returns and allowances, packing costs, insurance costs, freight out, taxes or excise duties imposed on the transaction (if separately invoiced), and wholesaler and cash discounts in amounts customary in the trade to the extent actually granted. No deductions shall be made for commissions paid to individuals, whether they are with independent sales agencies or regularly employed by **Licensee,** or sublicensees and on its payroll, or for the cost of collections. Transactions excluded from **Net Sales** are the transfer **of Licensed Products** or the practice of a **Licensed Process** for the purpose of obtaining regulatory approval thereof or for use in non-commercial research by **Licensee.**

2.13 "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and in each case, under these conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or **Government** regulations available to the public on reasonable terms.

3. GRANT OF RIGHTS

3.1 **PHS** hereby grants and **Licensee** accepts, subject to the terms and conditions of this **Agreement,** a nonexclusive license under the **Licensed Patent Rights** in the **Licensed Territory** as set forth in Appendix B(II)(a) and in the **Materials** in the **Licensed Territory** as set forth in Appendix B(II)(b); to make and have made, to use and have used, to sell and have sold, to offer to sell, and to import any **Licensed Products** and **Materials** in the **Licensed Fields of Use** and to practice and have practiced any **Licensed Processes** and **Materials** in the **Licensed Fields of Use.**

3.2 This **Agreement** confers no license or rights by implication, estoppel, or otherwise under any patent applications or patents of **PHS** other than the **Licensed Patent Rights** regardless of whether these patents are dominant or subordinate to the **Licensed Patent Rights.**

3.3 Upon receipt by **PHS** of the license issue royalty herein set forth in Article 6 and Appendix C and the verification of this royalty, **PHS** agrees to provide **Licensee** with copies of the **Materials** in a computer readable format, as available, and to replace these **Materials,** as available, at reasonable cost, in the event of their unintentional destruction.

3.4 It is understood that any improvements, enhancements, modifications, or derivative works made to the **Materials** by **Licensee** shall be owned by **Licensee** and maybe subject to the **Government's** right to use to the extent provided by applicable law.

4. SUBLICENSING

4.1 Upon written approval, which shall include prior review of any sublicense agreement by **PHS** and which shall not be unreasonably withheld, **Licensee** may enter into sublicensing agreements under the **Licensed Patent Rights** only when it concurrently licenses proprietary or in-licensed intellectual property rights. For the avoidance of doubt, **Licensee** does not have the right to solely sublicense the **Licensed Patent Rights** or the **Materials.**

4.2 **Licensee** agrees that any sublicenses granted by it shall provide that the obligations to **PHS** of Paragraphs 5.1,8.1, 10.1, 10.2, 12.5, and 13.7-13.9 of this **Agreement** shall be binding upon the sublicensee as if it were a party to this **Agreement Licensee** further agrees to attach copies of these Paragraphs to all sublicense agreements.

4.3 Any sublicenses granted by **Licensee** shall provide for the termination of the sublicense, or the conversion to a license directly between the sublicensees and **PHS,** at the option of the sublicensee, upon termination of this **Agreement** under Article 13. This conversion is subject to **PHS** approval and contingent upon acceptance by the sublicensee of the remaining provisions of this **Agreement.**

4.4 **Licensee** agrees to forward to **PHS** a complete copy of each fully executed sublicense agreement postmarked within thirty (30) days of the execution of the agreement. To the extent permitted by law, **PHS** agrees to maintain each sublicense agreement in confidence.

5. STATUTORY AND PHS REQUIREMENTS AND RESERVED GOVERNMENT RIGHTS

5.1 **Licensee** agrees that products used or sold in the United States embodying **Licensed Products** or produced through use **of Licensed Processes** shall be manufactured substantially in the United States, unless a written waiver is obtained in advance from **PHS**.

6. ROYALTIES AND REIMBURSEMENT

6.1 **Licensee** agrees to pay **PHS** a noncreditable and nonrefundable amount as reimbursement for patent expenses associated with obtaining the **Licensed Patent Rights** as set forth in Appendix C.

6.2 **Licensee** agrees to pay **PHS** a minimum annual royalty as set forth in Appendix C.

6.3 **Licensee** agrees to pay **PHS** earned royalties as set forth in Appendix C.

6.4 **Licensee** agrees to pay **PHS** benchmark royalties as set forth in Appendix C.

6.5 **Licensee** agrees to pay **PHS** sublicensing royalties as set forth in Appendix C.

6.6 A patent or patent application licensed under this **Agreement** shall cease to fall within the **Licensed Patent Rights** for the purpose of computing earned royalty payments in any given country on the earliest of the dates that:

(a) the application has been abandoned and not continued;

(b) the patent expires or irrevocably lapses; or

(c) the patent has been held to be invalid or unenforceable by an unappealed or unappealable decision of a court of competent jurisdiction or administrative agency.

6.7 No multiple royalties shall be payable because any **Licensed Products** or **Licensed Processes** are covered by more than one of the **Licensed Patent Rights.**

6.8 On sales of **Licensed Products** by **Licensee** to sublicensees or on sales made in other than an arms-length transaction, the value of the **Net Sales** attributed under this Article 6 to this transaction shall be that which would have been received in an arms-length transaction, based on sales of like quantity and quality products on or about the time of this transaction.

6.9 **Licensee** may elect to surrender its rights in any country of the **Licensed Territory** under any of the **Licensed Patent Rights** upon sixty (60) days written notice to **PHS** and owe no payment obligation under Paragraph 6.9 for patent-related expenses incurred in that country after the effective date of the written notice.

6.10 **PHS** agrees that the royalty terms in any third party license of the **Licensed Patent Rights** and **Materials** in a field of use that includes all or a substantial portion of the **Licensed Fields of Use** executed after the effective date of this **Agreement** will be at least equal to the royalty terms set forth in this **Agreement** under Article 6 and Appendix C. During the term of this **Agreement**, **PHS** will advise **Licensee** about terms granted in any third party licenses to the **Licensed Patent Rights** or **Materials** in a field of use that includes all or a substantial portion of the **Licensed Fields of Use** that are more favorable to the third party licensee than those agreed to herein. During the term of this **Agreement, PHS** will consider the views of **Licensee** in determining whether the terms granted to said third party licensee under the **Licensed Patent Rights** and **Materials** in the **Licensed Fields of Use** are more favorable than those granted to **Licensee** herein, and **Licensee** shall be entitled, upon written notice to **PHS** within sixty (60) days after receipt, to have this **Agreement** amended to substitute those terms, in their entirety, as of the date those terms became effective with the third party.

7. PATENT FILING. PROSECUTION. AND MAINTENANCE

7.1 **PHS** agrees to take responsibility for the preparation, filing, prosecution, and maintenance of any and all patent applications or patents included in the **Licensed Patent Rights**. **PHS** (a) will cause its patent counsel to timely copy **Licensee** on all official actions and written correspondence with any patent office and timely provide **Licensee** advance written notice of any filing deadline, (b) allow **Licensee** an opportunity to comment and advise **PHS**, and (c) consider and reasonably incorporate comments and advice from **Licensee**. The extent to which the comments and advice will be incorporated may be affected by third party licenses, if any, executed by **PHS** for the **Licensed Patent Rights.**

8. RECORD KEEPING

8.1 **Licensee** agrees to keep accurate and correct records of **Licensed Products** made, used, sold, or imported and **Licensed Processes** practiced under this **Agreement** appropriate to determine the amount of royalties due **PHS**. These records shall be retained for at least three (3) years following a given reporting period and shall be available during normal business hours for inspection, at the expense of **PHS**, by an accountant or other designated auditor selected by **PHS** for the sole purpose of verifying reports and royalty payments hereunder. The accountant or auditor shall only disclose to **PHS** information relating to the accuracy of reports and royalty payments made under this **Agreement**. If an inspection shows an underreporting or underpayment in excess of five percent (5%) for any twelve (12) month period, then **Licensee** shall reimburse **PHS** for the cost of the inspection at the time **Licensee** pays the unreported royalties, including any additional royalties as required by Paragraph 9.7. All royalty payments required under this Paragraph shall be due within sixty (60) days of the date **PHS** provides **Licensee** notice of the payment due.

8.2 **Licensee** agrees to have an audit of sales and royalties conducted by an independent auditor at least every two (2) years if annual **Net Sales** of the **Licensed Products** or **Licensed Processes** are over ten (10) million dollars. The audit shall address, at a minimum, the amount of gross sales by or on behalf of **Licensee** during the audit period, the amount of royalties owed to the **Government** under this **Agreement,** and whether the royalties owed have been paid to the **Government** and is reflected in the records of the **Licensee.** The audit shall also indicate the **PHS** license number, product, and the time period being audited. A report certified by the auditor shall be submitted promptly by the auditor directly to **PHS** on completion. **Licensee** shall pay for the entire cost of the audit.

9. REPORTS ON PROGRESS. BENCHMARKS. SALES. AND PAYMENTS

9.1 Prior to signing this **Agreement, Licensee** has provided **PHS** with the **Commercial Development Plan** in Appendix E, under which **Licensee** intends to bring the subject matter of the **Licensed Patent Rights** to the point of **Practical Application.** This **Commercial Development Plan** is hereby incorporated by reference into this **Agreement.** Based on this plan, performance **Benchmarks** are determined as specified in Appendix D.

9.2 **Licensee** shall provide written annual reports on its product development progress or efforts to commercialize under the **Commercial Development Plan** for each of the **Licensed Fields of Use** within sixty (60) days after December 31 of each calendar year. These progress reports shall include, but not be limited to: progress on research and development, status of applications for regulatory approvals, manufacturing, marketing, importing, and sales during the preceding calendar year, as well as, plans for the present calendar year. **PHS** also encourages these reports to include information on any of **Licensee's** public service activities that relate to the **Licensed Patent Rights.** If reported progress differs from that projected in the **Commercial Development Plan** and **Benchmarks, Licensee** shall explain the reasons for such differences. In any annual report, **Licensee** may propose amendments to the **Commercial Development Plan,** acceptance of which by **PHS** may not be denied unreasonably. **Licensee** agrees to provide any additional information reasonably required by **PHS** to evaluate **Licensee's** performance under this **Agreement Licensee** may amend the **Benchmarks** at any time upon written approval by **PHS. PHS** shall not unreasonably withhold approval of any request of **Licensee** to extend the time periods of this schedule if the request is supported by a reasonable showing by **Licensee** of diligence in its performance under the **Commercial Development Plan** and toward bringing the **Licensed Products** to the point of **Practical Application.**

9.3 **Licensee** shall report to **PHS** the dates for achieving **Benchmarks** specified in Appendix D and the **First Commercial Sale** in each country in the **Licensed Territory** within thirty (30) days of such occurrences.

9.4 **Licensee** shall submit to **PHS**, within sixty (60) days after each calendar half-year ending June 30 and December 31, beginning the year of the **First Commercial Sale,** a royalty report, as described in the example in Appendix F, setting forth for the preceding half-year period the amount of the **Licensed Products** sold or **Licensed Processes** practiced by or on behalf of **Licensee** or its sublicensees in each country within the **Licensed Territory,** the **Net Sales**, and the amount of royalty accordingly due. With each royalty report, **Licensee** shall submit payment of earned royalties due. If no earned royalties are due to **PHS** for any reporting period, the written report shall so state. The royalty report shall be certified as correct by an authorized officer of **Licensee** and shall include a detailed listing of all deductions made under Paragraph 2.11 to determine **Net Sales** made under Article 6 to determine royalties due.

9.5 Royalties due under Article 6 shall be paid in U.S. dollars and payment options are listed in Appendix G. For conversion of foreign currency to U.S. dollars, the conversion rate shall be the New York foreign exchange rate quoted in *The Wall Street Journal* on the day that the payment is due, and any loss of exchange, value, taxes, or other expenses incurred in the transfer or conversion to U.S. dollars shall be paid entirely by **Licensee**. The royalty report required by Paragraph 9.4 shall be mailed to **PHS** at its address for **Agreement** Notices indicated on the Signature Page.

9.6 **Licensee** agrees to forward semi-annually to **PHS** a copy of these reports received by **Licensee** from its sublicensees during the preceding half-year period as shall be pertinent to a royalty accounting to **PHS** by **Licensee** for activities under the sublicense.

9.7 **Licensee** shall be solely responsible for determining if any tax on royalty income is owed outside the United States and shall pay this tax and be responsible for all filings with appropriate agencies of foreign governments.

9.8 Additional royalties may be assessed by **PHS** on any payment that is more than ninety (90) days overdue at the rate of one percent (1%) per month. This one percent (1%) per month rate may be applied retroactively from the original due date until the date of receipt by **PHS** of the overdue payment and additional royalties. The payment of any additional royalties shall not prevent **PHS** from exercising any other rights it may have as a consequence of the lateness of any payment.

9.9 All plans and reports required by this Article 9 and marked "confidential" by **Licensee** shall, to the extent permitted by law, be treated by **PHS** as commercial and financial information obtained from a person and as privileged and confidential, and any proposed disclosure of these records by the **PHS** under the Freedom of Information Act (FOIA), 5 U.S.C. §552 shall be subject to the pre-disclosure notification requirements of 45 CFR §5.65(d).

10. PERFORMANCE

10.1 **Licensee** shall use its reasonable commercial efforts to bring the **Licensed Products** and **Licensed Processes** to **Practical Application**. "Reasonable commercial efforts" for the purposes of this provision shall include adherence to the **Commercial Development Plan** in Appendix E and taking reasonable commercial efforts to achieve the **Benchmarks** in Appendix D.

10.2 Upon the **First Commercial Sale**, until the expiration or termination of this **Agreement**, **Licensee** shall use its reasonable commercial efforts to make **Licensed Products** and **Licensed Processes** reasonably accessible to the United States public.

10.3 **Licensee** agrees, after its **First Commercial Sale** and as part of its marketing and product promotion, to develop educational materials (e.g., brochures, website, etc.) directed to patients and physicians detailing the **Licensed Products** or medical aspects of the prophylactic and therapeutic uses of the **Licensed Products.**

10.4 **Licensee** agrees to retain control over the **Materials**, and not to distribute them to third parties without the prior written consent of **PHS** except as provided in Article 4.

11. INFRINGEMENT AND PATENT ENFORCEMENT

11.1 **PHS** and **Licensee** agree to notify each other promptly of each infringement or possible infringement of the **Licensed Patent Rights,** as well as, any facts which may affect the validity, scope, or enforceability of the **Licensed Patent Rights** of which either Party becomes aware. Subject to Paragraph 11.2 below, **Licensee** will have the right, but not the obligation, at its own expense and with legal counsel of its own choice, to bring suit against any actual, alleged or threatened infringement of the **Licensed Patent Rights.** In any action brought under this Paragraph 11.2 the expenses including costs, fees, attorney fees, and disbursements, shall be paid by **Licensee**. The value of any recovery made by **Licensee** through court judgment or settlement shall be treated as **Net Sales** and subject to earned royalties.

11.2 In the event that a declaratory judgment action alleging invalidity of any of the **Licensed Patent Rights s**hall be brought against **PHS**, **PHS** agrees to notify **Licensee** that an action alleging invalidity has been brought. **PHS** does not represent that it shall commence legal action to defend against a declaratory action alleging invalidity. **Licensee** shall take no action to compel the **Government** either to initiate or to join in any declaratory judgment action. Should the **Government** be made a party to any suit by motion or any other action of **Licensee**, **Licensee** shall reimburse the **Government** for any costs, expenses, or fees, which the **Government** incurs as a result of the motion or other action. Upon **Licensee's** payment of all costs incurred by the **Government** as a result of **Licensee's** joinder motion or other action, these actions by **Licensee** shall not be considered a default in the performance of any material obligation under this Agreement.

12. NEGATION OF WARRANTIES AND INDEMNIFICATION

12.1 **PHS** offers no warranties other than those specified in Article 1.

12.2 **PHS** does not warrant the validity of the **Licensed Patent Rights** and makes no representations whatsoever with regard to the scope of the **Licensed Patent Rights,** or that the **Licensed Patent Rights** may be exploited without infringing other patents or other intellectual property rights of third parties.

12.3 **PHS** MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY OF THE **MATERIALS** OR SUBJECT MATTER DEFINED BY THE CLAIMS OF THE **LICENSED PATENT RIGHTS.**

12.4 **PHS** does not represent that it shall commence legal actions against third parties infringing the **Licensed Patent Rights.**

12.5 **Licensee** shall indemnify and hold **PHS**, its employees, students, fellows, agents, and consultants harmless from and against all liability, demands, damages, expenses, and losses, including but not limited to death, personal injury, illness, or property damage in connection with or arising out of:

(a) the use by or on behalf of Licensee, its sublicensees, its directors, employees, or third parties of any **Licensed Patent Rights**; or

(b) the design, manufacture, distribution, or use of any **Licensed Products, Licensed Processes** or **Materials** by **Licensee,** or other products or processes developed in connection with or arising out of the **Licensed Patent Rights.**

12.6 **Licensee** agrees to maintain a liability insurance program consistent with sound business practice.

13. TERM, TERMINATION, AND MODIFICATION OF RIGHTS

13.1 This **Agreement** is effective when signed by all parties, unless the provisions of Paragraph 14.15 are not fulfilled, and shall extend to the expiration of the last to expire of the **Licensed Patent Rights** or if no patents issue then for twenty (20) years from the effective date of this **Agreement,** unless sooner terminated as provided in this Article 13. Upon expiration of the term of this **Agreement,** the license granted hereunder to make and have made, to use and have used, to sell and have sold, to offer to sell, and to import the **Materials** shall be a royalty-free and paid up license.

13.2 In the event that **Licensee** is in default in the performance of any material obligations under this **Agreement**, including but not limited to the obligations listed in Paragraph 13.5, and if the default has not been remedied within ninety (90) days after the date of notice in writing of the default, **PHS** may terminate this **Agreement** by written notice and pursue outstanding royalties owed through procedures provided by the Federal Debt Collection Act.

13.3 In the event that **Licensee** becomes insolvent, files a petition in bankruptcy, has such a petition filed against it, determines to file a petition in bankruptcy, or receives notice of a third party's intention to file an involuntary petition in bankruptcy, **Licensee** shall immediately notify **PHS** in writing. Furthermore, **PHS** shall have the right to terminate this **Agreement** immediately upon **Licensee's** receipt of written notice upon the occurrence of any of the foregoing events.

13.4 **Licensee** shall have a unilateral right to terminate this **Agreement** in its entirety by giving **PHS** sixty (60) days written notice to that effect. In addition, **Licensee** shall have a unilateral right to terminate this **Agreement** with respect to any country or territory by giving **PHS** sixty (60) days written notice to that effect.

13.5 **PHS** shall specifically have the right to terminate or modify, at its option, this **Agreement,** if **PHS** determines that the **Licensee:**

(a) is not executing the **Commercial Development Plan** submitted with its request for a license and the **Licensee** cannot otherwise demonstrate to **PHS'** satisfaction that the **Licensee** has taken, or can be expected to take within a reasonable time, commercially reasonable steps to achieve **Practical Application** of the **Licensed Products** or **Licensed Processes;**

(b) has not exercised commercially reasonable efforts toward achieving the **Benchmarks** as may be modified under Paragraph 9.2;

(c) has willfully made a false statement of, or willfully omitted, a material fact in the license application or in any report required by this **Agreement;**

(d) has committed a material breach of a covenant or agreement contained in this **Agreement;**

(e) is not keeping **Licensed Products** or **Licensed Processes** reasonably available to the public after commercial use commences;

(f) cannot reasonably satisfy unmet health and safety needs; or

(g) cannot reasonably justify a failure to comply with the domestic production requirement of Paragraph 5.2, unless waived.

13.6 In making the determination referenced in Paragraph 13.5, **PHS** shall take into account the normal course of such commercial development programs conducted with sound and reasonable business practices and judgment and the annual reports submitted by **Licensee** under Paragraph 9.2. Prior to invoking termination or modification of this **Agreement** under Paragraph 13.5, **PHS** shall give written notice to **Licensee** providing **Licensee** specific notice of, and a ninety (90) day opportunity to respond to, **PHS'** concerns as to the items referenced in 13.5(a)-13.5(g). If **Licensee** fails to alleviate **PHS'** concerns as to the items referenced in 13.5(a)-13.5(g) or fails to initiate corrective action to **PHS'** satisfaction, **PHS** may terminate this **Agreement.**

13.7 **PHS** reserves the right according to 35 U.S.C. §209(d)(3) to terminate or modify this **Agreement** if it is determined that the action is necessary to meet the requirements for public use specified by federal regulations issued after the date of the license and these requirements are not reasonably satisfied by **Licensee.**

13.8 Within thirty (30) days of receipt of written notice of **PHS'** unilateral decision to modify or terminate this **Agreement, Licensee** may, consistent with the provisions of 37 CFR §404.11, appeal the decision by written submission to the designated **PHS** official. The decision of the designated **PHS** official shall be the final agency decision. **Licensee** may thereafter exercise any and all administrative or judicial remedies that may be available.

13.9 Within ninety (90) days of expiration or termination of this **Agreement** under this Article 13, a final report shall be submitted by **Licensee.** Any royalty payments, including those incurred but not yet paid (such as the full minimum annual royalty), and those related to patent expense, due to **PHS** shall become immediately due and payable upon termination or expiration. If terminated under this Article 13, sublicensees may elect to convert their sublicenses to the **Licensed Patent Rights** to direct licenses with **PHS** pursuant to Paragraph 4.3.

14. GENERAL PROVISIONS

14.1 Neither party may waive or release any of its rights or interests in this **Agreement** except in writing. The failure of the **Government** or **Licensee** to assert a right hereunder or to insist upon compliance with any term or condition of this **Agreement** shall not constitute a waiver of that right by the **Government** or **Licensee,** as applicable, or excuse a similar subsequent failure to perform any of these terms or conditions by **Licensee** or the **Government,** as applicable.

14.2 This **Agreement** constitutes the entire agreement between the Parties relating to the subject matter of the **Licensed Patent Rights, Licensed Products** and **Licensed Processes,** and all prior negotiations, representations, agreements, and understandings are merged into, extinguished by, and completely expressed by this **Agreement.**

14.3 The provisions of this **Agreement** are severable, and in the event that any provision of this **Agreement** shall be determined to be invalid or unenforceable under any controlling body of law, this determination shall not in any way affect the validity or enforceability of the remaining provisions of this **Agreement.**

14.4 If either party desires a modification to this **Agreement,** the parties shall, upon reasonable notice of the proposed modification by the party desiring the change, confer in good faith to determine the desirability of the modification. No modification shall be effective until a written amendment is signed by the parties hereto.

14.5 The construction, validity, performance, and effect of this **Agreement** shall be governed by Federal law as applied by the Federal courts in the District of Columbia.

14.6 All **Agreement** notices required or permitted by this **Agreement** shall be given by prepaid, first class, registered or certified mail or by an express/overnight delivery service provided by a commercial carrier, properly addressed to the other party at the address designated on the Signature Page, or to any other address as may be designated in writing by such other party. **Agreement** notices shall be considered timely if such notices are received on or before the established deadline date or sent on or before the deadline date as verifiable by U.S. Postal Service postmark or dated receipt from a commercial carrier. Parties should request a legibly dated U.S. Postal Service postmark or obtain a dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

14.7 This **Agreement** shall not be assigned or otherwise transferred (including any transfer by legal process or by operation of law, and any transfer in bankruptcy or insolvency, or in any other compulsory procedure or order of court) except to **Licensee's Affiliate(s)** without the prior written consent of **PHS**, which shall not be unreasonably withheld, conditioned or delayed. The parties agree that the identity of the parties is material to the formation of this **Agreement** and that the obligations under this **Agreement** are nondelegable

14.8 **Licensee** agrees in its use of any **PHS**-supplied materials to comply with all applicable statutes, regulations, and guidelines, including **PHS** and **HHS** regulations and guidelines. **Licensee** agrees not to use the materials for research involving human subjects or clinical trials in the United States without complying with 21 CFR Part 50 and 45 CFR Part 46. **Licensee** agrees not to use the materials for research involving human subjects or clinical trials outside of the United States without notifying **PHS**, in writing, of the research or trials and complying with the applicable regulations of the appropriate national control authorities. Written notification to **PHS** of research involving human subjects or clinical trials outside of the United States shall be given no later than sixty (60) days prior to commencement of the research or trials.

14.9 **Licensee** acknowledges that it is subject to and agrees to abide by the United States laws and regulations (including the Export Administration Act of 1979 and Arms Export Control Act) controlling the export of technical data, computer software, laboratory prototypes, biological materials, and other commodities. The transfer of these items may require a license from the appropriate agency of the **Government** or written assurances by **Licensee** that it shall not export these items to certain foreign countries without prior approval of the agency. **PHS** neither represents that a license is or is not required or that, if required, it shall be issued.

14.10 **Licensee** agrees to mark the **Licensed Products** or their packaging sold in the United States with all applicable U.S. patent numbers and similarly to indicate "Patent Pending" status, if appropriate. All **Licensed Products** manufactured in, shipped to, or sold in other countries shall be marked in a manner to preserve **PHS** patent rights in those countries, if any.

14.11 By entering into this **Agreement, PHS** does not directly or indirectly endorse any product or service provided, or to be provided, by **Licensee** whether directly or indirectly related to this **Agreement. Licensee** shall not state or imply that this **Agreement** is an endorsement by the **Government, PHS,** any other **Government** organizational unit, or any **Government** employee. Additionally, **Licensee** shall not use the names of **NIH**, **PHS, FDA** or **HHS** or the **Government** or their employees in any advertising, promotional, or sales literature without the prior written approval of **PHS**.

14.12 The Parties agree to attempt to settle amicably any controversy or claim arising under this **Agreement** or a breach of this **Agreement,** except for appeals of modifications or termination decisions provided for in Article 13. **Licensee** agrees first to appeal any unsettled claims or controversies to the designated **PHS** official, or designee, whose decision shall be considered the final agency decision. Thereafter, **Licensee** may exercise any administrative or judicial remedies that may be available.

14.13 Nothing relating to the grant of a license, nor the grant itself, shall be construed to confer upon any person any immunity from or defenses under the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to 37 CFR Part 404 shall not be immunized from the operation of state or Federal law by reason of the source of the grant.

14.14 Paragraphs 3.4, 8.1, 9.7-9.9, 12.1-12.5, 13.1, 13.8, 13.9, 14.12 and 14.14 of this **Agreement** shall survive termination of this **Agreement.**

14.15 The terms and conditions of this **Agreement** shall, at **PHS**' sole option, be considered by **PHS** to be withdrawn from **Licensee's** consideration and the terms and conditions of this **Agreement,** and the **Agreement** itself to be null and void, unless this **Agreement** is executed by the **Licensee** and a fully executed original is received by **PHS** within sixty (60) days from the date of **PHS** signature found at the Signature Page.

SIGNATURES BEGIN ON NEXT PAGE

PHS PATENT LICENSE AGREEMENT - *NONEXCLUSIVE*

SIGNATURE PAGE

For PHS:

/s/ Richard U. Rodriguez — 4.22.09
Richard U. Rodriguez — Date
Director, Division of Technology Development and Transfer
Office of Technology Transfer
National Institutes of Health

Mailing Address for **Agreement** notices:

Chief, Monitoring & Enforcement Branch
Office of Technology Transfer
National Institutes of Health
6011 Executive Boulevard, Suite 325
Rockville, Maryland 20852-3804 U.S.A.

For **Licensee** (Upon, information and belief, the undersigned expressly certifies or affirms that the contents of any statements of **Licensee** made or referred to in this document are truthful and accurate.):

By:
/s/ Oscar Thomas — 4-27-09
Signature of Authorized Official — Date

Oscar Thomas
Printed Name

VICE PRESIDENT, BUSINESS AFFAIRS
Title

I. Official and Mailing Address for **Agreement** notices:

Oscar Thomas
Name

Vice President, Business Affairs
Title

Mailing Address

One Commerce Square
Suite 2550
Memphis, TN 38103

Email Address: othomas@surgivision.com

Phone: (901)522-9344

Fax: (901)522-9400

II. Official and Mailing Address for Financial notices **(Licensee's** contact person for royalty payments)

Oscar Thomas
Name

Vice President, Business Affairs
Title

Mailing Address:

One Commerce Square

Suite 2550

Memphis, TN 38103

Email Address: othomas@surgivision.com

Phone: (901)522-9344

Fax: (901)522-9400

Any false or misleading statements made, presented, or submitted to the **Government,** including any relevant omissions, under this **Agreement** and during the course of negotiation of this **Agreement** are subject to all applicable civil and criminal statutes including Federal statutes 31 U.S.C. §§3801-3812 (civil liability) and 18 U.S.C. §1001 (criminal liability including fine(s) and/or imprisonment).

APPENDIX A - PATENT(S) OR PATENT APPLICATION(S)

Patent(s) or Patent Application(s):

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

APPENDIX B - LICENSED FIELDS OF USE AND TERRITORY

I. Licensed Fields of Use:

Devices and systems for MRI-guided medical procedures

II. Licensed Territory:

(a) United States, Commonwealths, Territories and Possessions

(b) Europe, Canada, China, Japan, Israel, Australia

APPENDIX C - ROYALTIES

Royalties:

I. With regard to unreimbursed expenses associated with the preparation, filing and prosecution of the U.S. patent applications specifically identified in Appendix A and incurred by **PHS** prior to the effective date of this **Agreement, Licensee** shall pay **PHS,** Thirty Four Thousand Nine Hundred Fifty U.S. Dollars (USD $34,950) as an additional royalty, within sixty (60) days of **PHS'** submission of a statement and request for payment to **Licensee.**

II. **Licensee** agrees to pay to **PHS** a nonrefundable minimum annual royalty in the amount of Three Thousand U.S. Dollars (USD $3,000) beginning on January 1st of the year following the date of the **First Commercial Sale.** Minimum annual royalties paid pursuant to this Paragraph may be credited against any earned royalties due for sales made in the year in which the minimum annual royalty is paid.

III. **Licensee** agrees to pay **PHS** earned royalties of Three percent (3%) on **Net Sales** by or on behalf of **Licensee** or a sublicensee.

IV. **Licensee** agrees to pay **PHS** a one-time **Benchmark** royalty within sixty (60) days as set forth below:

One Hundred Fifty Thousand U.S. Dollars (USD $150,000) within sixty (60) days of obtaining the initial regulatory approval, from the appropriate U.S. or foreign regulatory authority, for the commencements of sales of a **Licensed Product** or the practice **of a Licensed Process**.

V. **Licensee** agrees to pay **PHS** additional sublicensing royalties of Ten Percent (10%) on the fair market value of any consideration received for granting each sublicense, except for royalties received on sales of a **Licensed Product** or a **Licensed Process** sold by a sublicense, within sixty (60) days of the execution of each sublicense.

VI. With regard to unreimbursed expenses associated with the preparation, filing, prosecution, and maintenance of all patent applications and patents included within the **Licensed Patent Rights** and incurred by **PHS** on or after the effective date of this **Agreement, PHS,** at its sole option, may require **Licensee** to pay **PHS** on an annual basis, within sixty (60) days of **PHS'** submission of a statement and request for payment, a royalty amount equivalent to a pro rata share, based on the number of licensees of the **Licensed Patent Rights,** of these unreimbursed expenses incurred during the previous calendar year(s). Any payments made under Paragraph VI, at the time of the request for payment under this Paragraph VII shall be factored into **Licensee's** pro rata share.

VII. **PHS** agrees, upon written request, to provide **Licensee** with summaries of patent prosecution invoices for which **PHS** has requested payment from the **Licensee** under Paragraph 6.8 and this Appendix C. **Licensee** agrees that all information provided by **PHS** related to patent prosecution costs shall be treated as confidential commercial information and shall not be released to a third party except as required by law or a court of competent jurisdiction or with the consent of **PHS**.

APPENDIX D - BENCHMARKS AND PERFORMANCE

Licensee agrees to the following **Benchmarks** for its performance under this **Agreement** and, within sixty (60) days of achieving a **Benchmark,** shall notify **PHS** that the **Benchmark** has been achieved.

I. [***]

II. [***]

III. [***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

APPENDIX E - COMMERCIAL DEVELOPMENT PLAN

Licensee is a Delaware corporation formed in 1998. The **Licensee's** mission is to harness the power of MRI to drive the next generation of minimally invasive surgical procedures.

Licensee currently has 20 employees and offices situated in three (3) states. The company's development, manufacturing and distribution facility is located in Irvine, California, its advanced research and development facility is located in Baltimore, Maryland, and its corporate offices are centrally located in Memphis, Tennessee.

From 1998 to 2002, **Licensee** deployed significant resources to fund research and product development efforts. During that period, among other accomplishments, **Licensee**

- developed a series of miniature, disposable catheter-based coils that, that when used in conjunction with standard MRI technology, were capable of generating breakthrough images,
- filed numerous patent applications,
- received multiple FDA approvals, and
- designed, developed and manufactured a range of devices (such as intravascular guidewire coils, esophageal coils, urethral coils, mapping and ablation catheters and MRI-active needles) that incorporated the company's proprietary loopless and loop MRI antenna technology.

Licensee's coils have been used for numerous research studies at sites across the U.S., including Johns Hopkins University and the NIH. In 2003, **Licensee's** focus shifted to identifying and building out commercial applications for the technologies the company developed in the prior years. **Licensee** first identified the field of neuromodulation for the application of its technologies. **Licensee** anticipates commencing the commercial launch of its comprehensive interventional MRI system (designed to address the major hurdles associated with the current deep brain stimulation (DBS) lead placement procedure) in 2009.

In addition, **Licensee** is also focused on MRI-guided therapeutic interventions for cardiac electrophysiology, biopsies, tumor ablation, cell therapy and other biologics (such as gene therapy) and highly localized drug delivery, as well as MRI-safety for implantable medical devices.

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

APPENDIX F - EXAMPLE ROYALTY REPORT

Required royalty report information includes:

- OTT license reference number (L-XXX-200X/0)
- Reporting period
- Catalog number and units sold of each Licensed Product (domestic and foreign)
- Gross Sales per catalog number per country
- Total Gross Sales
- Itemized deductions from Gross Sales
- Total Net Sales
- Earned Royalty Rate and associated calculations
- Gross Earned Royalty
- Adjustments for Minimum Annual Royalty (MAR) and other creditable payments made
- Net Earned Royalty due

Example

Catalog Number	Product Name	Country	Units Sold	Gross Sales (US$)
1	A	US	250	62,500
1	A	UK	32	16,500
1	A	France	25	15,625
2	B	US	0	0
3	C	US	57	57,125
4	D	US	12	1,500

Total Gross Sales	153,250
Less Deductions:	
Freight	3,000
Returns	7,000
Total Net Sales	143,250
Royalty Rate	8%
Royalty Due	11,460
Less Creditable Payments	10,000
Net Royalty Due	**1,460**

APPENDIX G - ROYALTY PAYMENT OPTIONS

NIH/PHS License Agreements

****In order to process payment via Electronic Funds Transfer sender MUST supply the following information:***

Procedure for Transfer of Electronic Funds to NIH for Royalty Payments
[***]

NOTE: Only U.S. banks can wire directly to the Federal Reserve Bank. Foreign banks cannot wire directly to the Federal Reserve Bank, but must go through an intermediary U.S. bank. Foreign banks may send the wire transfer to the U.S. bank of their choice, who, in turn forwards the wire transfer to the Federal Reserve Bank.

Checks drawn on a U.S. bank account should be sent directly to the following address:

National Institutes of Health (NIH)
P.O. Box 979071
St. Louis, MO 63197-9000

Overnight or courier deliveries should be sent to the following address:

US Bank
Government Lockbox SL-MO-C2GL
1005 Convention Plaza
St. Louis, MO 63101
Phone:314-418-4087

Checks drawn on a foreign bank account should be sent directly to the following address:

National Institutes of Health (NIH)
Office of Technology Transfer
Royalties Administration Unit
6011 Executive Boulevard
Suite 325, MSC 7660
Rockville, Maryland 20852
Phone: 301-496-7057

All checks should be made payable to "NIH Patent Licensing".

The OTT Reference Number MUST appear on checks, reports and correspondence

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Exhibit 10.20

MASTER SERVICES AND LICENSING AGREEMENT

BETWEEN

CEDARA SOFTWARE CORP., an Ontario corporation,

(hereinafter referred to as "**Cedara**")

and

SURGI-VISION, INC., a Delaware corporation,

(hereinafter referred to as "**Surgi-Vision**")

RECITALS

WHEREAS, Cedara develops and distributes software applications for use in diagnostic imaging;

AND WHEREAS, Surgi-Vision has developed a set of products and technologies that enable various MRI-guided procedures and therapeutic interventions (the "**Surgi-Vision Technology**");

AND WHEREAS, Surgi-Vision and Cedara wish to establish a legal relationship under which Cedara will develop software to support the Surgi-Vision technology;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto have decided to enter into this Master Services and Licensing agreement (this "**Agreement**"), dated and effective from the 20th day of July, 2007 (the "**Effective Date**"), under the terms and conditions set forth below;

1. STANDARD DEFINITIONS

1.1 Definitions

(a) "**Agreement**" means this Agreement, including the Schedules to this Agreement, and any Statements of Work made hereunder, as it or they may be amended or supplemented from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and to any particular Section or other portion of this Agreement.

(b) "**Business Day**" means Monday to Friday except any statutory holiday observed in the Province of Ontario and "**Business Hour**" means each hour from 9:00 am to 5:00 pm E.S.T. during a Business Day.

(c) "**Cedara Software**" means software, in object code form, used to develop the Solution that is owned by or in possession of Cedara prior to the Effective Date or developed or acquired by Cedara during the Term independent of this Agreement or that is developed pursuant to this Agreement and determined to be owned by Cedara in accordance with Section 5.2.

(d) "**Change Request**" means a written request for changes to any Custom Engineering Services.

(e) "**Confidential Information**" has the meaning attributed to it in Section 11.1.

(f) "**Custom Engineering Services**" means the custom engineering services offered by Cedara to Surgi-Vision in accordance with Section 2.

(g) "**Documentation**" means the documentation which facilitates the use of the Cedara Software and that is provided to Surgi-Vision under the terms of this Agreement.

(h) "**Effective Date**" has the meaning attributed to it in the Recitals.

(i) "**End User**" means any person or organization that is granted rights to a Solution for use in processing its own data in the normal course of its business activities.

(j) "**Engineering Team**" means the team of custom engineering resources assigned by Cedara to Surgi-Vision in accordance with the terms of this Agreement.

(k) "**Initial Term**" has the meaning attributed to it in Section 6.1.

(l) "**Off-shore Engineer**" means an engineer located outside North America.

(m) "**On-shore Engineer**" means an engineer located in North America.

(n) "**Parties**" means Cedara and Surgi-Vision and "**Party**" means either of them.

(o) "**Professional Services**" means the professional support services offered by Cedara to Surgi-Vision in accordance with Schedule B.

(p) "**Project(s)**" means the specific Custom Engineering Services projects undertaken by Cedara at Surgi-Vision's request from time to time.

(q) "**Renewal Term**" has the meaning attributed to it in Section 6.1.

(r) "**Solution**" means a customized viewer software solution, Incorporating the Cedara Software, which supports the Surgi-Vision Technology.

(s) "**Statement of Work**" or "**SOW**" means any work order made between the Parties which references and incorporates the terms of this Agreement, and sets out the details of a particular Project including, without limitation, any applicable (i) Solution requirements; (ii) methodologies; (iii) project responsibilities; (iii) delivery milestones; (iv) support; and (v) costs.

(t) "**Surgi-Vision Technology**" has the meaning attributed to it in the Recitals.

(u) "**Term**" means the period specified in Section 6 of this Agreement.

2. BUSINESS TERMS

2.1 Custom Engineering Services

2.1.1 General

Surgi-Vision shall engage Cedara in various Custom Engineering Services Projects throughout the Term. Each Project shall be defined by a Statement of Work signed by both Parties and numbered sequentially. Statement of Work No.1, covering the initial Project of defining the functional requirements for development of the Solution, is attached hereto as Schedule A. The development of such Solution shall be based on the results of Statement of Work No.1 and shall be covered under a separate SOW.

2.1.2 Engineering Team

The Engineering Team shall consist of a combination of On-shore Engineers and Off-shore Engineers. The composition of On-shore Engineers and Off-shore Engineers for any particular Project shall be specified in the applicable SOW.

2.1.3 Project Management

For each Project, each Party shall assign a project manager who shall be responsible for their respective Party's deliverables as defined by the Statement of Work. It is acknowledged and agreed that Cedara's ability to meet Project milestone dates and deliverable requirements may, in whole or in part, be dependant upon Surgi-Vision's timely response to Cedara's reasonable requests for co-operation made from time to time.

2.1.4 Change Requests

(a) Proposed changes to any Custom Engineering Services may be initiated by Surgi-Vision by giving a Change Request to Cedara. Once a change is initiated by Surgi-Vision, Cedara shall add a description of the following to the applicable Change Request: (i) the proposed changes to the Solution; (ii) any associated changes to the fees or estimated fees, and any changes to the dates set out in the applicable SOW; and (iii) any other applicable terms and conditions. Surgi-Vision acknowledges that time required by Cedara to respond to Change Requests may cause delays in achieving milestones.

(b) Cedara may initiate a change to any Custom Engineering Services by giving Surgi-Vision a Change Request that includes a description of: (i) the proposed changes to the Custom Engineering Services; (ii) any associated changes to the fees or estimated fees, and any changes to the dates set out in the applicable SOW; and (iii) any other applicable terms and conditions.

(c) Once any Change Request is signed by both Parties, it becomes a "**Change Order**". The changes set out in any Change Order shall constitute amendments to this Agreement and any applicable SOWs. Subject to subsection (d) below, if any Change Request is not signed by both Parties within 10 days of its submission by either Party, it is deemed to be withdrawn. Subject to the provisions of this Agreement, the Parties shall continue to be bound by the terms and conditions of any SOW made hereunder without regard to the provisions of any Change Request until such time as a Change Order is executed by both Parties.

(d) If a Change Request is delivered by Cedara and indicates that the change(s) are related to unforeseeable deficiencies in the original specifications, or errors on the part of the Surgi-Vision, and the Change Request is rejected by Surgi-Vision, Cedara may, in its sole discretion, either:

  (i) immediately terminate the applicable SOW; or

  (ii) complete the delivery of the SOW, provided that Surgi-Vision shall be deemed to have waived its rights to all warranties and support otherwise applicable to any part of the Custom Engineering Services directly affected by the specified changes.

2.1.5 Ongoing Management

All disputes which may arise with respect to any matter related to any Custom Engineering Services shall, to the extent possible, be resolved by the project managers for each Party, as soon as practicable and in any event within 10 Business Days of when it arises. If the project managers fail to resolve the dispute within 10 Business Days of when it arises, then their respective supervisors or other senior executives designated by the Parties shall work to resolve

the dispute, as soon as practicable and in any event within 10 Business Days of when it was referred to them. Each Party shall ensure that its representative for such discussions has the necessary authority to resolve any dispute on behalf of that Party.

2.1.6 Fees and Payment

Surgi-Vision shall pay Cedara for Custom Engineering Services according to an [***]. Surgi-Vision shall also reimburse Cedara for all pre-approved travel and living expenses incurred by Cedara that are necessary to enable Cedara to perform the Custom Engineering Services. Unless otherwise specified in the applicable SOW, Cedara shall invoice Surgi-Vision on a monthly basis for Custom Engineering Services.

2.1.7 [***]

2.2 Licensing Terms and Conditions

2.2.1 License Terms

Cedara grants to Surgi-Vision a non-exclusive, worldwide license during the Term to use, make copies of, distribute, market and sell licenses to the Cedara Software to End Users for use as an integrated component of the Solution and under Surgi-Vision's trademarks and service marks, and to use the Documentation in support of the foregoing grant of rights.

2.2.2 Restrictions With Respect to Cedara Software

The rights to the Cedara Software granted by Cedara to Surgi-Vision herein are subject to the following restrictions:

(a) Surgi-Vision shall not modify, adapt, alter, translate, copy or otherwise use the Cedara Software or Documentation except as expressly permitted in this Agreement;

(b) Surgi-Vision shall not attempt to reverse engineer, decompile, disassemble or otherwise render the Cedara Software into human readable form in order to gain access to the source code in any way, or to produce any work derived from the Cedara Software;

(c) the Solution may only be distributed subject to the terms and conditions of an End User agreement as specified in Section 2.1.3, and, except as otherwise expressly permitted in this Agreement, Surgi-Vision shall not transfer the rights granted to it under this Agreement;

(d) Surgi-Vision shall take all necessary measures to ensure that persons under its direction and control abide by the terms and conditions of this Agreement;

(e) Surgi-Vision shall only represent the performance of the Cedara Software as stated in the most current Documentation provided to Surgi-Vision by Cedara from time to time; and

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

(f) Surgi-vision shall obtain any governmental approvals required to discharge Surgi-Vision's obligations in this Agreement. In addition, Surgi-Vision shall obtain any required qualifications as soon as practicable under the applicable governmental requirements. Cedara agrees to use reasonable efforts to assist Surgi-Vision in obtaining such approvals or qualification and to institute such design changes as may be required for such qualification.

2.2.3 End User Agreements

Surgi-Vision shall enter into an agreement with each End User, and shall include provisions in such agreement that are at a minimum as protective to Cedara as the following:

(a) each license to the Solution shall be valid only for a single workstation identified by a serial number. The license may be transferred to another identified workstation upon prior written consent of Cedara;

(b) End Users may use the Cedara Software only as integrated component of the Solution and strictly for their own internal business purposes, and may not sell, rent, lease, license, time share or otherwise transfer or provide access to the Cedara Software to any third parties;

(c) End Users, may not reproduce, modify, adapt, alter, translate, reverse engineer, decompile, disassemble or otherwise render the Cedara Software into human readable form in order to gain access to the Cedara Software source code in any way, or to produce any work derived from the Cedara Software or translate or create other versions of the Cedara Software;

(d) End Users shall not modify or remove any copyright or other proprietary rights notices in or on the Cedara Software or Documentation; and

(e) Cedara shall have no liability to the End User for any express or implied warranties or any indirect, incidental, special or consequential damages.

Surgi-Vision's failure to enforce the terms of the End User agreement shall constitute a breach of this Agreement

2.2.4 License Fees and Minimum Commitment

Surgi-Vision shall pay to Cedara a run-time license fee of [***] for each Solution distributed by Surgi-Vision, provided that the [***] shall be at no charge. Surgi-Vision agrees to purchase a minimum of [***] licenses during the second year of this Agreement (in addition to the [***] granted at no charge) and [***] during each of the last 3 years of the initial Term for an annual commitment during the second year of $175,000 and an annual commitment during each of the last 3 years of $525,000 (each, an "**Annual Minimum Commitment**"). Within 30 days following the end of each of the last 4 years of the initial Term, Cedara will invoice Surgi-Vision for the difference, if any, between the actual license fees paid and the Annual Minimum Commitment for that year.

2.3 Professional Services

Surgi-Vision may purchase Professional Services for the fees set forth in Schedule B.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

2.4 Training

Cedara shall provide technical and applications training to Surgi-Vision which may require Surgi-Vision to send one or more persons to Toronto, Canada. All training programs offered by Cedara are designed as "train-the-trainer" courses and are intended for deployment and application specialists as well as the first-line support staff.

Surgi-Vision shall submit training requests to Cedara through the CustServ@cedara.com email address.

The fees for training are set out in Schedule B.

3. PAYMENT TERMS

3.1 Taxes

Fees do not include applicable taxes or import duties. Surgi-Vision shall pay such taxes or duties either directly or when invoiced by Cedara, or shall supply appropriate tax exemption certificates in a form satisfactory to Cedara.

3.2 Payment

Unless otherwise indicated, Cedara invoices shall be due and payable to Cedara within 15 days of receipt of invoice by Surgi-Vision. Any undisputed payment not paid within such 15-day period shall bear interest from the date payment is due until paid at the lesser of either a monthly compounded interest rate of 1.5% (19.56% per annum) or the highest interest rate allowed at law. If a dispute over an invoice is not resolved within 30 days of receipt of such invoice by Surgi-Vision, Cedara may suspend all services and licensing rights provided for under this Agreement until such dispute is resolved to the mutual satisfaction of the Parties. Surgi-vision agrees to reimburse Cedara for all reasonable costs and expenses incurred by Cedara in enforcing payment.

Payments are to be made by wire transfer or electronic payment through the Automated Clearing House (ACH) to Cedara according to the terms specified herein, using all of the following banking information exactly as shown:

First Deposit to:

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

[***]

Alternatively, payment can be made by Cheque payable to Cedara Software Corp.

Cheques shall be mailed or couriered to: Cedara Software Corp.
6509 Airport Road, Mississauga,
Ontario, L4V 1S7, Canada
Attention: Finance Department

3.3 Currency

All monetary amounts in this Agreement shall be in US dollars, unless expressly stated to the contrary.

4. RECORDS AND AUDIT

Surgi-Vision shall maintain written records ("**Records**") of all copies made by Surgi-Vision of the Cedara Software, or any portions thereof, and of all sublicenses of the Cedara Software and on written notice by Cedara, Surgi-Vision shall provide a copy of the Records to Cedara for inspection.

Cedara shall have the right to direct a qualified agent to audit Surgi-Vision's compliance with the terms of this Agreement. The audit shall occur during normal business hours and at Cedara's expanse, unless the audit reveals that Surgi-Vision is not in material compliance with this Agreement, in which case Surgi-Vision shall pay all expenses associated with the audit and shall immediately pay to Cedara the fees for any unauthorized copies of the Cedara Software based on Cedara's product transfer price list from the later of the date of the last audit or the Effective Date of this Agreement.

5. PROPRIETARY RIGHTS

5.1 Cedara Software

The Cedara Software owned by or in possession of Cedara prior to the Effective Date or developed or acquired independent of this Agreement during the Term, and any enhancements or modifications thereto or derivatives thereof, shall be owned exclusively by Cedara or its suppliers, as applicable, and except as expressly provided for in this Agreement, all rights, title and interest therein are reserved by Cedara or its suppliers, as indicated by Cedara.

5.2 Software Development

Cedara acknowledges and agrees that any and all work product and intellectual property developed or created by Cedara at the direction of Surgi-Vision and accepted by Cedara or otherwise using Surgi-Vision's Confidential Information or intellectual property, that is developed specifically for Surgi-Vision and has unique application to the Surgi-Vision Technology ("Surgi-Vision Work Product"), is the sole and exclusive property of Surgi-Vision and are "works made for hire" within the meaning of the United States Copyright Act of 1976, 17 U.S.C. $101 *et seq*. To the extent any Surgi-Vision Work Product does not constitute a "work made for hire" under the United States Copyright Act, Cedara hereby irrevocably assigns, transfers and sets over absolutely to Surgi-Vision, and shall cause each of its employees to assign to Surgi-Vision, all right, title and interest (whether now in existence or hereafter arising) in and to any Surgi-Vision

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Work Product and any intellectual property related thereto. For greater certainty, the Surgi-Vision Work Product shall not include any components of the Cedara Software.

6. TERM AND TERMINATION

6.1 Term of the Agreement

The initial term of this Agreement is for 5 years commencing on the Effective Date (the "**Initial Term**"). Thereafter, this Agreement shall automatically renew for up to 3 successive periods of 12 months (each, a "**Renewal Term**"), unless Surgi-Vision gives written notice to Cedara of its intention not renew a minimum of 30 days prior to the expiry of the Initial Term or the then current Renewal Term, as applicable, provided that Cedara may amend the Custom Engineering Services fees and/or Professional Services fees during any Renewal Term with a minimum of 30 days prior written notice to Surgi-Vision. The Initial Term and any Renewal Terms shall collectively comprise the **"Term**.

6.2 Termination

6.2.1 Termination for Cause

Notwithstanding the foregoing provisions of Section 6.1, this Agreement and any SOW made hereunder may be terminated immediately by either Party if:

(a) the other Party ceases to carry on business in the normal course, becomes or is declared insolvent or bankrupt, is subject to any proceeding relating to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes a general assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension or readjustment of all or substantially all of its obligations; or

(b) the other Party breaches any material obligation under this Agreement and such breach has continued uncured for a period of 20 days after receiving written notice of the breach.

6.2.2 Procedure on Termination

Upon expiration or termination of this Agreement for any reason:

(a) Surgi-Vision shall promptly cease representing, quoting, selling, sublicensing or otherwise using the Cedara Software (including as part of the Solutions);

(b) Surgi-Vision shall promptly return to Cedara all copies of the Cedara Software. Documentation or data originally provided by Cedara and which are the property of Cedara;

(c) Surgi-Vision shall pay all outstanding invoices or amounts owing to Cedara which shall become immediately due and payable on notice of termination: and

(d) Cedara shall deliver any specifications, designs, technical materials and other instructions developed or provided by Surgi-Vision to Cedara, which the parties acknowledge and agree are exclusively owned by Surgi-Vision.

Termination and the foregoing remedies shall be in addition to, and not in lieu of, any other remedies that either Party may have at law or in equity and shall not relieve either Party of liability for any breach of contract occurring prior to the effective date of termination.

6.2.3 Non- Termination of End User Licenses

Notwithstanding the termination or expiry of this Agreement, all End User licenses granted by Surgi-Vision prior to such termination or expiry shall continue to be in full force and effect, subject to their terms.

7. BRANDING

Surgi-Vision shall market the Solutions using its own trademarks, logos, symbols, designs and other designations or brands. Notwithstanding the foregoing, Surgi-Vision shall not alter, remove or obscure any Cedara copyright, trade-mark or other proprietary rights notices which are incorporated in or on the Cedara Software or Documentation.

8. INDEMNITIES

8.1 Intellectual Property Rights Indemnities

Cedara shall defend, indemnity and hold harmless Surgi-Vision, and its directors, officers, employees, contractors, agents and suppliers, from any claims, losses, damages, penalties, judgments and liabilities, including all reasonable related costs and expenses, arising in connection with any action or claim that the Cedara Software infringes any Canadian or United States patent or any other intellectual property and/or proprietary right of a third party, provided that (i) Surgi-Vision cooperates with Cedara's reasonable requests for assistance in the defence; and (ii) Cedara controls the defence, negotiation and settlement of any such claim; provided, that Cedara shall not settle or compromise any claim that would adversely affect the rights of Surgi-Vision without the prior written consent of Surgi-Vision, such consent not to be unreasonably withheld.

8.2 Surgi-Vision Remedies

In addition to any and all remedies provided under Section 8.1 above, it Surgi-Vision cannot use the Cedara Software because a court of final appeal has held that its use constitutes an infringement of a third party's intellectual property rights, Cedara shall, in its sole discretion and as Surgi-Vision's sole recourse, provide Surgi-Vision with one of the following remedies:

(a) without impairing Cedara Software functionality or performance in any material adverse way, (i) modify the infringing portion of the Cedara Software so that it is non-infringing or (ii) replace the Cedara Software with equally suitable, non -infringing components; or

(b) procure for Surgi-Vision the right to continue to use the infringing Cedara Software.

8.3 Exclusion

Cedara shall have no liability to Surgi-Vision with respect to any claim of intellectual property rights infringement caused by (i) Surgi-Vision's modifications to the Cedara Software or combination of the Cedara Software with non-Cedara products; (ii) Surgi-Vision's continued use of the infringing Cedara Software after having been notified of the alleged infringement; (iii) Surgi-

Vision's failure to use modifications to the Cedara Software supplied by Cedara that would have avoided the infringement; or (iv) modifications made to the Cedara Software by any person or entity other than Cedara or by Cedara at the Surgi-Vision's directions or specifications.

8.4 Distribution of Solutions

Surgi-Vision agrees to defend, indemnify and hold harmless Cedara and its affiliates, and each of their respective directors, officers, employees, contractors, agents and suppliers, from any claims, liabilities or damages, and related costs and expenses, arising out of or related to Surgi-Vision's use or distribution of the Cedara Software that is in breach of the terms and conditions of this Agreement or any claim that the Surgi-Vision Technology infringes any Canadian or United States patent or any other intellectual property and/or proprietary right of a third party, provided that (i) Cedara cooperates with Surg-Vision's reasonable requests for assistance in the defence; and (ii) Surgi-Vision controls the defence, negotiation and settlement of any such claim; provided, that Surgi-Vision shall not settle or compromise any claim that would adversely affect the rights of Cedara without the prior written consent of Cedara. such consent not to be unreasonably withheld.

8.5 Notice

Each Party shall promptly provide the other with written notice of any claim or information that might lead to a claim for indemnity under this Section 8. Failure by the Party seeking indemnity to notify the indemnifying Party of such claim or information, which results in the indemnifying Party being materially prejudiced, shall relieve the Indemnifying Party of its liability under this indemnity provision.

9. NON- SOLICITATION

Until this Agreement is terminated, and for a period of 1 year following, neither Party shall hire, employ, retain or solicit any person who is an employee, officer, director of full-time independent contractor of the other Party and who, but for this Agreement, would otherwise be unknown to that Party. The Parties acknowledge that in view of the recruitment difficulties, costs of training staff in the computer industry and the highly sensitive nature of Intellectual property rights of both Parties, this restriction is reasonable.

10. LEGAL RISK MANAGEMENT

10.1 Advisory Device

IN CIRCUMSTANCES WHERE THE CEDARA SOFTWARE SHIPPED TO SURGI-VISION HAS NOT BEEN MADE COMMERCIALLY GENERALLY AVAILABLE ("PRE-GMA") (FOR EXAMPLE, EVALUATION SOFTWARE PRODUCTS), SURGI-VISION ACKNOWLEDGES AND AGREES THAT SUCH PRE-GMA CEDARA SOFTWARE HAS NOT BEEN TESTED OR APPROVED FOR COMMERCIAL OR OPERATIONAL RELEASE OTHER THAN FOR CLINICAL EVALUATION (WHERE APPLICABLE) IN A CONTROLLED ENVIRONMENT AND THAT IT IS TO BE USED FOR EVALUATION PURPOSES ONLY WITH THE HIGHEST POSSIBLE STANDARD OF CARE.

SURGI-VISION ACKNOWLEDGES THAT THE CEDARA SOFTWARE AND THE SOLUTION ARE ADVISORY DEVICES AND NOT DESIGNED TO SUBSTITUTE FOR THE PRIMARY DEFENCES AGAINST DEATH OR INJURY DURING SURGICAL, MEDICAL LIFE SUPPORT OR OTHER POTENTIALLY HAZARDOUS APPLICATIONS WHICH SHALL CONTINUE TO BE

THE SKILL, KNOWLEDGE AND EXPERIENCE OF THE USERS OF THE CEDARA SOFTWARE AND SOLUTION.

10.2 Notice to End-Users

SURGI-VISION AGREES THAT IT SHALL NOT USE, MARKET, DISTRIBUTE OR RESELL THE CEDARA SOFTWARE OR SOLUTION AS A SUBSTITUTE FOR THE DEFENCES IDENTIFIED ABOVE IN THIS SECTION 10 OR WITH UNAPPROVED DICOM CONNECTIONS. SURGI-VISION SHALL PROVIDE END USERS WITH A PROMINENT NOTICE, IN THEIR LOCAL LANGUAGE, TO THAT EFFECT.

10.3 Legal Risk Management

EACH OF THE PARTIES AGREES THAT THE LIMITATIONS OF LIABILITY SET OUT IN THIS SECTION ARE FAIR AND REASONABLE IN THE COMMERCIAL CIRCUMSTANCES OF THIS AGREEMENT AND THAT IT WOULD NOT HAVE ENTERED INTO THIS AGREEMENT BUT FOR THE OTHER PARTY'S AGREEMENT TO LIMIT ITS LIABILITY IN THE MANNER, AND TO THE EXTENT, PROVIDED FOR HEREIN. SAVE AND EXCEPT FOR CLAIMS ARISING FROM BREACH OF RESTRICTIONS ON USE AND DISTRIBUTION OF THE CEDARA SOFTWARE, BREACH OF THE PAYMENT OBLIGATIONS, BREACH OF THE CONFIDENTIALITY OBLIGATIONS OR CLAIMS FOR WHICH AN INDEMNITY HAS BEEN PROVIDED UNDER THIS AGREEMENT, GROSS NEGLIGENCE, FRAUD, OR WILLFUL OR INTENTIONAL MISCONDUCT, THE PARTIES AGREE THAT EACH OF THE PARTIES' AND THEIR RESPECTIVE SUPPLIERS' LIABILITY TO THE OTHER FOR ANY AND ALL DIRECT, COMPENSATORY LOSS OR DAMAGES, UNDER ANY THEORY OF LAW OR EQUITY, WHETHER FOR BREACH OF CONTRACT, TORT OR OTHERWISE, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE INTENDED FULFILLMENT OF ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT, SHALL BE STRICTLY LIMITED IN THE AGGREGATE TO $1,000,000. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OR INJURIES TO EARNINGS, PROFITS OR GOODWILL, OR FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY PERSON OR ENTITY WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE, EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION SHALL APPLY EVEN IN THE EVENT OF A BREACH OF CONDITION, A BREACH OF AN ESSENTIAL OR FUNDAMENTAL TERM. OR AN ESSENTIAL OR FUNDAMENTAL BREACH OF THIS AGREEMENT.

10.4 Exclusion

THE OBLIGATIONS OF CEDARA EXPRESSLY STATED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS EXPRESS OR IMPLIED. WITHOUT LIMITATION, TO THE FULLEST EXTENT ALLOWABLE BY LAW, THIS EXCLUSION OF ALL OTHER WARRANTIES AND CONDITIONS EXTENDS TO IMPLIED WARRANTIES OR CONDITIONS OF SATISFACTORY QUALITY, MERCHANTABLE QUALITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. CEDARA MAKES NO GUARANTEES REGARDING NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS OR THAT USE OF THE CEDARA SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

11. CONFIDENTIALITY

11.1 Definition

In this Section. **"Confidential Information"** means all information that the disclosing Party designates as confidential or which ought to be considered as confidential from its nature or from the circumstances surrounding its disclosure, including without limitation all regulatory, commercial, financial, administrative and technological information of either Party and any information concerning this Agreement, but does not Include information which:

(a) is known to the receiving Party before receipt from the other Party, as substantiated by cogent and reliable evidence;

(b) is disclosed to the receiving Party in good faith by a third party who had a right to make such disclosure;

(c) is made public by the originating Party, or is established to be a part of the public domain otherwise than as a consequence of a breach by the receiving Party of Its obligations hereunder; or

(d) can be substantiated, based on cogent and reliable evidence, to have been independently developed by the receiving Party.

11.2 Limited Use

All Confidential Information of each Party shall be used by the other Party strictly and only for the purposes in this Agreement.

11.3 Reasonable Care

Each Party shall hold all Confidential Information of the other Party in confidence strictly for. and on behalf of the other Party and treat the Confidential Information of the other Party as it does its own valuable and sensitive information of a similar nature and, in any event, with not less than a reasonable degree of care.

11.4 Obligations of the Parties

Each Party shall have an obligation to prevent the other Party's Confidential Information in its possession or control from being misappropriated, or wrongfully communicated by any employee, consultant or other person under the obliged Party's control. If the receiving Party is required by a court or government authority to disclose Confidential Information, the receiving Party shall provide the disclosing Party with prompt notice, including the circumstances of such requirement, so that the disclosing Party may seek an appropriate protective order, and shall reasonably cooperate with the disclosing Party in an action by the disclosing Party to obtain an appropriate protective order. Upon termination of this Agreement, the Parties shall promptly return or destroy the other Party's Confidential Information.

12. GENERAL

12.1 Governing Law

The construction, validity and performance of this Agreement shall be governed by the laws of the State of New York without reference to conflict of laws principles.

12.2 Sale of Goods Act

This Agreement shall not be governed by either the provisions of the International Sale of Goods Act or the United Nation's Convention for Contracts on the International Sale of Goods, regardless of that Convention's legal or statutory adoption by any jurisdiction.

12.3 Assignment

Neither party may assign or otherwise transfer rights or obligations under this Agreement whether in whole or in part, except with the prior written consent of the other party. Notwithstanding the foregoing, either party may assign this Agreement in its entirety in the event of a merger, change of control, corporate reorganization, or a sale of all or substantially all of the assets of such party.

12.4 Notices

Any notices provided for under this Agreement shall be deemed received when delivered in person, on the first Business Day following electronic transmission by facsimile or five (5) days after being mailed by registered mail or reputable courier service:

To Cedara:

Cedara Software Corp.
6509 Airport Road
Mississauga. Ontario
L4V 1S7 CANADA
Fax: (905) 671-7955
Attention: VP Sales

To Surgi-Vision:

Surgi-Vision, Inc.
1101 East 33rd Street, Suite B307
Baltimore, Maryland
21218l USA
Fax; (901) 579-4979
Attention: Kimble L. Jenkins

12.5 Public Notices

The Parties agree to issue a press release publicizing this Agreement subject to mutual agreement, to be evidenced in writing, on appropriate content and timing of said release. Subject to the foregoing, neither Party will use the other Party's name in any publicity, publication,

announcement, marketing or press release or otherwise make use of its association with the other Party or this Agreement, without the other Party's written consent.

12.6 Case Study

Upon Surgi-Vision's prior written consent in each Instance, Cedara may devise a case-study of any Custom Engineering Services Projects, and may use such case-study for marketing of its engineering services to third parties.

12.7 Entire Agreement

This Agreement, including the Schedules listed below and any Statements of Work made hereunder, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings, collateral, oral, or otherwise. No modification of this Agreement shall be binding upon the Parties to this Agreement unless in writing and executed by an authorized signing officer for each of the Parties.

In the event of conflict or inconsistency between the provisions of this Agreement and any of the Schedules or Statements of Work made hereunder, or any other document incorporated by reference herein, the terms of this Agreement shall prevail, unless in the case of any Statement of Work, the Parties expressly state that any terms contained therein are to prevail over any inconsistent terms contained in the provisions of this Agreement.

The Schedules to this Agreement Are:

Schedule A: Statement of Work No. 1

Schedule B: Professional Services

12.8 Amendments

Any amendment or modification of any provision of this Agreement must be in writing, dated and signed by a duty authorized representative of each Party hereto.

12.9 Successors and Assigns

All successors, receivers, managers, trustees and permitted assigns of the Parties shall be bound by the rights and liabilities set out in this Agreement.

12.10 Force Majeure

Neither Party shall be liable for any failure or delay in its performance under this Agreement due to causes of *force majeure*, including without limitation, tires, floods, storms, earthquakes, civil disturbances, or labour matters, provided that Surgi-Vision shall continue to be obligated to pay any fees that have accrued up until the event of *force majeure*. If a party is so delayed or prevented from performing its obligations under this Agreement for a period of thirty (30) consecutive days, the other party shall have the immediate right to terminate this Agreement at the end of such thirty (30) consecutive-day period, without any right of cure on the party so delayed.

12.11 Amicable Resolution

All controversies or claims arising out or relating to this Agreement, or any breath thereof, shall be finally settled amicably, if possible, by negotiation between the Parties.

12.12 No Waiver

No failure on the part of any Party to this Agreement to exercise, and no delay in exercising any right, power or single or partial exercise of any right, power or remedy by any Party shall preclude any other or further exercise thereof of the exercise of any other right, power or remedy.

12.13 Counterparts and Delivery

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Delivery of this Agreement by fax shall constitute valid and effective delivery.

12.14 Severability

If any provision of this Agreement is declared invalid or unenforceable by a court of competent jurisdiction, that provision shall bo deemed to be severed from the Agreement, and the remaining provisions shall not be affected.

12.15 Legal Relationship

The Parties to this Agreement are independent contractors and separate entities. No other legal relationship is intended or implied. Except as specifically specified in this Agreement, neither Party shall be responsible for acts of the other Party or its agents or employees and neither Party shall assume or create any obligation in the name of or on behalf of the other Party.

12.16 Export Control

Surgi-Vision agrees to comply with the export laws and regulations of Canada and the United States of America in exercising the rights granted to it under this Agreement in respect of the Cedara Software.

12.17 Survival

Sections 1, 3, 4, 5, 6.2.2, 6.2.3, 8, 9, 10, 11 and 12 shall survive termination of this Agreement.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement by their duly authorized representatives.

SURGI-VISION INC:	**CEDARA SOFTWARE CORP:**
/s/ Kim Jenkins	/s/ Antonia Wells
Signature	Signature
KIM JENKINS	ANTONIA WELLS
Name	Name
Pres / CEO	U.P. CUSTOMER OPERATIONS
Title	Title
July 20, 2007	July 20, 2007
Date	Date

SCHEDULE A
STATEMENT OF WORK NO.1

This Statement of Work is entered into pursuant to and forms part of the Master Services and Licensing Agreement between Cedara Software Corp. and Surgi-Vision Inc. effective July 20, 2007 (the "Agreement"). Capitalized terms used in this Statement of Work and not otherwise defined herein shall have the meanings assigned to them in the Agreement. In the event of conflict or inconsistency between the terms of this Statement of Work and the Agreement, the terms of this Statement of Work shall prevail.

Introduction

This Statement of Work No. 1 describes the objectives and deliverables of the initial development phase (Phase 1) for the Solution.

Goals

The objective of Phase 1 is to investigate Surgi-Vision's needs and requirements, and to develop a detailed specification and project plan for the ensuing project phases pursuant to the following planning guidelines:

1. A development phase, including alpha and beta periods, for the first version extending from the end of this Phase 1 to March 31st 2008.
2. A rapid prototyping phase extending from 1st April 2008 to June 30th 2008 for the purposes of responding to feedback and making follow-on software releases.
3. To investigate and plan using the preliminary list of requirements given below:

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Activities

- Consultation. Discuss and consult with Surgi-Vision to understand Surgi-Vision's business goals; Surgi-Vision's interventional procedure, interventional devices and hardware, clinical workflow, imaging integration needs, and end-user needs, Cedara staff may visit Surgi-Vision's offices or collaborating clinical sites as mutually agreed and as may be helpful to these goals,
- Prototypes. During Phase 1 Cedara staff may develop mock-ups, prototypes, or demonstrators as they determine may best help achieve the goals of the phase.

Deliverables

The purpose of Phase 1 is to develop a detailed specification and project plan:

[***]

Duration

Phase 1 is expected to be completed within 2 months of the Effective Date of the Agreement,

AGREED:

SURGI-VISION INC:	**CEDARA SOFTWARE CORP;**
/s/ Kim Jenkins	/s/ Antonia Wells
Signature	Signature
KIM JENKINS	ANTONIA WELLS
Name	Name
Pres / CEO	V.P. CUSTOMER OPERATIONS
Title	Title
July 20, 2007	July 20, 2007
Date	Date

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

SCHEDULE B
PROFESSIONAL SERVICES SCOPE AND FEE SCHEDULE

Professional Services				
Consulting	Presales	Implementation	Connectivity & integration	Training
Technical - Site Survey Assessment - Develop Architecture Design - Reengineering Technical Workflow - Cost/benefits analysis	Sales - Demo - Sales support - Reference Site Setup - Demo Licenses	Project Management - Implementation Plan - Training Plan - Acceptance Criteria	Connectivity - Scanner DICOM V & V - Printer V &V - Acceptance Plan & Testing - Networking - Node setup & configuration	Techincal - Installation & Continuation - Troubleshooting
Clinical - Needs Analysis - Reengineering Clinical Workflow - HIPPA requirements - Cost/benefits analysis		Installation & Configuration - On site Technical - On site Applications - Pre-staging site	Integration - HIS/RIS - PAC's interface - 3rd Party Application Integration - System Engineering Services	Application - Instruction & Configuration - Viewing Protocols Advanced 2D Functionality - Clinical Packages 3D Ortho
		Scalability - Product upgrades - System upgrades - Hardware upgrades		Sales - Applications - Production Positioning Refresher Web - Technical updates & upgrades - Application updates & upgrades -Sale updates
Pricing - [***] per day - Travel days included as part of daily rate Default Hourly Rates -9x5 EST - [***] per hour Default overtime Rates - [***] per hour - 5:00 PM to 8:00 AM; Weekends & Holidays				Pricing [***] per day Travel days included in day rate Capacity/Facility Max 6 person(s) attend once Cedara's Training facility See notice for more information
Notice: - A Cancellation Surcharge of [***] will be applied to any support request cancelled without (7) Business Days notice. In addition any un-recoverable expenses arising due to the cancellation will be the responsibility of Surgi-Vision. - Travel, accommodation & extraordinary expenses are the responsibility of Surgi-Vision unless otherwise agreed to by Cedara.				

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

SCHEDULE C
STATEMENT OF WORK NO. 2

2009-02573

SOW for CED solution for SurgiVision

MERGE™
Healthcare

STATEMENT OF WORK NO.2

This Statement of Work No.2 is entered into pursuant to and forms part of the Master Services and Licensing Agreement between Cedara Software Corp. d/b/a Merge OEM and Surgi-Vision Inc. effective July 20, 2007 (the "Agreement"). Capitalized terms used in this Statement of Work and not otherwise defined herein shall have the meanings assigned to them in the Agreement. In the event of conflict or inconsistency between the terms of this Statement of Work and the Agreement, the terms of this Statement of Work shall prevail.

1 Project Scope

1.1 *Background and Requirements*

Merge has recently built an MRi based deep brain navigation package for SurgiVision that is marketed under the ClearPoint trade mark. The ClearPoint solution is used for planning and placement of electrodes into deep brain structures.

In an effort to expand the offerings in this sector, SurgiVision is exploring new areas of deep brain surgical navigation, drug delivery applications in particular. This statement of work presents the details associated with the development activities needed to deliver such a solution.

[***]

This document is prepared to outline the scope of work, deliverables and schedules for the development work needed to create a tool that could aid in the navigation and tracking component associated with this procedure.

1.2 *Solution and Scope of Work*

The solution is expected to contain multiple phases:

- Prototype phase –[***]
- Enhanced phase – [***]
- Wide market solution – [***]
- Improvements – [***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

[***]

1.3 *Implementation model*

The solution will be licensed using a node locked licensing model similar to the current ClearPoint solution where installations will require a MAC address specific license file that can be generated on demand.

The solution presented in this SOW is scoped out to be developed using a team of:

i. One full time Merge OEM engineer,

ii. One part time Merge OEM segmentation expert - on demand,

iii. One full time architect,

iv. One full time test resource for the test and validation phase

v. 10% part time project manager.

vi. 5% part time system administrator responsible for release activities

The solution includes complete development, documentation and engineering validation activities. Product validation activities (Alpha and Beta) are not included in this scope because of the unknowns associated with the timing and potential regulatory requirements associated with the market launch of this product.

2 Deliverables

Deliverable	Description

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

3 Assumptions

[***]

4 Delivery schedule

4.1 Delivery Schedule for Prototype Solution

Project Duration: [***]

Delivery Schedule:

Timeline	**Deliverable**

[***]

4.2 ***Delivery Schedule for additional solutions***

Project Duration: [***]

Delivery Schedule:

Timeline	**Deliverable**

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

5 Summary

5.1 ***Standard Solution:***

- estimated effort: [***]
- estimated project duration: [***]

5.2 ***Additional Solutions:***

- estimated additional effort: [***]
- estimated project duration: [***]

Note:

The estimate is based on correctness of the assumptions made above, if these are not correct, the price and/or delivery dates might be affected

6 Fees and Pricing Summary

6.1 ***Consulting Engineering Fees***

The project is proposed to be executed on a time and materials basis at [***] to be invoiced on a monthly basis.

6.2 ***Payment Schedule***

Monthly billing of the actual time spent on the project.

6.3 ***Run-Time License fees***

Quotes for run-time licenses associated with the resulting application will need to be negotiated before the product will be market launched.

6.4 ***Professional Services***

Additional services required by SurgiVision for installation, training and onsite technical support shall be provided in accordance with the Agreement at a rate of [***] not including travel and accommodation. Professional Services will be billed within the same calendar quarter as they are provided.

AGREED:

SURGI-VISION INC.:	**CEDARA SOFTWARE CORP. D/B/A MERGE OEM:**
/s/ Peter Piferi	/s/ Justin Dearborn
Signature	Signature
Peter Piferi	Justin Dearborn
Name	Name
COO	CEO
Title	Title
11-13-09	11-16-09
Date	Date

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

FIRST AMENDMENT TO THE MASTER SERVICES AND LICENSING AGREEMENT

THIS FIRST AMENDMENT TO THE MASTER SERVICES AND LICENSING AGREEMENT (the "**Amendment**") is entered into and effective as of January 18, 2011 by and between Cedara Software Corp. d/b/a Merge OEM, an Ontario corporation ("**Merge OEM**") and SurgiVision, Inc. f/k/a Surgi-Vision, Inc., a Delaware corporation ("**SurgiVision**"). Capitalized terms used herein but not defined shall have the meanings given to such terms in the Agreement (as hereinafter defined).

WHEREAS Merge OEM and SurgiVision are parties to that certain Master Services and Licensing Agreement effective July 20, 2007 (the "**Agreement**"), and

WHEREAS Merge OEM and SurgiVision now wish to amend certain terms of the Agreement,

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Party Names. All references throughout the Agreement to "Cedara Software Corp." are replaced with "Cedara Software Corp. d/b/a Merge OEM" and all references to "Cedara" are replaced with "Merge OEM". All references throughout the Agreement to "Surgi-Vision" are replaced with "SurgiVision".

2. Amendment to Section 1.1. Section 1.1 (Definitions) is amended by

(a) deleting sub-section (k) ("Initial Term") and replacing it with "(k) Reserved"; and

(b) deleting sub-section (q) ("Renewal Term") and replacing it with "(q) Reserved".

3 . Amendment to Section 2.2.4. Section 2.2.4 (License Fees and Minimum Commitment) is deleted and replaced with the following:

"**2.2.4 License Fees and Minimum Commitment**

SurgiVision shall pay to Merge OEM a run-time license fee of [***] for each Solution distributed by SurgiVision, provided that the [***] shall be at no charge. SurgiVision agrees to purchase a minimum of [***] during the second year of the Initial Term (in addition to the [***] granted at no charge) and [***] during the third year of the Initial Term. Within 30 days following the last day of each of the second and third years of the Initial Term, Merge OEM shall invoice SurgiVision for the difference, if any, between the actual license fees paid by SurgiVision and the annual minimum commitment for that year. SurgiVision further agrees to purchase a minimum of [***] on the first business day of each calendar quarter during 2012 (the "**2012 Commitment**"), 2013 (the "**2013 Commitment**") and 2014 (the "**2014 Commitment**"), provided, however, that (i) if SurgiVision experiences a change of control prior to January 1, 2012, instead of the 2012 Commitment, the 2013 Commitment and the 2014 Commitment, SurgiVision shall purchase a minimum of [***] on the first business day of January for each of 2012, 2013 and 2014; (ii) if SurgiVision experiences a change of control during 2012, instead of the 2013 Commitment and 2014 Commitment, SurgiVision shall purchase a minimum of [***] on the first business day of January for each of 2013 and 2014; and (iii) if SurgiVision experiences a change of control during 2013, instead of the 2014 Commitment, SurgiVision shall purchase a minimum of [***] on the first business day of January for 2014 . For

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

the purposes of this Section, "change of control" shall mean (a) any acquisition by way of a merger, consolidation, stock purchase, tender offer, reorganization or any other transaction or series of related transactions in which the holders of SurgiVision's outstanding voting power immediately prior to such transaction or series of related transactions do not, immediately after such transaction or series of related transactions, own a majority of the outstanding voting power of the successor entity immediately upon completion of such transaction or series of related transactions, or (b) SurgiVision sells all or substantially all of its assets and holders of SurgiVision's outstanding voting power immediately prior to such transaction do not, immediately after such transaction, own a majority of the outstanding voting power of the purchasing entity immediately upon completion of such transaction."

4. Amendment to Section 6.1. Section 6.1 (Term of the Agreement) is deleted and replaced with the following:

"**6.1 Term of the Agreement**

This Agreement shall commence on the Effective Date and, subject to early termination pursuant to Section 6.2, shall continue in force through July 20, 2015 (the "**Term**")."

5. General. This Amendment forms part of and is subject to the terms and conditions of the Agreement; however, the terms of this Amendment shall prevail to the extent of any conflict or inconsistency between the terms of this Amendment and the Agreement. Except as specifically amended pursuant to the foregoing, the Agreement shall continue in full force and effect in accordance with the terms in existence as of the date of this Amendment. After the date of this Amendment, any reference to the Agreement shall mean the Agreement as amended by this Amendment. This Amendment, together with the Agreement and the agreements referred to therein and herein, contains the entire agreement of the parties with respect to the matters herein, and may not be amended or modified except by an instrument executed in writing by all parties hereto. The parties may execute this Amendment in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Amendment.

[Signature lines are on the following page.]

IN WITNESS WHEREOF the parties hereto have executed this Amendment by their duly authorized representatives effective as of the first date set forth above:

SURGIVISION, INC.:	**CEDARA SOFTWARE CORP. d/b/a MERGE OEM:**
/s/ David W. Carlson	/s/ Steve Oreskovich
Signature	Signature
David W. Carlson	Steve Oreskovich
Name	Name
Chief Financial Officer	CFO
Title	Title
1/17/2011	JAN 18 2011
Date	Date

STATEMENT OF WORK NO. 3

This Statement of Work No. 3, effective September 27, 2010, (the "Statement of Work" or "SOW") is entered into pursuant to and forms part of the Master Services Agreement between Cedara Software Corp. d/b/a MERGE OEM ("Merge OEM") and SurgiVision Inc. (SurgiVision) effective July 20, 2007 (the "Agreement"). Capitalized terms used in this Statement of Work and not otherwise defined herein shall have the meanings assigned to them in the Agreement. In the event of conflict or inconsistency between the terms of this Statement of Work and the Agreement, the terms of this Statement of Work shall prevail.

SurgiVision - ClearPoint solution
Statement of Work to Master Services and License Agreement

1.

Document Number:	2010-00808
Revision:	2.0
Revision Type:	Major
Document Status:	Approved
Date:	September 27, 2010
Author:	Attila Farkas

Note: When printed, this is an uncontrolled copy, unless accompanied by approval signatures.

CONFIDENTIALITY

This document is prepared for the purpose of discussion only with SurgiVision Inc. ("SVI").

The information contained in this document is proprietary to Merge Healthcare Inc. ("Merge") and shall be treated as confidential. It is presented to SurgiVision for evaluation purposes only. It should thus be distributed internally to SurgiVision members on a need-to-know basis only under strict confidentiality. It should not be copied and/or distributed otherwise to any other persons or companies without the express written consent of Merge Healthcare.

1 Scope

1.1 *Background*

SVI identified Merge as an Outsourced Development Supplier for the development of SVI Software. Merge built an MRi based navigation software package for SVI that is marketed under the ClearPoint trade mark. The ClearPoint solution is used for planning and navigation of specialized hardware to deep brain structures.

The product recently received its FDA approval for its 510(k) application and is expected to proceed to market launch. The purpose of the current document is to formulate and describe a support services package for SVI where the Merge team will provide ongoing support during the product launch and onward life cycle.

This document is prepared to outline the:

- activity profile and scope of work,
- implementation model,
- schedule and deliverables,
- support cost

1.2 *Activity Profile*

Launch of a new product is usually marked by a lot of unknowns. Some of the risks associated with this phase are mitigated by Merge providing support in the following areas:

- Online and phone support offered to SVI staff during regular business hours (9am-5pm EST)
- Provide occasional after hours phone support at Merge's own discretion
- Investigation of field reports submitted by SVI staff (Complaint Analysis)
- Development and release of minor enhancement requests (Life Cycle Support)
- Investigation, correction, software validation and release of solutions to software defects found in the system (Life Cycle Support)
- Consulting activities pertaining to the product line
- Author updates to the User Guide as per SVI's instructions and approval

As Merge is the SVI Outsourced Development Supplier for software there are interaction requirements between the companies Quality Management systems (QMS). The following points along with sections 1.3.1, 1.3.2 and 1.3.3 are the minimum points that support the QMS interactions:

- Assistance during audits with development related artifacts and methodology references
- Maintain and distribute any updates to relevant project documentation
- Merge Healthcare will maintain the artifacts (Quality System Documents/Design History Documents) associated with the ClearPoint solution in line with Merge's Quality Management System as it is applied to the work being done for SVI and its interpretation of SVI's needs in order to comply with[1]:
    - Food & Drug Administration, Quality System Regulation (QSR) 21 CFR 820.
    - Medical Device Directive (MDD) 93/42/EEC, dated 14 June 1993.
    - ISO 13485:2003, Medical devices – Quality management systems.

[1] With the understanding that SVI has the regulatory responsibilities for all of these

- Merge Healthcare will maintain their Quality Managements System documents pertaining to SVI for as long as there is an active SOW pertaining to the ClearPoint product at which point all controlled project documentation will be migrated over to SVI.
- Notify SVI if for whatever reason it can no longer maintain project documentation associated with the ClearPoint product and forward all controlled project documentation to SVI
- Allow a Quality Management System audit by SVI and/or their 3rd party (Notified Body or Regulatory Agency), with reasonable notice, focused on the ClearPoint product
- Provide documents related to the ClearPoint system within reasonable time from the request, in the event SVI is audited by a regulatory agency or third party.
- Merge will not modify Final Released software and will notify SVI of any proposed changes to the software for review and approval by SVI.

Given the unpredictability associated with a product launch, it is difficult to specify the exact details for the scope of work. For the purposes of this SOW, the scope of work is limited to second line phone support and consulting as well as development work to address minor enhancements and defect resolutions and their associated quality controlled releases.

Minor enhancements are defined as being those that do not require major rework of the core architectural components or add fundamentally new workflow items. Requests for processing major enhancements or other development projects shall be addressed either by (i) amending this SOW to add resources, adjust fees or otherwise as agreed to by the parties, or (ii) by entering into a separate SOW(s) under the Master Services and Licensing Agreement.

1.3 *Implementation Model*

Proposed implementation model is to have a dedicated team of:

- One full time developer,
- Part time, test resource
- Part time, project manager

This team will support the regularly scheduled maintenance/support activities. Proposal is to have these resources execute work for the duration of the SOW operating under the same T&M conditions as they were during the development SOW.

Regularly scheduled support activity planning meetings will be responsible for setting the scope and priorities of the work for next leg. Frequency of these planning meetings will be agreed upon with SVI staff and will allow for the flexibility the SVI business needs. Deliverables and operating models will be described in a Project Development Plan for which SVI will be an approver.

1.3.1 Documents that pertain to the software product requirements, changes to product requirements or improvements and verification / validation testing will be jointly approved by the team at Merge and Project Leader of SVI.

1.3.2Documents that are required to be submitted to SurgiVision for review and approval.

- Statement of Work
- Project Development Plan (PDP)
- System Requirements Description (SRD)

- Change Request Orders
- System Test Scripts pertaining to field testing[2]
- System Validation Reports pertaining to field testing

1.3.3 Final approved documents that will be required to be submitted to SurgiVision upon Merge Healthcare internal Approval.

- System Requirements Description (SRD)
- System Design Description (SDD)
- Software Users Manual
- System Hazard Analysis (SHA)
- System Test Plan (Verification/Validation Plan) (STP)
- System Validation Test Procedure (SVTP)
- System Test Scripts
- System Validation Reports (SVR)

1.4 ***Schedules and Deliverables***

The activity profile presented in the current SOW is proposed to be executed for a fixed duration of 1 year from the date the SOW takes effect. One month before the end, a planning meeting will be held between SVI and Merge management to evaluate any further needs for the product.

Deliverables associated with the current SOW will be reflective of the ongoing activities planned with SVI and could include reports, support emails, consulting trips and even quality controlled software releases.

2 Team composition

The present SOW represents the first phase of a support activity associated with the ClearPoint product. It is believed that the product would be best served if the team that developed the solution at Merge was assigned to the support activities listed within. As a result this is the proposed team composition:

- [***] - Software Developer
- Unnamed Test Developer
- Unnamed Project Manager

In the event one of the named team members becomes unavailable due to illness, termination of employment or otherwise, Merge will use commercially reasonable efforts to replace such individual as soon as practicable with an individual of equal or substantially similar skill sets and qualifications. Merge will endeavor to provide SVI with a minimum of two weeks' notice prior to any change in the composition of the team.

[2] System testing and validation reports internal to Merge development do not need to be approved by SVI

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

3 Assumptions

The following assumptions were made in formulating this SOW:

(1) The activity list presented in section 1.2 is based on the current understanding of the problem space and it is expected to be changed on an ongoing basis. It is presented in this format because it reflects a mutual understanding of the starting point in this support project.

(2) Every activity associated with this project not clearly listed in the feature sheet but commonly agreed upon during status meetings will also contribute to the implied scope of the project work (e.g. time spent on gathering input or information from any involved party (SurgiVision/UCSF/NIH), evaluation of data necessary to carry out the approved work items, meetings held to discuss project matters, etc.)

(3) While the project will be executed at the regular hourly rate, any SVI approved travel and accommodation expenses incurred by Merge staff will be SVI responsibility

(4) Given the operating model, monthly reporting will only reflect total time spent on project by all resources involved in its execution.

4 Fees and Pricing Summary

4.1 *Engineering Fees*

The project will be executed on a T&M basis, to be invoiced on a monthly basis in arrears.

Additional resources above the resources listed in Section 2 on a time and material basis of [***], to be invoiced on a monthly basis.

4.2 *Payment Schedule*

Monthly billing will reflect the fees associated with any actual time spent on the project by pre-approved resources by SVI, if applicable.

4.3 *Professional Services*

Additional services provided by Merge staff, other than those listed in this contract and required by SurgiVision for installation, training and onsite technical support shall be provided in accordance with the Agreement at a rate of [***] not including travel and accommodation. Professional Services will be billed within the same calendar quarter as they are provided.

5 Validity

This quote is valid for 30 days from the date of issue after which it will become null and void and have to be re-quoted.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Approvals:

SurgiVision Inc.	**Cedara Software Corp. d/b/a Merge OEM**
/s/ Michael Moore	/s/ Toni Skokovic
Signature	Signature
Michael M. Moore	Toni Skokovic
Name	Name
Vice President, Operations	SVP Global Indirect Sales
Title	Title
9/29/10	29-SEP-2010
Date	Date

Exhibit 10.21

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is entered into by and between THE JOHNS HOPKINS UNIVERSITY, a Maryland corporation having an address at 3400 N. Charles Street, Baltimore, Maryland, 21218-2695 ("JHU") and Surgi-Vision, Inc., a Delaware corporation having an address at One Commerce Square, Suite 2550, Memphis, Tennessee 38103 ("Company"), with respect to the following:

RECITALS

WHEREAS, as a center for research and education, JHU is interested in licensing PATENT RIGHTS (hereinafter defined) in a manner that will benefit the public by facilitating the distribution of useful products and the utilization of new processes, but is without capacity to commercially develop, manufacture, and distribute any such products or processes; and

WHEREAS, a valuable invention entitled [***] was developed during the course of research conducted by [***] (all hereinafter, "Inventors"); and

WHEREAS, JHU has acquired through assignment all rights, title and interest, with the exception of certain retained rights by the United States Government, in its interest in said valuable inventions; and

WHEREAS, Company desires to obtain certain rights in such inventions as herein provided, and to commercially develop, manufacture, use and distribute products and processes based upon or embodying said valuable inventions throughout the world;

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

All references to particular Exhibits, Articles or Paragraphs shall mean the Exhibits to, and Paragraphs and Articles of, this Agreement, unless otherwise specified. For the purposes of this Agreement and the Exhibits hereto, the following words and phrases shall have the following meanings:

1.1 "AFFILIATED COMPANY" as used herein in either singular or plural shall mean any corporation, company, partnership, joint venture or other entity, which controls, is controlled by or is under common control with Company. For purposes of this Paragraph 1.1, control shall mean the direct or indirect ownership of at least fifty- percent (50%).

1.2 "EFFECTIVE DATE" of this License Agreement shall mean the date the last party hereto has executed this Agreement.

1.3 "EXCLUSIVE LICENSE" shall mean a grant by JHU to Company of its entire right and interest in the PATENT RIGHTS subject to rights retained by the United States Government, if any, in accordance with the Bayh-Dole Act of 1980 (established by P.L. 96-517 and amended by P.L. 98-620, codified at 35 USC § 200 et. seq. and implemented according to 37 CFR Part 401), and subject to the retained right of JHU to make, have made, provide and use for its and The Johns Hopkins Health Systems' non-commercial purposes LICENSED PRODUCT(S) and LICENSED SERVICE(S), including the ability to distribute any biological material disclosed and/or claimed in PATENT RIGHTS for nonprofit academic research use to non-commercial entities as is customary in the scientific community.

1.4 "LICENSED FIELD" shall mean all fields.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

1.5 "LICENSED PRODUCT(S)" as used herein in either singular or plural shall mean any process or method, material, compositions, drug, or other product, the manufacture, use or sale of which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of PATENT RIGHTS (infringement shall include, but is not limited to, direct, contributory, or inducement to infringe).

1.6 "LICENSED SERVICE(S)" as used herein in either singular or plural shall mean the performance on behalf of a third party of any method or the manufacture of any product or the use of any product or composition which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of the PATENT RIGHTS, (infringement shall include, but not be limited to, direct, contributory or inducement to infringe).

1.7 "NET SALES" shall mean gross sales revenues and fees billed by Company or any AFFILIATED COMPANY from the sale of LICENSED PRODUCT(S) less trade discounts allowed, refunds, returns and recalls, freight and delivery costs, sales, use and other similar taxes, and rebates accrued, incurred or paid to federal or state agencies (such as Medicare or Medicaid) or other payors. In the event that Company or any AFFILIATED COMPANY sells a LICENSED PRODUCT(S) in combination with other ingredients or substances or as part of a kit, the NET SALES for purposes of royalty payments shall be based on that portion of the sales revenue and fees derived from that component of the combination or kit which could independently be sold as a LICENSED PRODUCT.

1.8 "NET SERVICE REVENUES" shall mean gross service revenues and fees billed by Company or any AFFILIATED COMPANY for the performance of LICENSED SERVICE(S) less sales, use or other similar taxes imposed upon and with specific reference to the LICENSED SERVICE(S), but only where LICENSED SERVICES are sold or used separately from the manufacture or sale of a LICENSED PRODUCT. In the event that Company or any AFFILIATED COMPANY sells a LICENSED SERVICE(S) in combination with other services or substances or as part of a kit that does not include a LICENSED PRODUCT, the NET SERVICE REVENUES for purposes of royalty payments shall be based on that portion of the sales revenues and fees derived from that component of the combination or kit which could independently be sold as a LICENSED SERVICE.

1.9 "PATENT RIGHTS" shall mean the U.S. patent application Serial No. [***] filed on[***], and assigned to JHU entitled [***] and the invention disclosed and claimed therein, and all continuations, divisions, and reissues based thereof, and any corresponding foreign patent applications, and any patents, or other equivalent foreign PATENT RIGHTS issuing, granted or registered thereon.

1.10 "SUBLICENSEE(S)" as used herein in either singular or plural shall mean any person or entity other than an AFFILIATED COMPANY to which Company has granted a sublicense under this Agreement.

ARTICLE 2
LICENSE GRANT

2.1 Grant. Subject to the terms and conditions of this Agreement, JHU hereby grants to Company an EXCLUSIVE LICENSE to make, have made, use, import, offer for sale and sell the LICENSED PRODUCT(S) and to provide the LICENSED SERVICE(S) in the United States and worldwide under the PATENT RIGHTS in the LICENSED FIELD. This Grant shall apply to the Company and any AFFILIATED COMPANY, except that any AFFILIATED COMPANY shall not have the right to sublicense others without the prior written approval of JHU as set forth in Paragraph 2.2 below. If any AFFILIATED COMPANY exercises rights under this Agreement, such AFFILIATED COMPANY shall be bound by all terms and conditions of this Agreement, including but not limited to indemnity and insurance provisions and royalty payments, which shall apply to the exercise of the rights, to the same extent as would apply had this Agreement been directly between JHU and the AFFILIATED COMPANY. In addition, Company shall remain fully liable to JHU for all acts and obligations of AFFILIATED COMPANY such that acts of the AFFILIATED COMPANY shall be considered acts of the Company.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

2.2 Sublicense. Company may sublicense to others under this Agreement, subject to the terms and conditions of this Paragraph 2.2 and subject to JHU's prior written approval of the sublicense agreement. Such approval shall not be unreasonably withheld. As a condition to its validity and enforceability, each sublicense agreement shall: (a) incorporate by reference the terms and conditions of this Agreement, (b) be consistent with the terms, conditions and limitations of this Agreement, (c) prohibit SUBLICENSEE's further sublicense of the rights delivered hereunder without JHU's prior written approval, (d) name JHU as an intended third party beneficiary of the obligations of SUBLICENSEE without imposition of obligation or liability on the part of JHU or its Inventors to the SUBLICENSEE, (e) specifically incorporate Paragraphs 6.2 "Representations by JHU", 7.1 "Indemnification", 10.1 "Use of Name", 10.4 "Product Liability" into the body of the sublicense agreement, and cause the terms used in therein to have the same meaning as in this Agreement, and, (f) bear signature from JHU indicating JHU's review and approval of the sublicense agreement. Company shall provide to JHU each proposed sublicense agreement, executed by both Company and proposed SUBLICENSEE, for review, approval and signature by JHU. To the extent that any terms, conditions or limitations of any sublicense agreement are inconsistent with this Agreement, those terms, conditions and limitations are null and void against JHU, unless JHU has approved the sublicense in writing.

2.3 Government Rights. The United States Government may have acquired a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the inventions described in PATENT RIGHTS throughout the world. The rights granted herein are additionally subject to: (i) the requirement that any LICENSED PRODUCT(S) produced for use or sale within the United States shall be substantially manufactured in the United States (unless a waiver under 35 USC § 204 or equivalent is granted by the appropriate United States government agency), (ii) the right of the United States government to require JHU, or its licensees, including Company, to grant sublicenses to responsible applicants on reasonable terms when necessary to fulfill health or safety needs, and, (iii) other rights acquired by the United States government under the laws and regulations applicable to the grant/contract award under which the inventions were made.

ARTICLE 3
FEES, ROYALTIES, & PAYMENTS

3.1 License Fee. Company shall pay to JHU within thirty (30) days of the EFFECTIVE DATE of this Agreement the initial license fee as set forth in Exhibit A. JHU will not submit an invoice for the license fee, which is nonrefundable and shall not be credited against royalties or other fees.

3.2 Minimum Annual Royalties. Company shall pay to JHU minimum annual royalties as set forth in Exhibit A. These minimum annual royalties shall be due, without invoice from JHU, within thirty (30) days of each anniversary of the EFFECTIVE DATE beginning with the first anniversary. Running royalties and sublicense consideration accrued under Paragraphs 3.3 and 3.4, respectively, and paid to JHU during the one year period preceding an anniversary of the EFFECTIVE DATE shall be credited against the minimum annual royalties due on that anniversary date.

3.3 Running Royalties. Company shall pay to JHU a running royalty as set forth in Exhibit A, for each LICENSED PRODUCT(S) sold, and for each LICENSED SERVICE(S) provided, by Company or AFFILIATED COMPANIES, based on NET SALES and NET SERVICE REVENUES for the term of this Agreement. Such payments shall be made quarterly. All non-US taxes related to LICENSED PRODUCT(S) or LICENSED SERVICE(S) sold under this Agreement shall be paid by Company and shall not be deducted from royalty or other payments due to JHU.

In order to insure JHU the full royalty payments contemplated hereunder, Company agrees that in the event any LICENSED PRODUCT(S) shall be sold to an AFFILIATED COMPANY or SUBLICENSEE(S) or to a corporation, firm or association with which Company shall have any agreement, understanding or arrangement with respect to consideration (such as, among other things, an option to purchase stock or actual stock ownership, or an arrangement involving division of profits or special rebates or allowances) the royalties to be paid hereunder for such LICENSED PRODUCT(S) shall be based upon the greater of: 1) the net selling price (per NET SALES) at which the purchaser of LICENSED PRODUCT(S) resells such product to the end user, 2) the NET SERVICE REVENUES received from using the LICENSED PRODUCT(S) in providing a service, or 3) the net selling price (per NET SALES) of LICENSED PRODUCT(S) paid by the purchaser.

No multiple royalties shall be due or payable because any LICENSED PRODUCT(S) or LICENSED SERVICE(S) is covered by more than one claim of the PATENT RIGHTS or by claims of both the PATENT RIGHTS under this Agreement and "PATENT RIGHTS" under any other license agreement between Company and JHU. The royalty shall not be cumulative based on the number of patents or claims covering a product or service, but rather shall be capped at the rate set forth in Exhibit A.

3.4 Sublicense Consideration. Company shall pay to JHU a percentage of consideration received for sublicenses under this Agreement as set forth in Exhibit A. This sublicense consideration shall be due, without the need for invoice from JHU, within forty-five (45) days of Company's receipt. Such consideration shall mean consideration of any kind received by the Company or AFFILIATED COMPANIES from a SUBLICENSEE(S) for the grant of a sublicense under this Agreement, such as upfront fees or milestone fees, running royalties and including any premium paid by the SUBLICENSEE(S) over Fair Market Value for stock of the Company or an AFFILIATED COMPANY in consideration for such sublicense. However, not included in such sublicense consideration are amounts paid to the Company or an AFFILIATED COMPANY by the SUBLICENSEE(S) for product development, research work, clinical studies and regulatory approvals performed by or for the Company or AFFILIATED COMPANIES (including third parties on their behalf), each pursuant to a specific agreement including a performance plan and commensurate budget. The term "Fair Market Value" shall mean the average price that the stock in question is publicly trading at for twenty (20) days prior to the announcement of its purchase by the SUBLICENSEE(S) or if the stock is not publicly traded, the greater of (a) the value of such stock as determined by the most recent private financing through a financial investor (an entity whose sole interest in the Company or AFFILIATED COMPANY is financial) of the Company or AFFILIATED COMPANY that issued the shares, or (b) the value of such stock as determined by the most recent appraisal conducted by an independent appraiser regularly engaged in the business of valuing businesses of the nature of Company or AFFILIATED COMPANY, as applicable.

In the event of a sublicense under both this Agreement and any other license agreement between Company and JHU, the sublicensing consideration payable to JHU under this Agreement and such other license agreement(s) shall be capped such that the aggregate amount payable to JHU shall not exceed the percentage set forth in Exhibit A of all sublicensing consideration.

3.5 Patent Reimbursement. Company will reimburse JHU, within thirty (30) days of the receipt of an invoice from JHU, for all costs associated with the preparation, filing, maintenance, and prosecution of PATENT RIGHTS incurred by JHU on or before the EFFECTIVE DATE of this Agreement, which costs will not exceed[***]. In accordance with Paragraph 4.1 below, Company will reimburse JHU, within thirty (30) days of the receipt of an invoice from JHU, for all costs associated with the preparation, filing, maintenance, and prosecution of PATENT RIGHTS incurred by JHU subsequent to the EFFECTIVE DATE of this Agreement.

3.6 Form of Payment. All payments under this Agreement shall be made in U.S. Dollars by either check or wire transfer.

3.7 Payment Information. All check payments from Company to JHU shall be sent to:

Director
Johns Hopkins Technology Transfer
The Johns Hopkins University
100 N. Charles Street, 5th Floor
Baltimore, MD 21201

Attn: JHU Agrmt# A13611

or such other addresses which JHU may designate in writing from time to time. Checks are to be made payable to "The Johns Hopkins University". Wire transfers may be made through:

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Company shall be responsible for any and all costs associated with wire transfers.

3.7 Late Payments. In the event that any payment due hereunder is not made when due, the payment shall accrue interest beginning on the tenth day following the due date thereof, calculated at the annual rate of the sum of (a) two percent (2%) plus (b) the prime interest rate quoted by The Wall Street Journal on the date said payment is due, the interest being compounded on the last day of each calendar quarter, provided however, that in no event shall said annual interest rate exceed the maximum legal interest rate for corporations. Each such payment when made shall be accompanied by all interest so accrued. Said interest and the payment and acceptance thereof shall not negate or waive the right of JHU to seek any other remedy, legal or equitable, to which it may be entitled because of the delinquency of any payment including, but not limited to termination of this Agreement as set forth in Paragraph 9.2.

ARTICLE 4
PATENT PROSECUTION, MAINTENANCE, & INFRINGEMENT

4.1 Prosecution & Maintenance. JHU, at Company's expense, shall file, prosecute and maintain all patents and patent applications specified under PATENT RIGHTS and, subject to the terms and conditions of this Agreement, Company shall be licensed thereunder. Title to all such patents and patent applications shall reside in JHU. JHU shall have full and complete control over all patent matters in connection therewith under the PATENT RIGHTS, provided however, that JHU shall (a) cause its patent counsel to timely copy Company on all official actions and written correspondence with any patent office and timely provide Company advance notification of any filing deadline, and (b) allow Company an opportunity to comment and advise JHU. JHU shall consider and reasonably incorporate all comments and advice from Company and JHU shall comply with foreign filing decisions provided by Company. Upon request by Company, JHU shall consider allowing Company's patent counsel to prosecute patent applications relating to the PATENT RIGHTS. By concurrent written notification to JHU and its patent counsel at least thirty (30) days in advance (or later at JHU's discretion) of any filing or response deadline, or fee due date, Company may elect not to have a patent application filed in any particular country or region or not to pay expenses associated with prosecuting or maintaining any patent application or patent, provided that Company pays for all costs incurred up to JHU's receipt of such notification. Failure to provide such notification can be considered by JHU to be Company's authorization to proceed at Company's expense. Upon such notification, JHU may file, prosecute, and/or maintain such patent applications or patent at its own expense and for its own benefit, and any rights or license granted hereunder held by Company, AFFILIATED COMPANIES or SUBLICENSEE(S) relating to the PATENT RIGHTS which comprise the subject of such patent applications or patent solely with respect to the particular country or region, shall terminate. For the avoidance of any doubt, such termination shall not affect any rights or license granted hereunder held by Company, AFFILIATED COMPANIES or SUBLICENSEE(S) relating to the PATENT RIGHTS which comprise the subject of patent applications or patents in any other country or region.

4.2 Notification. Each party will notify the other promptly in writing when any infringement by another is uncovered or suspected.

4.3 Infringement. Company shall have the first right to enforce any patent within PATENT RIGHTS against any infringement or alleged infringement thereof, and shall at all times keep JHU informed as to the status thereof. Before Company commences an action with respect to any infringement of such patents, Company shall give careful consideration to the views of JHU and to potential effects on the public interest in making its decision whether or not to sue. Thereafter, Company may, at its own expense, institute suit against any such infringer or alleged infringer and control and defend such suit in a manner consistent with the terms and provisions hereof and recover any damages, awards or settlements resulting therefrom, subject to Paragraph 4.5. However, no settlement, consent judgment or other voluntary final disposition of the suit may be entered into without the prior written consent of JHU which consent shall not be unreasonably withheld. This right to sue for infringement shall not be used in an arbitrary or capricious manner. JHU shall reasonably cooperate in any such litigation at Company's expense.

If Company elects not to enforce any patent within the PATENT RIGHTS, then it shall so notify JHU in writing within ninety (90) days of receiving notice that an infringement exists, and JHU may, in its sole judgment and at its own expense, take steps to enforce any patent and control, settle, and defend such suit in a manner consistent with the terms and provisions hereof, and recover, for its own account, any damages, awards or settlements resulting therefrom.

4.4 Patent Invalidity Suit. If a declaratory judgment action is brought naming Company as a defendant and alleging invalidity of any of the PATENT RIGHTS, JHU may elect to take over the sole defense of the action at its own expense. Company shall cooperate fully with JHU in connection with any such action.

4.5 Recovery. Any recovery by Company under Paragraph 4.3 shall be deemed to reflect loss of commercial sales, and Company shall pay to JHU [***] of the recovery net of all reasonable costs and expenses associated with each suit or settlement. If the cost and expenses exceed the recovery, then [***] of the excess shall be credited against royalties payable by Company to JHU hereunder in connection with sales of LICENSED PRODUCT covered in the PATENT RIGHTS which are the subject of the infringement suit, in the country of such legal proceedings, provided, however, that any such credit under this Paragraph shall not exceed [***] of the royalties otherwise payable to JHU with regard to sales in the country of such action in any one calendar year, with any excess credit being carried forward to future calendar years.

ARTICLE 5
OBLIGATIONS OF THE PARTIES

5.1 Reports. Company shall provide to JHU the following written reports according to the following schedules.

(a) Company shall provide quarterly Royalty Reports, substantially in the format of Exhibit B and due within thirty (30) days of the end of each calendar quarter following the EFFECTIVE DATE of this Agreement. Royalty Reports shall disclose the amount of LICENSED PRODUCT(S) and LICENSED SERVICE(S) sold, the total NET SALES and NET SERVICE REVENUES of such LICENSED PRODUCT(S) and LICENSED SERVICE(S), and the running royalties due to JHU as a result of NET SALES and NET SERVICE REVENUES by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) thereof. Payment of any such royalties due shall accompany such Royalty Reports.

(b) Until Company, an AFFILIATED COMPANY or a SUBLICENSEE(S) has achieved a first commercial sale of a LICENSED PRODUCT or LICENSED SERVICE, or received FDA market approval, Company shall provide semiannual Diligence Reports, due within thirty (30) days of the end of every June and December following the EFFECTIVE DATE of this Agreement. These Diligence Reports shall describe Company's, AFFILIATED COMPANIES or any SUBLICENSEE(S)'s technical efforts towards meeting its obligations under the terms of this Agreement.

(c) Company shall provide Annual Reports within thirty (30) days of the end of every December following the EFFECTIVE DATE of this Agreement. Annual Reports shall include:

(i) evidence of insurance as required under Paragraph 10.4, or, a statement of why such insurance is not currently required, and

(ii) identification of all AFFILIATED COMPANIES which have exercised rights pursuant to Paragraph 2.1, or, a statement that no AFFILIATED COMPANY has exercised such rights, and

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

(iii) notice of all FDA approvals of any LICENSED PRODUCT(S) or LICENSED SERVICE(S) obtained by COMPANY, AFFILIATED COMPANY or SUBLICENSEE, the patent(s) or patent application(s) licensed under this Agreement upon which such product or service is based, and the commercial name of such product or service, or, in the alternative, a statement that no FDA approvals have been obtained.

5.2 Records. Company shall make and retain, for a period of three (3) years following the period of each report required by Paragraph 5.1, true and accurate records, files and books of account containing all the data reasonably required for the full computation and verification of sales and other information required in Paragraph 5.1. Such books and records shall be in accordance with generally accepted accounting principles consistently applied. Company shall permit the inspection and copying of such records, files and books of account by JHU or its agents during regular business hours upon ten (10) business days' written notice to Company. Such inspection shall not be made more than once each calendar year. All costs of such inspection and copying shall be paid by JHU, provided that if any such inspection shall reveal that an error has been made in the amount equal to five percent (5%) or more of such payment, such costs shall be borne by Company. As a condition to entering into any such agreement, Company shall include in any agreement with its AFFILIATED COMPANIES or its SUBLICENSEE(S) which permits such party to make, use, sell or import the LICENSED PRODUCT(S) or provide LICENSED SERVICE(S), a provision requiring such party to retain records of sales of LICENSED PRODUCT(S) and records of LICENSED SERVICE(S) and other information as required in Paragraph 5.1 and permit JHU to inspect such records as required by this Paragraph.

5.3 Reasonable Efforts. Company shall exercise commercially reasonable efforts to develop and to introduce the LICENSED PRODUCT(S) and LICENSED SERVICE(S) into the commercial market as soon as practicable, consistent with sound and reasonable business practice and judgement; thereafter, until the expiration or termination of this Agreement, Company shall endeavor to keep LICENSED PRODUCT(S) and LICENSED SERVICE(S) reasonably available to the public.

5.4 Other Products. After clinical or other evidence, provided in writing [***] to Company, demonstrating the practicality of a particular market or use within the LICENSED FIELD which is not being developed or commercialized by Company, Company shall either provide JHU with a reasonable development plan and start development or attempt to reasonably sublicense the particular market or use to a third party. If within six (6) months of such notification [***] Company has not initiated such development efforts or sublicensed that particular market or use, JHU may terminate this license for such particular market or use. This Paragraph shall not be applicable if Company reasonably demonstrates to JHU that commercializing such LICENSED PRODUCT(S) or LICENSED SERVICE(S) or granting such a sublicense in said market or use would have a potentially adverse commercial effect upon marketing or sales of the LICENSED PRODUCT(S) developed and being sold by Company.

5.5 Patent Acknowledgement. Company agrees that all packaging containing individual LICENSED PRODUCT(S) sold by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) of Company will be marked with the number of the applicable patent(s) licensed hereunder in accordance with each country's patent laws.

ARTICLE 6
REPRESENTATIONS

6.1 Duties of the Parties. JHU is not a commercial organization. It is an institute of research and education. Therefore, JHU has no ability to evaluate the commercial potential of any PATENT RIGHTS or LICENSED PRODUCT or other license or rights granted in this Agreement. It is therefore incumbent upon Company to evaluate the rights and products in question, to examine the materials and information provided by JHU, and to determine for itself the validity of any PATENT RIGHTS, its freedom to operate, and the value of any LICENSED PRODUCTS or SERVICES or other rights granted.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

6.2 Representations by JHU. JHU warrants that it has good and marketable title to its interest in the inventions claimed under PATENT RIGHTS with the exception of certain retained rights of the United States Government, which may apply if any part of the JHU research was funded in whole or in part by the United States Government. JHU does not warrant the validity of any patents or that practice under such patents shall be free of infringement. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH 6.2, COMPANY, AFFILIATED COMPANIES AND SUBLICENSEE(S) AGREE THAT THE PATENT RIGHTS ARE PROVIDED "AS IS", AND THAT JHU MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE PERFORMANCE OF LICENSED PRODUCT(S) AND LICENSED SERVICE(S) INCLUDING THEIR SAFETY, EFFECTIVENESS, OR COMMERCIAL VIABILITY. JHU DISCLAIMS ALL WARRANTIES WITH REGARD TO PRODUCT(S) AND SERVICE(S) LICENSED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES, EXPRESSED OR IMPLIED, OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, JHU ADDITIONALLY DISCLAIMS ALL OBLIGATIONS AND LIABILITIES ON THE PART OF JHU AND INVENTORS, FOR DAMAGES, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS (EVEN IF JHU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FEES OR COSTS), ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, USE, OR SALE OF THE PRODUCT(S) AND SERVICE(S) LICENSED UNDER THIS AGREEMENT. COMPANY, AFFILIATED COMPANIES AND SUBLICENSEE(S) ASSUME ALL RESPONSIBILITY AND LIABILITY FOR LOSS OR DAMAGE CAUSED BY A PRODUCT AND/OR SERVICE MANUFACTURED, USED, OR SOLD BY COMPANY, ITS SUBLICENSEE(S) AND AFFILIATED COMPANIES WHICH IS A LICENSED PRODUCT(S) OR LICENSED SERVICE(S) AS DEFINED IN THIS AGREEMENT.

ARTICLE 7
INDEMNIFICATION

7.1 Indemnification. JHU and the Inventors will have no legal liability exposure to third parties if JHU does not license the LICENSED PRODUCT(S) and LICENSED SERVICE(S), and any royalties JHU and the Inventors may receive is not adequate compensation for such legal liability exposure. Therefore, JHU requires Company to protect JHU and Inventors from such exposure to the same manner and extent to which insurance, if available, would protect JHU and Inventors. Furthermore, JHU and the Inventors will not, under the provisions of this Agreement or otherwise, have control over the manner in which Company or its AFFILIATED COMPANIES or its SUBLICENSEE(S) or those operating for its account or third parties who purchase LICENSED PRODUCT(S) or LICENSED SERVICE(S) from any of the foregoing entities, develop, manufacture, market or practice the inventions of LICENSED PRODUCT(S) and LICENSED SERVICE(S). Therefore, Company, AFFILIATED COMPANY and SUBLICENSEE shall indemnify, defend with counsel reasonably acceptable to JHU, and hold JHU, The Johns Hopkins Health Systems, their present and former trustees, officers, Inventors of PATENT RIGHTS, agents, faculty, employees and students harmless as against any judgments, fees, expenses, or other costs arising from or incidental to any product liability or other lawsuit, claim, demand or other action brought as a consequence of the practice of said inventions by any of the foregoing entities, whether or not JHU or said Inventors, either jointly or severally, is named as a party defendant in any such lawsuit and whether or not JHU or the Inventors are alleged to be negligent or otherwise responsible for any injuries to persons or property. Practice of the inventions covered by LICENSED PRODUCT(S) and LICENSED SERVICE(S), by an AFFILIATED COMPANY or an agent or a SUBLICENSEE(S) or a third party on behalf of or for the account of Company or by a third party who purchases LICENSED PRODUCT(S) and LICENSED SERVICE(S) from Company, shall be considered Company's practice of said inventions for purposes of this Paragraph. The obligation of Company to defend and indemnify as set out in this Paragraph shall survive the termination of this Agreement, shall continue even after assignment of rights and responsibilities to an affiliate or sublicensee, and shall not be limited by any other limitation of liability elsewhere in this Agreement.

ARTICLE 8
CONFIDENTIALITY

8.1 Confidentiality. If necessary, the parties will exchange information, which they consider to be confidential. The recipient of such information agrees to accept the disclosure of said information which is marked as confidential at the time it is sent to the recipient, and to employ all reasonable efforts to maintain the information secret and confidential, such

efforts to be no less than the degree of care employed by the recipient to preserve and safeguard its own confidential information. The Information shall not be disclosed or revealed to anyone except employees of the recipient who have a need to know the information and who have entered into a secrecy agreement with the recipient under which such employees are required to maintain confidential the proprietary information of the recipient and such employees shall be advised by the recipient of the confidential nature of the information and that the information shall be treated accordingly.

The obligations of this Paragraph 8.1 shall also apply to AFFILIATED COMPANIES and/or SUBLICENSEE(S) provided such information by Company. JHU's, Company's, AFFILIATED COMPANIES, and SUBLICENSEES' obligations under this Paragraph 8.1 shall extend until three (3) years after the termination of this Agreement.

8.2 Exceptions. The recipient's obligations under Paragraph 8.1 shall not extend to any part of the information:

a. that can be demonstrated to have been in the public domain or publicly known and readily available to the trade or the public prior to the date of the disclosure; or

b. that can be demonstrated from written records to have been in the recipient's possession or readily available to the recipient from another source not under obligation of secrecy to the disclosing party prior to the disclosure; or

c. that becomes part of the public domain or publicly known by publication or otherwise, not due to any unauthorized act by the recipient; or

d. that is demonstrated from written records to have been developed by or for the receiving party without reference to confidential information disclosed by the disclosing party.

e. that is required to be disclosed by law, government regulation or court order.

8.3 Right to Publish. JHU may publish manuscripts, abstracts or the like describing the PATENT RIGHTS and inventions contained therein provided confidential information of Company as defined in Paragraph 8.1, is not included or without first obtaining approval from Company to include such confidential information. Otherwise, JHU and the Inventors shall be free to publish manuscripts and abstracts or the like directed to the work done at JHU related to the licensed technology without prior approval.

ARTICLE 9
TERM & TERMINATION

9.1 Term. The term of this Agreement shall commence on the EFFECTIVE DATE and shall continue, in each country, until the date of expiration of the last to expire patent included within PATENT RIGHTS in that country or if no patents issue then for a term of twenty (20) years from the EFFECTIVE DATE of this Agreement.

9.2 Termination By Either Party. This Agreement may be terminated by either party, in the event that the other party (a) files or has filed against it a petition under the Bankruptcy Act, makes an assignment for the benefit of creditors, has a receiver appointed for it or a substantial part of its assets, or otherwise takes advantage of any statute or law designed for relief of debtors or (b) fails to perform or otherwise breaches any of its obligations hereunder, if, following the giving of notice by the terminating party of its intent to terminate and stating the grounds therefor, the party receiving such notice shall not have cured the failure or breach within thirty (30) days. In no event, however, shall such notice or intention to terminate be deemed to waive any rights to damages or any other remedy which the party giving notice of breach may have as a consequence of such failure or breach.

9.3 Termination by Company. Company may terminate this Agreement and the license granted herein, for any reason, upon giving JHU ninety (90) days written notice.

9.4 Obligations and Duties upon Termination. If this Agreement is terminated, both parties shall be released from all obligations and duties imposed or assumed hereunder to the extent so terminated, except as expressly provided to the contrary in this Agreement. Upon termination, both parties shall cease any further use of the confidential information disclosed to the receiving party by the other party. Termination of this Agreement, for whatever reason, shall not affect the

obligation of either party to make any payments for which it is liable prior to or upon such termination. Termination shall not affect JHU's right to recover unpaid royalties, fees, reimbursement for patent expenses, or other forms of financial compensation incurred prior to termination. Upon termination Company shall submit a final royalty report to JHU and any royalty payments, fees, unreimbursed patent expenses and other financial compensation due JHU shall become immediately payable. Furthermore, upon termination of this Agreement, all rights in and to the licensed technology shall revert immediately to JHU at no cost to JHU. Upon termination of this Agreement, any SUBLICENSEE(S) shall become a direct licensee of JHU, provided that JHU's obligations to SUBLICENSEE(S) are no greater than JHU's obligations to Company under this Agreement. Company shall provide written notice of such to each SUBLICENSEE(S) with a copy of such notice provided to JHU.

ARTICLE 10
MISCELLANEOUS

10.1 Use of Name. Company, AFFILIATED COMPANIES and SUBLICENSEE(S) shall not use the name of The Johns Hopkins University or The Johns Hopkins Health System or any of its constituent parts, such as the Johns Hopkins Hospital or any contraction thereof or the name of Inventors in any advertising, promotional, sales literature or fundraising documents without prior written consent from an authorized representative of JHU. Company, AFFILIATED COMPANIES and SUBLICENSEE(S) shall allow at least seven (7) business days notice of any proposed public disclosure for JHU's review and comment or to provide written consent.

10.2 No Partnership. Nothing in this Agreement shall be construed to create any agency, employment, partnership, joint venture or similar relationship between the parties other than that of a licensor/licensee. Neither party shall have any right or authority whatsoever to incur any liability or obligation (express or implied) or otherwise act in any manner in the name or on the behalf of the other, or to make any promise, warranty or representation binding on the other.

10.3 Notice of Claim. Each party shall give the other or its representative immediate notice of any suit or action filed, or prompt notice of any claim made, against them arising out of the performance of this Agreement or arising out of the practice of the inventions licensed hereunder.

10.4 Product Liability. Prior to initial human testing or first commercial sale of any LICENSED PRODUCT(S) or LICENSED SERVICE(S) as the case may be in any particular country, Company shall establish and maintain, in each country in which Company, an AFFILIATED COMPANY or SUBLICENSEE(S) shall test or sell LICENSED PRODUCT(S) and LICENSED SERVICE(S), product liability or other appropriate insurance coverage in the minimum amount of five million dollars ($5,000,000) per claim and will annually present evidence to JHU that such coverage is being maintained. Upon JHU's request, Company will furnish JHU with a Certificate of Insurance of each product liability insurance policy obtained. JHU shall be listed as an additional insured in Company's said insurance policies. If such Product Liability insurance is underwritten on a 'claims made' basis, Company agrees that any change in underwriters during the term of this Agreement will require the purchase of 'prior acts' coverage to ensure that coverage will be continuous throughout the term of this Agreement.

10.5 Governing Law. This Agreement shall be construed, and legal relations between the parties hereto shall be determined, in accordance with the laws of the State of Maryland applicable to contracts solely executed and wholly to be performed within the State of Maryland without giving effect to the principles of conflicts of laws. Any disputes between the parties to the Agreement shall be brought in the state or federal courts of Maryland. Both parties agree to waive their right to a jury trial.

10.6 Notice. All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail, return receipt requested, or sent by overnight courier, such as Federal Express, to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the third business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

If to Company: Attn: Mr. Kim Jenkins
Surgi-Vision, Inc.
One Commerce Square
Suite 2550
Memphis, TN 38103

with a copy to: Attn: Oscar Thomas
Surgi-Vision, Inc.
One Commerce Square
Suite 2550
Memphis, TN 38103

and

Attn: Julie H. Richardson
Myers Bigel Sibley & Sajovec, P.A.
4140 Parklake Ave.
Suite 600
Raleigh, NC 27612

If to JHU: Director
Technology Transfer
Johns Hopkins University
100 N. Charles Street
5th Floor
Baltimore, MD 21201
Attn: JHU Agrmt# A13611

10.7 Compliance with All Laws. In all activities undertaken pursuant to this Agreement, both JHU and Company covenant and agree that each will in all material respects comply with such Federal, state and local laws and statutes, as may be in effect at the time of performance and all valid rules, regulations and orders thereof regulating such activities.

10.8 Successors and Assigns. Neither this Agreement nor any of the rights or obligations created herein, except for the right to receive any remuneration hereunder, may be assigned by either party, in whole or in part, without the prior written consent of the other party, except that either party shall be free to assign this Agreement in connection with any merger in which it is not the surviving entity or any sale of substantially all of its assets, in either case without the consent of the other. This Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties hereto.

10.9 No Waivers; Severability. No waiver of any breach of this Agreement shall constitute a waiver of any other breach of the same or other provision of this Agreement, and no waiver shall be effective unless made in writing. Any provision hereof prohibited by or unenforceable under any applicable law of any jurisdiction shall as to such jurisdiction be deemed ineffective and deleted herefrom without affecting any other provision of this Agreement. It is the desire of the parties hereto that this Agreement be enforced to the maximum extent permitted by law, and should any provision contained herein be held by any governmental agency or court of competent jurisdiction to be void, illegal and unenforceable, the parties shall negotiate in good faith for a substitute term or provision which carries out the original intent of the parties.

10.10 Entire Agreement; Amendment. Company and JHU acknowledge that they have read this entire Agreement and that this Agreement, including the attached Exhibits constitutes the entire understanding and contract between the parties hereto and supersedes any and all prior or contemporaneous oral or written communications with respect to the subject matter hereof, all of which communications are merged herein. It is expressly understood and agreed that (i) there being no expectations to the contrary between the parties hereto, no usage of trade, verbal agreement or another regular

practice or method dealing within any industry or between the parties hereto shall be used to modify, interpret, supplement or alter in any manner the express terms of this Agreement; and (ii) this Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto.

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

10.12 Force Majeure. If either party fails to fulfill its obligations hereunder (other than an obligation for the payment of money), when such failure is due to an act of God, or other circumstances beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, war (declared and undeclared), revolution, or embargoes, then said failure shall be excused for the duration of such event and for such a time thereafter as is reasonable to enable the parties to resume performance under this Agreement, provided however, that in no event shall such time extend for a period of more than one hundred eighty (180) days.

10.13 Further Assurances. Each party shall, at any time, and from time to time, prior to or after the EFFECTIVE DATE of this Agreement, at reasonable request of the other party, execute and deliver to the other such instruments and documents and shall take such actions as may be required to more effectively carry out the terms of this Agreement.

10.14 Survival All representations, warranties, covenants and agreements made herein and which by their express terms or by implication are to be performed after the execution and/or termination hereof, or are prospective in nature, shall survive such execution and/or termination, as the case may be. This shall include Paragraphs 3.7 (Late Payments), 5.2 (Records), and Articles 6, 7, 8, 9, and 10.

10.15 No Third Party Beneficiaries. Nothing in this Agreement shall be construed as giving any person, firm, corporation or other entity, other than the parties hereto and their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.

10.16 Headings. Article headings are for convenient reference and not a part of this Agreement. All Exhibits are incorporated herein by this reference.

10.17 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall be deemed but one instrument.

IN WITNESS WHEREOF, this Agreement shall take effect as of the EFFECTIVE DATE when it has been executed below by the duly authorized representatives of the parties.

THE JOHNS HOPKINS UNIVERSITY

/s/ Wesley D. Blakeslee
Wesley D. Blakeslee
Executive Director
Johns Hopkins Technology Transfer
6/27/08
(Date)

SURGI-VISION, INC.

/s/ K. Jenkins
Name: K. Jenkins
Title: CEO

6/30/08
(Date)

EXHIBIT A. LICENSE FEE & ROYALITIES.
EXHIBIT B. SALES & ROYALTY REPORT FORM.

Admin Reviewed 6/27/08 /s/ MKC

EXHIBIT A

LICENSE FEE & ROYALTIES

1. **Initial License Fee:** The license fee due under Paragraph 3.1 is twenty thousand dollars ($20,000).
2. **Contingent License Fee.** Upon the issuance of the U.S. patent under patent application Serial No.[***], an additional license fee of twenty thousand dollars ($20,000) will be due. Company shall pay to JHU such contingent license fee within thirty (30) days following the issuance of such U.S. patent.
3. **Minimum Annual Royalties:** The minimum annual royalties pursuant to Paragraph 3.2 are:

   1st year: five thousand dollars ($5,000).

   2nd year: ten thousand dollars ($10,000).

   3rd year, etc. twenty thousand dollars ($20,000).

4. **Royalties:** The running royalty rate payable under Paragraph 3.3 is five percent (5%).
5. **Sublicense consideration:** The percent sublicense consideration payable under Paragraph 3.4 is twenty five percent (25%).

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

EXHIBIT B

QUARTERLY SALES & ROYALTY REPORT

FOR LICENSE AGREEMENT BETWEEN _____ AND

THE JOHNS HOPKINS UNIVERSITY DATED

_____

FOR PERIOD OF _____ TO _____

TOTAL ROYALTIES DUE FOR THIS PERIOD $_____

PRODUCT ID	PRODUCT NAME	*JHU REFERENCE	1st COMMERCIAL SALE DATE	TOTAL NET SALES/SERVICES	ROYALTY RATE	AMOUNT DUE

* Please provide the JHU Reference Number or Patent Reference

This report format is to be used to report quarterly royalty statements to JHU. It should be placed on Company letterhead and accompany any royalty payments due for the reporting period. This report shall be submitted even if no sales are reported.

Exhibit 10.22

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is entered into by and between THE JOHNS HOPKINS UNIVERSITY, a Maryland corporation having an address at 3400 N. Charles Street, Baltimore, Maryland, 21218-2695 ("JHU") and Surgi-Vision, Inc., a Delaware corporation having an address at One Commerce Square, Suite 2550, Memphis, Tennessee 38103 ("Company"), with respect to the following:

RECITALS

WHEREAS, as a center for research and education, JHU is interested in licensing PATENT RIGHTS (hereinafter defined) in a manner that will benefit the public by facilitating the distribution of useful products and the utilization of new processes, but is without capacity to commercially develop, manufacture, and distribute any such products or processes; and

WHEREAS, a valuable invention entitled [***] was developed during the course of research conducted by [***] (all hereinafter, "Inventors"); and

WHEREAS, JHU has acquired through assignment all rights, title and interest, with the exception of certain retained rights by the United States Government, in its interest in said valuable inventions; and

WHEREAS, Company desires to obtain certain rights in such inventions as herein provided, and to commercially develop, manufacture, use and distribute products and processes based upon or embodying said valuable inventions throughout the world;

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

All references to particular Exhibits, Articles or Paragraphs shall mean the Exhibits to, and Paragraphs and Articles of, this Agreement, unless otherwise specified. For the purposes of this Agreement and the Exhibits hereto, the following words and phrases shall have the following meanings:

1.1 "AFFILIATED COMPANY" as used herein in either singular or plural shall mean any corporation, company, partnership, joint venture or other entity, which controls, is controlled by or is under common control with Company. For purposes of this Paragraph 1.1, control shall mean the direct or indirect ownership of at least fifty- percent (50%).

1.2 "EFFECTIVE DATE" of this License Agreement shall mean the date the last party hereto has executed this Agreement.

1.3 "EXCLUSIVE LICENSE" shall mean a grant by JHU to Company of its entire right and interest in the PATENT RIGHTS subject to rights retained by the United States Government, if any, in accordance with the Bayh-Dole Act of 1980 (established by P.L. 96-517 and amended by P.L. 98-620, codified at 35 USC § 200 et. seq. and implemented according to 37 CFR Part 401), and subject to the retained right of JHU to make, have made, provide and use for its and The Johns Hopkins Health Systems' non-commercial purposes LICENSED PRODUCT(S) and LICENSED SERVICE(S), including the ability to distribute any biological material disclosed and/or claimed in PATENT RIGHTS for nonprofit academic research use to non-commercial entities as is customary in the scientific community.

1.4 "LICENSED FIELD" shall mean all fields.

1.5 "LICENSED PRODUCT(S)" as used herein in either singular or plural shall mean any process or method, material, compositions, drug, or other product, the manufacture, use or sale of which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of PATENT RIGHTS (infringement shall include, but is not limited to, direct, contributory, or inducement to infringe).

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

1.6 "LICENSED SERVICE(S)" as used herein in either singular or plural shall mean the performance on behalf of a third party of any method or the manufacture of any product or the use of any product or composition which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of the PATENT RIGHTS, (infringement shall include, but not be limited to, direct, contributory or inducement to infringe).

1.7 "NET SALES" shall mean gross sales revenues and fees billed by Company or any AFFILIATED COMPANY from the sale of LICENSED PRODUCT(S) less trade discounts allowed, refunds, returns and recalls, freight and delivery costs, sales, use or other similar taxes, and rebates accrued, incurred or paid to federal or state agencies (such as Medicare or Medicaid)) or other payors. In the event that Company or any AFFILIATED COMPANY sells a LICENSED PRODUCT(S) in combination with other ingredients or substances or as part of a kit, the NET SALES for purposes of royalty payments shall be based on that portion of the sales revenues and fees derived from that component of the combination or kit which could independently be sold as a LICENSED PRODUCT.

1.8 "NET SERVICE REVENUES" shall mean gross service revenues and fees billed by Company or any AFFILIATED COMPANY for the performance of LICENSED SERVICE(S) less sales, use or other similar taxes imposed upon and with specific reference to the LICENSED SERVICE(S), but only where LICENSED SERVICES are sold or used separately from the manufacture or sale of a LICENSED PRODUCT. In the event that Company or any AFFILIATED COMPANY sells a LICENSED SERVICE(S) in combination with other services or substances or as part of a kit that does not include a LICENSED PRODUCT, the NET SERVICE REVENUES for purposes of royalty payments shall be based on that portion of the sales revenues and fees derived from that component of the combination or kit which could independently be sold as a LICENSED SERVICE.

1.9 "PATENT RIGHTS" shall mean the U.S. provisional patent application Serial No. [***] filed on[***], and assigned to JHU entitled [***] and the invention disclosed and claimed therein, and all continuations, divisions, and reissues based thereof, and any corresponding foreign patent applications, and any patents, or other equivalent foreign PATENT RIGHTS issuing, granted or registered thereon.

1.10 "SUBLICENSEE(S)" as used herein in either singular or plural shall mean any person or entity other than an AFFILIATED COMPANY to which Company has granted a sublicense under this Agreement.

ARTICLE 2
LICENSE GRANT

2.1 Grant. Subject to the terms and conditions of this Agreement, JHU hereby grants to Company an EXCLUSIVE LICENSE to make, have made, use, import, offer for sale and sell the LICENSED PRODUCT(S) and to provide the LICENSED SERVICE(S) in the United States and worldwide under the PATENT RIGHTS in the LICENSED FIELD. This Grant shall apply to the Company and any AFFILIATED COMPANY, except that any AFFILIATED COMPANY shall not have the right to sublicense others without the prior written approval of JHU as set forth in Paragraph 2.2 below. If any AFFILIATED COMPANY exercises rights under this Agreement, such AFFILIATED COMPANY shall be bound by all terms and conditions of this Agreement, including but not limited to indemnity and insurance provisions and royalty payments, which shall apply to the exercise of the rights, to the same extent as would apply had this Agreement been directly between JHU and the AFFILIATED COMPANY. In addition, Company shall remain fully liable to JHU for all acts and obligations of AFFILIATED COMPANY such that acts of the AFFILIATED COMPANY shall be considered acts of the Company.

2.2 Sublicense. Company may sublicense to others under this Agreement, subject to the terms and conditions of this Paragraph 2.2 and subject to JHU's prior written approval of the sublicense agreement. Such approval shall not be unreasonably withheld. As a condition to its validity and enforceability, each sublicense agreement shall: (a) incorporate by reference the terms and conditions of this Agreement, (b) be consistent with the terms, conditions and limitations of this Agreement, (c) prohibit SUBLICENSEE'S further sublicense of the rights delivered hereunder without JHU's prior written approval, (d) name JHU as an intended third party beneficiary of the obligations of SUBLICENSEE without imposition of obligation or liability on the part of JHU or its Inventors to the SUBLICENSEE, (e) specifically incorporate Paragraphs 6.2 "Representations by JHU", 7.1 "Indemnification", 10.1 "Use of Name", 10.4 "Product Liability" into the body of the sublicense agreement, and cause the terms used in therein to have the same meaning as in this Agreement, and, (f) bear signature from JHU indicating JHU's review and approval of the sublicense agreement. Company shall provide to JHU each

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proposed sublicense agreement, executed by both Company and proposed SUBLICENSEE, for review, approval and signature by JHU. To the extent that any terms, conditions or limitations of any sublicense agreement are inconsistent with this Agreement, those terms, conditions and limitations are null and void against JHU, unless JHU has approved the sublicense in writing.

2.3 Government Rights. The United States Government may have acquired a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the inventions described in PATENT RIGHTS throughout the world. The rights granted herein are additionally subject to: (i) the requirement that any LICENSED PRODUCT(S) produced for use or sale within the United States shall be substantially manufactured in the United States (unless a waiver under 35 USC § 204 or equivalent is granted by the appropriate United States government agency), (ii) the right of the United States government to require JHU, or its licensees, including Company, to grant sublicenses to responsible applicants on reasonable terms when necessary to fulfill health or safety needs, and, (iii) other rights acquired by the United States government under the laws and regulations applicable to the grant/contract award under which the inventions were made.

ARTICLE 3
FEES, ROYALTIES, & PAYMENTS

3.1 License Fee. Company shall pay to JHU within thirty (30) days of the EFFECTIVE DATE of this Agreement a license fee as set forth in Exhibit A. JHU will not submit an invoice for the license fee, which is nonrefundable and shall not be credited against royalties or other fees.

3.2 Minimum Annual Royalties. Company shall pay to JHU minimum annual royalties as set forth in Exhibit A. These minimum annual royalties shall be due, without invoice from JHU, within thirty (30) days of each anniversary of the EFFECTIVE DATE beginning with the first anniversary. Running royalties and sublicense consideration accrued under Paragraphs 3.3 and 3.4, respectively, and paid to JHU during the one year period preceding an anniversary of the EFFECTIVE DATE shall be credited against the minimum annual royalties due on that anniversary date.

3.3 Running Royalties. Company shall pay to JHU a running royalty as set forth in Exhibit A, for each LICENSED PRODUCT(S) sold, and for each LICENSED SERVICE(S) provided, by Company or AFFILIATED COMPANIES , based on NET SALES and NET SERVICE REVENUES for the term of this Agreement. Such payments shall be made quarterly. All non-US taxes related to LICENSED PRODUCT(S) or LICENSED SERVICE(S) sold under this Agreement shall be paid by Company and shall not be deducted from royalty or other payments due to JHU.

In order to insure JHU the full royalty payments contemplated hereunder, Company agrees that in the event any LICENSED PRODUCT(S) shall be sold to an AFFILIATED COMPANY or SUBLICENSEE(S) or to a corporation, firm or association with which Company shall have any agreement, understanding or arrangement with respect to consideration (such as, among other things, an option to purchase stock or actual stock ownership, or an arrangement involving division of profits or special rebates or allowances) the royalties to be paid hereunder for such LICENSED PRODUCT(S) shall be based upon the greater of: 1) the net selling price (per NET SALES) at which the purchaser of LICENSED PRODUCT(S) resells such product to the end user, 2) the NET SERVICE REVENUES received from using the LICENSED PRODUCT(S) in providing a service, or 3) the net selling price (per NET SALES) of LICENSED PRODUCT(S) paid by the purchaser.

No multiple royalties shall be due or payable because any LICENSED PRODUCT(S) or LICENSED SERVICE(S) is covered by more than one claim of the PATENT RIGHTS or by claims of both the PATENT RIGHTS under this Agreement and "PATENT RIGHTS" under any other license agreement between Company and JHU. The royalty shall not be cumulative based on the number of patents or claims covering a product or service, but rather shall be capped at the rate set forth in Exhibit A.

3.4 Sublicense Consideration. Company shall pay to JHU a percentage of consideration received for sublicenses under this Agreement as set forth in Exhibit A. This sublicense consideration shall be due, without the need for invoice from JHU, within forty-five (45) days of Company's receipt. Such consideration shall mean consideration of any kind received by the Company or AFFILIATED COMPANIES from a SUBLICENSEE(S) for the grant of a sublicense under this Agreement, such as upfront fees or milestone fees, running royalties and including any premium paid by the SUBLICENSEE(S) over Fair Market Value for stock of the Company or an AFFILIATED COMPANY in consideration for such sublicense. However, not included in such sublicense consideration are amounts paid to the Company or an AFFILIATED COMPANY by the

SUBLICENSEE(S) for product development, research work, clinical studies and regulatory approvals performed by or for the Company or AFFILIATED COMPANIES (including third parties on their behalf), each pursuant to a specific agreement including a performance plan and commensurate budget. The term "Fair Market Value" shall mean the average price that the stock in question is publicly trading at for twenty (20) days prior to the announcement of its purchase by the SUBLICENSEE(S) or if the stock is not publicly traded, the greater of (a) the value of such stock as determined by the most recent private financing through a financial investor (an entity whose sole interest in the Company or AFFILIATED COMPANY is financial) of the Company or AFFILIATED COMPANY that issued the shares, or (b) the value of such stock as determined by the most recent appraisal conducted by an independent appraiser regularly engaged in the business of valuing businesses of the nature of Company or AFFILIATED COMPANY, as applicable.

In the event of a sublicense under both this Agreement and any other license agreement between Company and JHU, the sublicensing consideration payable to JHU under this Agreement and such other license agreement(s) shall be capped such that the aggregate amount payable to JHU shall not exceed the percentage set forth in Exhibit A of all sublicensing consideration.

3.5 Patent Reimbursement. Company will reimburse JHU, within thirty (30) days of the receipt of an invoice from JHU, for all costs associated with the preparation, filing, maintenance, and prosecution of PATENT RIGHTS incurred by JHU on or before the EFFECTIVE DATE of this Agreement, which costs will not exceed [***]. In accordance with Paragraph 4.1 below, Company will reimburse JHU, within thirty (30) days of the receipt of an invoice from JHU, for all costs associated with the preparation, filing, maintenance, and prosecution of PATENT RIGHTS incurred by JHU subsequent to the EFFECTIVE DATE of this Agreement.

3.6 Form of Payment. All payments under this Agreement shall be made in U.S. Dollars by either check or wire transfer.

3.7 Payment Information. All check payments from Company to JHU shall be sent to:

Director
Johns Hopkins Technology Transfer
The Johns Hopkins University
100 N. Charles Street, 5th Floor
Baltimore, MD 21201

Attn: JHU Agrmt# A13609

or such other addresses which JHU may designate in writing from time to time. Checks are to be made payable to "The Johns Hopkins University". Wire transfers may be made through:

[***]

Company shall be responsible for any and all costs associated with wire transfers.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

3.7 Late Payments. In the event that any payment due hereunder is not made when due, the payment shall accrue interest beginning on the tenth day following the due date thereof, calculated at the annual rate of the sum of (a) two percent (2%) plus (b) the prime interest rate quoted by The Wall Street Journal on the date said payment is due, the interest being compounded on the last day of each calendar quarter, provided however, that in no event shall said annual interest rate exceed the maximum legal interest rate for corporations. Each such payment when made shall be accompanied by all interest so accrued. Said interest and the payment and acceptance thereof shall not negate or waive the right of JHU to seek any other remedy, legal or equitable, to which it may be entitled because of the delinquency of any payment including, but not limited to termination of this Agreement as set forth in Paragraph 9.2.

ARTICLE 4
PATENT PROSECUTION, MAINTENANCE, & INFRINGEMENT

4.1 Prosecution & Maintenance. JHU, at Company's expense, shall file, prosecute and maintain all patents and patent applications specified under PATENT RIGHTS and, subject to the terms and conditions of this Agreement, Company shall be licensed thereunder. Title to all such patents and patent applications shall reside in JHU. JHU shall have full and complete control over all patent matters in connection therewith under the PATENT RIGHTS, provided however, that JHU shall (a) cause its patent counsel to timely copy Company on all official actions and written correspondence with any patent office and timely provide Company advance notification of any filing deadline, and (b) allow Company an opportunity to comment and advise JHU. JHU shall consider and reasonably incorporate all comments and advice from Company and JHU shall comply with foreign filing decisions provided by Company. Upon request by Company, JHU shall consider allowing Company's patent counsel to prosecute patent applications relating to the PATENT RIGHTS. By concurrent written notification to JHU and its patent counsel at least thirty (30) days in advance (or later at JHU's discretion) of any filing or response deadline, or fee due date, Company may elect not to have a patent application filed in any particular country or region or not to pay expenses associated with prosecuting or maintaining any patent application or patent, provided that Company pays for all costs incurred up to JHU's receipt of such notification. Failure to provide such notification can be considered by JHU to be Company's authorization to proceed at Company's expense. Upon such notification, JHU may file, prosecute, and/or maintain such patent applications or patent at its own expense and for its own benefit, and any rights or license granted hereunder held by Company, AFFILIATED COMPANIES or SUBLICENSEE(S) relating to the PATENT RIGHTS which comprise the subject of such patent applications or patent solely with respect to the particular country, shall terminate. For the avoidance of any doubt, such termination shall not affect any rights or license granted hereunder held by Company, AFFILIATED COMPANIES or SUBLICENSEE(S) relating to the PATENT RIGHTS which comprise the subject of patent applications or patents in any other country or region.

4.2 Notification. Each party will notify the other promptly in writing when any infringement by another is uncovered or suspected.

4.3 Infringement. Company shall have the first right to enforce any patent within PATENT RIGHTS against any infringement or alleged infringement thereof, and shall at all times keep JHU informed as to the status thereof. Before Company commences an action with respect to any infringement of such patents, Company shall give careful consideration to the views of JHU and to potential effects on the public interest in making its decision whether or not to sue. Thereafter, Company may, at its own expense, institute suit against any such infringer or alleged infringer and control and defend such suit in a manner consistent with the terms and provisions hereof and recover any damages, awards or settlements resulting therefrom, subject to Paragraph 4.5. However, no settlement, consent judgment or other voluntary final disposition of the suit may be entered into without the prior written consent of JHU which consent shall not be unreasonably withheld. This right to sue for infringement shall not be used in an arbitrary or capricious manner. JHU shall reasonably cooperate in any such litigation at Company's expense.

If Company elects not to enforce any patent within the PATENT RIGHTS, then it shall so notify JHU in writing within ninety (90) days of receiving notice that an infringement exists, and JHU may, in its sole judgment and at its own expense, take steps to enforce any patent and control, settle, and defend such suit in a manner consistent with the terms and provisions hereof, and recover, for its own account, any damages, awards or settlements resulting therefrom.

4.4 Patent Invalidity Suit. If a declaratory judgment action is brought naming Company as a defendant and alleging invalidity of any of the PATENT RIGHTS, JHU may elect to take over the sole defense of the action at its own expense. Company shall cooperate fully with JHU in connection with any such action.

4.5 Recovery. Any recovery by Company under Paragraph 4.3 shall be deemed to reflect loss of commercial sales, and Company shall pay to JHU [***] of the recovery net of all reasonable costs and expenses associated with each suit or settlement. If the cost and expenses exceed the recovery, then [***] of the excess shall be credited against royalties payable by Company to JHU hereunder in connection with sales of LICENSED PRODUCT covered in the PATENT RIGHTS which are the subject of the infringement suit, in the country of such legal proceedings, provided, however, that any such credit under this Paragraph shall not exceed [***] of the royalties otherwise payable to JHU with regard to sales in the country of such action in any one calendar year, with any excess credit being carried forward to future calendar years.

ARTICLE 5
OBLIGATIONS OF THE PARTIES

5.1 Reports. Company shall provide to JHU the following written reports according to the following schedules.

(a) Company shall provide quarterly Royalty Reports, substantially in the format of Exhibit B and due within thirty (30) days of the end of each calendar quarter following the EFFECTIVE DATE of this Agreement. Royalty Reports shall disclose the amount of LICENSED PRODUCT(S) and LICENSED SERVICE(S) sold, the total NET SALES and NET SERVICE REVENUES of such LICENSED PRODUCT(S) and LICENSED SERVICE(S), and the running royalties due to JHU as a result of NET SALES and NET SERVICE REVENUES by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) thereof. Payment of any such royalties due shall accompany such Royalty Reports.

(b) Until Company, an AFFILIATED COMPANY or a SUBLICENSEE(S) has achieved a first commercial sale of a LICENSED PRODUCT or LICENSED SERVICE, or received FDA market approval, Company shall provide semiannual Diligence Reports, due within thirty (30) days of the end of every June and December following the EFFECTIVE DATE of this Agreement. These Diligence Reports shall describe Company's, AFFILIATED COMPANIES or any SUBLICENSEE(S)'s technical efforts towards meeting its obligations under the terms of this Agreement.

(c) Company shall provide Annual Reports within thirty (30) days of the end of every December following the EFFECTIVE DATE of this Agreement. Annual Reports shall include:

(i) evidence of insurance as required under Paragraph 10.4, or, a statement of why such insurance is not currently required, and

(ii) identification of all AFFILIATED COMPANIES which have exercised rights pursuant to Paragraph 2.1, or, a statement that no AFFILIATED COMPANY has exercised such rights, and

(iii) notice of all FDA approvals of any LICENSED PRODUCT(S) or LICENSED SERVICE(S) obtained by COMPANY, AFFILIATED COMPANY or SUBLICENSEE, the patent(s) or patent application(s) licensed under this Agreement upon which such product or service is based, and the commercial name of such product or service, or, in the alternative, a statement that no FDA approvals have been obtained.

5.2 Records. Company shall make and retain, for a period of three (3) years following the period of each report required by Paragraph 5.1, true and accurate records, files and books of account containing all the data reasonably required for the full computation and verification of sales and other information required in Paragraph 5.1. Such books and records shall be in accordance with generally accepted accounting principles consistently applied. Company shall permit the inspection and copying of such records, files and books of account by JHU or its agents during regular business hours upon ten (10) business days' written notice to Company. Such inspection shall not be made more than once each calendar year. All costs of such inspection and copying shall be paid by JHU, provided that if any such inspection shall reveal that an error has been made in the amount equal to five percent (5%) or more of such payment, such costs shall be borne by Company. As a condition to entering into any such agreement, Company shall include in any agreement with its AFFILIATED COMPANIES or its SUBLICENSEE(S) which permits such party to make, use, sell or import the LICENSED PRODUCT(S) or provide LICENSED SERVICE(S), a provision requiring such party to retain records of sales of LICENSED PRODUCT(S) and records of LICENSED SERVICE(S) and other information as required in Paragraph 5.1 and permit JHU to inspect such records as required by this Paragraph.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

5.3 Reasonable Efforts. Company shall exercise commercially reasonable efforts to develop and to introduce the LICENSED PRODUCT(S) and LICENSED SERVICE(S) into the commercial market as soon as practicable, consistent with sound and reasonable business practice and judgement; thereafter, until the expiration or termination of this Agreement, Company shall endeavor to keep LICENSED PRODUCT(S) and LICENSED SERVICE(S) reasonably available to the public.

5.4 Other Products. After clinical or other evidence, provided in writing [***] to Company, demonstrating the practicality of a particular market or use within the LICENSED FIELD which is not being developed or commercialized by Company, Company shall either provide JHU with a reasonable development plan and start development or attempt to reasonably sublicense the particular market or use to a third party. If within six (6) months of such notification [***] Company has not initiated such development efforts or sublicensed that particular market or use, JHU may terminate this license for such particular market or use. This Paragraph shall not be applicable if Company reasonably demonstrates to JHU that commercializing such LICENSED PRODUCT(S) or LICENSED SERVICE(S) or granting such a sublicense in said market or use would have a potentially adverse commercial effect upon marketing or sales of the LICENSED PRODUCT(S) developed and being sold by Company.

5.5 Patent Acknowledgement. Company agrees that all packaging containing individual LICENSED PRODUCT(S) sold by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) of Company will be marked with the number of the applicable patent(s) licensed hereunder in accordance with each country's patent laws.

ARTICLE 6
REPRESENTATIONS

6.1 Duties of the Parties. JHU is not a commercial organization. It is an institute of research and education. Therefore, JHU has no ability to evaluate the commercial potential of any PATENT RIGHTS or LICENSED PRODUCT or other license or rights granted in this Agreement. It is therefore incumbent upon Company to evaluate the rights and products in question, to examine the materials and information provided by JHU, and to determine for itself the validity of any PATENT RIGHTS, its freedom to operate, and the value of any LICENSED PRODUCTS or SERVICES or other rights granted.

6.2 Representations by JHU. JHU warrants that it has good and marketable title to its interest in the inventions claimed under PATENT RIGHTS with the exception of certain retained rights of the United States Government, which may apply if any part of the JHU research was funded in whole or in part by the United States Government. JHU does not warrant the validity of any patents or that practice under such patents shall be free of infringement. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH 6.2, COMPANY, AFFILIATED COMPANIES AND SUBLICENSEE(S) AGREE THAT THE PATENT RIGHTS ARE PROVIDED "AS IS", AND THAT JHU MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE PERFORMANCE OF LICENSED PRODUCT(S) AND LICENSED SERVICE(S) INCLUDING THEIR SAFETY, EFFECTIVENESS, OR COMMERCIAL VIABILITY. JHU DISCLAIMS ALL WARRANTIES WITH REGARD TO PRODUCT(S) AND SERVICE(S) LICENSED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES, EXPRESSED OR IMPLIED, OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, JHU ADDITIONALLY DISCLAIMS ALL OBLIGATIONS AND LIABILITIES ON THE PART OF JHU AND INVENTORS, FOR DAMAGES, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS (EVEN IF JHU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FEES OR COSTS), ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, USE, OR SALE OF THE PRODUCT(S) AND SERVICE(S) LICENSED UNDER THIS AGREEMENT. COMPANY, AFFILIATED COMPANIES AND SUBLICENSEE(S) ASSUME ALL RESPONSIBILITY AND LIABILITY FOR LOSS OR DAMAGE CAUSED BY A PRODUCT AND/OR SERVICE MANUFACTURED, USED, OR SOLD BY COMPANY, ITS SUBLICENSEE(S) AND AFFILIATED COMPANIES WHICH IS A LICENSED PRODUCT(S) OR LICENSED SERVICE(S) AS DEFINED IN THIS AGREEMENT.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

ARTICLE 7
INDEMNIFICATION

7.1 Indemnification. JHU and the Inventors will have no legal liability exposure to third parties if JHU does not license the LICENSED PRODUCT(S) and LICENSED SERVICE(S), and any royalties JHU and the Inventors may receive is not adequate compensation for such legal liability exposure. Therefore, JHU requires Company to protect JHU and Inventors from such exposure to the same manner and extent to which insurance, if available, would protect JHU and Inventors. Furthermore, JHU and the Inventors will not, under the provisions of this Agreement or otherwise, have control over the manner in which Company or its AFFILIATED COMPANIES or its SUBLICENSEE(S) or those operating for its account or third parties who purchase LICENSED PRODUCT(S) or LICENSED SERVICE(S) from any of the foregoing entities, develop, manufacture, market or practice the inventions of LICENSED PRODUCT(S) and LICENSED SERVICE(S). Therefore, Company, AFFILIATED COMPANY and SUBLICENSEE shall indemnify, defend with counsel reasonably acceptable to JHU, and hold JHU, The Johns Hopkins Health Systems, their present and former trustees, officers, Inventors of PATENT RIGHTS, agents, faculty, employees and students harmless as against any judgments, fees, expenses, or other costs arising from or incidental to any product liability or other lawsuit, claim, demand or other action brought as a consequence of the practice of said inventions by any of the foregoing entities, whether or not JHU or said Inventors, either jointly or severally, is named as a party defendant in any such lawsuit and whether or not JHU or the Inventors are alleged to be negligent or otherwise responsible for any injuries to persons or property. Practice of the inventions covered by LICENSED PRODUCT(S) and LICENSED SERVICE(S), by an AFFILIATED COMPANY or an agent or a SUBLICENSEE(S) or a third party on behalf of or for the account of Company or by a third party who purchases LICENSED PRODUCT(S) and LICENSED SERVICE(S) from Company, shall be considered Company's practice of said inventions for purposes of this Paragraph. The obligation of Company to defend and indemnify as set out in this Paragraph shall survive the termination of this Agreement, shall continue even after assignment of rights and responsibilities to an affiliate or sublicensee, and shall not be limited by any other limitation of liability elsewhere in this Agreement.

ARTICLE 8
CONFIDENTIALITY

8.1 Confidentiality. If necessary, the parties will exchange information, which they consider to be confidential. The recipient of such information agrees to accept the disclosure of said information which is marked as confidential at the time it is sent to the recipient, and to employ all reasonable efforts to maintain the information secret and confidential, such efforts to be no less than the degree of care employed by the recipient to preserve and safeguard its own confidential information. The information shall not be disclosed or revealed to anyone except employees of the recipient who have a need to know the information and who have entered into a secrecy agreement with the recipient under which such employees are required to maintain confidential the proprietary information of the recipient and such employees shall be advised by the recipient of the confidential nature of the information and that the information shall be treated accordingly.

The obligations of this Paragraph 8.1 shall also apply to AFFILIATED COMPANIES and/or SUBLICENSEE(S) provided such information by Company. JHU's, Company's, AFFILIATED COMPANIES, and SUBLICENSEES' obligations under this Paragraph 8.1 shall extend until three (3) years after the termination of this Agreement.

8.2 Exceptions. The recipient's obligations under Paragraph 8.1 shall not extend to any part of the information:

- **a.** that can be demonstrated to have been in the public domain or publicly known and readily available to the trade or the public prior to the date of the disclosure; or
- **b.** that can be demonstrated from written records to have been in the recipient's possession or readily available to the recipient from another source not under obligation of secrecy to the disclosing party prior to the disclosure; or
- **c.** that becomes part of the public domain or publicly known by publication or otherwise, not due to any unauthorized act by the recipient; or

d. that is demonstrated from written records to have been developed by or for the receiving party without reference to confidential information disclosed by the disclosing party.

e. that is required to be disclosed by law, government regulation or court order.

8.3 Right to Publish. JHU may publish manuscripts, abstracts or the like describing the PATENT RIGHTS and inventions contained therein provided confidential information of Company as defined in Paragraph 8.1, is not included or without first obtaining approval from Company to include such confidential information. Otherwise, JHU and the Inventors shall be free to publish manuscripts and abstracts or the like directed to the work done at JHU related to the licensed technology without prior approval.

ARTICLE 9
TERM & TERMINATION

9.1 Term. The term of this Agreement shall commence on the EFFECTIVE DATE and shall continue, in each country, until the date of expiration of the last to expire patent included within PATENT RIGHTS in that country or if no patents issue then for a term of twenty (20) years from the EFFECTIVE DATE of this Agreement.

9.2 Termination By Either Party. This Agreement may be terminated by either party, in the event that the other party (a) files or has filed against it a petition under the Bankruptcy Act, makes an assignment for the benefit of creditors, has a receiver appointed for it or a substantial part of its assets, or otherwise takes advantage of any statute or law designed for relief of debtors or (b) fails to perform or otherwise breaches any of its obligations hereunder, if, following the giving of notice by the terminating party of its intent to terminate and stating the grounds therefor, the party receiving such notice shall not have cured the failure or breach within thirty (30) days. In no event, however, shall such notice or intention to terminate be deemed to waive any rights to damages or any other remedy which the party giving notice of breach may have as a consequence of such failure or breach.

9.3 Termination by Company. Company may terminate this Agreement and the license granted herein, for any reason, upon giving JHU ninety (90) days written notice.

9.4 Obligations and Duties upon Termination. If this Agreement is terminated, both parties shall be released from all obligations and duties imposed or assumed hereunder to the extent so terminated, except as expressly provided to the contrary in this Agreement. Upon termination, both parties shall cease any further use of the confidential information disclosed to the receiving party by the other party. Termination of this Agreement, for whatever reason, shall not affect the obligation of either party to make any payments for which it is liable prior to or upon such termination. Termination shall not affect JHU's right to recover unpaid royalties, fees, reimbursement for patent expenses, or other forms of financial compensation incurred prior to termination. Upon termination Company shall submit a final royalty report to JHU and any royalty payments, fees, unreimbursed patent expenses and other financial compensation due JHU shall become immediately payable. Furthermore, upon termination of this Agreement, all rights in and to the licensed technology shall revert immediately to JHU at no cost to JHU. Upon termination of this Agreement, any SUBLICENSEE(S) shall become a direct licensee of JHU, provided that JHU's obligations to SUBLICENSEE(S) are no greater than JHU's obligations to Company under this Agreement. Company shall provide written notice of such to each SUBLICENSEE(S) with a copy of such notice provided to JHU.

ARTICLE 10
MISCELLANEOUS

10.1 Use of Name. Company, AFFILIATED COMPANIES and SUBLICENSEE(S) shall not use the name of The Johns Hopkins University or The Johns Hopkins Health System or any of its constituent parts, such as the Johns Hopkins Hospital or any contraction thereof or the name of Inventors in any advertising, promotional, sales literature or fundraising documents without prior written consent from an authorized representative of JHU. Company, AFFILIATED COMPANIES and SUBLICENSEE(S) shall allow at least seven (7) business days notice of any proposed public disclosure for JHU's review and comment or to provide written consent.

10.2 No Partnership. Nothing in this Agreement shall be construed to create any agency, employment, partnership, joint venture or similar relationship between the parties other than that of a licensor/licensee. Neither party shall have any right or authority whatsoever to incur any liability or obligation (express or implied) or otherwise act in any manner in the name or on the behalf of the other, or to make any promise, warranty or representation binding on the other.

10.3 Notice of Claim. Each party shall give the other or its representative immediate notice of any suit or action filed, or prompt notice of any claim made, against them arising out of the performance of this Agreement or arising out of the practice of the inventions licensed hereunder.

10.4 Product Liability. Prior to initial human testing or first commercial sale of any LICENSED PRODUCT(S) or LICENSED SERVICE(S) as the case may be in any particular country, Company shall establish and maintain, in each country in which Company, an AFFILIATED COMPANY or SUBLICENSEE(S) shall test or sell LICENSED PRODUCT(S) and LICENSED SERVICE(S), product liability or other appropriate insurance coverage in the minimum amount of five million dollars ($5,000,000) per claim and will annually present evidence to JHU that such coverage is being maintained. Upon JHU's request, Company will furnish JHU with a Certificate of Insurance of each product liability insurance policy obtained. JHU shall be listed as an additional insured in Company's said insurance policies. If such Product Liability insurance is underwritten on a 'claims made' basis, Company agrees that any change in underwriters during the term of this Agreement will require the purchase of 'prior acts' coverage to ensure that coverage will be continuous throughout the term of this Agreement.

10.5 Governing Law. This Agreement shall be construed, and legal relations between the parties hereto shall be determined, in accordance with the laws of the State of Maryland applicable to contracts solely executed and wholly to be performed within the State of Maryland without giving effect to the principles of conflicts of laws. Any disputes between the parties to the Agreement shall be brought in the state or federal courts of Maryland. Both parties agree to waive their right to a jury trial.

10.6 Notice. All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail, return receipt requested, or sent by overnight courier, such as Federal Express, to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the third business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

If to Company: Attn: Mr. Kim Jenkins
Surgi-Vision, Inc.
One Commerce Square
Suite 3550
Memphis, TN 38103

with a copy to: Attn: Oscar Thomas
Surgi-Vision, Inc.
One Commerce Square
Suite 2550
Memphis, TN 38103

and

Attn: Julie H. Richardson
Myers Bigel Sibley & Sajovec, P.A.
4140 Parklake Ave.
Suite 600
Raleigh, NC 27612

If to JHU:

Director
Technology Transfer
Johns Hopkins University
100 N. Charles Street
5th Floor
Baltimore, MD 21201
Attn: JHU Agrmt# A13609

10.7 Compliance with All Laws. In all activities undertaken pursuant to this Agreement, both JHU and Company covenant and agree that each will in all material respects comply with such Federal, state and local laws and statutes, as may be in effect at the time of performance and all valid rules, regulations and orders thereof regulating such activities.

10.8 Successors and Assigns. Neither this Agreement nor any of the rights or obligations created herein, except for the right to receive any remuneration hereunder, may be assigned by either party, in whole or in part, without the prior written consent of the other party, except that either party shall be free to assign this Agreement in connection with any merger in which it is not the surviving entity or any sale of substantially all of its assets, in either case without the consent of the other. This Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties hereto.

10.9 No Waivers; Severability. No waiver of any breach of this Agreement shall constitute a waiver of any other breach of the same or other provision of this Agreement, and no waiver shall be effective unless made in writing. Any provision hereof prohibited by or unenforceable under any applicable law of any jurisdiction shall as to such jurisdiction be deemed ineffective and deleted herefrom without affecting any other provision of this Agreement. It is the desire of the parties hereto that this Agreement be enforced to the maximum extent permitted by law, and should any provision contained herein be held by any governmental agency or court of competent jurisdiction to be void, illegal and unenforceable, the parties shall negotiate in good faith for a substitute term or provision which carries out the original intent of the parties.

10.10 Entire Agreement; Amendment. Company and JHU acknowledge that they have read this entire Agreement and that this Agreement, including the attached Exhibits constitutes the entire understanding and contract between the parties hereto and supersedes any and all prior or contemporaneous oral or written communications with respect to the subject matter hereof, all of which communications are merged herein. It is expressly understood and agreed that (i) there being no expectations to the contrary between the parties hereto, no usage of trade, verbal agreement or another regular practice or method dealing within any industry or between the parties hereto shall be used to modify, interpret, supplement or alter in any manner the express terms of this Agreement; and (ii) this Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto.

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

10.12 Force Majeure. If either party fails to fulfill its obligations hereunder (other than an obligation for the payment of money), when such failure is due to an act of God, or other circumstances beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, war (declared and undeclared), revolution, or embargoes, then said failure shall be excused for the duration of such event and for such a time thereafter as is reasonable to enable the parties to resume performance under this Agreement, provided however, that in no event shall such time extend for a period of more than one hundred eighty (180) days.

10.13 Further Assurances. Each party shall, at any time, and from time to time, prior to or after the EFFECTIVE DATE of this Agreement, at reasonable request of the other party, execute and deliver to the other such instruments and documents and shall take such actions as may be required to more effectively carry out the terms of this Agreement.

10.14 Survival. All representations, warranties, covenants and agreements made herein and which by their express terms or by implication are to be performed after the execution and/or termination hereof, or are prospective in nature, shall survive such execution and/or termination, as the case may be. This shall include Paragraphs 3.7 (Late Payments), 5.2 (Records), and Articles 6, 7, 8, 9, and 10.

10.15 No Third Party Beneficiaries. Nothing in this Agreement shall be construed as giving any person, firm, corporation or other entity, other than the parties hereto and their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.

10.16 Headings. Article headings are for convenient reference and not a part of this Agreement. All Exhibits are incorporated herein by this reference.

10.17 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall be deemed but one instrument.

IN WITNESS WHEREOF, this Agreement shall take effect as of the EFFECTIVE DATE when it has been executed below by the duly authorized representatives of the parties.

THE JOHNS HOPKINS UNIVERSITY	**SURGI-VISION, INC.**
/s/ Wesley D. Blakeslee	/s/ K. Jenkins
Wesley D. Blakeslee Executive Director Johns Hopkins Technology Transfer	Name: K. Jenkins Title: CEO
6/27/08	6/30/08
(Date)	(Date)

EXHIBIT A. LICENSE FEE & ROYALITIES.
EXHIBIT B. SALES & ROYALTY REPORT FORM.

Admin 6/27/08
Reviewed MKC

EXHIBIT A

LICENSE FEE & ROYALTIES

1. **License Fee:** The license fee due under Paragraph 3.1 is twenty thousand dollars ($20,000).
2. **Minimum Annual Royalties:** The minimum annual royalties pursuant to Paragraph 3.2 are:

   1st year: five thousand dollars ($5,000).

   2nd year: five thousand dollars ($5,000).

   3rd year etc. five thousand dollars ($5,000).

3. **Royalties:** The running royalty rate payable under Paragraph 3.3 is five percent (5%).
4. **Sublicense consideration:** The percent sublicense consideration payable under Paragraph 3.4 is twenty five percent (25%).

EXHIBIT B

QUARTERLY SALES & ROYALTY REPORT

FOR LICENSE AGREEMENT BETWEEN _____ AND

THE JOHNS HOPKINS UNIVERSITY DATED

_____

FOR PERIOD OF _____ TO _____

TOTAL ROYALTIES DUE FOR THIS PERIOD $_____

PRODUCT ID	PRODUCT NAME	*JHU REFERENCE	1st COMMERCIAL SALE DATE	TOTAL NET SALES/SERVICES	ROYALTY RATE	AMOUNT DUE

* Please provide the JHU Reference Number or Patent Reference

This report format is to be used to report quarterly royalty statements to JHU. It should be placed on Company letterhead and accompany any royalty payments due for the reporting period. This report shall be submitted even if no sales are reported.

Exhibit 10.23

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is entered into by and between THE JOHNS HOPKINS UNIVERSITY, a Maryland corporation having an address at 3400 N. Charles Street, Baltimore, Maryland, 21218-2695 ("JHU") and Surgi-Vision, Inc., a Delaware corporation having an address at One Commerce Square, Suite 2550, Memphis, Tennessee 38103 ("Company"), with respect to the following:

RECITALS

WHEREAS, as a center for research and education, JHU is interested in licensing PATENT RIGHTS (hereinafter defined) in a manner that will benefit the public by facilitating the distribution of useful products and the utilization of new processes, but is without capacity to commercially develop, manufacture, and distribute any such products or processes; and

WHEREAS, a valuable invention entitled [***] was developed during the course of research conducted by [***] and [***] (all hereinafter, "Inventors"); and

WHEREAS, JHU has acquired through assignment all rights, title and interest, with the exception of certain retained rights by the United States Government, in its interest in said valuable invention; and

WHEREAS, Company desires to obtain certain rights in such invention as herein provided, and to commercially develop, manufacture, use and distribute products and processes based upon or embodying said valuable invention throughout the world;

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

All references to particular Exhibits, Articles or Paragraphs shall mean the Exhibits to, and Paragraphs and Articles of, this Agreement, unless otherwise specified. For the purposes of this Agreement and the Exhibits hereto, the following words and phrases shall have the following meanings:

1.1 "AFFILIATED COMPANY" as used herein in either singular or plural shall mean any corporation, company, partnership, joint venture or other entity, which controls, is controlled by or is under common control with Company. For purposes of this Paragraph 1.1, control shall mean the direct or indirect ownership of at least fifty-percent (50%).

1.2 "EFFECTIVE DATE" of this License Agreement shall mean the date the last party hereto has executed this Agreement.

1.3 "EXCLUSIVE LICENSE" shall mean a grant by JHU to Company of its entire right and interest in the PATENT RIGHTS subject to rights retained by the United States Government, if any, in accordance with the Bayh-Dole Act of 1980 (established by P.L. 96-517 and amended by P.L. 98-620, codified at 35 USC § 200 et. seq. and implemented according to 37 CFR Part 401), and subject to the retained right of JHU to make, have made, provide and use for its and The Johns Hopkins Health Systems' non-commercial purposes LICENSED PRODUCT(S) and LICENSED SERVICE(S), including the ability to distribute any biological material disclosed and/or claimed in PATENT RIGHTS for nonprofit academic research use to non-commercial entities as is customary in the scientific community.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

1.4 "LICENSED FIELD" shall mean all fields.

1.5 "LICENSED PRODUCT(S)" as used herein in either singular or plural shall mean any process or method, material, compositions, drug, or other product, the manufacture, use or sale of which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of PATENT RIGHTS (infringement shall include, but is not limited to, direct, contributory, or inducement to infringe).

1.6 "LICENSED SERVICE(S)" as used herein in either singular or plural shall mean the performance on behalf of a third party of any method or the manufacture of any product or the use of any product or composition which would constitute, but for the license granted to Company pursuant to this Agreement, an infringement of a claim of the PATENT RIGHTS, (infringement shall include, but not be limited to, direct, contributory or inducement to infringe).

1.7 "NET SALES" shall mean gross sales revenues and fees billed by Company or any AFFILIATED COMPANY from the sale of LICENSED PRODUCT(S) less trade discounts allowed, refunds, returns and recalls, freight and delivery costs, sales, use and other similar taxes, and rebates accrued, incurred or paid to federal or state agencies (such as Medicare or Medicaid) or other payors. In the event that Company or any AFFILIATED COMPANY sells a LICENSED PRODUCT(S) in combination with other ingredients or substances or as part of a kit, the NET SALES for purposes of royalty payments shall be based on that portion of the sales revenue and fees derived from that component of the combination or kit which could independently be sold as a LICENSED PRODUCT.

1.8 "NET SERVICE REVENUES" shall mean gross service revenues and fees billed by Company or any AFFILIATED COMPANY for the performance of LICENSED SERVICE(S) less sales, use or other similar taxes imposed upon and with specific reference to the LICENSED SERVICE(S), but only where LICENSED SERVICES are sold or used separately from the manufacture or sale of a LICENSED PRODUCT. In the event that Company or any AFFILIATED COMPANY sells a LICENSED SERVICE(S) in combination with other services or substances or as part of a kit that does not include a LICENSED PRODUCT, the NET SERVICE REVENUES for purposes of royalty payments shall be based on that portion of the sales revenues and fees derived from that component of the combination or kit which could independently be sold as a LICENSED SERVICE.

1.9 "PATENT RIGHTS" shall mean the PCT patent application Serial No. [***] filed on [***], and assigned to JHU entitled [***] and the invention disclosed and claimed therein, and all continuations, divisions, and reissues based thereof, and any corresponding foreign patent applications, and any patents, or other equivalent foreign PATENT RIGHTS issuing, granted or registered thereon.

1.10 "SUBLICENSEE(S)" as used herein in either singular or plural shall mean any person or entity other than an AFFILIATED COMPANY to which Company has granted a sublicense under this Agreement.

ARTICLE 2
LICENSE GRANT

2.1 Grant. Subject to the terms and conditions of this Agreement, JHU hereby grants to Company an EXCLUSIVE LICENSE to make, have made, use, import, offer for sale and sell the LICENSED PRODUCT(S) and to provide the LICENSED SERVICE(S) in the United States and worldwide under the PATENT RIGHTS in the LICENSED FIELD. This Grant shall apply to the Company and any AFFILIATED COMPANY, except that any AFFILIATED COMPANY shall not have the right to sublicense others without the prior written approval of JHU as set forth in Paragraph 2.2 below. If any AFFILIATED COMPANY exercises rights under this Agreement, such AFFILIATED COMPANY shall be bound by all terms and conditions of this Agreement, including but not limited to indemnity and insurance provisions and royalty payments, which shall apply to the exercise of the rights, to the same extent as would apply had this Agreement been directly between JHU and the AFFILIATED COMPANY. In addition, Company shall remain fully liable to JHU for all acts and obligations of AFFILIATED COMPANY such that acts of the AFFILIATED COMPANY shall be considered acts of the Company.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

2.2 Sublicense. Company may sublicense to others under this Agreement, subject to the terms and conditions of this Paragraph 2.2 and subject to JHU's prior written approval of the sublicense agreement. Such approval shall not be unreasonably withheld. As a condition to its validity and enforceability, each sublicense agreement shall: (a) incorporate by reference the terms and conditions of this Agreement, (b) be consistent with the terms, conditions and limitations of this Agreement, (c) prohibit SUBLICENSEE's further sublicense of the rights delivered hereunder without JHU's prior written approval, (d) name JHU as an intended third party beneficiary of the obligations of SUBLICENSEE without imposition of obligation or liability on the part of JHU or its Inventors to the SUBLICENSEE, (e) specifically incorporate Paragraphs 6.2 "Representations by JHU", 7.1 "Indemnification", 10.1 "Use of Name", 10.4 "Product Liability" into the body of the sublicense agreement, and cause the terms used in therein to have the same meaning as in this Agreement, and, (f) bear signature from JHU indicating JHU's review and approval of the sublicense agreement. Company shall provide to JHU each proposed sublicense agreement, executed by both Company and proposed SUBLICENSEE, for review, approval and signature by JHU. To the extent that any terms, conditions or limitations of any sublicense agreement are inconsistent with this Agreement, those terms, conditions and limitations are null and void against JHU, unless JHU has approved the sublicense in writing.

2.3 Government Rights. The United States Government may have acquired a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the inventions described in PATENT RIGHTS throughout the world. The rights granted herein are additionally subject to: (i) the requirement that any LICENSED PRODUCT(S) produced for use or sale within the United States shall be substantially manufactured in the United States (unless a waiver under 35 USC § 204 or equivalent is granted by the appropriate United States government agency), (ii) the right of the United States government to require JHU, or its licensees, including Company, to grant sublicenses to responsible applicants on reasonable terms when necessary to fulfill health or safety needs, and, (iii) other rights acquired by the United States government under the laws and regulations applicable to the grant/contract award under which the inventions were made.

ARTICLE 3
FEES, ROYALTIES, & PAYMENTS

3.1 License Fee. Company shall pay to JHU within thirty (30) days of the EFFECTIVE DATE of this Agreement the initial license fee as set forth in Exhibit A. JHU will not submit an invoice for the license fee, which is nonrefundable and shall not be credited against royalties or other fees.

3.2 Minimum Annual Royalties. Company shall pay to JHU minimum annual royalties as set forth in Exhibit A. These minimum annual royalties shall be due, without invoice from JHU, within thirty (30) days of each anniversary of the EFFECTIVE DATE beginning with the first anniversary. Running royalties and sublicense consideration accrued under Paragraphs 3.3 and 3.4, respectively, and paid to JHU during the one year period preceding an anniversary of the EFFECTIVE DATE shall be credited against the minimum annual royalties due on that anniversary date.

3.3 Running Royalties. Company shall pay to JHU a running royalty as set forth in Exhibit A, for each LICENSED PRODUCT(S) sold, and for each LICENSED SERVICE(S) provided, by Company or AFFILIATED COMPANIES, based on NET SALES and NET SERVICE REVENUES for the term of this Agreement. Such payments shall be made quarterly. All non-US taxes related to LICENSED PRODUCT(S) or LICENSED SERVICE(S) sold under this Agreement shall be paid by Company and shall not be deducted from royalty or other payments due to JHU.

In order to insure JHU the full royalty payments contemplated hereunder, Company agrees that in the event any LICENSED PRODUCT(S) shall be sold to an AFFILIATED COMPANY or SUBLICENSEE(S) or to a corporation, firm or association with which Company shall have any agreement, understanding or arrangement with respect to consideration (such as, among other things, an option to purchase stock or actual stock ownership, or an arrangement involving division of profits or special rebates or allowances) the royalties to be paid hereunder for such LICENSED PRODUCT(S) shall be based upon the greater of: 1) the net selling price (per NET SALES) at which the purchaser of LICENSED PRODUCT(S) resells such product to the end user, 2) the NET SERVICE REVENUES received from using the LICENSED PRODUCT(S) in providing a service, or 3) the net selling price (per NET SALES) of LICENSED PRODUCT(S) paid by the purchaser.

No multiple royalties shall be due or payable because any LICENSED PRODUCT(S) or LICENSED SERVICE(S) is covered by more than one claim of the PATENT RIGHTS or by claims of both the PATENT RIGHTS under this Agreement and "PATENT RIGHTS" under any other license agreement between Company and JHU. The royalty shall not be cumulative based on the number of patents or claims covering a product or service, but rather shall be capped at the rate set forth in Exhibit A.

3.4 Sublicense Consideration. Company shall pay to JHU a percentage of consideration received for sublicenses under this Agreement as set forth in Exhibit A. This sublicense consideration shall be due, without the need for invoice from JHU, within forty-five (45) days of Company's receipt. Such consideration shall mean consideration of any kind received by the Company or AFFILIATED COMPANIES from a SUBLICENSEE(S) for the grant of a sublicense under this Agreement, such as upfront fees or milestone fees, running royalties and including any premium paid by the SUBLICENSEE(S) over Fair Market Value for stock of the Company or an AFFILIATED COMPANY in consideration for such sublicense. However, not included in such sublicense consideration are amounts paid to the Company or an AFFILIATED COMPANY by the SUBLICENSEE(S) for product development, research work, clinical studies and regulatory approvals performed by or for the Company or AFFILIATED COMPANIES (including third parties on their behalf), each pursuant to a specific agreement including a performance plan and commensurate budget. The term "Fair Market Value" shall mean the average price that the stock in question is publicly trading at for twenty (20) days prior to the announcement of its purchase by the SUBLICENSEE(S) or if the stock is not publicly traded, the greater of (a) the value of such stock as determined by the most recent private financing through a financial investor (an entity whose sole interest in the Company or AFFILIATED COMPANY is financial) of the Company or AFFILIATED COMPANY that issued the shares, or (b) the value of such stock as determined by the most recent appraisal conducted by an independent appraiser regularly engaged in the business of valuing businesses of the nature of Company or AFFILIATED COMPANY, as applicable.

In the event of a sublicense under both this Agreement and any other license agreement between Company and JHU, the sublicensing consideration payable to JHU under this Agreement and such other license agreement(s) shall be capped such that the aggregate amount payable to JHU shall not exceed the percentage set forth in Exhibit A of all sublicensing consideration.

3.5 Patent Reimbursement. Company will reimburse JHU, within thirty (30) days of the receipt of an invoice from JHU, for all costs associated with the preparation, filing, maintenance, and prosecution of PATENT RIGHTS incurred by JHU on or before the EFFECTIVE DATE of this Agreement, which costs will not exceed [***]. In accordance with Paragraph 4.1 below, Company will reimburse JHU, within thirty (30) days of the receipt of an invoice from JHU, for all costs associated with the preparation, filing, maintenance, and prosecution of PATENT RIGHTS incurred by JHU subsequent to the EFFECTIVE DATE of this Agreement.

3.6 Form of Payment. All payments under this Agreement shall be made in U.S. Dollars by either check or wire transfer.

3.7 Payment Information. All check payments from Company to JHU shall be sent to:

Director
Johns Hopkins Technology Transfer
The Johns Hopkins University
100 N. Charles Street, 5th Floor
Baltimore, MD 21201

Attn: JHU Agrmt# A13599

or such other addresses which JHU may designate in writing from time to time. Checks are to be made payable to "The Johns Hopkins University". Wire transfers may be made through:

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Company shall be responsible for any and all costs associated with wire transfers.

3.7 Late Payments. In the event that any payment due hereunder is not made when due, the payment shall accrue interest beginning on the tenth day following the due date thereof, calculated at the annual rate of the sum of (a) two percent (2%) plus (b) the prime interest rate quoted by The Wall Street Journal on the date said payment is due, the interest being compounded on the last day of each calendar quarter, provided however, that in no event shall said annual interest rate exceed the maximum legal interest rate for corporations. Each such payment when made shall be accompanied by all interest so accrued. Said interest and the payment and acceptance thereof shall not negate or waive the right of JHU to seek any other remedy, legal or equitable, to which it may be entitled because of the delinquency of any payment including, but not limited to termination of this Agreement as set forth in Paragraph 9.2.

ARTICLE 4
PATENT PROSECUTION, MAINTENANCE, & INFRINGEMENT

4.1 Prosecution & Maintenance. JHU, at Company's expense, shall file, prosecute and maintain all patents and patent applications specified under PATENT RIGHTS and, subject to the terms and conditions of this Agreement, Company shall be licensed thereunder. Title to all such patents and patent applications shall reside in JHU. JHU shall have full and complete control over all patent matters in connection therewith under the PATENT RIGHTS, provided however, that JHU shall (a) cause its patent counsel to timely copy Company on all official actions and written correspondence with any patent office and timely provide Company advance notification of any filing deadline, and (b) allow Company an opportunity to comment and advise JHU. JHU shall consider and reasonably incorporate all comments and advice from Company and JHU shall comply with foreign filing decisions provided by Company. Upon request by Company, JHU shall consider allowing Company's patent counsel to prosecute patent applications relating to the PATENT RIGHTS. By concurrent written notification to JHU and its patent counsel at least thirty (30) days in advance (or later at JHU's discretion) of any filing or response deadline, or fee due date, Company may elect not to have a patent application filed in any particular country or region or not to pay expenses associated with prosecuting or maintaining any patent application or patent, provided that Company pays for all costs incurred up to JHU's receipt of such notification. Failure to provide such notification can be considered by JHU to be Company's authorization to proceed at Company's expense. Upon such notification, JHU may file, prosecute, and/or maintain such patent applications or patent at its own expense and for its own benefit, and any rights or license granted hereunder held by Company, AFFILIATED COMPANIES or SUBLICENSEE(S) relating to the PATENT RIGHTS which comprise the subject of such patent applications or patent solely with respect to the particular country or region, shall terminate. For the avoidance of any doubt, such termination shall not affect any rights or license granted hereunder held by Company, AFFILIATED COMPANIES or SUBLICENSEE(S) relating to the PATENT RIGHTS which comprise the subject of patent applications or patents in any other country or region.

4.2 Notification. Each party will notify the other promptly in writing when any infringement by another is uncovered or suspected.

4.3 Infringement. Company shall have the first right to enforce any patent within PATENT RIGHTS against any infringement or alleged infringement thereof, and shall at all times keep JHU informed as to the status thereof. Before Company commences an action with respect to any infringement of such patents, Company shall give

careful consideration to the views of JHU and to potential effects on the public interest in making its decision whether or not to sue. Thereafter, Company may, at its own expense, institute suit against any such infringer or alleged infringer and control and defend such suit in a manner consistent with the terms and provisions hereof and recover any damages, awards or settlements resulting therefrom, subject to Paragraph 4.5. However, no settlement, consent judgment or other voluntary final disposition of the suit may be entered into without the prior written consent of JHU which consent shall not be unreasonably withheld. This right to sue for infringement shall not be used in an arbitrary or capricious manner. JHU shall reasonably cooperate in any such litigation at Company's expense.

If Company elects not to enforce any patent within the PATENT RIGHTS, then it shall so notify JHU in writing within ninety (90) days of receiving notice that an infringement exists, and JHU may, in its sole judgment and at its own expense, take steps to enforce any patent and control, settle, and defend such suit in a manner consistent with the terms and provisions hereof, and recover, for its own account, any damages, awards or settlements resulting therefrom.

4.4 Patent Invalidity Suit. If a declaratory judgment action is brought naming Company as a defendant and alleging invalidity of any of the PATENT RIGHTS, JHU may elect to take over the sole defense of the action at its own expense. Company shall cooperate fully with JHU in connection with any such action.

4.5 Recovery. Any recovery by Company under Paragraph 4.3 shall be deemed to reflect loss of commercial sales, and Company shall pay to JHU [***] of the recovery net of all reasonable costs and expenses associated with each suit or settlement. If the cost and expenses exceed the recovery, then [***] of the excess shall be credited against royalties payable by Company to JHU hereunder in connection with sales of LICENSED PRODUCT covered in the PATENT RIGHTS which are the subject of the infringement suit, in the country of such legal proceedings, provided, however, that any such credit under this Paragraph shall not exceed [***] of the royalties otherwise payable to JHU with regard to sales in the country of such action in any one calendar year, with any excess credit being carried forward to future calendar years.

ARTICLE 5
OBLIGATIONS OF THE PARTIES

5.1 Reports. Company shall provide to JHU the following written reports according to the following schedules.

(a) Company shall provide quarterly Royalty Reports, substantially in the format of Exhibit B and due within thirty (30) days of the end of each calendar quarter following the EFFECTIVE DATE of this Agreement. Royalty Reports shall disclose the amount of LICENSED PRODUCT(S) and LICENSED SERVICE(S) sold, the total NET SALES and NET SERVICE REVENUES of such LICENSED PRODUCT(S) and LICENSED SERVICE(S), and the running royalties due to JHU as a result of NET SALES and NET SERVICE REVENUES by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) thereof. Payment of any such royalties due shall accompany such Royalty Reports.

(b) Until Company, an AFFILIATED COMPANY or a SUBLICENSEE(S) has achieved a first commercial sale of a LICENSED PRODUCT or LICENSED SERVICE, or received FDA market approval, Company shall provide semiannual Diligence Reports, due within thirty (30) days of the end of every June and December following the EFFECTIVE DATE of this Agreement. These Diligence Reports shall describe Company's, AFFILIATED COMPANIES or any SUBLICENSEE(S)'s technical efforts towards meeting its obligations under the terms of this Agreement.

(c) Company shall provide Annual Reports within thirty (30) days of the end of every December following the EFFECTIVE DATE of this Agreement. Annual Reports shall include:

(i) evidence of insurance as required under Paragraph 10.4, or, a statement of why such insurance is not currently required, and

(ii) identification of all AFFILIATED COMPANIES which have exercised rights pursuant to Paragraph 2.1, or, a statement that no AFFILIATED COMPANY has exercised such rights, and

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

(iii) notice of all FDA approvals of any LICENSED PRODUCT(S) or LICENSED SERVICE(S) obtained by COMPANY, AFFILIATED COMPANY or SUBLICENSEE, the patent(s) or patent application(s) licensed under this Agreement upon which such product or service is based, and the commercial name of such product or service, or, in the alternative, a statement that no FDA approvals have been obtained.

5.2 Records. Company shall make and retain, for a period of three (3) years following the period of each report required by Paragraph 5.1, true and accurate records, files and books of account containing all the data reasonably required for the full computation and verification of sales and other information required in Paragraph 5.1. Such books and records shall be in accordance with generally accepted accounting principles consistently applied. Company shall permit the inspection and copying of such records, files and books of account by JHU or its agents during regular business hours upon ten (10) business days' written notice to Company. Such inspection shall not be made more than once each calendar year. All costs of such inspection and copying shall be paid by JHU, provided that if any such inspection shall reveal that an error has been made in the amount equal to five percent (5%) or more of such payment, such costs shall be borne by Company. As a condition to entering into any such agreement, Company shall include in any agreement with its AFFILIATED COMPANIES or its SUBLICENSEE(S) which permits such party to make, use, sell or import the LICENSED PRODUCT(S) or provide LICENSED SERVICE(S), a provision requiring such party to retain records of sales of LICENSED PRODUCT(S) and records of LICENSED SERVICE(S) and other information as required in Paragraph 5.1 and permit JHU to inspect such records as required by this Paragraph.

5.3 Reasonable Efforts. Company shall exercise commercially reasonable efforts to develop and to introduce the LICENSED PRODUCT(S) and LICENSED SERVICE(S) into the commercial market as soon as practicable, consistent with sound and reasonable business practice and judgement, however if the first commercial sale does not occur by the fourth (4th) year anniversary of EFFECTIVE DATE of this Agreement, JHU will have the option to terminate this agreement, so alternative commercialization means can be sought; thereafter, until the expiration or termination of this Agreement, Company shall endeavor to keep LICENSED PRODUCT(S) and LICENSED SERVICE(S) reasonably available to the public.

5.4 Other Products. After clinical or other evidence, provided in writing [***] to Company, demonstrating the practicality of a particular market or use within the LICENSED FIELD which is not being developed or commercialized by Company, Company shall either provide JHU with a reasonable development plan and start development or attempt to reasonably sublicense the particular market or use to a third party. If within six (6) months of such notification [***] Company has not initiated such development efforts or sublicensed that particular market or use, JHU may terminate this license for such particular market or use. This Paragraph shall not be applicable if Company reasonably demonstrates to JHU that commercializing such LICENSED PRODUCT(S) or LICENSED SERVICE(S) or granting such a sublicense in said market or use would have a potentially adverse commercial effect upon marketing or sales of the LICENSED PRODUCT(S) developed and being sold by Company.

5.5 Patent Acknowledgement. Company agrees that all packaging containing individual LICENSED PRODUCT(S) sold by Company, AFFILIATED COMPANIES and SUBLICENSEE(S) of Company will be marked with the number of the applicable patent(s) licensed hereunder in accordance with each country's patent laws.

ARTICLE 6
REPRESENTATIONS

6.1 Duties of the Parties. JHU is not a commercial organization. It is an institute of research and education. Therefore, JHU has no ability to evaluate the commercial potential of any PATENT RIGHTS or LICENSED PRODUCT or other license or rights granted in this Agreement. It is therefore incumbent upon Company to evaluate the rights and products in question, to examine the materials and information provided by JHU, and to determine for itself the validity of any PATENT RIGHTS, its freedom to operate, and the value of any LICENSED PRODUCTS or SERVICES or other rights granted.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

6.2 Representations by JHU. JHU warrants that it has good and marketable title to its interest in the inventions claimed under PATENT RIGHTS with the exception of certain retained rights of the United States Government, which may apply if any part of the JHU research was funded in whole or in part by the United States Government. JHU does not warrant the validity of any patents or that practice under such patents shall be free of infringement. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH 6.2, COMPANY, AFFILIATED COMPANIES AND SUBLICENSEE(S) AGREE THAT THE PATENT RIGHTS ARE PROVIDED "AS IS", AND THAT JHU MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE PERFORMANCE OF LICENSED PRODUCT(S) AND LICENSED SERVICE(S) INCLUDING THEIR SAFETY, EFFECTIVENESS, OR COMMERCIAL VIABILITY. JHU DISCLAIMS ALL WARRANTIES WITH REGARD TO PRODUCT(S) AND SERVICE(S) LICENSED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES, EXPRESSED OR IMPLIED, OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, JHU ADDITIONALLY DISCLAIMS ALL OBLIGATIONS AND LIABILITIES ON THE PART OF JHU AND INVENTORS, FOR DAMAGES, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS (EVEN IF JHU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FEES OR COSTS), ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, USE, OR SALE OF THE PRODUCT(S) AND SERVICE(S) LICENSED UNDER THIS AGREEMENT. COMPANY, AFFILIATED COMPANIES AND SUBLICENSEE(S) ASSUME ALL RESPONSIBILITY AND LIABILITY FOR LOSS OR DAMAGE CAUSED BY A PRODUCT AND/OR SERVICE MANUFACTURED, USED, OR SOLD BY COMPANY, ITS SUBLICENSEE(S) AND AFFILIATED COMPANIES WHICH IS A LICENSED PRODUCT(S) OR LICENSED SERVICE(S) AS DEFINED IN THIS AGREEMENT.

ARTICLE 7
INDEMNIFICATION

7.1 Indemnification. JHU and the Inventors will have no legal liability exposure to third parties if JHU does not license the LICENSED PRODUCT(S) and LICENSED SERVICE(S), and any royalties JHU and the Inventors may receive is not adequate compensation for such legal liability exposure. Therefore, JHU requires Company to protect JHU and Inventors from such exposure to the same manner and extent to which insurance, if available, would protect JHU and Inventors. Furthermore, JHU and the Inventors will not, under the provisions of this Agreement or otherwise, have control over the manner in which Company or its AFFILIATED COMPANIES or its SUBLICENSEE(S) or those operating for its account or third parties who purchase LICENSED PRODUCT(S) or LICENSED SERVICE(S) from any of the foregoing entities, develop, manufacture, market or practice the inventions of LICENSED PRODUCT(S) and LICENSED SERVICE(S). Therefore, Company, AFFILIATED COMPANY and SUBLICENSEE shall indemnify, defend with counsel reasonably acceptable to JHU, and hold JHU, The Johns Hopkins Health Systems, their present and former trustees, officers, Inventors of PATENT RIGHTS, agents, faculty, employees and students harmless as against any judgments, fees, expenses, or other costs arising from or incidental to any product liability or other lawsuit, claim, demand or other action brought as a consequence of the practice of said inventions by any of the foregoing entities, whether or not JHU or said Inventors, either jointly or severally, is named as a party defendant in any such lawsuit and whether or not JHU or the Inventors are alleged to be negligent or otherwise responsible for any injuries to persons or property. Practice of the inventions covered by LICENSED PRODUCT(S) and LICENSED SERVICE(S), by an AFFILIATED COMPANY or an agent or a SUBLICENSEE(S) or a third party on behalf of or for the account of Company or by a third party who purchases LICENSED PRODUCT(S) and LICENSED SERVICE(S) from Company, shall be considered Company's practice of said inventions for purposes of this Paragraph. The obligation of Company to defend and indemnify as set out in this Paragraph shall survive the termination of this Agreement, shall continue even after assignment of rights and responsibilities to an affiliate or sublicensee, and shall not be limited by any other limitation of liability elsewhere in this Agreement.

ARTICLE 8
CONFIDENTIALITY

8.1 Confidentiality. If necessary, the parties will exchange information, which they consider to be confidential. The recipient of such information agrees to accept the disclosure of said information which is marked as confidential at the time it is sent to the recipient, and to employ all reasonable efforts to maintain the information secret and confidential, such efforts to be no less than the degree of care employed by the recipient to preserve and safeguard its own confidential information. The information shall not be disclosed or revealed to anyone except employees of the recipient who have a need to know the information and who have entered into a secrecy agreement with the recipient under which such employees are required to maintain confidential the proprietary information of the recipient and such employees shall be advised by the recipient of the confidential nature of the information and that the information shall be treated accordingly.

The obligations of this Paragraph 8.1 shall also apply to AFFILIATED COMPANIES and/or SUBLICENSEE(S) provided such information by Company. JHU's, Company's, AFFILIATED COMPANIES, and SUBLICENSEES' obligations under this Paragraph 8.1 shall extend until three (3) years after the termination of this Agreement.

8.2 Exceptions. The recipient's obligations under Paragraph 8.1 shall not extend to any part of the information:

a. that can be demonstrated to have been in the public domain or publicly known and readily available to the trade or the public prior to the date of the disclosure; or

b. that can be demonstrated from written records to have been in the recipient's possession or readily available to the recipient from another source not under obligation of secrecy to the disclosing party prior to the disclosure; or

c. that becomes part of the public domain or publicly known by publication or otherwise, not due to any unauthorized act by the recipient; or

d. that is demonstrated from written records to have been developed by or for the receiving party without reference to confidential information disclosed by the disclosing party.

e. that is required to be disclosed by law, government regulation or court order.

8.3 Right to Publish. JHU may publish manuscripts, abstracts or the like describing the PATENT RIGHTS and inventions contained therein provided confidential information of Company as defined in Paragraph 8.1, is not included or without first obtaining approval from Company to include such confidential information. Otherwise, JHU and the Inventors shall be free to publish manuscripts and abstracts or the like directed to the work done at JHU related to the licensed technology without prior approval.

ARTICLE 9
TERM & TERMINATION

9.1 Term. The term of this Agreement shall commence on the EFFECTIVE DATE and shall continue, in each country, until the date of expiration of the last to expire patent included within PATENT RIGHTS in that country or if no patents issue then for a term of twenty (20) years from the EFFECTIVE DATE of this Agreement.

9.2 Termination By Either Party. This Agreement may be terminated by either party, in the event that the other party (a) files or has filed against it a petition under the Bankruptcy Act, makes an assignment for the benefit of creditors, has a receiver appointed for it or a substantial part of its assets, or otherwise takes advantage of any statute or law designed for relief of debtors or (b) fails to perform or otherwise breaches any of its obligations hereunder, if, following the giving of notice by the terminating party of its intent to terminate and stating the grounds therefor, the party receiving such notice shall not have cured the failure or breach within thirty (30) days. In no event, however, shall such notice or intention to terminate be deemed to waive any rights to damages or any other remedy which the party giving notice of breach may have as a consequence of such failure or breach.

9.3 Termination by Company. Company may terminate this Agreement and the license granted herein, for any reason, upon giving JHU ninety (90) days written notice.

9.4 Obligations and Duties upon Termination. If this Agreement is terminated, both parties shall be released from all obligations and duties imposed or assumed hereunder to the extent so terminated, except as expressly provided to the contrary in this Agreement. Upon termination, both parties shall cease any further use of the confidential information disclosed to the receiving party by the other party. Termination of this Agreement, for whatever reason, shall not affect the obligation of either party to make any payments for which it is liable prior to or upon such termination. Termination shall not affect JHU's right to recover unpaid royalties, fees, reimbursement for patent expenses, or other forms of financial compensation incurred prior to termination. Upon termination Company shall submit a final royalty report to JHU and any royalty payments, fees, unreimbursed patent expenses and other financial compensation due JHU shall become immediately payable. Furthermore, upon termination of this Agreement, all rights in and to the licensed technology shall revert immediately to JHU at no cost to JHU. Upon termination of this Agreement, any SUBLICENSEE(S) shall become a direct licensee of JHU, provided that JHU's obligations to SUBLICENSEE(S) are no greater than JHU's obligations to Company under this Agreement. Company shall provide written notice of such to each SUBLICENSEE(S) with a copy of such notice provided to JHU.

ARTICLE 10
MISCELLANEOUS

10.1 Use of Name. Company, AFFILIATED COMPANIES and SUBLICENSEE(S) shall not use the name of The Johns Hopkins University or The Johns Hopkins Health System or any of its constituent parts, such as the Johns Hopkins Hospital or any contraction thereof or the name of Inventors in any advertising, promotional, sales literature or fundraising documents without prior written consent from an authorized representative of JHU. Company, AFFILIATED COMPANIES and SUBLICENSEE(S) shall allow at least seven (7) business days notice of any proposed public disclosure for JHU's review and comment or to provide written consent.

10.2 No Partnership. Nothing in this Agreement shall be construed to create any agency, employment, partnership, joint venture or similar relationship between the parties other than that of a licensor/licensee. Neither party shall have any right or authority whatsoever to incur any liability or obligation (express or implied) or otherwise act in any manner in the name or on the behalf of the other, or to make any promise, warranty or representation binding on the other.

10.3 Notice of Claim. Each party shall give the other or its representative immediate notice of any suit or action filed, or prompt notice of any claim made, against them arising out of the performance of this Agreement or arising out of the practice of the inventions licensed hereunder.

10.4 Product Liability. Prior to initial human testing or first commercial sale of any LICENSED PRODUCT(S) or LICENSED SERVICE(S) as the case may be in any particular country, Company shall establish and maintain, in each country in which Company, an AFFILIATED COMPANY or SUBLICENSEE(S) shall test or sell LICENSED PRODUCT(S) and LICENSED SERVICE(S), product liability or other appropriate insurance coverage in the minimum amount of five million dollars ($5,000,000) per claim and will annually present evidence to JHU that such coverage is being maintained. Upon JHU's request, Company will furnish JHU with a Certificate of Insurance of each product liability insurance policy obtained. JHU shall be listed as an additional insured in Company's said insurance policies. If such Product Liability insurance is underwritten on a 'claims made' basis, Company agrees that any change in underwriters during the term of this Agreement will require the purchase of 'prior acts' coverage to ensure that coverage will be continuous throughout the term of this Agreement.

10.5 Governing Law. This Agreement shall be construed, and legal relations between the parties hereto shall be determined, in accordance with the laws of the State of Maryland applicable to contracts solely executed and wholly to be performed within the State of Maryland without giving effect to the principles of conflicts of laws. Any disputes between the parties to the Agreement shall be brought in the state or federal courts of Maryland. Both parties agree to waive their right to a jury trial.

10.6 Notice. All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail, return receipt requested, or sent by overnight courier,

such as Federal Express, to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the third business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

If to Company:

Attn: Mr. Kim Jenkins
Surgi-Vision, Inc.
One Commerce Square
Suite 2550
Memphis, TN 38103

with a copy to:

Attn: Oscar Thomas
Surgi-Vision, Inc.
One Commerce Square
Suite 2550
Memphis, TN 38103

and

Attn: Julie H. Richardson
Myers Bigel Sibley & Sajovec, P.A.
4140 Parklake Ave.
Suite 600
Raleigh, NC 27612

If to JHU:

Director
Technology Transfer
Johns Hopkins University
100 N. Charles Street
5th Floor
Baltimore, MD 21201
Attn: JHU Agrmt# A13599

10.7 Compliance with All Laws. In all activities undertaken pursuant to this Agreement, both JHU and Company covenant and agree that each will in all material respects comply with such Federal, state and local laws and statutes, as may be in effect at the time of performance and all valid rules, regulations and orders thereof regulating such activities.

10.8 Successors and Assigns. Neither this Agreement nor any of the rights or obligations created herein, except for the right to receive any remuneration hereunder, may be assigned by either party, in whole or in part, without the prior written consent of the other party, except that either party shall be free to assign this Agreement in connection with any merger in which it is not the surviving entity or any sale of substantially all of its assets, in either case without the consent of the other. This Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties hereto.

10.9 No Waivers; Severability. No waiver of any breach of this Agreement shall constitute a waiver of any other breach of the same or other provision of this Agreement, and no waiver shall be effective unless made in writing. Any provision hereof prohibited by or unenforceable under any applicable law of any jurisdiction shall as to such jurisdiction be deemed ineffective and deleted herefrom without affecting any other provision of this Agreement. It is the desire of the parties hereto that this Agreement be enforced to the maximum extent permitted by law, and should any provision contained herein be held by any governmental agency or court of competent jurisdiction to be void, illegal and unenforceable, the parties shall negotiate in good faith for a substitute term or provision which carries out the original intent of the parties.

10.10 Entire Agreement; Amendment. Company and JHU acknowledge that they have read this entire Agreement and that this Agreement, including the attached Exhibits constitutes the entire understanding and contract between the parties hereto and supersedes any and all prior or contemporaneous oral or written communications with respect to the subject matter hereof, all of which communications are merged herein. It is expressly understood and agreed that (i) there being no expectations to the contrary between the parties hereto, no usage of trade, verbal agreement or another regular practice or method dealing within any industry or between the parties hereto shall be used to modify, interpret, supplement or alter in any manner the express terms of this Agreement; and (ii) this Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto.

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

10.12 Force Majeure. If either party fails to fulfill its obligations hereunder (other than an obligation for the payment of money), when such failure is due to an act of God, or other circumstances beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, war (declared and undeclared), revolution, or embargoes, then said failure shall be excused for the duration of such event and for such a time thereafter as is reasonable to enable the parties to resume performance under this Agreement, provided however, that in no event shall such time extend for a period of more than one hundred eighty (180) days.

10.13 Further Assurances. Each party shall, at any time, and from time to time, prior to or after the EFFECTIVE DATE of this Agreement, at reasonable request of the other party, execute and deliver to the other such instruments and documents and shall take such actions as may be required to more effectively carry out the terms of this Agreement.

10.14 Survival. All representations, warranties, covenants and agreements made herein and which by their express terms or by implication are to be performed after the execution and/or termination hereof, or are prospective in nature, shall survive such execution and/or termination, as the case may be. This shall include Paragraphs 3.7 (Late Payments), 5.2 (Records), and Articles 6, 7, 8, 9, and 10.

10.15 No Third Party Beneficiaries. Nothing in this Agreement shall be construed as giving any person, firm, corporation or other entity, other than the parties hereto and their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.

10.16 Headings. Article headings are for convenient reference and not a part of this Agreement. All Exhibits are incorporated herein by this reference.

10.17 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall be deemed but one instrument.

IN WITNESS WHEREOF, this Agreement shall take effect as of the EFFECTIVE DATE when it has been executed below by the duly authorized representatives of the parties.

THE JOHNS HOPKINS UNIVERSITY	**SURGI-VISION, INC.**
/s/ Wesley D. Blakeslee	/s/ K. Jenkins
Wesley D. Blakeslee Executive Director Johns Hopkins Technology Transfer	Name: K. Jenkins Title: CEO
2/27/08	6/30/08
(Date)	(Date)

EXHIBIT A. LICENSE FEE & ROYALITIES.
EXHIBIT B. SALES & ROYALTY REPORT FORM.

Admin 6/27/08
Reviewed MKC

EXHIBIT A

LICENSE FEE & ROYALTIES

1. **Initial License Fee:** The license fee due under Paragraph 3.1 is Fifty Thousand Dollars ($50,000).
2. **Contingent License Fee.** Upon the issuance of the U.S. patent under patent application Serial No. [***], an additional license fee of Forty Thousand Dollars ($40,000) will be due. Company shall pay to JHU such contingent license fee within thirty (30) days following the issuance of such U.S. patent.
3. **Minimum Annual Royalties:** The minimum annual royalties pursuant to Paragraph 3.2 are:

   1st year: ten thousand dollars ($10,000).

   2nd year: ten thousand dollars ($10,000).

   3rd year: twenty five thousand dollars ($25,000).

   4th year: twenty five thousand dollars ($25,000).

   5th year, etc.: fifty thousand dollars (50,000).
4. **Royalties:** The running royalty rate payable under Paragraph 3.3 is five percent (5%).
5. **Sublicense consideration:** The percent sublicense consideration payable under Paragraph 3.4 is twenty five percent (25%).
6. **Commercialization due diligence:** If first commercial sales does not occur by the fourth anniversary of the EFFECTIVE DATE of this Agreement, JHU has the option to terminate this license so that alternative commercialization options can be pursued.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

EXHIBIT B

QUARTERLY SALES & ROYALTY REPORT

FOR LICENSE AGREEMENT BETWEEN _____ AND

THE JOHNS HOPKINS UNIVERSITY DATED

_____

FOR PERIOD OF _____ TO _____

TOTAL ROYALTIES DUE FOR THIS PERIOD $_____

PRODUCT ID	PRODUCT NAME	*JHU REFERENCE	1st COMMERCIAL SALE DATE	TOTAL NET SALES/SERVICES	ROYALTY RATE	AMOUNT DUE

* Please provide the JHU Reference Number or Patent Reference

This report format is to be used to report quarterly royalty statements to JHU. It should be placed on Company letterhead and accompany any royalty payments due for the reporting period. This report shall be submitted even if no sales are reported.

Exhibit 10.24

LOAN AGREEMENT

This Loan Agreement (this "Agreement") is made and entered into as of October 16, 2009 (the "Agreement Date"), by and between (i) Boston Scientific Corporation, a Delaware corporation ("BSC"), and (ii) SurgiVision, Inc., a Delaware corporation (the "Company"). Capitalized terms used herein without definition shall have the respective meanings set forth in Section 7.

WHEREAS, subject to and upon the terms and conditions set forth herein, at the Initial Closing referred to herein, BSC will make a Loan (as defined herein) to the Company in the original principal amount of $2,000,000; and

WHEREAS, subject to and upon the terms and conditions set forth herein, BSC may make additional Loans to the Company of up to an aggregate principal amount of $2,250,000.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the parties hereto agree as follows:

1. INITIAL LOAN TO THE COMPANY.

1.1 Making of Initial Loan by BSC. On the Initial Closing Date (as defined below), subject to the conditions set forth in this Section 1, BSC or any Affiliate of BSC designated prior to the Initial Closing Date shall make a loan to the Company in an aggregate principal amount of $2,000,000 (the "Initial Loan").

1.2 Closing of the Initial Loan. The closing of the Initial Loan (the "Initial Closing") shall take place at the offices of Bingham McCutchen LLP, One Federal Street, Boston, Massachusetts, on the Agreement Date at 12:00 p.m. (Eastern Time), or as soon thereafter as practicable following the satisfaction of all the conditions in Section 1.3 hereof, or at such other time, date and place as are mutually agreed upon by the Company and BSC (the "Initial Closing Date").

At the Initial Closing, the following transactions shall occur and documents shall be delivered, which transactions and deliveries shall be deemed to take place simultaneously and no transactions shall be deemed to have been completed or any document delivered until all such transactions have been completed and all required documents delivered:

(a) The Company shall deliver to BSC the following documents:

(i) a validly executed Note to be issued to BSC (or its designated Affiliate) at the Initial Closing;

(ii) the Patent Security Agreement executed by the Company; and

(iii) a true copy of the resolutions of the board of directors of the Company: (A) authorizing the execution, delivery and performance of this Agreement; (B) authorizing the issuance of the Note for the Initial Loan to BSC; and (C) reserving the Conversion Shares for issuance upon conversion of such Note.

(b) BSC shall make payment of the Initial Loan on the Initial Closing Date by wire transfer pursuant to wiring instructions provided by the Company no later than three (3) business days prior to the Initial Closing Date.

1.3 Conditions of BSC to Making of the Initial Loan. The obligation of BSC to make the Initial Loan on the Initial Closing Date is conditioned upon the satisfaction by the Company of each of the following conditions, and the waiver of satisfaction of such conditions shall not be effective against BSC unless consented to in writing by BSC:

(a) Representations and Warranties. Each of the representations and warranties of the Company contained in this Agreement shall have been true and correct in all material respects at the time originally made, and shall be true and correct in all material respects as of the Initial Closing Date with the same force and effect as if such representations and warranties had been made at and as of the Initial Closing Date;

(b) Corporate Documents. A copy of the Corporate Documents shall have been delivered to BSC on or prior to the Initial Closing Date;

(c) Effectiveness. This Agreement shall be in full force and effect as of the Initial Closing Date;

(d) Performance of Obligations. The Company shall have performed and complied in all material respects with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Initial Closing Date;

(e) No Material Breach. The Company shall not be in material breach of its obligations to BSC under this Agreement;

(f) No Material Adverse Effect; No Proceedings. No Material Adverse Effect shall have occurred or been discovered by BSC since the Agreement Date, and no order, stay, decree, judgment or injunction shall have been entered, issued or enforced by any court of competent jurisdiction prohibiting the transactions contemplated by this Agreement, including the issuance of the Notes and the Conversion Shares (collectively, the "Transactions"), and no action shall have been taken by any Governmental Authority, or any statute, regulation or order enacted, entered, enforced or deemed applicable to the Transactions, that makes the consummation of any of the Transactions illegal;

(g) Reservation of Shares. The Company shall have reserved a sufficient number of authorized shares of Series B Preferred Stock for issuance upon conversion of the Note for the Initial Loan, subject to the filing with the Secretary of State of the State of Delaware of a Certificate of Designation, Preferences, and Rights with respect to such Series B Preferred Stock, and a sufficient number of shares of Common Stock for issuance upon conversion of such shares of Series B Preferred Stock, based on the conversion price, if any, for such shares then in effect;

(h) Consents and Waivers. The Company shall have obtained all consents, permits and waivers necessary for the borrowing of the Initial Loan and the same shall be effective as of the Initial Closing Date;

(i) Qualifications. To the extent not provided to BSC prior to the Initial Closing Date, the Company shall deliver to BSC copies of all authorizations, approvals or permits, if any, of any Governmental Authority or regulatory body of the United States or of any state or foreign country that are required prior to closing in connection with the lawful issuance of the Notes and Conversion Shares to BSC pursuant to this Agreement; and

(j) Initial Closing Deliveries. The Company shall have delivered to BSC each of the documents referred to in Section 1.2 above, and such documents shall be in form and substance reasonably satisfactory to BSC.

2. ADDITIONAL LOANS TO THE COMPANY.

2.1 Making of Additional Loans by BSC.

(a) Second Loan. Subject to the conditions set forth in Section 2.3 hereof, on one occasion within the five (5) business day period commencing November 10, 2009, the Company shall be entitled to deliver a Loan Request, in the form attached hereto as Exhibit A (a "Loan Request"), to BSC requesting a loan in an aggregate principal amount determined by the Company, but not to exceed $750,000 (the "Second Loan").

(b) Third Loan. Subject to the conditions set forth in Section 2.3 hereof, on one occasion within the five (5) business day period commencing December 10, 2009, the Company shall be entitled to deliver a Loan Request to BSC requesting a loan in an aggregate principal amount determined by the Company, but not to exceed $750,000 (the "Third Loan").

(c) Fourth Loan. Subject to the conditions set forth in Section 2.3 hereof, on one occasion within the five (5) business day period commencing January 10, 2010, the Company shall be entitled to deliver a Loan Request to BSC requesting a loan in an aggregate principal amount not to exceed $750,000 (the "Fourth Loan", and together with the Second Loan and the Third Loan, the "Additional Loans").

2.2 Loan Closings. The closing, if any, of each Additional Loan (each, a "Loan Closing") shall take place at the offices of Bingham McCutchen LLP, One Federal Street, Boston, Massachusetts, at 12:00 p.m. (Eastern Time) on the 5th business day following the later of the delivery of a Loan Request or the date on which all the conditions in Section 2.3 hereof have been satisfied, or at such other time, date and place as are mutually agreed upon by the Company and BSC (each, a "Loan Closing Date"). On each Loan Closing Date, subject to the conditions set forth in Section 2.3 hereof, BSC or an Affiliate designated thereby shall make the applicable Loan pursuant to Section 2.1(a), (b) or (c), as applicable.

At each Loan Closing, the following transactions shall occur and documents shall be delivered, which transactions shall be deemed to take place simultaneously and no transactions shall be deemed to have been completed or any document delivered until all such transactions have been completed and all required documents delivered:

(a) The Company shall deliver to BSC the following documents:

(i) a true copy of the resolutions of the board of directors of the Company (1) authorizing the Loan Request and issuing the Note for such Loan to BSC, and (2) reserving the Conversion Shares for issuance upon conversion of such Note;

(ii) a validly executed Note for such Loan to be issued to BSC (or its designated Affiliate); and

(iii) a compliance certificate, dated as of such Loan Closing Date and signed by the Company's President or Chief Executive Officer, certifying as to and, where appropriate, attaching certified copies of (1) the fulfillment of the conditions specified in Section 2.3(a) - (i) below,(2) the resolutions duly adopted by the board of directors of the Company authorizing the Loan Request and the issuance of such Note, and (3) all third party and governmental consents, approvals and filings required in connection with the consummation of the transactions hereunder.

(b) BSC shall make payment of the applicable Loan on the Loan Closing Date in cash, by certified bank check, or wire transfer pursuant to wiring instructions provided by the Company no later than three (3) business days prior to the Loan Closing Date.

2.3 Conditions of BSC to Making the Loans. The obligation of BSC to making a Loan on the applicable Loan Closing Date is conditioned upon the satisfaction by the Company of each of the following conditions, and the waiver of satisfaction of any of such conditions shall not be effective against BSC unless consented to in writing by BSC:

(a) Representations and Warranties. Each of the representations and warranties of the Company contained in this Agreement shall have been true and correct in all material respects at the time originally made, and shall be true and correct in all material respects as of such Loan Closing Date with the same force and effect as if such representations and warranties had been made at and as of such Loan Closing Date;

(b) Effectiveness. This Agreement shall be in full force and effect as of such Loan Closing Date;

(c) Loan Request. The Company shall have submitted a Loan Request;

(d) Performance of Obligations. The Company shall have performed and complied in all material respects with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before such Loan Closing Date (other than such agreements, obligations and conditions with which performance was expressly waived in writing by BSC);

(e) No Material Breach. The Company shall not be in material breach of its obligations to BSC under this Agreement or any Note;

(f) No Material Adverse Effect; No Proceedings. No Material Adverse Effect shall have occurred or been discovered by BSC since the Agreement Date, and no order, stay, decree, judgment or injunction shall have been entered, issued or enforced by any court of competent jurisdiction prohibiting the Transactions, and no action shall have been taken by any Governmental Authority, or any statute, regulation or order enacted, entered, enforced or deemed applicable to the Transactions, that makes the consummation of any of the Transactions illegal or substantially deprives BSC of any of the material anticipated benefits of the Transactions, taken as a whole;

(g) Reservation of Shares. The Company shall have reserved a sufficient number of authorized shares of Series B Preferred Stock for issuance upon conversion of the Notes, subject to the filing with the Secretary of State of the State of Delaware of a Certificate of Designation, Preferences, and Rights with respect to such Series B Preferred Stock, and a sufficient number of shares of Common Stock for issuance upon conversion of such shares of Series B Preferred Stock, based on the conversion price, if any, for such shares then in effect;

(h) Consents and Waivers. The Company shall have obtained all consents, permits and waivers necessary (including all waivers of any anti-dilution rights and pre-emptive rights, if applicable) for the consummation of the Loan and the same shall be effective as of such Loan Closing Date;

(i) Qualifications. To the extent not provided to BSC prior to the applicable Loan Closing Date, the Company shall deliver to BSC copies of all authorizations, approvals or permits, if any, of any Governmental Authority or regulatory body of the United States or of any state or foreign country that are required prior to closing in connection with the consummation of the Loan;

(j) Additional Loan Closing Deliveries. The Company shall have delivered to BSC each of the documents referred to in Section 2.2 above, and such documents shall be in form and substance reasonably satisfactory to BSC; and

(k) Due Diligence. BSC shall have been satisfied with its due diligence investigation of the Company as of the Loan Closing Date.

3. LOAN PROVISIONS.

3.1 Security Interest.

(a) Grant of Security Interest. As security for the prompt and complete payment in full of the Loans, the Company hereby grants to BSC a first priority security interest in all properties, assets and rights of the Company, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof (all of the same being hereinafter called the "Collateral"), including without limitation: all personal and fixture property of every kind and nature, including, without limitation, all goods (including inventory, equipment and any accessions thereto), intellectual property (including all patents, patent applications, trade secrets, trademarks, copyrights and all other intellectual property), instruments (including promissory notes), documents, accounts, chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, securities and all other investment property, supporting obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds, and all general intangibles (including all payment intangibles and goodwill of any kind or nature). The Company represents, warrants and agrees that, except for the security interest granted hereunder, the Company owns, and will continue to own, the Collateral free and clear of all Liens, and will not, while any Loan remains outstanding, create any Lien of any kind whatsoever on the Collateral. The Company agrees that it will assist BSC, at BSC's request, in making such filings or taking such other actions (including, without limitation, the execution of such documents) as may be necessary or advisable for BSC to perfect its security interest hereunder (including, without limitation, executing such UCC financing statements as BSC requests and executing the Patent Security Agreement). If the Company shall be in default of the terms of the Notes, BSC shall have the rights and remedies of a secured party under the Uniform Commercial Code and any other applicable laws now or hereafter existing, all such rights and remedies being cumulative, not exclusive, and enforceable alternatively, successively or concurrently, at such time or times as BSC deems expedient.

(b) Third Party Consents. If and to the extent the Company is required to obtain a consent from one or more third parties in connection with the grant by the Company to BSC of the security interest in the Company's contract rights, as provided in Section 3.1(a), the Company will use commercially reasonable efforts to obtain such consent(s) within one hundred eighty (180) days following the Initial Closing Date. BSC acknowledges and agrees that the Company shall not be required to obtain any such third party consents prior to the Initial Loan Closing Date or any additional Loan Closing Date. The foregoing provisions of this Section 3.1(b) shall not limit any of the other obligations of the Company or the grant by the Company of a security interest in any other assets of the Company other than contract rights.

3.2 Interest. Interest on each Loan shall accrue at the rate of ten percent (10%) per annum, compounded annually.

3.3 Repayment of Loans.

(a) Repayment. Each of the Loans shall be repayable in the manner specified in the Note for such Loan.

(b) Mandatory Prepayment. In addition, the Company shall be required to prepay the Loans as provided in this Section 3.3(b). Upon the consummation of any Qualified Financing from any Strategic Competitor, 100% of the cash proceeds from such Qualified Financing shall be applied by the Company to prepay the outstanding principal of the Loans and accrued interest thereon. Upon the consummation of any Qualified Financing from any investor other than a Strategic Competitor, 25% of the cash proceeds from such Qualified Financing shall be applied by the Company to prepay the outstanding principal of the Loans and accrued interest thereon.

3.4 Conversion. Each Note shall be convertible into shares of the Company's capital stock in accordance with the following provisions:

(a) Optional Conversion. At the sole option of BSC, the Notes (including the entire principal amount of each of the Notes and all accrued interest then outstanding) may be converted immediately upon BSC's delivery to the Company of written notice of its election to cause such conversion into that number of Conversion Shares as shall be equal to the Conversion Amount, calculated as of the date of receipt by the Company of such notice.

(b) Upon a Qualified Initial Public Offering or Sale of the Company. At the sole option of BSC, the Notes (including the entire principal amount of each of the Notes and all accrued interest then outstanding) may be converted, immediately prior to, and contingent upon, the consummation of a Qualified Initial Public Offering or a Sale of the Company into that number of Conversion Shares as shall be equal to the Conversion Amount. The Company shall give BSC written notice at least fifteen (15) business days prior to the consummation of a Qualified Initial Public Offering or a Sale of the Company, which notice shall describe in reasonable details the material terms of such transaction. From and after the delivery of such notice until consummation of such transaction, BSC shall be entitled to receive such other information relating to the Company and such transaction as BSC may reasonably request, and the Company agrees to provide such information to BSC promptly on request. BSC's election to convert the Notes shall be effected by providing written notice thereof to the Company at least five (5) business days prior to the consummation of the Qualified Initial Public Offering or Sale of the Company (as the case may be).

(c) No Conversion Following a Qualified Initial Public Offering. If BSC has not elected to convert the Notes into Conversion Shares upon the consummation of a Qualified Initial Public Offering, then, notwithstanding any provision herein to the contrary, following the consummation of such Qualified Initial Public Offering, BSC shall no longer have the right to convert the Notes into Conversion Shares.

(d) Manner of Conversion. BSC shall be deemed to be the holder of the Conversion Shares in connection with a conversion pursuant to this Section 3.4 as of the date of conversion. At that time, BSC shall cease to have any rights pursuant to the Notes with respect to the principal amount and accrued interest being converted, but shall have all of the rights granted to it as a holder of the Conversion Shares into which the Notes convert. To receive a certificate representing the Conversion Shares into which the Notes convert, BSC shall surrender the Notes, or a customary affidavit of loss reasonably acceptable to the Company, to the Company (provided, that BSC shall not be required to post any bond in connection with any such affidavit of loss). As soon as practicable after the surrender of the Notes, the Company shall issue and deliver to BSC a certificate for the number of whole shares issuable upon conversion. Upon conversion of the entire principal amount and accrued but unpaid interest on the Notes into Conversion Shares as provided herein, (i) the provisions of the Notes relating to the obligations of the Company to pay principal and interest to BSC, set forth therein, shall be null and void and no payment of principal and interest shall be owed or paid by the Company to the BSC, and (ii) the security interest granted to BSC shall terminate.

(e) Covenant of the Company to Reserve Shares. At all times while there are amounts outstanding under any of the Notes, the Company covenants and agrees that it shall reserve, out of its authorized and unissued share capital, an adequate number of Conversion Shares (and any shares of any other class of share capital of the Company into which such Conversion Shares are convertible) such that, upon occurrence of a Qualified Initial Public Offering or Sale of the Company, a sufficient number of Conversion Shares may be immediately issued upon conversion pursuant to this Section 3.4.

3.5 No Obligation to Request Loan. The Company is under no obligation to request any Loan, and may elect to request any Loan, or not, in its sole discretion.

4. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company hereby represents and warrants to BSC as follows as of each of (a) the Agreement Date, (b) the Initial Closing Date and (c) each Loan Closing Date:

4.1 Organization, Good Standing and Qualification.

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted. The Company is duly qualified to transact business and is in good standing in each other jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Effect. The Company has all requisite corporate power and authority to own and operate its properties and assets, to issue the Notes and any shares of capital stock issuable thereunder, and to perform its obligations under, and carry out the provisions of, this Agreement and the Notes.

(b) Except as set forth on Schedule 4.1, the Company does not have any Subsidiaries. Cardiac EP Sub, Inc. is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted and to own and operate its properties and assets. Cardiac EP Sub, Inc. is duly qualified to transact business and is in good standing in each other jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Effect. Schedule 4.1 sets forth the ownership of the issued and outstanding share capital of Cardiac EP Sub, Inc.

4.2 Capitalization.

(a) The authorized capital of the Company consists of:

(i) Preferred Stock. 20,000,000 shares of Preferred Stock, of which 8,000,000 shares have been designated Series A Preferred Stock and of which 7,965,000 shares of Series A Preferred Stock are issued and outstanding. The respective rights, restrictions, privileges and preferences of the Preferred Stock are as stated in the Company's Amended and Restated Certificate of Incorporation.

(ii) Common Stock. 50,000,000 shares of Common Stock of which 21,320,440 shares are issued and outstanding.

(b) Except as set forth on Schedule 4.2, and other than this Agreement and the Notes, there are not outstanding any options, warrants, instruments, rights (including conversion or preemptive rights and rights of first refusal), proxy or stockholder agreements, or other agreements or instruments of any kind, including convertible debt instruments, for the purchase or acquisition from the Company of any of its Securities. Except as set forth on Schedule 4.2, the Company is not a party or subject to any agreement or understanding and, to the Company's knowledge, there is no agreement or understanding between any other persons, that affects or relates to the voting or giving of written consents with respect to any security or by a director of the Company.

(c) All preemptive or similar rights applicable to the issuance of the Notes and the Conversion Shares have been waived or exercised. The Notes, when issued in accordance with this Agreement, will be duly authorized and free of any preemptive rights, and will be free and clear of any Liens or third party rights of any kind created by the Company. Subject to the filing with the Secretary of

State of the State of Delaware of a Certificate of Designation, Preferences, and Rights with respect to the Series B Preferred Stock, the Conversion Shares have been duly authorized and reserved for issuance by all necessary corporate action and, when issued and allotted in accordance with the terms of this Agreement, the Notes and the Company's Amended and Restated Certificate of Incorporation will be duly and validly issued, fully paid, non-assessable, and free of any preemptive rights, will have the rights, preferences, privileges and restrictions set forth in the Company's Amended and Restated Certificate of Incorporation, and will be free and clear of any Liens or third party rights of any kind created by the Company or, to the Company's knowledge, by its current shareholders, and duly registered in the name of BSC or its designated Affiliate in the Company's share register.

(d) Each series of Preferred Stock is presently convertible into Common Stock on a one-for-one basis and the consummation of the transactions contemplated by this Agreement (including the issuance of the Notes and the Conversion Shares) will not result in any anti-dilution adjustment or other similar adjustment to the outstanding Preferred Stock.

4.3 Authorization; Approvals. All corporate actions on the part of the Company necessary for the authorization, execution, delivery, and performance of all of the Company's obligations under this Agreement, and for the execution, authorization, issuance and allotment of the Notes and of the Conversion Shares have been (or will be) taken prior to the Initial Closing (or other Loan Closing Date), subject to the adoption by the Company's Board of Directors of a resolution establishing the terms of the Series B Preferred Stock and the filing with the Secretary of State of the State of Delaware of a Certificate of Designation, Preferences, and Rights with respect to the Series B Preferred Stock. The approval of the shareholders of the Company is not required for the authorization, execution, delivery, and performance of any of the Company's obligations under this Agreement, or for the execution, authorization, issuance and allotment of the Notes and of the Conversion Shares. This Agreement and each of the Notes, when executed and delivered by or on behalf of the Company, shall constitute the valid and legally binding obligations of the Company, legally enforceable against the Company in accordance with their respective terms. No consent, approval, order, license, permit, action by, or authorization of or designation, declaration, qualification, registration or filing with any federal, state or local governmental authority on the part of the Company is required that has not been, or will not have been, obtained or made by the Company prior to the Initial Closing (or other Loan Closing Date) in connection with the valid execution, delivery and performance of this Agreement, and/or the offer, sale, or issuance of the Notes and the Conversion Shares, other than (i) the filing of Form D under the Securities Act and any blue sky filings that are required or permitted to be made after the Initial Closing Date and (ii) the filing with the Secretary of State of the State of Delaware of a Certificate of Designation, Preferences, and Rights with respect to the Series B Preferred Stock.

4.4 Compliance with Law and Other Instruments. Neither the Company nor any of its Subsidiaries are in violation or default of any provision of (i) its certificate of incorporation or by-laws or similar organizational documents, or (ii) any note, mortgage, indenture, contract, agreement, instrument, judgment, order, writ, decree or contract to which it is a party or by which it is bound, or (iii) any provision of any federal or state law, statute, rule or regulation applicable to the Company or any of its Subsidiaries, where in the case of clauses (ii) or (iii) such violation or default, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

4.5 No Breach. Neither the execution and delivery of this Agreement or the Notes, the issuance of the Notes or the Conversion Shares, nor compliance by the Company with the terms and provisions hereof and/or thereof, will conflict with, or result in a breach or violation of, any of the terms, conditions and provisions of: (i) the Company's certificate of incorporation or by-laws or similar organizational documents, (ii) any judgment, order, injunction, decree, or ruling of any court or governmental authority, domestic or foreign, (iii) subject to Section 3.1(b) above, any note, mortgage, indenture, contract,

agreement, instrument, judgment, order, writ, decree or contract to which the Company or any of its Subsidiaries is a party or to which it is subject, or (iv) applicable law (excluding applicable usury laws). Such execution, delivery, issuance and compliance will not (a) give to others any rights, including rights of termination, cancellation or acceleration, in or with respect to any material agreement, contract or commitment referred to in this paragraph, or to any of the assets or properties of the Company or any of its Subsidiaries or (b) subject to Section 3.l(b) above, otherwise require the consent or approval of any person, which consent or approval has not been obtained prior to the Initial Closing.

4.6 Valid Issuance. Any shares of capital stock issued, sold and delivered upon conversion of the Notes, in accordance with the terms hereof and thereof and for the consideration expressed herein, will be duly and validly issued, fully paid and nonassessable, in accordance with the terms of the Company's certificate of incorporation, as amended and in effect from time to time.

4.7 Outstanding Debt. The Company and its Subsidiaries have no outstanding Indebtedness, other than Indebtedness outstanding under any Notes.

5. REPRESENTATIONS AND WARRANTIES OF BSC. As of the Initial Closing Date, BSC represents and warrants to the Company as follows:

5.1 Organization, Good Standing and Qualification. BSC has all requisite corporate power and authority to own and operate its properties and assets, to execute and deliver this Agreement and, to carry out the provisions of this Agreement, and to perform its obligations under, and carry out the provisions of, this Agreement. BSC is duly qualified to transact business and is in good standing in each jurisdiction where such qualification is required and in which failure to so qualify would have a Material Adverse Effect on BSC.

5.2 Authorization; Binding Obligations; Governmental Consents. All corporate actions on the part of BSC necessary for the authorization, execution and delivery of this Agreement and the performance of all obligations of BSC hereunder have been taken prior to the Agreement Date. This Agreement is the valid and legally binding obligation of BSC, enforceable against it in accordance with its terms, except as such enforcement may be limited by (i) the effect of bankruptcy, insolvency, reorganization, receivership, conservatorship, arrangement, moratorium or other laws affecting or relating to the rights of creditors generally, or (ii) the rules governing the availability of specific performance, injunctive relief or other equitable remedies and general principles of equity, regardless of whether considered in a proceeding in law or equity.

5.3 Purchase Entirely For Own Account. The Notes and the Conversion Shares will be acquired for investment for BSC's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and BSC has no present intention of selling, granting any participation in, or otherwise distributing the same.

5.4 Accredited Investor. BSC is an Accredited Investor as defined in Regulation D under the Securities Act. BSC acknowledges that an investment in the Notes involves a high degree of risk, and that BSC is experienced in evaluating and investing in securities of companies in a similar stage of development as the Company. BSC acknowledges that it is able to fend for itself, can bear the economic risk of the investment in the Notes, and has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the investment in the Notes and can afford a complete loss of such investment.

5.5 Restricted Securities. BSC understands that the Notes have not been, and any Conversion Shares acquired on conversion thereof at the time of issuance will not be, registered under the

Securities Act. Without limiting the representations and warranties of the Company made herein, BSC further understands and agrees that such securities are a risky investment and may not be sold, transferred or otherwise disposed of without registration under the Securities Act or an exemption therefrom, and that in the absence of an effective registration statement covering such securities or an available exemption from registration under the Securities Act, such securities must be held indefinitely. In particular, BSC is aware that the Notes and the Conversion Shares may not be sold pursuant to Rule 144 promulgated under the Securities Act unless all of the conditions of Rule 144 are met. Among the conditions for use of Rule 144 is the availability of current information to the public about the Company. Such information is not now available and the Company has no present plans to make such information available. BSC understands that the Notes and Conversion Shares will contain appropriate state and federal legends.

6. CERTAIN COVENANTS.

6.1 Affirmative Covenants. Unless BSC shall otherwise agree in writing, the Company covenants and agrees that (i) with respect to clauses (a) through (k) below, so long as any of the Notes is outstanding, and (ii) with respect to clauses (e), (f), (h) and (k) below, so long as any shares of Series B Preferred Stock or Qualified Financing Stock issued upon conversion of the Notes are outstanding or at least 40% of the shares of Common Stock originally issued to BSC upon conversion of any shares of Series B Preferred Stock or Qualified Financing Stock issued upon conversion of the Notes are outstanding; provided, that such covenants shall terminate following a Qualified Initial Public Offering if the Notes are no longer outstanding following such Qualified Initial Public Offering:

(a) Punctual Payment. The Company will duly and punctually pay or cause to be paid the principal and interest under the Notes and all other amounts provided for in the Notes, all in accordance with the terms hereof and thereof;

(b) Notices.

(i) Defaults. The Company will, promptly upon becoming aware thereof, notify BSC in writing of any Event of Default, together with a reasonably detailed description thereof, and the actions the Company proposes to take with respect thereto;

(ii) Notice of Litigation and Judgments. The Company will give notice to BSC in writing within fifteen (15) business days of becoming aware of any litigation or proceedings threatened in writing or any pending litigation and proceedings affecting the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries is or becomes a party involving an uninsured claim against the Company or any of its Subsidiaries that could, in each case, reasonably be expected to have a Material Adverse Effect and stating the nature and status of such litigation or proceedings; and the Company will, and will cause each of its Subsidiaries to, give notice to BSC, in writing, in form and detail reasonably satisfactory to BSC, within ten (10) business days of any judgment not covered by insurance, final or otherwise, against the Company or any of its Subsidiaries;

(c) Legal Existence and Good Standing. The Company will do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence and good standing in the State of Delaware and its good standing and qualification to transact or do business in each jurisdiction in which the failure to so qualify or be in good standing would have a Material Adverse Effect;

(d) Taxes. The Company will duly pay and discharge, or cause to be paid and discharged, before the same shall become overdue, all taxes, as well as all claims for labor, materials, or

supplies that if unpaid might by law become a Lien upon any of its property or assets, except for such taxes or payments that the Company disputes in good faith;

(e) Inspection of Properties and Books, etc. The Company shall permit BSC upon five (5) business days' written notice to the Company and through its designated representatives, to visit and inspect, during regular business hours on a business day, any of the properties of the Company or any of its Subsidiaries, to examine the books of account of the Company and its Subsidiaries (and to make copies thereof and extracts therefrom), and to discuss the affairs, finances and accounts of the Company and its Subsidiaries with, and to be advised as to the same by, its and their officers, all at such reasonable times and intervals as BSC may reasonably request. No investigation pursuant to this Section 6.1(e) shall affect any representation or warranty in this Agreement or any condition to the obligations of the parties hereto. Notwithstanding the foregoing provisions of this Section 6.1(e) to the contrary, following the expiration of the Exclusivity Period the Company shall be under no obligation to provide or discuss with BSC any information regarding the Company's negotiations with a Strategic Competitor to the extent BSC's access to such information could reasonably be expected to create or result in a conflict of interest; provided, that (i) such negotiations involve a transaction which is otherwise permitted under the terms of this Agreement and (ii) the Company shall notify BSC that such negotiations are occurring, without disclosing the identity of the Strategic Competitor involved.

(f) Covenant of the Company to Reserve Stock. The Company shall reserve, out of its authorized and unissued capital stock, an adequate number of Conversion Shares and shares of Common Stock issuable upon conversion thereof, such that duly authorized Conversion Shares shall be immediately issuable upon conversion of the Notes. If at any time the number of authorized but unissued shares of capital stock shall not be sufficient to enable the conversion of the Notes in accordance with the terms thereof, the Company will take such corporate action as may be necessary to increase its authorized but unissued shares of capital stock to such number of shares of capital stock as shall be sufficient for such purpose;

(g) Records and Accounts. The Company will (a) keep, and cause each of its Subsidiaries to keep, true and accurate records and books of account in which full, true and correct entries will be made in all material respects in accordance with generally accepted accounting principles, consistently applied, and (b) maintain adequate accounts and reserves for all taxes (including income taxes), depreciation, depletion, obsolescence and amortization of its properties and the properties of its Subsidiaries, contingencies, and other reserves;

(h) Financial Statements, Certificates and Information. The Company will deliver to BSC:

(i) as soon as practicable after the end of each fiscal year of the Company, and in any event within 120 days thereafter, a balance sheet of the Company and statement of stockholders' equity as of the end of such year and statements of income and cash flow for such year, such year-end financial reports to be in reasonable detail, prepared in accordance with generally accepted accounting principles, consistently applied (subject however to the absence of footnotes in the event the Company does not engage an independent certified public accounting firm to audit and certify such financial statements);

(ii) as soon as practicable after the end of each fiscal quarter (except the last quarter of each fiscal year), and in any event within forty-five (45) days thereafter, an unaudited balance sheet of the Company as of the end of such fiscal quarter, and an unaudited statement of income for each fiscal quarter and for the current fiscal year to date; and

(iii) such other information as the Company delivers to any other lender to the Company or stockholders of the Company generally;

(i) Compliance with Laws, Contracts, Licenses, and Permits. The Company will, and will cause each of its Subsidiaries to, comply with (a) the applicable laws and regulations wherever its business is conducted, (b) the provisions of its governing documents, (c) all agreements and instruments by which it or any of its properties may be bound, and (d) all applicable decrees, orders, and judgments, in each of (a) through (d) if and to the extent the failure to so comply could reasonably be expected to result in a Material Adverse Effect. If any authorization, consent, approval, permit or license from any officer, agency or instrumentality of any government shall become necessary or required in order that the Company or any of its Subsidiaries may fulfill any of its obligations hereunder, the Company will, or (as the case may be) will cause such Subsidiary to, use commercially reasonable efforts to obtain such authorization, consent, approval, permit or license and furnish BSC with evidence thereof, in each case if and to the extent the failure to obtain such authorization, consent, approval, permit or license could reasonably be expected to result in a Material Adverse Effect;

(j) Maintenance of Properties. The Company will do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence, rights and franchises and those of its Subsidiaries. The Company (a) will cause all of its material properties and those of its Subsidiaries used or useful in the conduct of its business or the business of its Subsidiaries to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment, and (b) will cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be reasonably necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; and

(k) Further Assurances. The Company will use commercially reasonable efforts to, and will use commercially reasonable efforts to cause each of its Subsidiaries to, cooperate with BSC and execute such further instruments and documents as BSC shall reasonably request to carry out to its reasonable satisfaction the transactions contemplated by this Agreement.

6.2 Negative Covenants. Without limiting the foregoing, the Company covenants and agrees that, except as otherwise provided or permitted herein or in the Notes, it shall not, so long as any of the Notes is outstanding, directly or indirectly do or cause, any of the following without the prior written consent of BSC:

(a) Charter Documents. Cause or permit any amendments to its certificate of incorporation or by-laws or similar organizational documents, each as in effect on the date hereof;

(b) Repayment of Convertible Debt. Repay any Indebtedness which by its terms is convertible into capital stock of the Company;

(c) Dividends; Redemption. Declare or pay dividends on shares of the capital stock of the Company, or redeem or repurchase any shares of the capital stock of the Company;

(d) Dispositions. Sell, lease or otherwise dispose of or encumber any of its properties or assets, except as part of a Sale of the Company or pursuant to the sale of the Company's inventory in the ordinary course of the Company's business. For the avoidance of any doubt, the foregoing does not apply to any Permitted License;

(e) Related Party Transactions. Enter into or be a party to any transaction with any director, officer, employee, significant stockholder or family member of or consultant to any such person, corporation or other entity of which any such person beneficially owns 10% or more of the equity interests or has 10% or more of the voting power, or Subsidiary or Affiliate of the Company, except for (i) such transactions as are fair and reasonable to the Company and are approved by a majority of the independent members of the Company's board of directors or a duly appointed standing committee of the board of directors consisting of independent directors (including the grant of stock options to any such person and the payment of bonuses to any officer which are so approved), (ii) salary adjustments and bonus compensation awards to employees made in the ordinary course of business (and to the extent such actions do not otherwise require approval by the Company's board of directors or a committee thereof), and (iii) stock option grants and compensation awarded to members of the Company's board of directors under the Company's existing director compensation plan;

(f) Liens. Create or incur, or permit any of its Subsidiaries to create or incur, any Lien upon any of its property or assets of any character whether now owned or hereafter acquired, or upon the income or profits therefrom; provided, that the Company may create or incur or suffer to be created or incurred or to exist (i) Liens to secure taxes, assessments and other government charges in respect of obligations not overdue, (ii) deposits or pledges made in connection with, or to secure payment of, workers compensation, unemployment insurance, old age pensions or other social security obligations, (iii) Liens in favor of BSC, and (iv) customary Liens on the Company's leasehold interests or fixtures in favor of a landlord of the Company that are provided under applicable law or the Company's lease agreements with respect to its facilities;

(g) Subsidiaries. Permit any Subsidiary of the Company to take any action from which the Company would be prohibited pursuant to this Section 6;

(h) Breach or Violate Notes. Take any action that could reasonably be expected to materially violate or breach, or result in a material violation or breach, of the Company's obligations under the Notes or this Agreement;

(i) No Impairment. Take any action that could reasonably be expected to deny BSC the anticipated benefits of the conversion rights provided in the Notes, or, if the Notes are not so converted, the payment of any principal or unpaid accrued interest pursuant to the terms of the Notes;

(j) Indebtedness. Incur or guarantee any Indebtedness (other than to BSC); or

(k) General. Authorize, commit to, agree to take, or permit to occur any of the foregoing actions.

6.3 Full Access. During the Exclusivity Period, the Company will afford to BSC and its authorized representatives, upon reasonable notice, full access during normal business hours to all properties, books, records, contracts, and documents of the Company as BSC and such authorized representatives may reasonably request and a complete opportunity to make such investigations as BSC and such authorized representatives may reasonably request, and the Company will furnish or cause to be furnished to BSC and its authorized representatives all such information with respect to the affairs and businesses of the Company (including, but not limited to, the Company's development programs, products and clinical trials) as they may reasonably request. No investigation pursuant to this Section 6.3 shall affect any representation or warranty in this Agreement of any party hereto or any condition to the obligations of the parties hereto.

6.4 Exclusivity.

(a) During the Exclusivity Period, the Company will not, nor will it authorize or permit any of its officers, directors, Affiliates or employees, or any investment banker, attorney or other advisor or representative retained by it to, directly or indirectly (i) solicit, initiate or induce the making, submission or announcement of any Acquisition Proposal, (ii) participate in any discussions or negotiations regarding, or furnish to any person any non-public information with respect to, or take any other action to facilitate any inquiries or the making of any proposal that constitutes, or may reasonably be expected to lead to, any Acquisition Proposal, iii) engage in discussions with any person with respect to any Acquisition Proposal, except as to disclose the existence of these provisions, (iv) endorse or recommend any Acquisition Proposal, or (v) enter into any letter of intent or similar document or any contract, agreement or commitment contemplating or otherwise relating to any Acquisition Proposal. The Company and its Subsidiaries will, and will cause their respective officers, directors, Affiliates, employees, investment bankers, attorneys and other advisors and representatives to, immediately cease any and all existing activities, discussions or negotiations with any parties conducted heretofore with respect to any Acquisition Proposal. Without limiting the foregoing, it is understood that any violation of the restrictions set forth in the preceding two sentences by any officer, director or employee of the Company or any of its Subsidiaries or any investment banker, attorney or other advisor or representative of the Company or any of its Subsidiaries, which violation was known to the Company's management and not ceased immediately thereafter, shall be deemed to be a breach of this Section 6.4 by the Company. Notwithstanding any provision in this Section 6.4 to the contrary, the Company shall be entitled to engage in discussions with potential investors who are not strategic investors regarding debt or equity funding, but the Company shall not consummate any such funding transaction until the Exclusivity Period has expired.

(b) In addition to the obligations of the Company set forth in subsection (a) of this Section 6.4, the Company as promptly as practicable shall advise BSC in writing of any Acquisition Proposal received during the Exclusivity Period or of any request for nonpublic information or other inquiry during the Exclusivity Period which the Company reasonably believes could lead to an Acquisition Proposal, the material terms and conditions of such Acquisition Proposal (to the extent known), and the identity of the person or group making any such request, inquiry or Acquisition Proposal.

6.5 Public Announcements. BSC and its Affiliates shall not, without having previously informed the Company about the form, content and timing of any such announcement, issue any press release or otherwise make any public statements with respect to this Agreement or the transactions contemplated hereby, except as may be required by (a) law, (b) the Securities and Exchange Commission, (c) the Securities Act or the Exchange Act, or (d) any listing agreement with the New York Stock Exchange, the National Association of Securities Dealers, Inc. or any national securities exchange to which BSC is subject. The Company shall not, without the prior written consent of BSC, issue any press release or otherwise make any public statements with respect to this Agreement, except as may be required by law.

6.6 Confidentiality. The Company and BSC acknowledge that they are bound by the provisions of the Confidential Disclosure Agreement dated October 12, 2009.

6.7 Use of Proceeds. The proceeds to the Company from the Loans shall be used solely for research and development purposes and general working capital purposes in the ordinary course of business, in each case subject to compliance with the covenants contained in this Agreement, and shall not be used for any other purpose.

7. DEFINITIONS. As used herein the following terms not otherwise defined have the following respective meanings:

"Acquisition Proposal" means any bona fide offer or proposal (other than an offer or proposal by BSC or its Affiliates) relating to any Acquisition Transaction.

"Acquisition Transaction" means, other than the transactions contemplated by this Agreement and the Notes, (a) any transaction or series of related transactions involving the purchase of (x) share capital of the Company pursuant to which any person who did not own a majority of the outstanding voting equity securities of the Company immediately prior to such transaction or series or transactions owns more than a majority of the outstanding voting equity securities of the Company or any transferee entity immediately following such transaction or series of transactions or (y) all or any significant portion of the assets of the Company, (b) any agreement to enter into a business combination with the Company, (c) any sale, assignment, transfer or license of the intellectual property of the Company or any of its Subsidiaries, except for a Permitted License, or (d) any transaction involving equity or debt financing for the Company.

"Affiliate" means, with respect to any person, any person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such person.

"business day" (whether such term is capitalized or not) means any day, other than Saturday, Sunday or a legal holiday, that banks located in Boston, Massachusetts are open for business.

"Closing Date" means either the Initial Closing Date or any Loan Closing Date.

"Common Stock" means the Company's Common Stock, $.01 par value per share.

"Conversion Amount" means (a) if BSC has elected to convert the Notes into shares of Series B Preferred Stock, that number of shares of Series B Preferred Stock as is equal to the quotient of (i) the sum of the outstanding principal amount and accrued interest on the Notes on the date of conversion divided by (ii) $2.00 (such amount to be proportionately adjusted for any stock split, stock combination or similar event occurring after the Agreement Date), or (b) if BSC has elected to convert the Notes into Shares of Qualified Financing Stock, that number of shares of Qualified Financing Stock as is equal to the quotient of (i) the sum of the outstanding principal amount and accrued interest on the Notes on the date of conversion divided by (ii) the lowest price per share paid by investors in the Qualified Financing for a share of Qualified Financing Stock.

"Conversion Shares" means, at the sole election of BSC, either (a) shares of Series B Preferred Stock and any Common Stock issuable upon conversion of such shares of Series B Preferred Stock, or (b) shares of Qualified Financing Stock and any Common Stock issuable upon conversion of such shares.

"Corporate Documents" means the Company's Amended and Restated Certificate of Incorporation and the Company's Bylaws.

"Dollars" or "$"means dollars in lawful currency of the United States of America.

"Event of Default" shall have the meaning set forth in the Notes.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Exclusivity Period" means the period commencing on the Agreement Date and ending on the later of (i) the ninetieth day following the Agreement Date or (ii) if the Fourth Loan is requested by the Company, the Loan Closing Date of the Fourth Loan; provided, that the Exclusivity Period shall terminate earlier if the Company has delivered a Loan Request with respect to a Loan under Section 2.1 and BSC does not make such Loan as a result of the condition in Section 2.3(k) not being satisfied.

"Governmental Authority" (whether such term is capitalized or not) means any United States (federal, state or local) or non-US government, or governmental, regulatory or administrative authority, agency or commission.

"Indebtedness" means indebtedness for borrowed money. For the avoidance of any doubt, the term "Indebtedness" does not include payment obligations to trade creditors incurred in the ordinary course of business.

"Lien" means any mortgage, deed of trust, security interest, pledge, hypothecation, assignment in the nature of a security interest, attachment, encumbrance, lien (statutory, judgment or otherwise), or other security agreement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any lease in the nature of a security interest). For the avoidance of any doubt, the term "Lien" does not include a Permitted License.

"Loans" means, collectively, the Initial Loan and the Additional Loans.

"Losses" means all claims, liabilities, damages, losses, costs, payments, royalties and expenses incurred or suffered by a party with respect to or relating to an event, circumstance or state of facts, other than consequential or indirect damages, losses, costs and expenses which are not asserted against BSC or any of its Affiliates. Losses shall specifically include court costs and the reasonable fees and expenses of legal counsel arising out of or relating to any direct or third-party claims, demands, actions, causes of action, suits, litigations, arbitrations or liabilities.

"Material Adverse Effect" means, with respect to the Company, any change or effect that, when taken individually or together with all other adverse changes or effects, is materially adverse to the business, results of operations or financial condition of the Company, and its Subsidiaries, taken as a whole.

"Notes" means the convertible promissory notes to be issued to BSC to evidence the Loans, in the form attached hereto as Exhibit B.

"Patent Security Agreement" means the Patent Security Agreement dated as of the Agreement Date between the Company and BSC.

"Permitted License" means (i) a license of the Company's intellectual property for research, product development, clinical studies or other similar purposes that does not provide the licensee with the ability to make, have made, distribute or sell products using such intellectual property or (ii) a license to end-users of the Company's products to permit such end -users to use the software incorporated in such products.

"person" means an individual, corporation, partnership, limited partnership, limited liability company, syndicate, person (including a "person" as defined in Section 13(d)(3) of the Exchange Act), trust, association or entity or government, political subdivision, agency or instrumentality of a government.

"Qualified Financing" means any equity financing, pursuant to a single transaction or series of related transactions, occurring after the Agreement Date in which shares of Preferred Stock are issued in exchange for cash proceeds.

"Qualified Financing Stock" means shares of a series of Preferred Stock of the Company issued in a Qualified Financing after the Agreement Date.

"Qualified Initial Public Offering" means the closing of a bona fide first underwritten public offering pursuant to an effective registration statement under the Securities Act, or similar securities laws of another jurisdiction, covering the offering and sale of Common Stock for the account of the Company on a firm commitment basis in which the aggregate gross proceeds received by the Company at the public offering price equals or exceeds US$20,000,000 (before deduction of underwriters commissions and expenses).

"Sale of the Company" means (x) a sale, lease, exclusive license or disposition of all or substantially all of the assets or intellectual property of the Company or (y) a merger or consolidation of

the Company with or into any other corporation or corporations or other entity, or any other corporate reorganization, or any transfer of beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under the Exchange Act), directly or indirectly, of the outstanding shares of the Company, in a single transaction or a series of related transactions where the shareholders of the Company immediately prior to such transaction or series of related transactions do not retain at least fifty percent (50%) of the voting power of and interest in the Company or the successor or acquiring entity (as applicable) (other than any equity financing solely for capital raising purposes in which all of the sale proceeds from such transaction or series of related transactions are actually received by the Company, net of expenses).

"Securities" means all outstanding Common Stock and Preferred Stock, all outstanding options, warrants, convertible notes, rights of conversion and other rights to acquire share capital of the Company, and all shares issuable upon exercise or conversion of Preferred Stock, options, warrants, convertible notes, rights of conversion and other rights to acquire shares of the Company, outstanding from time to time, whether or not then currently vested, exercisable or convertible.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Series A Preferred Stock" means the Series A Convertible Preferred Stock of the Company, par value $0.01 per share.

"Series B Preferred Stock" means a to-be created series of Preferred Stock of the Company which is pari passu with the Series A Preferred Stock and which has substantially identical terms as the Series A Preferred Stock.

"state" means any state or commonwealth of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and any other dependency, possession or territory of the United States of America.

"Strategic Competitor" means any of Medtronic, Inc., St. Jude Medical, Inc., or Johnson & Johnson, or any of their respective Subsidiaries or Affiliates.

"Subsidiary" or "Subsidiaries" (whether or not capitalized) of any person means (i) any corporation of which such person (either alone or through or together with any other Subsidiary), owns, directly or indirectly, more than 50% of the stock the holders of which are generally entitled to vote for the election of the board of directors of such corporation, or (ii) any partnership, limited liability company, association, trust, joint venture, or other non-corporate entity in which such person (either alone or through or together with any other Subsidiary) holds, directly or indirectly, more than 50% of the equity interests.

The following table sets forth certain other defined terms and the Section of the Agreement in which the meaning of each such term appears:

	Section(s)
"Additional Loans"	2.1(c)
"Agreement"	Preamble
"Agreement Date"	Preamble
"BSC"	Preamble
"Collateral"	3.1
"Company"	Preamble
"Fourth Loan"	2.l(c)
"Initial Closing"	1.2
"Initial Closing Date"	1.2
"Initial Loan"	1.1

	Section(s)
"Loan Closing"	2.2
"Loan Closing Date"	2.2
"Loan Request"	2.1(a)
"Second Loan"	2.1(a)
"Third Loan"	2.1(b)
"Transactions"	1.3(f)

8. INDEMNIFICATION. The Company agrees to indemnify and hold BSC (and its respective directors, officers, employees and Affiliates) harmless from and with respect to any and all Losses related to or arising, directly or indirectly, out of any breach by the Company of any representation or warranty, covenant, obligation or undertaking made by the Company in this Agreement, any schedule or exhibit hereto, any other statement, certificate or other instrument delivered pursuant hereto.

9. TERM AND TERMINATION.

9.1 Term. Subject to Section 9.2, this Agreement shall commence on the Agreement Date and shall continue in full force and effect until the later of (i) the 90th day following the Agreement Date, or (ii) if applicable, the Loan Closing Date of the Fourth Loan.

9.2 Survival of Certain Terms. The representations and warranties set forth in Section 4 and Section 5 shall survive the Initial Closing Date indefinitely. The provisions of Sections 6.5, 6.6, 6.7, 7, 8, 9 and 10 shall survive the termination of this Agreement for any reason. The provisions of Sections 3, 6.1, and 6.2 shall survive the termination of this Agreement for any reason and shall remain in effect so long as any Loan is outstanding. All other rights and obligations of the parties, other than those rights that shall have then accrued, shall cease upon termination of this Agreement.

9.3 Effect of Termination. The parties acknowledge that upon termination of this Agreement as permitted under, and in accordance with, the terms of this Section 9, no party shall have the right to recover any claim with respect to any losses suffered by such party in connection with such termination, except to the extent that such losses arise out of or are related to a breach of the representations, warranties or covenants hereunder or other obligations of another party hereto prior to or contemporaneous with such termination. Except as may be provided in the Notes, the termination of this Agreement shall not affect the obligations of the Company under the Notes.

10. GENERAL.

10.1 Notices. All notices, claims and demands hereunder, and all other communications which are required to be given in writing pursuant to this Agreement, shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person or facsimile (received at the facsimile machine to which it is transmitted prior to 5 p.m., local time, on a business day for the party to which it is sent, or if received after 5 p.m., local time, as of the next business day) or by nationally recognized overnight courier to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 10.1):

if to BSC:

Boston Scientific Corporation
One Boston Scientific Place
Natick, Massachusetts 01760
Attention: Chief Financial Officer
Facsimile: 508-650-8956

with a copy to:

Boston Scientific Corporation
One Boston Scientific Place
Natick, Massachusetts 01760
Attention: Deputy General Counsel
Facsimile: 508-650-8960

if to the Company:

SurgiVision, Inc.
One Commerce Square
Suite 2550
Memphis, TN 38103
Attention: CEO
Telephone: 901-522-9331
Facsimile: 901-522-9400

with a copy to:

SurgiVision, Inc.
One Commerce Square
Suite 2550
Memphis, TN 38103
Attention: VP, Business Affairs
Telephone: 901-522-9344
Facsimile: 901-522-9400

10.2 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of applicable law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the matters referred to herein are not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the matters referred to herein be consummated as originally contemplated to the fullest extent possible.

10.3 Entire Agreement; Assignment. This Agreement and the documents referred to herein constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof and thereof. The Company shall not assign this Agreement by operation of law or otherwise, without the prior written consent of BSC. BSC may assign all or any of its rights and obligations hereunder or under any of the Notes.

10.4 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. Without limiting the foregoing, nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the parties that this Agreement shall not be construed as a third party beneficiary contract.

10.5 Specific Performance. The parties hereto agree that irreparable damage would occur in the event that any provision of this Agreement was not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

10.6 Governing Law. This Agreement shall be governed by, and construed exclusively in accordance with the laws of the Commonwealth of Massachusetts applicable to contracts executed in and to be performed in that jurisdiction.

10.7 Headings; Interpretation. The descriptive headings contained in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the word "include," "includes," or "including" appears in this Agreement, it shall be deemed in each instance to be followed by the words "without limitation."

10.8 Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in one (1) or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

10.9 Fees and Expenses. All costs and expenses incurred in connection with this Agreement by the Company, including without limitation stamp duty in connection with this Agreement and the transactions contemplated hereby, shall be paid by the Company. All costs and expenses incurred in connection with this Agreement by BSC shall be paid by BSC.

10.10 Amendment. This Agreement may be amended only in an instrument in writing, duly authorized by the board of directors of the Company, and signed by BSC and the Company.

10.11 Waiver. At any time prior to the termination of this Agreement, BSC and the Company may agree to (a) extend the time for the performance of any obligation or other act of the other party hereto, (b) waive any inaccuracy in the representations and warranties of the other contained herein or in any document delivered pursuant hereto, and (c) waive compliance by the other, as the case may be, with any agreement or condition contained herein. Any such extension or waiver shall be valid if set forth in an instrument in writing signed by the party or parties to be bound thereby. A waiver on any one occasion shall not be construed as a bar to or a waiver of any right on any future occasion.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused this Agreement to be duly executed and delivered as a sealed instrument as of the date and year first above written.

BOSTON SCIENTIFIC CORPORATION

By:	/s/ Jim Gilbert	/s/ Sam Leno
Name:	Jim Gilbert	Sam Leno
Title:	EVP, Strategy & Business Development	EVP, Finance & Information Systems & CFO

SURGIVISION, INC.

By:	/s/ K. Jenkins
Name:	K JENKINS
Title:	CEO

Exhibit A to
Loan Agreement

FORM OF LOAN REQUEST

[,]

Boston Scientific Corporation
One Boston Scientific Place
Natick, Massachusetts 01760
Attention: Chief Financial Officer

Re: Loan Request

Ladies and Gentlemen:

Reference is hereby made to that certain Loan Agreement, dated as of October 16, 2009 (the "Loan Agreement"), by and between SurgiVision, Inc., a Delaware corporation (the "Company"), and Boston Scientific Corporation. Capitalized terms which are used herein without definition shall have the same meanings herein as in the Loan Agreement.

Pursuant to Section *[2.1(a)] [2.1(b)] [2.1(c)]* of the Loan Agreement, and subject to all of the terms of the Loan Agreement, we hereby request you make a loan in the principal amount of $*[amount not to exceed $750,000]* (the "Loan") on or before *[insert date that is 5 business days following date that Loan Request is delivered].*

We hereby certify that the conditions set forth in Section 2.3 of the Loan Agreement shall be satisfied on or prior to the date on which the Loan is made.

Very truly yours,

SURGIVISION, INC.

By: _____
Name:
Title:

Exhibit B to
Loan Agreement

NEITHER THIS NOTE NOR ANY SECURITIES THAT MAY BE ISSUED UPON CONVERSION HEREOF HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR REGISTERED OR QUALIFIED UNDER ANY STATE SECURITIES LAWS. THIS NOTE AND ANY SUCH SECURITIES MAY NOT BE TRANSFERRED UNLESS SO REGISTERED AND QUALIFIED UNDER ALL APPLICABLE SECURITIES LAWS, OR UNLESS SUCH REGISTRATION AND QUALIFICATION ARE NOT REQUIRED.

SECURED CONVERTIBLE PROMISSORY NOTE

$_____ _____, 20__

FOR VALUE RECEIVED, the undersigned, **SurgiVision, Inc.,** a Delaware corporation (the "Company"), hereby promises to pay to **Boston Scientific Corporation,** or its assigns hereunder ("BSC"), prior to or on the Maturity Date (as defined below) and subject to acceleration or conversion as set forth herein, the aggregate principal amount of [ ] DOLLARS ($) (such initial amount, and any amounts added thereto in accordance with the terms hereof, being referred to as the "Principal Amount"), and interest on the unpaid Principal Amount from time to time outstanding, which shall accrue on a daily basis from the date hereof (the "Loan Date"), through and including the date on which such Principal Amount is paid in full (or the Principal Amount and accrued interest is converted in accordance with Section 3), at an annual interest rate equal to 10.0%, compounded annually. Unless the indebtedness evidenced by this Note becomes due and payable earlier as provided herein, the entire Principal Amount and all accrued interest on the Principal Amount shall be payable in full by the Company on the Maturity Date. The obligations of the Company under this Note are secured by a pledge of the assets of the Company as described in Section 5.

1. Defined Terms. This Note evidences borrowings under and has been issued by the Company in accordance with the terms of that certain Loan Agreement, dated October 16, 2009, between the Company and BSC (the "Loan Agreement"). As used herein, "BSC" shall also be deemed to refer to any subsequent Holder of this Note. All capitalized terms used in this Note and not otherwise defined herein shall have the same meanings herein as in the Loan Agreement. BSC and any Holder hereof is entitled to the benefits of the Loan Agreement, and may enforce the agreements of the Company contained therein, and any Holder hereof may exercise the respective remedies provided for thereby or otherwise available in respect thereof, all in accordance with the respective terms thereof. For purposes of this Note, the terms listed below shall have the respective meanings set forth below:

1.1 "business day" means any day, other than Saturday, Sunday or a legal holiday that banks located in Boston, Massachusetts are not open for business;

1.2 "Holder" shall mean, initially, BSC and thereafter, any subsequent holder of this Note in accordance with the provisions of Section 7 below; and

1.3 "Maturity Date" means the second anniversary of the Loan Date.

2. Payment.

2.1 Payments. Payment of interest and principal hereunder shall be made as provided herein to the business address of the Holder. If the payments to be made by the Company shall be stated to be due

on a date which is not a business day, such payment may be made on the next succeeding business day, and the interest payment on each such date shall include the amount thereof which shall accrue during the period of such extension of time. All computations of interest payable under this Note shall be made on the basis of the actual number of calendar days elapsed divided by 365. All payments hereunder shall be applied first to any unpaid accrued interest, and second to repayment of any unpaid principal amount hereunder.

2.2 Prepayment.

(a) Optional Prepayment. The Company shall be permitted to prepay any unpaid portion of the Principal Amount and any accrued but unpaid interest represented by this Note at any time prior to the Maturity Date.

(b) Mandatory Prepayment. The Company shall be required to prepay the unpaid portion of the Principal Amount and all accrued but unpaid interest represented by this Note out of the proceeds of any Qualified Financing as provided in Section 3.3(b) of the Loan Agreement.

3. Conversion. This Note shall be convertible into Conversion Shares in accordance with the terms and subject to the conditions set forth in the Loan Agreement.

4. Acceleration. Upon the occurrence of any Event of Default (as defined below) and so long as any Event of Default is continuing, the Holder may, at its option and upon written notice of acceleration given by the Holder to the Company, declare the entire unpaid portion of the Principal Amount and all accrued but unpaid interest represented by this Note due and payable. Each of the following events shall be deemed an "Event of Default": (a) the Company shall fail to pay any portion of the principal amount, any interest on this Note or other sums due hereunder, within fifteen (15) days after the same shall become due and payable, whether at the stated date of maturity or any accelerated date of maturity or at any other date fixed for payment, (b) commencement of proceedings for the liquidation or dissolution of the Company, or any other termination or winding-up of its existence or business, (c) appointment of any receiver, including a temporary receiver, for the Company or substantially all its assets, (d) assignment of its assets by the Company for the benefit of its creditors, (e) material breach by the Company or any of its subsidiaries of any provision of this Note, the Patent Security Agreement or the Loan Agreement (other than any breach covered by another clause of this Section 4), provided, that if such breach is capable of being cured, then such breach shall not constitute an "Event of Default" until the thirtieth (30th) day following notice thereof from the Holder, to the extent such breach has not been cured prior to such date, (f) institution by or against the Company of insolvency, receivership or bankruptcy proceedings or any other similar proceedings for the settlement of the Company's debts, provided, that in the case of an involuntary proceeding commenced against the Company by a third party creditor whose claim against the Company is less than $100,000, such proceeding shall have remained undismissed and unstayed for more than thirty (30) days, (g) an event of default under any mortgage, indenture, obligation, instrument or indebtedness of the Company for borrowed money, which default results in $100,000 or more (in the aggregate) of such indebtedness to become due and payable by the Company prior to its stated maturity date, (h) any representation or warranty of the Company contained in the Loan Agreement or the Patent Security Agreement shall prove to have been false in any material respect when made or deemed to have been made or repeated, provided, that if such breach is capable of being cured, then such breach shall not constitute an "Event of Default" until the thirtieth (30th) day following the date the Company becomes aware of the factual circumstances giving rise to the breach, to the extent such breach has not been cured prior to such date, unless such breach has had a material impairment on BSC's rights under the Notes, the Patent Security Agreement or the Loan Agreement, (i) there shall remain in force, undischarged, unsatisfied, unvacated, unbonded or unstayed, for more than sixty (60) days, any final judgment against

the Company or any of its subsidiaries that, with other such outstanding final judgments against the Company or any of its subsidiaries that are undischarged, unsatisfied, unvacated, unbonded or unstayed, exceeds in the aggregate $500,000 in excess of insurance coverage, or (j) this Note shall be cancelled, terminated, revoked or rescinded, or any action at law, suit or in equity or other legal proceeding to cancel, revoke or rescind this Note shall be commenced by or on behalf of the Company or any of its subsidiaries party thereto or any of their respective shareholders, or any court or any other governmental or regulatory authority or agency of competent jurisdiction shall make a determination that, or issue a judgment, order, decree or ruling to the effect that, this Note is illegal, invalid or unenforceable in accordance with the terms thereof. At BSC's option, the entire unpaid portion of the Principal Amount and all accrued but unpaid interest represented by this Note will become due and payable upon written notice of acceleration given by BSC to the Company at any time upon or after consummation of a Sale of the Company.

5. Security Interest. This Note is secured by a first priority security interest in all of the Company's property and assets pursuant to the Loan Agreement, to which reference is made for a description of the security for this Note.

6. Independent Obligations. The Company agrees and acknowledges that each covenant contained in Sections 3 and 5 hereof constitutes an independent obligation of the Company, not qualified by any other clause, and shall be deemed to be cumulative.

7. Assignment. This Note shall not be assigned by operation of law or otherwise, except that the Holder may assign this Note to any assignee of BSC's rights and obligation under the Loan Agreement.

8. Waiver of Presentment, Etc. Except as otherwise set forth herein, the Company hereby, to the fullest extent permitted by applicable law, waives presentment, demand, notice, protest, and all other demands and notices in connection with delivery, acceptance, performance, default, acceleration or enforcement of or under this Note.

9. Amendment; Waivers. Neither this Note nor any term hereof may be waived, amended, discharged, modified, changed, or terminated orally, nor shall any waiver of any provision hereof be effective except by an instrument in writing signed by the party granting the waiver. The failure of the Holder hereof to exercise any of its rights, remedies, powers or privileges hereunder in any instance will not constitute a waiver thereof, or of any other right or remedy, and no single or partial exercise of any right or remedy shall preclude any other or further exercise thereof or of any other right or remedy.

10. Payment of Collection Costs. The Company will pay on demand all costs of collection, including all court costs and reasonable attorneys' fees, paid or incurred by the Holder in enforcing this Note after default.

11. GOVERNING LAW. THIS NOTE WILL BE GOVERNED BY AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS (WITHOUT REFERENCE TO PRINCIPLES OF CHOICE OF LAW).

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Company has executed and delivered this Secured Convertible Promissory Note as an instrument as of the date first above written.

SURGIVISION, INC.

By: _____
Name:
Title:

[Signature Page for Secured Convertible Promissory Note]

Exhibit 10.25

PATENT SECURITY AGREEMENT

PATENT SECURITY AGREEMENT (this "Patent Security Agreement") dated as of October 16, 2009, between SurgiVision, Inc., a Delaware corporation having its principal place of business at One Commerce Square, Suite 2550, Memphis, TN 38103 (the "Pledgor"), and Boston Scientific Corporation, a Delaware corporation having its principal place of business at One Boston Scientific Place, Natick, Massachusetts 01760 (the "Lender").

WHEREAS, the Pledgor and the Lender are parties to that certain Loan Agreement dated as of the date hereof (as amended and in effect from time to time, the "Loan Agreement");

WHEREAS, it is a condition precedent to the Lender's making any of the Loans to the Pledgor under the Loan Agreement that the Pledgor execute and deliver to the Lender a patent security agreement in substantially the form hereof;

WHEREAS, pursuant to the Loan Agreement, the Pledgor has granted to the Lender a security interest in the Pledgor's personal property and fixture assets, including without limitation the patents and patent applications listed on Schedule A attached hereto, to secure the payment of the Loans under the Loan Agreement; and

WHEREAS, this Patent Security Agreement is supplemental to the provisions contained in the Loan Agreement;

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

1. DEFINITIONS.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings provided therefor in the Loan Agreement. In addition, the following terms shall have the meanings set forth in this §1 or elsewhere in this Patent Security Agreement referred to below:

Patent Security Agreement. This Patent Security Agreement, as amended and in effect from time to time.

Patent Collateral. All of the Pledgor's right, title and interest in and to all of the Patents, the Patent License Rights, all other Patent Rights, and all additions, improvements, and accessions to, all substitutions for and replacements of, and all products and Proceeds (including insurance proceeds) of any and all of the foregoing, and all books and records and technical information and data describing or used in connection with any and all such rights, interests, assets or property, in any event subject to the terms of any licensing agreements in favor of the Pledgor, or to which the Pledgor is a party, pertaining to any Patents or Patent Rights, owned or used by third parties.

Patent License Rights. Any and all present or future rights and interests of the Pledgor pursuant to any and all present and future licensing agreements in favor of the Pledgor, or to which the Pledgor is a party, pertaining to any Patents or Patent Rights, owned or used by third parties in the present or future, including the right in the name of the Pledgor or the Lender to enforce, and sue and recover for, any past, present or future breach or violation of any such agreement.

Patent Rights. Any and all present or future rights in, to and associated with the Patents throughout the world, whether arising under federal law, state law, common law, foreign law, or otherwise, including but not limited to the following: all such rights arising out of or associated with the Patents; the right (but not the obligation) to register claims under any federal, state or foreign patent law or regulation; the right (but not the obligation) to sue or bring opposition or bring cancellation proceedings in the name of the Pledgor or the Lender for any and all past, present and future infringements of or any other damages or injury to the Patents or the Patent Rights, and the rights to damages or profits due or accrued arising out of or in connection with any such past, present or future infringement, damage or injury.

Patents. All patents and patent applications, whether United States or foreign, that are owned by the Pledgor or in which the Pledgor has any right, title or interest, now or in the future, including but not limited to:

(a) the patents and patent applications listed on Schedule A hereto (as the same may be amended pursuant hereto from time to time);

(b) all re-issues, continuations, divisions, continuations-in-part, renewals or extensions thereof;

(c) the inventions disclosed or claimed therein, including the right to make, use, practice and/or sell (or license or otherwise transfer or dispose of) the inventions disclosed or claimed therein; and

(d) the right (but not the obligation) to make and prosecute applications for such Patents,

Pending. With respect to any claim, action, suit, proceeding or investigation of a party or a party's interest in the Patent Collateral, that such party has been sued or initially notified with respect to such claim, action, suit, proceeding or investigation and such action, suit, proceeding or investigation has not been dismissed, completed or terminated.

Proceeds. Any consideration received from the sale, exchange, license, lease or other disposition or transfer of any right, interest, asset or properly which constitutes all or any part of the Patent Collateral, any value received as a consequence of the ownership, possession, use or practice of any Patent Collateral, and any payment received from any insurer or other person or entity as a result of the destruction or the loss, theft or other involuntary conversion of whatever nature of any right, interest, asset or property which constitutes all or any part of the Patent Collateral.

PTO. The United States Patent and Trademark Office.

Notwithstanding anything to the contrary in the foregoing or on Schedule A hereto, the terms "Patent Collateral", "Patent Rights", "Patent License Rights" and "Patents", as used herein, shall include rights and interests under licensing agreements pursuant to which Pledgor is the licensee, and the patents licensed thereunder, only to the extent that the grant of security interest in such rights and interests (as contemplated by this Patent Security Agreement) would not result in a breach of the terms of or constitute a default under any such licensing agreement.

2. GRANT OF SECURITY INTEREST.

To secure the payment in full of all of the Loans, the Pledgor hereby grants to the Lender a security interest in all of the Patent Collateral.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS.

The Pledgor represents, warrants and covenants that: (i) Schedule A attached hereto sets forth a true and complete list of all the Patents now owned, licensed, controlled or used by the Pledgor, except patents for technologies licensed pursuant to inbound "shrink-wrap" or other similarly publicly available commercial end-user licenses, provided, that this representation is made to Pledgor's knowledge with respect to any Patents for which Lender controls the prosecution; (ii) subject to the last paragraph of §1, the Pledgor has the right to enter into this Patent Security Agreement and perform its terms; (iii) this Patent Security Agreement will create in favor of the Lender a valid and perfected first priority security interest in the Patent Collateral upon making the filings referred to in clause (iv) of this §3; and (iv) except for the filing of financing statements with Secretary of State for the State of Delaware under the Uniform Commercial Code and the filing of this Patent Security Agreement with the PTO and except for any filings which may be required in jurisdictions outside the United States, no authorization, approval or other action by, and no notice to or filing with, any governmental or regulatory authority, agency or office is required either (1) for the grant by the Pledgor or the effectiveness of the security interest and assignment granted hereby or for the execution, delivery and performance of this Patent Security Agreement by the Pledgor, or (2) for the perfection of or the exercise by the Lender of any of its rights and remedies hereunder.

4. NO TRANSFER OR INCONSISTENT AGREEMENTS.

Without the Lender's prior written consent, except to the extent expressly permitted hereunder or pursuant to the Loan Agreement, the Pledgor will not (i) mortgage, pledge, assign, encumber, grant a security interest in, transfer, or alienate any of the Patent Collateral or (ii) enter into any agreement that is inconsistent with the Pledgor's obligations under this Patent Security Agreement.

5. AFTER-ACQUIRED PATENTS, ETC.

5.1. **After-acquired Patents.** If, before all of the Loans shall have been finally paid and satisfied in full, the Pledgor shall obtain any right, title or interest in or to any other or new patents or patent applications, or become entitled to the benefit of any patent application or patent or any reissue, division, continuation, renewal, extension, or continuation-in-part of any of the Patent Collateral or any improvement on any of the Patent Collateral, the provisions of this Patent Security Agreement shall automatically apply thereto and the Pledgor shall promptly (but in no event more frequently than once every sixty (60) days) give to the Lender notice thereof in writing and execute and deliver to the Lender such documents or instruments as the Lender may reasonably request further to grant a security interest therein to the Lender; provided, that such notice shall not be required to be delivered by Pledgor with respect to any such filings which are made by Lender.

5.2. **Amendment to Schedule.** The Pledgor authorizes the Lender to modify this Patent Security Agreement, without the necessity of the Pledgor's further approval or signature, by amending Schedule A hereto to include any future or other Patents or Patent Rights under §2 or §5 hereof.

6. REMEDIES.

If any Event of Default shall have occurred and be continuing, then upon notice by the Lender to the Pledgor: the Lender shall have, in addition to all other rights and remedies given it by this Patent Security Agreement and the Loan Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the State of Delaware or Massachusetts, as applicable, and, without limiting the generality of the foregoing, subject to applicable law, the Lender may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to the Pledgor, all of which are hereby expressly waived, and without advertisement, sell or license at public or private sale or otherwise realize upon the whole or from time to time any part of the Patent Collateral, or any interest which the Pledgor may have therein, and after deducting from the proceeds of sale or other disposition of the Patent Collateral all expenses (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such proceeds toward the payment of the Loans as set forth in the Loan Agreement. Notice of any sale, license or other disposition of any of the Patent Collateral shall be given to the Pledgor at least five (5) Business Days before the time that any intended public sale or other disposition of such Patent Collateral is to be made or after which any private sale or other disposition of such Patent Collateral may be made, which the Pledgor hereby agrees shall be reasonable notice of such public or private sale or other disposition. At any such sale or other disposition, the Lender may, to the extent permitted under applicable law, purchase or license the whole or any part of the Patent Collateral or interests therein sold, licensed or otherwise disposed of.

7. POWER OF ATTORNEY.

If any Event of Default shall have occurred and be continuing, the Pledgor does hereby make, constitute and appoint the Lender (and any officer or agent of the Lender as the Lender may select in its exclusive discretion) as the Pledgor's true and lawful attorney-in-fact, with the power to endorse the Pledgor's name on all applications, documents, papers and instruments necessary for the Lender to use any of the Patent Collateral, to practice, make, use or sell the inventions disclosed or claimed in any of the Patent Collateral, to grant or issue any exclusive or nonexclusive license of any of the Patent Collateral to any third person, or necessary for the Lender to assign, pledge, convey or otherwise transfer title in or dispose of the Patent Collateral or any part thereof or interest therein to any third person, and, in general, to execute and deliver any instruments or documents and do all other acts which the Pledgor is obligated to execute and do hereunder. This power of attorney shall be irrevocable for the duration of this Patent Security Agreement.

8. FURTHER ASSURANCES.

The Pledgor shall, at any time and from time to time, and at its expense, make, execute, acknowledge and deliver, and file and record as necessary or appropriate with governmental or regulatory authorities, agencies or offices, such agreements, assignments, documents and instruments, and do such other and further acts and things (including, without limitation, obtaining consents of third parties), as the Lender may reasonably request or as may be necessary in order to implement the provisions of this Patent Security Agreement or to assure and confirm to the Lender the grant, perfection and priority of the Lender's security interest in any of the Patent Collateral.

9. TERMINATION.

At such time as all of the Loans have been finally paid and satisfied in full, this Patent Security Agreement shall terminate and the Lender shall, promptly and in any event within five (5) business days of request from Pledgor, execute and deliver to the Pledgor, at the expense of the Pledgor, all deeds,

assignments and other instruments as may be necessary or proper to reassign and reconvey to and re-vest in the Pledgor the entire right, title and interest to the Patent Collateral previously granted, assigned, transferred and conveyed to the Lender by the Pledgor pursuant to this Patent Security Agreement, as fully as if this Patent Security Agreement had not been made, subject to any disposition of all or any part thereof which may have been made by the Lender in accordance herewith.

10. COURSE OF DEALING.

No course of dealing among the Pledgor and the Lender, nor any failure to exercise, nor any delay in exercising, on the part of the Lender, any right, power or privilege hereunder or under the Loan Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

11. EXPENSES.

Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and legal expenses, incurred by the Lender in its capacity as secured party in connection with the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving any of the Patent Collateral, or in defending or prosecuting any actions or proceedings arising out of or related to any of the Patent Collateral, shall be borne and paid by the Pledgor.

12. INDEMNIFICATION.

THE PLEDGOR SHALL INDEMNIFY THE LENDER FOR ANY AND ALL COSTS, EXPENSES, DAMAGES AND CLAIMS, INCLUDING LEGAL FEES ("LOSSES"). INCURRED BY THE LENDER IN ITS CAPACITY AS SECURED PARTY WITH RESPECT TO ANY CLAIM OR CLAIMS BROUGHT BY THIRD PARTIES REGARDING THE PLEDGOR'S OWNERSHIP OR PURPORTED OWNERSHIP OF, OR RIGHTS OR PURPORTED RIGHTS ARISING FROM, ANY OF THE PATENT COLLATERAL OR ANY PRACTICE, USE, LICENSE OR SUBLICENSE THEREOF, OR ANY PRACTICE, MANUFACTURE, USE OR SALE OF ANY OF THE INVENTIONS DISCLOSED OR CLAIMED THEREIN, WHETHER ARISING OUT OF ANY PAST, CURRENT OR FUTURE EVENT, CIRCUMSTANCE, ACT OR OMISSION OR OTHERWISE.

13. RIGHTS AND REMEDIES CUMULATIVE.

All of the Lender's rights and remedies with respect to Events of Default relating to the Patent Collateral, whether established hereby or by the Loan Agreement or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently. This Patent Security Agreement is supplemental to the Loan Agreement, and nothing contained herein shall in any way derogate from any of the rights or remedies of the Lender contained therein. Nothing contained in this Patent Security Agreement shall be deemed to extend the time of attachment or perfection of or otherwise impair the security interest in any of the Patent Collateral granted to the Lender under the Loan Agreement.

14. NOTICES.

All notices and other communications made or required to be given pursuant to this Patent Security Agreement shall be made as set forth in Section 10.1 of the Loan Agreement.

15. AMENDMENT AND WAIVER.

This Patent Security Agreement is subject to modification only by a writing signed by the Lender and the Pledgor, except as provided in §5.2. Neither party shall be deemed to have waived any right hereunder unless such waiver shall be in writing and signed by it. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion.

16. GOVERNING LAW.

THIS PATENT SECURITY AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS.

17. MISCELLANEOUS.

The headings of each section of this Patent Security Agreement are for convenience only and shall not define or limit the provisions thereof. This Patent Security Agreement and all rights and obligations hereunder shall be binding upon the Pledgor and its successors and assigns and shall inure to the benefit of the Lender and its successors and assigns. In the event of any irreconcilable conflict between the provisions of this Patent Security Agreement and the Loan Agreement, the provisions of the Loan Agreement shall control. If any term of this Patent Security Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Patent Security Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein.

[Reminder of Page Intentionally Left Blank]

IN **WITNESS WHEREOF,** this Patent Security Agreement has been executed as of the day and year first above written.

SURGIVISION, INC.

By: /s/ K. Jenkins
Name: K Jenkins
Title: CEO

BOSTON SCIENTIFIC CORPORATION

By: /s/ Sam Leno
Name: SAM LENO
Title: EVP, FINANCE & INFORMATION SYSTEMS & CFO

1st Name: Jim Gilbert
Title: EVP, Strategy & Business Development

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF Tennessee)
) ss
COUNTY OF Shelby)

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 16th day of October, 2009 personally appeared Kimble Jenkins to me known personally, and who, being by me duly sworn, deposes and says that he is the CEO of SurgiVision, Inc., and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said Kimble Jenkins acknowledged said instrument to be the free act and deed of said corporation

/s/ Priscilla H. Horner
Notary Public
My commission expires: MY COMMISSION EXPIRES:
April 18, 2012

Schedule A

ISSUED AND PENDING PATENTS

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Schedule A

ISSUED AND PENDING PATENTS

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Schedule A

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[***]

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Schedule A

ISSUED AND PENDING PATENTS

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Exhibit 10.26

RESEARCH AGREEMENT
NO. _____

BY AND BETWEEN

SURGIVISION, INC.
AND
THE UNIVERSITY OF UTAH

This Research Agreement ("Agreement") is entered into and effective as of _____, by and between Surgi Vision, Inc, a Delaware corporation having a principal place of business at 200 N Cobb Parkway, Suite 140, Marietta, Georgia 30062 ("Sponsor") and the University of Utah, a body politic and corporate of the State of Utah ("University").

RECITALS

WHEREAS, Sponsor wishes to fund research in MRI Guided EP Ablation as outlined in this Agreement; and

WHEREAS, the performance of such research is consistent, compatible and beneficial to the academic role and mission of University as an institution of higher education; and

WHEREAS, University is qualified to provide such research.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions and undertakings herein set forth, the parties agree as follows:

1. Scope of Work. University agrees to perform certain research ("Research") described in the Scope of Work set forth in Appendix A, which is attached hereto and incorporated herein by this reference.

2. Period of Performance. The term of this Agreement shall be one-year, commencing on the effective date of this Agreement. The Agreement shall automatically terminate one year from the effective date, unless both Sponsor and University agree in writing prior to the termination date, to extend the Agreement for a subsequent one-year renewal term subject to the same terms and conditions stated herein.

3. Compensation and Payment.

3.1 Compensation. Sponsor shall pay to University a total of $[***] USD ("Compensation") in consideration for this Agreement. The Compensation shall be used by the University substantially along the lines of the budget itemizing the costs of the Research, as set forth in Appendix B, which is attached hereto and incorporated herein by this reference.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

3.2 Payment. Sponsor shall pay an initial payment of $[***] of the Compensation amount within 30 days of the effective date of this Agreement. Thereafter, monthly progress payments shall be made by Sponsor to University based upon monthly invoices submitted by University to Sponsor. The monthly invoices shall identify the direct, facility and administrative costs. Invoices submitted to Sponsor shall be paid by Sponsor within thirty (30) days of receipt. Final payment shall include the unpaid balance of the Compensation and shall be paid upon completion of the Research. Final payment of any remaining amount of Compensation unpaid at termination of the Agreement, if any, shall be made within 30 days of notification of completion of the Research.

Invoices shall be delivered to:

JOHN THOMAS
200 N. COBB PARKWAY
MARIETTA, GA 30062

Compensation checks shall be payable to "The University of Utah" and shall be sent to:

GARY S. GLEDHILL
UNIVERSITY OF UTAH
RESEARCH ACCOUNTING
201 PRESIDENT'S CIRCLE, ROOM 406
SALT LAKE CITY UT 84112-9020

4. Technical Supervision. The person with primary responsibility for supervision of the performance of the Research at the University shall be Dr. Nassir Marrouche. No other person shall replace or substitute for him in the supervisory responsibilities hereunder without the prior written approval of Sponsor, which may be granted or withheld at Sponsor's sole discretion, and with the consent of the University, which consent shall not be unreasonably withheld.

5. Reporting Requirements. University shall provide written reports to Sponsor on the progress of the performance of Research as outlined or required in the Scope of Work. A final written report shall be furnished to Sponsor upon completion of the Research or within 60 days of the termination of the Agreement, whichever is earlier.

6. Equipment. All equipment, instruments and materials purchased or used by University in connection with performance of the Research shall at all times remain under the control and ownership of University. This provision does not apply to equipment, instruments or materials loaned to University by Sponsor, which shall remain the property of the Sponsor and shall be returned to Sponsor upon termination of this Agreement.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

7. Publication and Confidentiality.

7.1 Publication. In furtherance of University's role as a public institution of higher education, it is necessary that significant results of research activities be reasonably available for publication by the University, and Sponsor acknowledges that University may publish the results of research conducted in connection with this Agreement.

Notwithstanding the foregoing, University agrees that it shall not publish the results of research conducted in connection with this Agreement, without the prior written consent of Sponsor, until the expiration of six (6) months following the first to occur of either the termination of this Agreement or submission of the final written report required under Section 4 hereof. In the event University wishes to publish research results prior to the expiration of the above described six (6) month period, University shall first provide to Sponsor written notice of University's intent to publish and a draft of such publication. Sponsor shall have thirty (30) days after receipt of the draft publication to request in writing the removal of portions deemed by Sponsor to contain confidential or patentable material owned by Sponsor, or to request a delay in submission of the draft for publication pending Sponsor's application for patent protection. In either event, University shall have no obligation to delay publication of the draft for longer than six (6) months following delivery of University's notice to Sponsor of intent to publish. If University does not receive Sponsor's written response to the notice of intent to publish within the thirty (30) day period, then Sponsor shall be deemed to have consented to such publication. However, information supplied to University by Sponsor and identified by Sponsor as proprietary information shall not be included in any material published by University without prior written consent of Sponsor.

7.2 Confidentiality. Confidentiality. Sponsor acknowledges that University is a governmental entity and thus subject to the Utah Governmental Records Access Management Act, Section 63-2-101 et seq., Utah Code Ann. (1997 and Supp 2005 as amended) ("GRAMA") and Section 53B-16-301 et seq., Utah Code Ann. (1994 and Supp. 2005). Pursuant to GRAMA, a sponsor of research may submit a single claim of business confidentiality concerning confidential business records exchanged during the research project. Thereafter, no party may obtain confidential business records from the University absent a court order requiring the University to disclose the records.

8. Indemnification.

8.1 Indemnification by University. It is understood that the Institution is a governmental entity and is subject to the Governmental Immunity Act of Utah, Section 63-30d-101 et seq., Utah Code Ann. (2004, as amended) ("Act"). It is further understood that nothing in this Agreement shall be construed as a waiver of any rights or defenses applicable to the Institution under the Act, including without limitation, the provisions of Section 63-30d-604 regarding limitation of judgments. Subject to the provisions of the Act, University agrees to indemnify, defend and hold harmless Sponsor, its directors, officers, agents and employees against any actions, suits, proceedings, liabilities and damages that may result from the negligent acts or omissions of University, its officers, agents or employees in connection with this Agreement up to the limits of the Utah Governmental Immunity Act.

8.2 Indemnification by Sponsor. Sponsor shall indemnify, defend and hold harmless

University, its directors, officers, agents and employees against any actions, suits, proceedings, liabilities and damages that may result from the negligent acts or omissions of Sponsor, its officers, agents or employees in connection with this Agreement. Sponsor shall not be responsible for any acts by employees, students or agents of University for Research carried out under this Agreement.

8.3 Indemnification by University. University shall indemnify, defend and hold harmless Sponsor, its directors, officers, agents and employees against any actions, suits, proceedings, liabilities and damages that may result from the negligent acts or omissions of University, its officers, agents or employees in connection with this Agreement.

9. Compliance With Laws. In performance of the Research, Sponsor and University shall comply with all applicable federal, state and local laws, codes, regulations, rules and orders.

10. Patents and Inventions.

10.1 Background Intellectual Property. "Background Intellectual Property" means property and the legal right therein of either or both parties developed before or independent of this Agreement, including inventions, patent applications, patents, copyrights, trademarks, mask works, trade secrets and any information embodying proprietary data such as technical data and computer software. This Agreement does not grant and shall not be construed as implying that either party hereto shall have the right to use Background Intellectual Property of the other in connection with this Research except as otherwise provided hereunder.

10.2 Notification of Inventions. Should any invention or improvement be developed during the course of the Research, University shall notify Sponsor of such invention or improvement within thirty (30) days of knowledge of the invention or improvement.

10.3 Ownership. The University shall own all right, title and interest in all inventions and improvements conceived or reduced to practice solely by University or University personnel in the performance of the Research (hereinafter collectively "University Invention"). Sponsor shall own all right, title and interest in all inventions and improvements conceived or reduced to practice by Sponsor, Sponsor personnel and/or consultants thereof in the performance of the Research (hereinafter collectively "Sponsor Invention"). The University and Sponsor will jointly own all right title and interest in all inventions and improvements jointly conceived or reduced to practice by inventors at the University and at Sponsor in the performance of the Research (hereinafter collectively "Joint Invention"). Inventorship shall be determined in accordance with U.S. Patent Law.

10.4 Grant of Non-Exclusive License. In consideration of Sponsor's support of the Research, University hereby grants to Sponsor an irrevocable fully paid-up, non-royalty bearing, worldwide non-exclusive license with the right to sublicense, any patent, copyright or other intellectual property right associated with any University Invention, including the right to practice the University Invention and the right to make, have made, use, import, offer for sale and sell products and processes covered by the University invention.

10.5 Option for Exclusive License. The University also grants to Sponsor a 6-month Exclusive Option Period to any University Invention or to University's interest in any Joint Invention, which option shall expire six (6) months after University has provided written notice to Sponsor of any such University Invention or Joint Invention ("Option Period"). Upon exercise of the option in writing, the parties will meet within thirty (30) days to begin negotiating the terms of the license. The parties agree to negotiate in good faith. In the event an exclusive license is not executed within six (6) months from the exercise of the option, or the option is not exercised within the Option Period, then subject to the non-exclusive license in 10.4, University shall be free to license the University Invention or the University's interest in any Joint Invention to others, at the University's sole discretion with no further obligation to the Sponsor. In the event the University shall affirmatively decide to not pursue legal protection of and/or abandon its rights to any such invention or improvement prior to exercise of said option, University shall timely notify Sponsor of this decision and assign to Sponsor all of the University's rights, title and interest therein.

11. Relationship of Parties. In assuming and performing the obligations of this Agreement, University and Sponsor are each acting as independent parties and neither shall be considered or represent itself as a joint venturer, partner, agent or employee of the other. Neither party shall use the name or any trademark of the other party in any advertising, sales promotion or other publicity matter without the prior written approval of the other party. University shall be responsible for determining what activities are appropriate under the Research and shall direct those activities. Sponsor shall not direct nor determine what activities shall be carried out to perform the Research and shall not be held responsible for any activities carried out by researchers performing the Research at the University.

12. Termination. This Agreement may be terminated by either party at any time, by giving written notice thereof to the other party. Such termination shall be effective thirty (30) days after receipt of such notice. Termination shall not relieve either party of any obligation or liability accrued hereunder prior to such termination, or rescind or give rise to any right to rescind any payments made prior to the time of such termination.

13. Uncontrollable Forces. Neither Sponsor nor University shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to uncontrollable forces the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "uncontrollable forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, inability to procure permits, licenses, or authorizations from any state, local, or federal agency or person for any of the supplies, materials, accesses, or services required to be provided by either Sponsor or University under this Agreement, strikes, work slowdowns or other labor disturbances, and judicial restraint.

14. Miscellaneous.

14.1 Assignment. University shall not assign or transfer any interest in this Agreement, nor assign any claims for money due or to become due under this Agreement, without the prior written consent of the Sponsor. Sponsor shall have the right to assign this Agreement and the rights under 10.4 and 10.5, with prior written consent of University, and such consent shall not be unreasonably withheld.

14.2 Entire Agreement. This Agreement, with its attachments, constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes any other written or oral understanding of the parties. This Agreement may not be modified except by written instrument executed by both parties.

14.3 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns.

14.4 Notices. Except as provided in Section 3 hereof regarding payment of invoices, any notice or other communication required or permitted to be given to either party hereto shall be in writing and shall be deemed to have been received and properly given and effective: (a) on the date of delivery if delivered in person to an employee of University or Sponsor during recipient's normal business hours; or (b) on the date of delivery to the Notice Address if delivered by courier, express mail service or first-class mail, registered or certified, return receipt requested. Such notice shall be sent or delivered to the respective addresses given below, or to such other address as either party shall designate by written notice given to the other party (Notice Address) as follows:

In the case of University:

Technical

Name: Dr. Marrouche
Title: Principal Investigator
Address: 30 N 1900 E, Rm 4A100
Salt Lake City, UT 84132

Contractual

Brent Brown
UNIVERSITY OF UTAH
OFFICE OF SPONSORED PROJECTS
75 South 2000 East
SALT LAKE CITY UT 84112

In the case of Sponsor:

Technical

Name: Pete Piferi
Title: COO
Address: 50 N Front St.
19th floor, Memphis TN 38103

Contractual

Name: Kimble Jenkins
Title: CEO
Address: 50 N Front St.
19th floor, Memphis TN 38103

Correspondence to be sent with a courtesy copy to:
Julie Richardson, Esq.
Myers Bigel Sibley & Sajovec, P.A.
4140 Parklake Ave.
Raleigh, NC 27627 (Fax: 919-854-1401)

14.5 Order of Precedence. In the event of any conflict, inconsistency or discrepancy amount, the Agreement and any other documents listed below shall be resolved by giving precedence in the following order.

(a) This Agreement including the Exhibits hereto

(b) Purchase Order issued by Sponsor. In the event a purchase order is issued under this Agreement and such purchase order contains standardized terms and conditions, the terms and conditions of this Agreement shall supercede and replace all such purchase order standardized terms and conditions.

14.6 Governing Law and Disputes. This Agreement shall be interpreted and construed in accordance with the laws of the State of Utah, without application of any principles of choice of laws. Disputes that cannot be resolved by Sponsor and University shall be determined by a court of competent jurisdiction in the State of Utah.

14.7 Nonwaiver. A waiver by either party of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

14.8 Use of Name. Sponsor may not use the name of University in any news release or advertising or any publications directed to the general public without written approval of University.

14.9 Attorney Fees. The prevailing Party in any action or suit to enforce the terms or conditions of this Agreement shall be entitled to recover its costs of court and reasonable attorneys' fees incurred in enforcing the terms or conditions of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first written above.

SURGIVISION, INC
"Sponsor"

By: /s/ Kimble Jenkins
Signature
Name: Kimble Jenkins
Title: President
Date: 7/2/07

UNIVERSITY OF UTAH
"University"

By: /s/ Brent K. Brown
Signature
Name: Brent K. Brown
Title: Director, Office of Sponsored Projects
Date: 6/22/07

NASSIR MARROUCHE
"Primary Researcher"

Signature: /s/ Nassir Marrouche

Title: _____

Date: _____

APPENDIX A
RESEARCH SCOPE OF WORK

[Insert Scope of Work referenced in Article 1.]

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

APPENDIX B
RESEARCH AGREEMENT BUDGET

[Insert Budget referenced in Article 3.1]

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

FIRST AMENDMENT TO THE RESEARCH AGREEMENT
BY AND BETWEEN
SURGIVISION, INC.
AND
THE UNIVERSITY OF UTAH

This is a first Amendment to the Research Agreement ("Agreement"), by and between SurgiVision, Inc, a Delaware corporation having a principal place of business at 200 N Cobb Parkway, Suite 140, Marietta, Georgia 30062 ("Sponsor") and the University of Utah, a body politic and corporate of the State of Utah ("University"), executed by the Parties on July 2, 2007 and June 22, 2007, respectively.

The enumerated provisions below replace the corresponding provisions in the original Agreement. All other provisions are unaffected by this first Amendment.

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions and undertakings set forth, the parties agree to amend the Agreement as follows:

1. Scope of Work. University agrees to perform certain research ("Research") described in the Scope of Work set forth in Appendix A', which is attached hereto and incorporated herein by this reference.

2. Period of Performance. The term of this Agreement shall be two-years, commencing on November 15, 2007, which shall be the new Effective Date of the Agreement. The Agreement shall automatically terminate two years from the Effective Date, unless both Sponsor and University agree in writing, prior to the termination date, to extend the Agreement for a subsequent one or two-year renewal term subject to the same terms and conditions stated herein, except that the monetary compensation may be altered if agreed to by both Sponsor and University in writing.

3. Compensation and Payment.

3.1 Compensation. Sponsor shall pay to University a total of $[***] USD ($[***] under the original Agreement and $[***] under this first Amendment) in year one (reduced by any prior payments made since execution of the original Agreement) and a total of $[***] in year two ("Compensation") in consideration for this Agreement. The Compensation shall be used by the University substantially along the lines of the budget itemizing the costs of the Research, as set forth in Appendix B', which is attached hereto and incorporated herein by this reference.

3.2 Payment. Sponsor shall remit quarterly progress payments to University based upon quarterly invoices submitted by University to Sponsor. The invoices shall identify the direct, facility and administrative costs. Invoices submitted to Sponsor shall be paid each quarter by Sponsor within 30 days of receipt. Final payment shall include the unpaid balance of the Compensation and shall be paid upon completion of the Research. Final payment of any remaining amount of Compensation unpaid at termination of the Agreement, if any, shall be made within 30 days of notification of completion of the Research.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first written above.

SURGIVISION, INC
"Sponsor"

By: /s/ Kim Jenkins
Signature
Name: Kim Jenkins
(Please print)
Title: CEO
Date: Nov 12, 2007

UNIVERSITY OF UTAH
"University"

By: /s/ Brent K. Brown
Signature
Name: Brent K. Brown, Esq
(Please print)
Title: Director, Office of Sponsored projects
Date: 1/8/08

NASSIR MARROUCHE
"Primary Researcher"

Signature: /s/ Nassir Marrouche

Title: _____

Date: _____

APPENDIX A'
RESEARCH SCOPE OF WORK

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

APPENDIX B'
RESEARCH AGREEMENT BUDGET
See attached two sheets.

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

SECOND AMENDMENT TO THE RESEARCH AGREEMENT
BY AND BETWEEN
SURGIVISION, INC.
AND
THE UNIVERSITY OF UTAH

This is the second Amendment to the Research Agreement (as amended, the "Agreement"), by and between SurgiVision, Inc, a Delaware corporation having a principal place of business at One Commerce Square, Suite 2550, Memphis, TN 38103 ("Sponsor") and the University of Utah, a body politic and corporate of the State of Utah with a place of business at 75 South 2000 East, Rm. 211 RAB, Salt Lake City, UT 84112 ("University"), executed by the Parties on July 2, 2007 and June 22, 2007, respectively. This Amendment has an effective date of April 24, 2009.

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions and undertakings set forth, the Parties agree to amend the Agreement as follows:

1. Section 3.1 Compensation. Sponsor shall pay to University a total of $[***] ($[***] under the original Agreement and previous Amendment) in consideration for this Agreement. The Compensation shall be used by the University substantially along the lines of the budget itemizing the costs of the Research, as set forth in Appendix B, which is attached hereto and incorporated herein by this reference.

All other terms and conditions of the Agreement shall remain in full force and effect and shall be unaffected by this Second Amendment to the Research Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first written above.

SURGIVISION, INC
"Sponsor"

By: /s/ Kim Jenkins
Name: Kim Jenkins
Title: CEO
Date: 4/29/09

UNIVERSITY OF UTAH
"University"

By: /s/ Brent K. Brown
Name: Brent K. Brown
Title: Director, Office of Sponsored Projects
Date: 4/29/09

NASSIR MARROUCHE
"Primary Researcher"

Signatures: /s/ Nassir Marrouche
Date: 4/29/09

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

THIRD AMENDMENT TO THE RESEARCH AGREEMENT
BY AND BETWEEN
SURGIVISION, INC.
AND
THE UNIVERSITY OF UTAH

This is the third Amendment to the Research Agreement (as amended, the "Agreement"), by and between SurgiVision, Inc., a Delaware corporation having a place of business at One Commerce Square, Suite 2550, Memphis, TN 38103 ("Sponsor"), and the University of Utah, a body politic and corporate of the State of Utah with a place of business at 75 South 2000 East, Rm. 211, RAB, Salt Lake City, UT 84112 ("University"), executed by the Parties on July 2, 2007 and June 22, 2007, respectively. This Amendment has an effective date of May 1, 2009.

NOW, THERFORE, for and in consideration of the mutual covenants, conditions and undertakings set forth, the Parties agree to amend the Agreement as follows:

1. In addition to the funding described in Section 3.1 of the Agreement (which aggregate amount has already been paid by Sponsor to University), Sponsor shall provide to University aggregate funding up to $[***] (the "Additional Funding") with respect to the 4-month period of May, June, July, and August of 2009 (i.e., $[***] per month). Such Additional Funding shall be allocated and applied by University (a) to carry out the Research under the Agreement, and (b) as outlined in the budget in Appendix A.
2. University acknowledges that Sponsor has already paid University $[***] of the Additional Funding. Sponsor shall pay University the remaining balance of the Additional Funding according to the following schedule: (a) Sponsor shall pay University $[***] following signature of this Amendment by both parties; and (b) Sponsor shall pay University the final $[***] on or before August 31, 2009.
3. University will provide Sponsor, on a timely basis, with information reasonably requested by Sponsor with respect to University's actual allocation and application of Additional Funding paid by Sponsor.

All other terms and conditions of the Agreement shall remain in full force and effect and shall be unaffected by this Third Amendment to the Research Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first written above.

SURGIVISION, INC
"Sponsor"

By: _____
Name: Kim Jenkins
Title: CEO

UNIVERSITY OF UTAH
"University"

By: _____
Name: Brent K. Brown
Title: Director, Office of Sponsored

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Appendix A

May-August 2009 Amended Budget for
SurgiVision/Siemens EP/MRI Collaboration Project

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

FOURTH AMENDMENT TO THE RESEARCH AGREEMENT
BY AND BETWEEN
SURGIVISION, INC.
AND
THE UNIVERSITY OF UTAH

This is the Fourth Amendment to the Research Agreement (as previously amended, and as further amended by this Fourth Amendment, the "Research Agreement"), by and between SurgiVision, Inc., a Delaware corporation having a place of business at One Commerce Square, Suite 2550, Memphis, TN 38103 ("Sponsor"), and the University of Utah, a body politic and corporate of the State of Utah with a place of business at 75 South 2000 East, Rm. 211, RAB, Salt Lake City, UT 84112 ("University"), executed by the Parties on July 2, 2007 and June 22, 2007, respectively. This Fourth Amendment is executed as of February 25, 2010, with an effective date of September 1, 2009.

NOW, THERFORE, for and in consideration of the mutual covenants, conditions and undertakings set forth, the parties agree to amend the Research Agreement as follows:

1. Defined Terms. Capitalized terms used but not defined in this Fourth Amendment shall have the meanings ascribed to such terms in the Research Agreement.

2. Extended Scope of Work. The term of the Research Agreement is extended through December 31, 2010. For the twelve (12) month period commencing January 1, 2010 and ending December 31, 2010, University agrees to perform research activities described in or contemplated by the Scope of Work attached hereto as Exhibit A (the "SOW") for Sponsor's exclusive benefit and to cooperate with Sponsor to facilitate a timely and successful completion of such research activities. For purposes of the Research Agreement, the term "Research" shall hereinafter include, without limitation, research activities described in or contemplated by the SOW. University shall provide Sponsor the deliverables set forth in the SOW, on or before the dates set forth in the SOW.

3. Additional SVI Support for Research.

(a) With respect to the four (4) month period commencing September 1, 2009 and ending December 31, 2009, Sponsor shall provide to University aggregate funding in the amount of [***], which Sponsor shall pay in a single installment within thirty (30) days following the execution date of this Fourth Amendment. Such funding shall be allocated and applied by University (i) to carry out the Research for Sponsor's exclusive benefit, and (ii) to pay documented, reasonable and actual expenses in connection therewith.

(b) Provided the Research Agreement is not earlier terminated, with respect to the twelve (12) month period commencing January 1, 2010 and ending December 31, 2010, Sponsor shall provide to University aggregate funding in an amount up to [***] (the "Additional Funding"). The Additional Funding shall be allocated and applied by University (i) to carry out research activities described in or contemplated by the SOW for Sponsor's exclusive benefit, and (ii) to pay documented, reasonable and actual expenses in connection therewith, substantially in accordance with the itemized budget attached hereto as Exhibit B. Subject to the ultimate and penultimate sentences of this paragraph, and provided the Research Agreement is

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

not earlier terminated, Sponsor shall pay to University the Additional Funding in four (4) payments according to the following schedule: (A) the first payment, in an amount no more than [***] will be due and payable as of April 15, 2010; (B) the second payment, in an amount no more than [***] will be due and payable as of July 15, 2010; (C) the third payment, in an amount no more than [***] will be due and payable as of October 15, 2010; and (D) the fourth payment, in an amount no more than [***] will be due and payable as of January 15, 2011. Notwithstanding the foregoing to the contrary, Sponsor's obligation to make each payment of the Additional Funding is contingent upon University's compliance with the Research Agreement, including, but in no way limited to, the SOW. Sponsor reserves the right to suspend or withhold any payment of funds if University fails to comply strictly with the terms and conditions of the Research Agreement (which, for the avoidance of any doubt, includes this Fourth Amendment), including, but in no way limited to, the failure by University to achieve the milestones, and/or the failure by University to provide Sponsor the milestone deliverables, as set forth in the SOW.

(c) University shall continue to account for the funding provided by Sponsor separately in University's books and records, provided all such funding may be accounted for in a single University project account. A systematic accounting record shall be kept by University of the receipt and disbursement of funds. University shall retain original substantiating documents related to specific expenditures and make these records available for Sponsor's review upon request. University shall be responsible for maintaining adequate financial records of the research program. Sponsor, or a designated representative, reserves the right, upon reasonable written notice, to audit University's books and records relating to the expenditure of the Additional Funding.

(d) University shall provide Sponsor, on a timely basis as reasonably requested by Sponsor, with written reports that describe in reasonable detail University's actual allocation and application of funding provided by Sponsor (e.g., salaries, supplies, etc.).

4. Amendment to Section 4 of the Research Agreement (Technical Supervision). Section 4 of the Research Agreement (Technical Supervision) is hereby amended by adding the following at the end of such section:

"In the event Dr. Nassir Marrouche leaves University or otherwise withdraws from his role in the performance of the Research, Sponsor may, in its sole discretion, terminate this Agreement or consent to University's designation of a replacement or substitute."

5. Amendment to Section 5 of the Research Agreement (Reporting Requirements). Section 5 of the Research Agreement (Reporting Requirements) is hereby amended by deleting the first sentence thereof in its entirety and substituting the following therefore:

"University shall provide periodic written reports to Sponsor as requested by Sponsor, which reports shall set forth in reasonable detail the status of the Research and the progress in the performance of the Research to achieve any applicable objectives and/or milestones."

6. Amendment to Section 7.1 of the Research Agreement (Publication). Section 7.1 of the Research Agreement (Publication) is hereby amended by deleting the second paragraph thereof in its entirety and substituting the following therefore:

"Notwithstanding the foregoing, to protect the confidentiality of Confidential Information (as defined below) and/or the patentability of inventions and improvements conceived or reduced to practice in the performance of the Research, University agrees (for itself and all of its personnel) to provide to Sponsor, for Sponsor's review and comment, any proposed publications or presentations which will disclose any findings, data or results of the research conducted in connection with this Agreement as soon as

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

possible, but in any event at least thirty (30) days prior to submission of a manuscript or abstract for publication or to the date of the presentation. If Sponsor reasonably determines that the proposed publication or presentation contains patentable subject matter which requires protection, or discloses any Confidential Information, University agrees (for itself and all of its personnel) (i) to delay publication or presentation for a period of time, not to exceed sixty (60) days, for the purpose of filing one or more patent applications and/or (ii) to delete any Confidential Information therefrom, other than results created by the University and included in a publication by a University student conducting research under this Agreement where such publication is required for the student's academic advancement. If no written response is received from Sponsor within Sponsor's review period, the publication or presentation may proceed without delay. In the event University defaults in the performance of its duties and obligation under this paragraph, Sponsor shall have the right (but not the obligation) to terminate this Agreement immediately upon written notice to University."

7. Amendment to Section 7.2 of the Research Agreement (Confidentiality). Section 7.2 of the Research Agreement (Confidentiality) is hereby amended by deleting such section in its entirety and substituting the following therefore (provided these changes shall not apply retroactively from the date of execution of this Amendment):

"7.2 Confidentiality.

(a) During the term of this Agreement, (i) Sponsor may provide University with confidential information for use by University personnel in carrying out the research activities under this Agreement and (ii) in the course of carrying out the research activities under this Agreement, University personnel may develop confidential information for the Company (such information described in clauses (i) and (ii), the "Confidential Information"). Subject to the provisions of paragraph (b) below, University agrees (for itself and for all University personnel who will be using or developing Confidential Information):

(1) to hold Confidential Information in strict confidence and not to disclose Confidential Information to anyone other than University personnel working on research activities under this Agreement who have a need to know this information and who are obligated to comply with restrictions contained herein, except as expressly provided in clause (ii) of the second paragraph of Section 7.1;

(2) to refrain from copying, distributing, disclosing, or summarizing Confidential Information, except to University personnel identified in clause (i) above, or except as expressly provided in clause (ii) of the second paragraph of Section 7.1;

(3) to treat Confidential Information with at least the same degree of care that University uses to protect the confidentiality of its own most commercially sensitive information;

(4) to advise all University personnel to whom Confidential Information is disclosed that Confidential Information is highly confidential and subject to stringent conditions of confidentiality, and that Confidential Information may not be disclosed to third parties, posted in whole or part on the Internet, disclosed in publications or presentations, or otherwise handled or used in contravention of the terms of this Agreement;

(5) to use Confidential Information only in connection with Research performed under this Agreement, and to cease use of Confidential Information upon any termination of this Agreement (for whatever reason); and

(6) to return Confidential Information to Sponsor upon termination of this Agreement (for whatever reason), and to retain only one copy (which includes any copy stored in computer memory) provided that University may retain one copy (which includes any copy stored in computer memory) solely for archival purposes in order to determine University's obligations hereunder.

The foregoing restrictions contained in this Section 7.2 shall not apply to any information that (i) is already in the public domain or becomes available to the public through no breach of this Agreement; (ii) was lawfully in the possession of University prior to receipt from Sponsor, without an obligation of confidentiality; (iii) is received by University independently from a third party free to lawfully disclose such information to University; or (iv) is subsequently independently developed by University, outside the scope of the research activities under this Agreement and without use of the Confidential Information, as evidenced by University's written records. Furthermore, if University is ordered to disclose any Confidential Information by a court or other governmental entity having jurisdiction, University may disclose such Confidential Information, provided that University (A) gives Sponsor prompt written notice of the order so Sponsor can seek a protective order or similar relief and (B) reasonably cooperates with Sponsor in protecting the confidential or proprietary nature of the Confidential Information required to be so disclosed. Except for the limited rights of use granted herein, nothing in this Agreement gives University or University personnel any rights, title, license or interest whatsoever in any Confidential Information. All ownership and other rights therein are vested in and shall remain with Sponsor.

(b) Sponsor acknowledges that University is a governmental entity subject to the Government Records Access and Management Act, Utah Code §§ 63G-2-101 to -901, as amended, and Utah Code §§ 53B-16-301 through 53B-16-305, as amended ("Records Statutes"). As such, University's confidentiality obligations under this Agreement shall be subject in all respects to University's compliance with Records Statutes. Pursuant to §§ 53B-16-304 and 63G-2-309 of the Utah Code, as amended, Sponsor hereby claims that the records it provides to University in connection with this Agreement are confidential and protected against disclosure under Utah Code §§ 53B-16-302 and 63G-2-305, as amended, as such records relate to Sponsor's proprietary research and development efforts. Accordingly, in the event that University receives a request, pursuant to the Records Statutes, for records related to this Agreement, University shall be foreclosed, absent a court order or consent or acquiescence from Sponsor, from making the requested disclosure. Notwithstanding the foregoing, in the event that University receives a request for records related to this Agreement, University shall, if deemed necessary by University's legal counsel, release a general description of the research conducted under this Agreement, excluding proprietary or competitive information, consistent with the provisions of §§ 53B-16-302 of the Utah Code, as amended. University shall promptly notify Sponsor in writing of any request it receives for records related to this Agreement.

8. Amendment to Section 10.3 of the Research Agreement (Ownership). Section 10.3 of the Research Agreement (Ownership) is hereby amended by deleting such section in its entirety and substituting the following therefore:

"10.3 Ownership. The University shall own all right, title and interest in all inventions and improvements conceived or reduced to practice, and all copyrightable materials created, solely by University or University personnel in the performance of the Research (hereinafter collectively "University Invention"). Sponsor shall own all right, title and interest in all inventions and improvements conceived or reduced to practice, and all copyrightable materials created, by Sponsor, Sponsor personnel and/or consultants thereof in the performance of the Research (hereinafter collectively "Sponsor Invention"). The University and Sponsor will jointly own all right, title and interest in all inventions and improvements jointly conceived or reduced to practice, and all copyrightable materials created, by personnel at the University and at Sponsor in the performance of the Research (hereinafter collectively "Joint Invention"). Inventorship shall be determined in accordance with U.S. Patent Law."

9. Amendment to Section 12 of the Research Agreement (Termination). Section 12 of the Research Agreement (Termination) is hereby amended by deleting such section in its entirety and substituting the following therefore:

"12. Termination.

12.1 Term. Unless earlier terminated as provided below, the term of this Agreement shall continue through December 31, 2010.

12.2 Default. If either Sponsor or University materially defaults in the performance of any duty or obligation imposed upon it by this Agreement and such default continues for thirty (30) days after written notice thereof has been given to the defaulting party by the other party, such other party may (but need not) give notice of the immediate termination of this Agreement. Notwithstanding the foregoing to the contrary, Sponsor may terminate this Agreement immediately upon notice to University in the event University defaults in the performance of its duties and obligations under Section 7.1 or Section 7.2 of this Agreement.

12.3 Primary Researcher. Sponsor shall have the right (but not the obligation) to terminate this Agreement upon written notice to University under the circumstances set forth in Section 4 hereof.

12.4 Return of Confidential Information. Upon termination of this Agreement for any reason, University must promptly return to Sponsor all of Sponsor's Confidential Information then in the possession or under the control of University and/or any of its personnel, provided that University may retain one copy (which includes any copy stored in computer memory) of the Confidential Information for archival purposes in order to determine University's obligations hereunder.

10. Amendment to Section 14 of the Research Agreement (Miscellaneous). Section 14 of the Research Agreement (Miscellaneous) is hereby amended by adding the following Section 14.10:

"14.10 Research Involving Animals. With respect to any research activities covered by this Agreement involving animal subjects, University agrees to comply with all applicable laws, rules and regulations of any governmental authority, agency or entity having jurisdiction over the research (including, but not limited to, the 1966 Federal Animal Welfare Act and the 1985 Improved Standards of Laboratory Animals Acts.) This compliance includes, but is not limited to, the need for review and approval of University's animal research/procedures for animal care by the appropriate local Institutional Animal Care and Use Committee (IACUC). If such approval is required, University must provide a copy of this approval to Sponsor."

11. Amendment to Section 14 of the Research Agreement (Miscellaneous). Section 14 of the Research Agreement (Miscellaneous) is hereby amended by adding the following Section 14.11:

"14.11 Prohibition on Practice of Medicine. Notwithstanding anything to the contrary contained in this Agreement, the parties acknowledge that Sponsor is not authorized or qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. Accordingly, University shall retain the authority to direct all medical decisions regarding the care and treatment of its

patients and shall assume full responsibility for any clinical decisions made as a result of data, directly or indirectly, generated during the research activities conducted. Sponsor shall neither exercise control over nor interfere with the physician-patient relationship. To the extent any act or service required of Sponsor under this Agreement should be construed or deemed by a governmental authority, agency or court to constitute the practice of medicine, the performance of said act or service by Sponsor shall be deemed waived and forever unenforceable."

12. Amendment to Section 14 of the Research Agreement (Miscellaneous). Section 14 of the Research Agreement (Miscellaneous) is hereby amended by adding the following Section 14.12:

"14.12 Anti-Kickback Statute. In compliance with the federal Medicare/Medicaid Anti-Kickback Statute, each party represents that the funding to University has not been determined with regard to any implicit or explicit agreement to provide favorable procurement decisions with regard to Sponsor's products or product candidates, and have not been given in exchange for such decisions. Each party further represents that such compensation has not been determined with regard to the value or volume of any business generated between the parties and that such compensation is consistent with fair market value in arm's length transactions. The compensation provided hereunder is directly related to the costs of carrying out research, and includes no incentive payment to any individual for identifying or recruiting human subjects. This Agreement is not intended to, and does not, induce the referral of patients or to induce purchase of any items or services reimbursed by any federal or state health care program."

13. Amendment to Section 14 of the Research Agreement (Miscellaneous). Section 14 of the Research Agreement (Miscellaneous) is hereby amended by adding the following Section 14.13:

"14.13 Survival. The provisions of Section 7 (Publication and Confidentiality), Section 8 (Indemnification), Section 10 (Patents and Inventions) Section 12.4 (Return of Confidential Information), and Section 14 (Miscellaneous) of this Agreement (including subsections) will survive any termination of this Agreement."

14. Change of Address. Notices and other communications given to Sponsor under Section 14.4 (Notices) of the Research Agreement shall be sent or delivered to the addresses set forth below, or to such other address(es) as Sponsor shall designate by written notice given to University:

Technical

Pete Piferi
COO
5 Musik
Irvine, CA 92618

Contractual

Kimble Jenkins
CEO
One Commerce Square, Ste. 2550
Memphis, TN 38103

In each case with a courtesy copy to:

Oscar Thomas
VP, Business Affairs
One Commerce Square, Ste. 2550
Memphis, TN 38103

15. Exhibits. The Exhibits attached to this Fourth Amendment are hereby incorporated into and made a part of this Fourth Amendment.

16. Ratification and Confirmation of Research Agreement. The parties each acknowledge and agree that the Research Agreement is in full force and effect and has been in full force and effect at all times since its execution. The terms and provisions of the Research Agreement, as modified by the terms of this Fourth Amendment, are hereby ratified and confirmed in all respects.

[The next page is the signature page]

*****

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives.

SURGIVISION, INC.
"Sponsor"

By: /s/ Kimble L. Jenkins
Name: Kimble L. Jenkins
Title: CEO

UNIVERSITY OF UTAH
"University"

By: /s/ Brent K. Brown
Name: Brent K. Brown
Title: Director, Office of Sponsored Projects

Exhibit A

Scope of Work

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Exhibit B

Budget

[See Attached]

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

FIFTH AMENDMENT TO THE RESEARCH AGREEMENT
BY AND BETWEEN
SURGIVISION, INC.
AND
THE UNIVERSITY OF UTAH
UNIVERSITY OF UTAH REFERENCE NUMBER 10004541 AMENDMENT 5

This is the Fifth Amendment to the Research Agreement (as previously amended, and as further amended by this Fifth Amendment, the "Research Agreement"), by and between SurgiVision, Inc., a Delaware corporation having a place of business at One Commerce Square, Suite 2550, Memphis, TN 38103 ("Sponsor"), and the University of Utah, a body politic and corporate of the State of Utah with a place of business at 75 South 2000 East, Rm. 211, RAB, Salt Lake City, UT 84112 ("University"), executed by the Parties on July 2, 2007 and June 22, 2007, respectively. This Fourth Amendment is executed as of December 31, 2010, with an effective date of January 1, 2011.

NOW, THERFORE, for and in consideration of the mutual covenants, conditions and undertakings set forth, the parties agree to amend the Research Agreement as follows:

1. Defined Terms. Capitalized terms used but not defined in this Fifth Amendment shall have the meanings ascribed to such terms in the Research Agreement.

2. Extended Scope of Work. The term of the Research Agreement is extended through December 31, 2011. For the twelve (12) month period commencing January 1, 2011 and ending December 31, 2011, University agrees to perform research activities described in or contemplated by the Scope of Work attached hereto as Exhibit A (the "SOW") for Sponsor's exclusive benefit and to cooperate with Sponsor to facilitate a timely and successful completion of such research activities. For purposes of the Research Agreement, the term "Research" shall hereinafter include, without limitation, research activities described in or contemplated by the SOW. University shall provide Sponsor the deliverables set forth in the SOW, on or before the dates set forth in the SOW.

3. Additional SVI Support for Research

(a) Provided the Research Agreement is not earlier terminated, with respect to the twelve (12) month period commencing January 1, 2011 and ending December 31, 2011, Sponsor shall provide to University aggregate funding in an amount up to [***] (the "Additional Funding"). Carry over of previously awarded funding is approved from the previous project periods to the new project period. The Additional Funding shall be allocated and applied by University (i) to carry out research activities described in or contemplated by the SOW for Sponsor's exclusive benefit, and (ii) to pay documented, reasonable and actual expenses in connection therewith, substantially in accordance with the itemized budget attached hereto as Exhibit B. Subject to the ultimate and penultimate sentences of this paragraph, and provided the Research Agreement is not earlier terminated, Sponsor shall pay to University the Additional Funding in four (4) payments according to

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

the following schedule: (A) the first payment, in the amount of [***], will be due and payable as of April 15, 2011; (B) the second payment, in the amount of [***], will be due and payable as of July 15, 2011; (C) the third payment, in the amount of [***], will be due and payable as of October 15, 2011; and (D) the fourth payment, in the amount of [***], will be due and payable as of January 15, 2012. Notwithstanding the foregoing to the contrary, Sponsor's obligation to make each payment of the Additional Funding is contingent upon University's compliance with the Research Agreement, including, but in no way limited to, the SOW. Sponsor reserves the right to suspend or withhold any payment of funds if University fails to comply strictly with the terms and conditions of the Research Agreement (which, for the avoidance of any doubt, includes this Fifth Amendment), including, but in no way limited to, the failure by University to achieve the milestones, and/or the failure by University to provide Sponsor the milestone deliverables, as set forth in the SOW.

(b) University shall continue to account for the funding provided by Sponsor separately in University's books and records, provided all such funding may be accounted for in a single University project account. A systematic accounting record shall be kept by University of the receipt and disbursement of funds. University shall retain original substantiating documents related to specific expenditures and make these records available for Sponsor's review upon request. University shall be responsible for maintaining adequate financial records of the research program. Sponsor, or a designated representative, reserves the right, upon reasonable written notice, to audit University's books and records relating to the expenditure of the Additional Funding.

(c) University shall provide Sponsor, on a timely basis as reasonably requested by Sponsor, with written reports that describe in reasonable detail University's actual allocation and application of funding provided by Sponsor (e.g., salaries, supplies, etc.).

4. Amendment to Section 12 of the Research Agreement (Termination). Section 12.1 of the Research Agreement (Term) is hereby amended by deleting such section in nits entirety and substituting the following therefor:

"12.1 Term. Unless earlier terminated as provided below, the term of this Agreement shall continue through December 31, 2011."

5. Exhibits. The Exhibits attached to this Fifth Amendment are hereby incorporated into and made a part of this Fifth Amendment.

6. Ratification and Confirmation of Research Agreement. The parties each acknowledge and agree that the Research Agreement is in full force and effect and has been in full force and effect at all times since its execution. The terms and provisions of the Research Agreement, as modified by the terms of this Fifth Amendment, are hereby ratified and confirmed in all respects.

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives.

SURGIVISION, INC.
"Sponsor"

By: /s/ Kimble Jenkins
Name: Kimble L. Jenkins
Title: CEO

UNIVERSITY OF UTAH
"University"

By: /s/ Brent Brown
Name: Brent K. Brown
Title: Director, Office of Sponsored

Exhibit A

Scope of Work

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

Exhibit B

Budget

[See Attached]

[***]

[***] Indicates portions of this exhibit that have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.

SIXTH AMENDMENT TO THE RESEARCH AGREEMENT
BY AND BETWEEN
MRI INTERVENTIONS, INC
(FORMERLY SURGIVISION, INC.)
AND
THE UNIVERSITY OF UTAH
UNIVERSITY OF UTAH REFERENCE NUMBER 10004541 AMENDMENT 6

This is the Sixth Amendment to the Research Agreement (as previously amended, and as further amended by this Sixth Amendment, the "Research Agreement"), by and between MRI Interventions, Inc. (formerly SurgiVision, Inc.), a Delaware corporation having a place of business at One Commerce Square, Suite 2550, Memphis, TN 38103 ("Sponsor"), and the University of Utah, a body politic and corporate of the State of Utah with a place of business at 75 South 2000 East, Rm. 211, RAB, Salt Lake City, UT 84112 ("University"), executed by the Parties on July 2, 2007 and June 22, 2007, respectively. This Sixth Amendment is executed as of 28 November 2011, with an effective date of 28 November 2011.

Whereas all the terms and conditions agreed upon in the Research Agreement shall remain in full force and effect, and enforceable in accordance with its terms, with the exception of the amendments provided herein.

NOW, THERFORE, for and in consideration of the mutual covenants, conditions and undertakings set forth, the parties agree to amend the Research Agreement as follows:

1. Defined Terms. Capitalized terms used but not defined in this Sixth Amendment shall have the meanings ascribed to such terms in the Research Agreement.

2. Extended Term. The term of the Research Agreement is extended through 31 March 2012.

IN WITNESS WHEREOF, the parties have caused this Sixth Amendment to be executed by their duly authorized representatives.

SURGIVISION, INC.
"Sponsor"

By: /s/ Kimble L. Jenkins
Name: Kimble L. Jenkins
Title: CEO

UNIVERSITY OF UTAH
"University"

By: /s/ Todd B. Nilsen
Name: Todd B. Nilsen, J.D.
Title: Associate Director
Sponsored Projects

Exhibit 10.27

AIR COMMERCIAL REAL ESTATE ASSOCIATION

STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE – NET

(DO NOT USE THIS FORM FOR MULTI-TENANT BUILDINGS)

1. **Basic Provisions ("Basic Provisions").**

1.1 **Parties:** This Lease (**"Lease"**), dated for reference purposes only April 21, 2008, is made by and between Shaw Investment Company, LLC (**"Lessor"**) and Surgi-Vision, Inc. (**"Lessee"**), (collectively the **"Parties,"** or individually a **"Party").**

1.2 **Premises:** That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, and commonly known as 5 Musick, Irvine, located in the County of Orange, State of California, and generally described as (describe briefly the nature of the property and, if applicable, the **"Project",** if the property is located within a Project) an approximate 7,404 square foot freestanding industrial building (**"Premises"**). (See also Paragraph 2)

1.3 **Term:** Four (4) **years** ~~and~~ ~~months~~ **("Original Term")** commencing August 1, 2008 **("Commencement Date")** and ending July 31, 2012 **("Expiration Date"**). (See also Paragraph 3)

1.4 **Early Possession:** April 25, 2008 or upon completion of tenant improvements, whichever is sooner, and Lessor's receipt of all monies due and proof of Lessee's liability insurance **("Early Possession Date").** (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** $8,514.60 per month **("Base Rent"),** payable on the first (1st) day of each month commencing August 1, 2008. (See also Paragraph 4)

þ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted.

1.6 **Base Rent and Other Monies Paid Upon Execution:**

(a) **Base Rent:** $8,514.60 for the period August 1, 2008 through August 31, 2008.

(b) **Security Deposit:** $8,514.60 **("Security Deposit"**). (See also Paragraph 5)

(c) **Association Fees:** $ for the period

(d) **Other: $** for

(e) **Total Due Upon Execution of this Lease:** $17,029.20.

1.7 **Agreed Use:** General office, research and development, light manufacturing, sales and distribution for a medical device company. Lessee will be responsible for obtaining all City approvals for its use. (See also Paragraph 6)

1.8 **Insuring Party:** Lessor is the **"Insuring Party"** unless otherwise stated herein. (See also Paragraph 8)

1.9 **Real Estate Brokers:** (See also Paragraph 15)

(a) **Representation:** The following real estate brokers (the **"Brokers")** and brokerage relationships exist in this transaction (check applicable boxes):

þ Lee & Associates – Irvine, Inc. represents Lessor exclusively (**"Lessor's Broker"**);

þ Asbury Brokerage Services, Inc. represents Lessee exclusively (**"Lessee's Broker"**); or

¨ _____ represents both Lessor and Lessee (**"Dual Agency"**).

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Broker the fee agreed to in their separate written agreement (or if there is no such agreement, the sum of _____ or _____% of the total Base Rent) for the brokerage services rendered by the Brokers.

1.10 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by N/A _____ (**"Guarantor"**). (See also Paragraph 37)

1.11 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

þ an Addendum consisting of Paragraphs 51 through 54 ;
¨ a plot plan depicting the Premises;
¨ a current set of the Rules and Regulations;
¨ a Work Letter;
¨ other (specify): _____.

INITIALS **INITIALS**

 FORM STN-8-5/05E

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less. **Note: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs (**"Start Date"**), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems (**"HVAC"**), loading doors, sump pumps, if any, and all other such elements in the Premises, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of any buildings on the Premises (the **"Building"**) shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with said warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Building. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense, except that Lessor shall retain responsibility during the term of this Lease to correct any malfunction or failure with respect to the structural elements of the roof, bearing walls or the foundation of the Building.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances (**"Applicable Requirements"**) that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 50), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building (**"Capital Expenditure"**), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and an amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor and Lessee shall allocate the obligation to pay for such costs pursuant to the provisions of Paragraph 7.1(d); provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a

result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not, however, have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, and (c) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

INITIALS **INITIALS**

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such early possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1. **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of $25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

4.3 **Association Fees.** In addition to the Base Rent, Lessee shall pay to Lessor each month an amount equal to any owner's association or condominium fees levied or assessed against the Premises. Said monies shall be paid at the same time and in the same manner as the Base Rent.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Lessor or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional moneys with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change

in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 14 days after the expiration or termination of this Lease, if Lessor elects to apply the Security Deposit only to unpaid Rent, and otherwise within 30 days after the Premises have been vacated pursuant to Paragraph 7.4(c) below, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **Use.**

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor

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shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term **"Hazardous Substance" as** used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. **"Reportable Use"** shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from adjacent properties not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.**

(e) **Lessor Indemnification.** Lessor and its successors and assignees shall indemnify, defend and hold Lessee, its agents, employees and lenders, harmless from and against any and all damages, liabilities, judgments, claims, expenses, penalties and attorneys' and consultants' fees arising out of or involving any Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the Lessor, its agents or employees. Lessor's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessor, and the cost of investigation, removal, remediation, restoration and/or abatement. ~~Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration, and/or abatement, and shall survive the expiration or termination of this Lease.~~

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times upon reasonable advance written notice in order to carry out Lessor's investigative and remedial responsibilities , provided Lessor will use its best efforts to not disrupt Lessee's business activities on the Premises.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or $100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such

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notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or $100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the such Requirements, without regard to whether such Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's **"Lender"** (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease, provided Lessor will use its best efforts to not disrupt Lessee's business activities on the Premises. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of a written request therefor.

7. **Maintenance; Repairs, Utility Installations; Trade Fixtures and Alterations.**

7.1 **Lessee's Obligations.**

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fire protection system, fixtures, walls (interior and exterior), foundations, ceilings, roofs, roof drainage systems, floors, windows, doors, plate glass, skylights, landscaping, driveways, parking lots, fences, retaining walls, signs, sidewalks and parkways located in, on, or adjacent to the Premises. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Lessee shall, during the term of this Lease, keep the exterior appearance of the Building in a first-class condition (including, e.g. graffiti removal) consistent with the exterior appearance of other similar facilities of comparable age and size in the vicinity, including, when necessary, the exterior repainting of the Building. Notwithstanding any of the foregoing to the contrary, Lessee shall not be obligated to keep or maintain the Premises in a condition or state of repair better than existed as of the Start Date.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler, and pressure vessels, (iii) fire extinguishing systems, including fire alarm and/or smoke detection, (iv) landscaping and irrigation systems, (v) roof covering and drains, (vi) clarifiers (vii) basic utility feed to the perimeter of the Building, and (viii) any other equipment, if reasonably required by Lessor. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice

shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (ie. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance but may prepay its obligation at any time.

7.2 **Lessor's obligations.** Lessor shall, at Lessor's sole expense, keep the following in good order, condition and repair (whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises); structural elements of the roof and foundations located on the Premises. Subject to the foregoing and to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 9 (Damages or Destruction) and 14 (Condemnation), ~~Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 9 (Damage or Destruction) and 11 (Condemnation)~~ it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are

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intended to be that of the Lessee. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises, and they expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term **"Utility Installations"** refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term **"Trade Fixtures"** shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term **"Alterations"** shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. **"Lessee Owned Alterations and/or Utility Installations"** are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 60 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted and except for any damage or destruction contemplated pursuant to Paragraph 9 (Damage or Destruction). "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall completely remove from the Premises any and all Hazardous Substances

brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises, or if applicable, the Premises) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity.**

8.1 **Payment For Insurance.** Lessee shall pay for all insurance required under Paragraph 8 except to the extent of the cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) . ~~in excess of $2,000,000 per occurrence.~~ Premiums for policy periods commencing prior to or extending beyond the Lease term shall be prorated to correspond to the Lease term. Payment shall be made by Lessee to Lessor within 10 days following receipt of an invoice.

8.2 **Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership,

use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an annual aggregate of not less than $2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an **"insured contract"** for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. If Lessor is the Insuring Party, however, Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 8.4 rather than by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause and, waiver of subrogation, ~~and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located.~~ If such insurance coverage has a deductible clause, the deductible amount shall not exceed $2,500.00 ~~$1,000~~ per occurrence, and Lessee shall be liable for such deductible amount in the event of an Insured Loss.

(b) **Rental Value.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises.** If the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 **Lessee's Property; Business Interruption Insurance.**

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $10,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies.** Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least A-, VI, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor, Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee,

which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity.** Except for Lessor's gross negligence or willful misconduct and except as otherwise contemplated pursuant to the provisions of this lease, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

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8.8 **Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance, ~~and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance,~~ the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. **Damage or Destruction.**

9.1 **Definitions.**

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total. Notwithstanding the foregoing, Premises Partial Damage shall not include damage to windows, doors, and/or other similar items which Lessee has the responsibility to repair or replace pursuant to the provisions of Paragraph 7.1.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises which requires repair, remediation, or restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is $10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as

reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

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9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue. Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

9.8 **Waive Statutes.** Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. **Real Property Taxes.**

10.1 **Definition.** As used herein, the term **"Real Property Taxes"** shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises or the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Premises are located. Real Property Taxes shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises, and (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes.** In addition to Base Rent, Lessee shall pay to Lessor an amount equal to the Real Property Tax installment due at least 20 days prior to the applicable delinquency date. If any such installment shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such installment shall be prorated. In the event Lessee incurs a late charge on any Rent payment, Lessor may estimate the current Real Property Taxes, and require that such taxes be paid in advance to Lessor by Lessee monthly in advance with the payment of the Base Rent. Such monthly payments shall be an amount equal to the amount of the estimated installment of taxes divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable tax bill is known,

the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable taxes. If the amount collected by Lessor is insufficient to pay such Real Property Taxes when due, Lessee shall pay Lessor, upon demand, such additional sum as is necessary. Advance payments may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a Breach by Lessee in the performance of its obligations under this Lease, then any such advance payments may be treated by Lessor as an additional Security Deposit.

10.3 **Joint Assessment.** If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be conclusively determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available.

10.4 **Personal Property Taxes.** Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities and Services.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor shall not be

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liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, **"assign or assignment")** or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 50% ~~25%~~ or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. **"Net Worth of Lessee"** shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief,

f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a diminimus portion of the Premises, ie.20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

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(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. **Default; Breach; Remedies.**

13.1 **Default; Breach.** A **"Default"** is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A **"Breach"** is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 5 business days following written notice to Lessee.

(c) The commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 5 business days following written notice to Lessee.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 42, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a **"debtor"** as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the

unpaid Rent which had been earned at the time of termination; (ii) 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 the Lessee proves could have been reasonably avoided; (iii) 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 the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises (but not including any renovation or alteration resulting from a specific or unique use of the Premises by a new lessee), reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit, if a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

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(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 **Inducement Recapture.** Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as **"Inducement Provisions,"** shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 **Late Charges.** Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 business days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or $100, whichever is greater. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor.**

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided, however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the Building, or more than 25% of that portion of the Premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or

payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. **Brokerage Fees.**

~~15.1 **Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.9 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee acquires any rights to the Premises or other premises owned by Lessor and located within the same Project, if any, within which the Premises is located, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement of operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the schedule of the Brokers in effect at the time of the execution of this Lease.~~

15.2 **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.9, 15, 22 and 31. If Lessor fails to pay to Brokers any

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amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. **Estoppel Certificates.**

(a) Each Party (as **"Responding Party"**) shall within 10 days after written notice from the other Party (the **"Requesting Party"**) execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current **"Estoppel Certificate"** form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

(c) If Lessor desires to finance, refinance, or sell the Premises, orany part thereof, Lessee and all Guarantors shall deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term **"Lessor"** as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Except as provided in Paragraph 15, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to negotiation, execution, delivery or performance by either Lessor or Lessee under this Lease or any amendment or modification hereto shall be limited to an amount up to the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on

each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of

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delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.** No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

25. **Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor, To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyally in the dealings with either Lessor or the Lessee, b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor wilt accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base

Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee,

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **Binding Effect; Choice of Law.** This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

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30. **Subordination; Attornment; Non-Disturbance.**

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, **"Security Device"**), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as **"Lender"**) shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, for the remainder of the term hereof, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a **"Non-Disturbance Agreement"**) from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises, Further, within 60 days after the execution of this Lease, Lessor shall use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, **"Prevailing Party"** shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach ($200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect to Lessee's use of the Premises, All such activities shall be without abatement of rent or liability to Lessee.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary **"For Sale"** signs at any time and ordinary **" For Lease"** signs during the last 6 months of the term hereof. Except for ordinary "for sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or ail existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or

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Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association, and each such Guarantor shall have the same obligations as Lessee under this Lease.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** If Lessee is granted an Option, as defined below, then the following provisions shall apply:

39.1 **Definition. "Option"** shall mean: (a) the right to extend the term of or renew this Lease or to extend or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. **Multiple Buildings.** If the Premises are a part of a group of buildings controlled by Lessor, Lessee agrees that it will abide by and conform to all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessee also agrees to pay its fair share of common expenses incurred in connection with such rules and regulations.

41. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

42. **Reservations.** Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by

Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.

43. **Performance Under Protest.** 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 said Party to institute suit for 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. A Party who does not initiate suit for the recovery of sums paid "under protest" with 6 months shall be deemed to have waived its right to protest such payment.

44. **Authority; Multiple Parties; Execution.**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and

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severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

45. **Conflict.** Any conflict between the printed provisions of this Lease and typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. **Offer.** Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

48. **Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

49. **Mediation and Arbitration of Disputes.** An Addendum requiring the Mediation and/or the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ¨ **is** x **is not** attached to this Lease.

50. **Americans with Disabilities Act.** Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

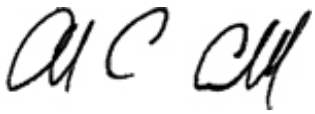
ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES IS LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES IS LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at:	Newport Beach, CA	Executed at:	Memphis TN
On:	5-7-08	On:	May 5, 2008
By **LESSOR:**		By **LESSEE:**	
Shaw Investment Company, Inc		Surgi-Vision, Inc.	
By:		By:	

Name Printed:	Charles E. Crookall	Name Printed:	Oscar Thomas
Title:	Manager	Title:	Vice President, Business Affairs
By:		By:	
Name Printed:		Name Printed:	
Title:		Title:	
Address:	160 Newport Center Drive, Suite 250	Address:	
Newport Beach, CA 92660			
Telephone:	(949) 640-4800	Telephone:	( )
Facsimile:	(949) 759-5619	Facsimile:	( )

INITIALS INITIALS

 FORM STN-8-5/05E

Federal ID No.	Federal ID No.
BROKER:	**BROKER:**
Lee & Associates - Irvine, Inc.	Asbury Brokerage Services, Inc.
Attn: Guy LaFerrara	**Attn:** Dennis Asbury
Title: President	**Title:**
Address: 7700 Irvine Center Dr., Suite 600	**Address:** 26882 Vista Terrace
Irvine, CA 92618	Lake Forest, CA 92630
Telephone: (949) 727-1200	**Telephone:** (949) 454-8995
Facsimile: (949) 727-1299	**Facsimile:** (___)
Federal ID No.	**Federal ID No.**

NOTE: These forms are often modified to meet the changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR COMMERCIAL REAL ESTATE ASSOCIATION, 700 So. Flower Street, Suite 600, Los Angeles, California 90017. (213) 687-8777. Fax No. (213) 687-8616

ADDENDUM TO
STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE — NET

by and between

SHAW INVESTMENT COMPANY, LLC ("Lessor")

and

SURGI-VISION, INC. ("Lessee")

This Addendum ("Addendum") to Standard Industrial/Commercial Single-Tenant Lease — Net dated as of April 21, 2008 amends, modified, supplements and supersedes that certain Standard Industrial/Commercial Single-Tenant Lease — Net of even date herewith (the "Contract") by and between SHAW INVESTMENT COMPANY, LLC ("Lessor") and SURGI-VISION, INC. ("Lessee") for the Premises located at 5 Musick, Irvine, CA 92618. This Addendum and the Contract are hereinafter collectively referred to as the "Lease." Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Contract.

51. Rent Schedule. The base monthly rent of the Premises during the lease term shall be as follows:

Term	Monthly Base Rent/SF
August 1, 2008 - July 31, 2009	$8,514.60 NNN
August 1, 2009 - July 31, 2010	$8,684.89 NNN
August 1, 2010 - July 31, 2011	$8,858.59 NNN
August 1, 2011 - July 31, 2012	$9,035.76 NNN

In addition to the Base Rent, Lessee shall be responsible for the Triple Net (NNN) expenses throughout the lease term and option periods. The expenses are currently estimated at $0.22 per square foot.

52. Option to Extend. As long as Lessee is not in default of the Lease, including late payment of rent, and has provided Lessor written notice six (6) months prior to the expiration of the original term. Lessee shall receive an option to extend for three (3) years at the end of the original lease term at the following base rates:

Term	Monthly Base Rent/SF
August 1, 2012 - July 31, 2013	$9,216.48 NNN
August 1, 2013 - July 31, 2014	$9,400.80 NNN
August 1, 2014 - July 31, 2015	$9,588.82 NNN

53. Tenant improvements. Lessor, at Lessor's cost, shall replace the carpet within the office areas and paint throughout the office areas. Additionally, Lessor shall remove the wall at the wet bar area creating a larger room and install VCT tile in place of carpet. The foregoing shall be completed by Lessor in a workman like manner as promptly as reasonably practical.

Lessee, at Lessee's sole cost and expense, shall be responsible for the build-out of any interior improvements. Lessee shall obtain Lessor's approval prior to any other improvement work to be performed. All work shall be properly permitted and performed by a licensed and insured contractor. Lessor reserves the right to have the Lessee, at Lessee's expense, remove any Lessee constructed improvements at the end of the lease term.

54. Building Signage: Lessee shall receive building signage on the building per the approval of The City of Irvine. The cost of the sign and installation shall be the sole cost of the Lessee.

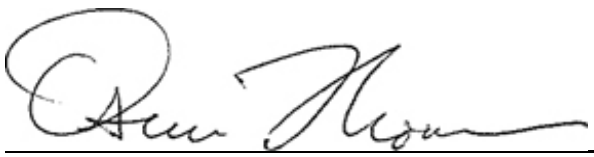
In witness whereof, Lessor and Lessee have executed this Addendum as of the above date.

LESSOR: SHAW INVESTMENT COMPANY, LLC

By: 

Name: Charles E. Crookall
Title: Manager

LESSEE: SURGI-VISION, INC.

By: 

Name: Oscar Thomas

Title: Vice President, Business Affairs

AMENDMENT TO LEASE

This AMENDMENT TO LEASE is attached to and made a part of that certain lease dated April 21, 2008, by and between Shaw Investment Company, LLC ("Lessor") and SurgiVision, Inc ("Lessee").

Lessee has requested and Lessor shall grant a reduction in the monthly Base Rent from the current rate of $8,858.59 to $4,429.30 (a total monthly reduction of $4,429.29). The reduction shall be effective with the rent payable for the months of February, March and April 2010.

It is further agreed that the Lease term shall be extended by 45 days to September 15, 2012.

ALL OTHER TERMS AND CONDITIONS OF THE LEASE REMAIN THE SAME AND IN FULL FORCE AND EFFECT.

AGREED ON THIS 20th DAY OF JANUARY, 2011

LESSEE

SurgiVision, Inc

By: /s/ David W. Carlson
Its: Chief Financial Officer

LESSOR

Shaw Investment Company, LLC

By: The Joanne Shaw Reynolds Revocable Trust,
its Manager

By: /s/ Joanne Shaw Reynolds
Joanne Shaw Reynolds, Trustee

Exhibit 10.28

SEPARATION AGREEMENT

THIS SEPARATION AGREEMENT (the "Agreement") is made effective as of this 30th day of April, 2010, by and between John Thomas, a natural person resident in Cobb County, Georgia and his heirs, assigns, executors, agents and representatives (the "Executive"), and SurgiVision, Inc., a Delaware corporation ("SurgiVision").

W I T N E S S E T H:

WHEREAS, the Executive has been employed as the Chief Financial Officer of SurgiVision;

WHEREAS, the Executive is irrevocably separating from employment with SurgiVision effective April 30, 2010 (the "Employment Termination Date");

WHEREAS, SurgiVision wishes to secure Executive's cooperation to assist in the transition of duties to SurgiVision's new Chief Financial Officer for a period;

WHEREAS, it is the desire of SurgiVision and the Executive to set forth herein their mutual agreement with respect to all matters relating to (i) the Executive's separation from employment with SurgiVision; and (ii) the Executive's release of claims, all upon the terms set forth herein;

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

1. Separation from Employment. Effective as of the Employment Termination Date, the Executive irrevocably separates from all positions of employment with SurgiVision and its affiliates. This Agreement relates solely to Executive's status as an employee and not as a director of SurgiVision and/or any of its affiliates. The Executive's employment with SurgiVision will continue until the close of business on the Employment Termination Date, at which time his employment with SurgiVision shall terminate. Following the Employment Termination Date, the respective rights and obligations of the parties shall be governed by the terms of this Agreement.

2. Cooperation. The Executive shall make himself available to consult and cooperate with SurgiVision representatives in connection with the orderly transition of his business responsibilities, and, in connection therewith, the Executive shall exercise reasonable efforts to respond diligently to inquiries related to SurgiVision's business. However, in no event will Executive's consultation and cooperation services for SurgiVision after the Employment Termination Date exceed twenty percent (20%) of Executive's average level of services for SurgiVision for the thirty-six (36) month period prior to the Employment Termination Date.

3. Payments and Benefits.

(a) Provided that, prior to June 15, 2010, Executive has executed and delivered to SurgiVision, and has not revoked, the general release referred to in Section 8 hereof (the "Release") and the seven (7) day revocation period explained in Attachment A entitled

"General Release" has expired, then SurgiVision will pay Executive the sum of Eighty Seven Thousand and 00/100 Dollars ($87,000.00), payable in twenty-four (24) semi-monthly installments of Three Thousand Six Hundred Twenty Five and 00/100 Dollars ($3,625.00) each, subject to applicable withholdings and taxes, commencing June 15, 2010. Executive acknowledges that the payments referenced herein are consideration to which he would not otherwise be entitled.

(b) The Executive acknowledges and agrees that the payments under this Agreement are compensation and will be subject to the Executive's usual withholding and included in the Executive's W-2 earnings statement.

4. Application of Code Section 409A. The provisions of this Agreement will be construed and applied in accordance with Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and Treasury guidance issued thereunder to the extent applicable. SurgiVision shall report all payments and other benefits paid or provided pursuant to Section 2 and Section 3 of this Agreement to the extent required by, and in accordance with, Section 409A of the Code ("Section 409A"). In the event that SurgiVision or the Executive reasonably and in good faith determines that any payment to be made or benefit to be provided to the Executive hereunder would result in the application of Section 409A, SurgiVision shall, in consultation with the Executive, modify the Agreement to the extent possible and in the least restrictive manner reasonably available in order to exclude such compensation from the definition of "deferred compensation" within the meaning of such Section 409A or in order to comply with the provisions of Section 409A and/or any rules, regulations or other regulatory guidance issued under such statutory provision and without any diminution in the value of the payments to the Executive. Notwithstanding the foregoing, under no circumstance shall SurgiVision be responsible for any taxes, penalties, interest or other losses or expenses incurred by the Executive due to any failure to comply with Section 409A, or for any interest on account of any delay in payment deemed necessary to comply with Section 409A.

5. Acknowledgment. The Executive agrees that none of SurgiVision or any of its predecessors, successors (by merger or otherwise), parents, subsidiaries, affiliated entities, divisions and assigns, together with each and every of their present, past and future officers, directors, stockholders, general partners, limited partners, employees and agents and the heirs and executors of same (herein collectively referred to as the "Company Group"), has breached any oral or written contract that may have existed between the Executive and SurgiVision or any member of the Company Group with respect to the Executive's employment or termination of employment nor has SurgiVision or any member of the Company Group violated any law, statute, rule regulation or ordinance of any governmental authority relating to the Executive's employment. The Executive acknowledges that the payments and other consideration paid hereunder cannot and shall not be construed as any admission of liability or wrongdoing on the part of either SurgiVision or any member of the Company Group. The Executive further acknowledges and agrees that the payments and other benefits being received by him pursuant to this Agreement satisfy any claim that he might have had under any SurgiVision policy or practice. The Executive understands that the release provided for in Attachment A entitled "General Release" extends to all of the aforementioned claims and potential claims described therein which arose on or before the date of the execution of this Agreement and that may arise on or before the Employment Termination Date, whether now known or unknown, suspected or

unsuspected, and his participation as a member of any class asserting any such claims, and that this acknowledgement and release constitute essential terms of this Agreement. The Executive understands and acknowledges the significance and consequence of this Agreement and of each specific release and waiver, and expressly consents that this Agreement shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected claims, demands, obligations, and causes of action, if any, as well as those relating to any other claims, demands, obligations or causes of action herein above-specified.

6. Reinstatement. The Executive hereby waives any right or claim he may have to employment, re-instatement, re-assignment or re-employment with SurgiVision or any member of the Company Group. The Executive's acknowledgement and agreement as to these matters are material inducements for SurgiVision to make certain of its agreements, including, without limitation, the agreement to make the payments in Section 3.

7. Non-Disclosure and Non-Competition Agreement. The Executive acknowledges and agrees that the Non-Disclosure and Non-Competition Agreement made by the Executive dated September 1,2004 (the "NDA") shall remain in full force and effect and that the terms of such NDA are incorporated herein and made a part of this Agreement. The Executive agrees to comply with his continuing obligations under the NDA.

8. Release. The Executive and SurgiVision shall execute and deliver a General Release in the form attached hereto as Attachment A.

9. Successors. This Agreement shall inure to the benefit of and be enforceable by the Executive and by the Executive's personal or legal representatives, executors and administrators and by SurgiVision and its successors and assigns.

10. No Admissions. Neither the execution of this Agreement by SurgiVision nor the terms hereof constitutes an admission by SurgiVision, or by any agent or employee of SurgiVision or any member of the Company Group, of liability or unlawful conduct in any manner.

11. Entire Agreement. Except with respect to the Executive's continuing obligations pursuant to the NDA, this Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and shall be binding upon their respective heirs, executors, administrators, successors and assigns.

12. Severability. If any term or provision of this Agreement shall be held to be invalid or unenforceable for any reason, then such term or provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remaining terms or provisions hereof, and such term or provision shall be deemed modified to the extent necessary to make it enforceable.

13. Advice of Counsel. Executive represents and warrants that he has carefully read this Agreement, and understands its contents, meaning and intent. SurgiVision hereby advises the Executive to consult with such advisors, including legal counsel, as seem appropriate to the Executive before signing this Agreement and Attachment A to this Agreement entitled "General Release." Understanding this document, the Executive has freely and voluntarily executed it, without compulsion, coercion or duress.

14. Amendments. Neither this Agreement nor any term hereof may be orally changed, waived, discharged, or terminated, and may be amended only by a written agreement signed by both of the parties hereto.

15. Governing Law. This Agreement shall be governed by the laws of the State of Tennessee without regard to the conflict of law principles of any jurisdiction.

16. Legally Binding. The terms of this Agreement contained herein are contractual and not mere recitals.

[The next page is the signature page]

IN WITNESS WHEREOF, the parties acknowledging that they are acting of their own free will have voluntarily caused the execution of this Agreement as of this day and year written below.

EXECUTIVE ACKNOWLEDGES THAT HE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND IS VOLUNTARILY ENTERING INTO IT.

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS A RELEASE OF ANY AND ALL KNOWN AND UNKNOWN CLAIMS.

SurgiVision, Inc.

By: /s/ Kimble Jenkins
Name: Kimble Jenkins
Title: President and Chief Executive Officer

/s/ John Thomas
John Thomas

ATTACHMENT A

GENERAL RELEASE

SurgiVision, Inc., a Delaware corporation ("SurgiVision"), and John Thomas (the "Executive") enter into this Release (this "Release") on the __ day of _____, 2010.

WITNESSETH

WHEREAS, SurgiVision and the Executive are parties to a Separation Agreement made effective as of April 30, 2010 (the "Separation Agreement");

WHEREAS, as a condition to the receipt of certain benefits to be paid following the date of this Release (the "Benefits") under the Separation Agreement and in consideration for the execution and delivery of this Release by SurgiVision, the Executive has agreed to execute and deliver this Release; and

WHEREAS, in consideration for the agreements and covenants of the Executive contained in the Separation Agreement and the execution and delivery of this Release by the Executive, SurgiVision has agreed to execute and deliver this Release.

NOW THEREFORE, in consideration of the covenants and mutual promises herein contained, it is agreed as follows:

1. Release. The Executive, on behalf of himself and anyone claiming through the Executive, represents that he has not filed or caused to be filed any lawsuit, complaint, or charge with respect to any claim this Release purports to waive. Executive hereby agrees not to sue SurgiVision or any of its divisions, subsidiaries, affiliates or other related entities of the above specified entities (whether or not such entities are wholly owned) or any of the past, present or future directors, officers, administrators, trustees, fiduciaries, employees, agents or attorneys of SurgiVision or any of such other entities, or the predecessors, successors or assigns of any of them (hereinafter referred to as the "Released Parties"), and hereby releases and discharges, fully, finally and forever, the Released Parties from any and all claims, causes of action, lawsuits, liabilities, debts, accounts, covenants, contracts, controversies, agreements, promises, sums of money, damages, judgments and demands of any nature whatsoever, in law or in equity, both known and unknown, asserted or not asserted, foreseen or unforeseen, which the Executive ever had or may presently have against any of the Released Parties arising from the beginning of time up to and including the date on which this Release is signed and delivered to SurgiVision, in any way related to the Executive's employment by SurgiVision, including, without limitation, any and all claims arising under:

(a) Anti-discrimination statutes, such as the Age Discrimination in Employment Act ("ADEA"), and the Older Workers Benefit Protection Act, which prohibit age discrimination in employment; Title VII of the Civil Rights Act of 1964, which prohibits discrimination or harassment based on race, color, national origin, religion, or sex; the Equal Pay Act and/or the Lilly Ledbetter Fair Pay Act, which prohibit paying men and women unequal pay for equal work; the Americans With Disabilities Act and/or the Americans with Disabilities Act Amendments Act, which prohibit discrimination based on disability; the Georgia Fair Employment Practices Act and any other federal, state or local law prohibiting employment discrimination, harassment, or retaliation of any kind.

(b) Other laws, such as the Family and Medical Leave Act of 1993 ("FMLA"); any federal, state or local laws restricting an employer's right to terminate an employee, or otherwise regulating employment; any federal, state or local laws enforcing express or implied employment contracts or requiring an employer to deal with an employee fairly or in good faith; and any wage payment and collection law.

(c) Tort and contract claims, such as claims for wrongful or constructive discharge, negligence, physical or personal injury, emotional distress, fraud, fraud in the inducement, negligent misrepresentation, defamation, invasion of privacy, interference with contract or with prospective economic advantage, breach of oral, express or implied contract, breach of covenants of good faith and fair dealing, and similar or related claims.

(d) Other released claims, including, without limitation, claims: (i) under the Employee Retirement Income Security Act of 1974; (ii) for compensation, stock options, bonuses, or lost wages; (iii) in any way related to design or administration of any employee benefits program; (iv) for severance or similar benefits or for post-employment health or group insurance benefits; or (v) for fees, costs or expenses of any attorneys who represent or have represented Executive.

(e) Unknown claims: Executive understands that he is releasing the Released Parties from claims that he may not know about as of the date hereof and that this is his knowing and voluntary intent even though someday he might learn that some or all of the facts he currently believes to be true are untrue and even though he might then regret having signed this Release. Executive is expressly assuming that risk and agrees that this Release shall remain effective in all respects in any such case. Executive expressly waives all rights he might have under any law that is intended to protect him from waiving unknown claims, and Executive understands the significance of doing so.

(f) Nothing contained in this Release shall apply to, or release SurgiVision from any obligation (i) contained in the Separation Agreement or this Release, (ii) to indemnify Executive as required by §145 of the Delaware General Corporation Law and SurgiVision's bylaws or (iii) with respect to any vested benefit with respect to the Executive pursuant to any employee benefit or equity plan of SurgiVision other than any severance or retention program or practice.

(g) The Executive acknowledges that the consideration offered in connection with the Separation Agreement was and is in part for this Release and such portion of such consideration is accepted by the Executive as being in full accord, satisfaction, compromise and settlement of any and all claims or potential claims, and the Executive expressly agrees that the Executive is not entitled to, and shall not receive, any further recovery of any kind from SurgiVision or any of the other Released Parties, and that in the event of any further proceedings whatsoever based upon any matter released herein, neither SurgiVision nor any of the other Released Parties shall have any further monetary or other obligation of any kind to the Executive, including any obligation for any costs, expenses or attorneys' fees incurred by or on behalf of the Executive, except as provided in the Separation Agreement or in this Release.

2. FMLA and FLSA Rights Honored. Executive acknowledges that he has received all of the leave from work for family and/or personal medical reasons and/or other benefits to which he believes he is entitled under SurgiVision's policy and FMLA. Executive has no pending request for FMLA leave. SurgiVision has not mistreated Executive in any way because of any illness or injury to Executive or any member of his family. Executive has received all monetary compensation, including hourly wages, salary and/or overtime compensation, to which he believes he is entitled under the Fair Labor Standards Act ("FLSA").

3. ADEA Release Requirements Satisfied. Executive understands that this Release has to meet certain requirements to validly release any ADEA claims Executive might have had, and Executive represents and warrants that all such requirements have been satisfied. ***SurgiVision hereby advises Executive that before signing this Release, he may take twenty-one (21) days to consider this Release***. Executive acknowledges that: (1) he took advantage of as much of this period to consider this Release as he wished before signing; (2) he carefully read this Release; (3) he fully understands it; (4) he entered into this Release knowingly and voluntarily (free from fraud, duress, coercion, or mistake of fact); (5) this Release is in writing and is understandable; (6) in this Release, he waives current ADEA claims; (7) he has not waived future ADEA claims; (8) he is receiving valuable consideration in exchange for execution of this Release that he would not otherwise be entitled to receive; and (9) SurgiVision hereby advises Executive in writing to discuss this Release with his attorney (at his own expense) prior to execution, and he has done so to the extent he deemed appropriate.

4. Review & Revocation.

(a) Review: ***Before executing this Release, Executive may take twenty one (21) days to consider this Release***. Executive acknowledges and agrees that his waiver of rights under this Release is knowing and voluntary and complies in full with all criteria of the regulations promulgated under the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, Title VII of the Civil Rights Act of 1964, and any and all federal, state and local laws, regulations and orders. ***SurgiVision hereby advises Executive in writing to consult with an attorney prior to executing this Release***. In the event that Executive executes this Release prior to the expiration of the twenty-one (21) day period, he acknowledges that his execution was knowing and voluntary and not induced in any way by SurgiVision or any other person.

(b) Revocation: For a period of seven (7) days following his execution of this Release, Executive may revoke this Release. If he wishes to revoke this Release, he must revoke in writing delivered by hand or confirmed facsimile prior to the end of the seventh (7th) day of the revocation period to Oscar Thomas, One Commerce Square, Suite 2550, Memphis, TN 38103, (901) 522-9400 (fax) or the revocation will not be effective. If Executive timely revokes this Release, all provisions hereof will be null and void, including any and all payments referenced in the Separation Agreement to which this Release is attached. If Executive does not advise Oscar Thomas in writing that he revokes this Release within seven (7) days of his execution of it, this Release shall be forever enforceable. The eighth (8th) day following Executive's execution of this Release shall be the Effective Date of this Release. ***This Release is not effective or enforceable until the revocation period has expired.***

5. No Assignment of Claims. The Executive expressly represents and warrants that he is the sole owner of the actual and alleged claims, demands, rights, causes of action and other matters that are released herein, that the same have not been transferred or assigned or caused to be transferred or assigned to any other person, firm, corporation or other legal entity, and that he has the full right and power to grant, execute and deliver the general release, undertakings and agreements contained herein.

6. Release by SurgiVision. SurgiVision hereby releases the Executive from any and all claims, demands or causes of action of any kind that it now has against the Executive arising out of or related to the Executive's employment with SurgiVision, with the exception of claims, demands or causes of action arising out of or related to criminal acts, fraud or knowing wrongful conduct, that arise out of or relate to any occurrences prior to the date of this Release; provided, however, that nothing contained in this Release shall apply to, or release the Executive from, any obligation contained in the Separation Agreement, the NDA (as that term is defined in the Separation Agreement) or this Release.

7. Entire Agreement. The Separation Agreement, the NDA and this Release constitute the entire agreement and understanding between the parties. The Executive has not relied on any oral statements that are not expressly stated in the Separation Agreement or this Release.

8. Governing Law. This Release shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Tennessee without regard to the principle of conflicts of laws.

SurgiVision, Inc.

By: _____
Name: _____
Title: _____

_____
John Thomas

Exhibit 10.29

SURGIVISION, INC.

CARDIAC EP BUSINESS PARTICIPATION PLAN

INTRODUCTION

The SurgiVision, Inc. Cardiac EP Business Participation Plan (the "Plan") provides a key product development advisor and consultant to the Company (as defined herein) with the opportunity to receive a payment (a "Liquidity Payout") upon consummation of a Liquidity Event (as defined herein) in accordance with the terms and conditions set forth herein.

1. DEFINITIONS

Whenever used herein, the following words and phrases shall have the meanings set forth below:

"AAA" shall have the meaning as set forth in Section 6.5 herein.

"Affiliate" of a Person shall mean any other Person that controls, is controlled by, or is under common control with, such Person.

"Award Agreement" shall mean that certain letter agreement entered into between the Company and Participant pursuant to the Plan, as described in Section 3.1 below, as the same may be amended or modified.

"Board" shall mean the board of directors of the Company.

"Cardiac EP Business Unit" shall mean and include that segment of the Company's business operations relating to catheter-based MRI-guided cardiac EP to treat cardiac arrhythmias. For the avoidance of doubt, (a) the Cardiac EP Business Unit includes the Company's operations relating to the ClearTrace Cardiac Intervention System for MRI-guided cardiac EP to treat cardiac arrhythmias; and (b) the Cardiac EP Business Unit does not include the Company's operations relating to the ClearPoint Neuro Intervention System, the SafeLead Development Program or any other Company products or product candidates.

"Company" shall mean SurgiVision, Inc., a Delaware corporation, including its successor in interest by merger, consolidation or otherwise.

"Competing Activities" shall have the meaning as set forth in Section 4.2 herein.

"Contingent Payments" shall have the meaning as set forth in Section 3.3 herein.

"Dilution Factor" shall have the meaning as set forth in Section 3.4(c) herein.

"Dispute" shall have the meaning as set forth in Section 6.5 herein.

"Expiration Date" shall mean June 2, 2025.

"Field" shall mean the field of MRI-guided, catheter-based cardiac EP to treat cardiac arrhythmias. For the avoidance of any doubt, the field of MRI-guided, catheter-based EP to treat cardiac arrhythmias includes not only the actual MRI-guided cardiac intervention but also the pre-operative and post-operative planning and/or assessment directly associated with the MRI-guided cardiac intervention; however, it does not include diagnostic, assessment, and triage activity not directly associated with the MRI-guided cardiac intervention (e.g., diagnostic devices and services to assist healthcare professionals and patients evaluate treatment options).

"Good Standing" shall mean that Participant: (a) continues to comply in all material respects with the policies of any hospital at which he is granted admitting and clinical privileges and any university at which he is member of the faculty; and (b) is not debarred, excluded, suspended or otherwise determined to be ineligible to participate in any federal healthcare program as a result of Participant's affirmative act of malfeasance (e.g., not because of Participant ceasing to work or losing his work status in the United States or any other reason unrelated to malfeasance).

"Liquidity Event" shall mean (a) in the case of the Cardiac EP Business Unit, the sale or other disposition of all or substantially all of (i) the Company's interest in or (ii) the assets of the Company used in the operation of, the Cardiac EP Business Unit to another Person (other than a transfer to the Company's Affiliate); and (b) in the case of the Company as a whole, any of the following events:

(i) the sale or other disposition of all or substantially all of the assets of the Company to any Person (other than a transfer to the Company's Affiliate); or

(ii) a share exchange, merger, takeover (hostile or friendly) or other business combination transaction, wherein less than a majority of the combined voting power of the then outstanding securities of the surviving entity immediately after such transaction are held in the aggregate by the holders of the Company's securities entitled to vote generally in the election of directors of the Company immediately prior to such transaction.

"Liquidity Payout" shall have the meaning as set forth in the Introduction herein.

"Participant" shall mean Dr. Nassir F. Marrouche.

"Participation Interest" shall mean the percentage set forth in Participant's Award Agreement and used to determine the amount of any Liquidity Payout, which percentage shall be subject to adjustment as provided in Section 3.4 herein.

"Person" shall mean an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

"Qualified Financing" shall have the meaning as set forth in Section 3.4(b) herein.

"Rules" shall have the meaning as set forth in Section 6.5 herein.

"Transaction Value" shall have the meaning set forth in Section 3.2(a) or 3.2(b) herein, as the case may be.

2. ADMINISTRATION

The Plan shall be administered by the Board. The Board shall have the authority, consistent with the terms of the Plan: (a) to calculate and determine the amount of the Transaction Value; (b) to interpret the terms and provisions of the Plan and Participant's Award Agreement; and (c) to supervise the administration of the Plan as described herein or otherwise. Subject to the foregoing, all decisions made by the Board pursuant to the provisions of the Plan shall be made in the Board's sole discretion and in good faith and shall be final and binding on all Persons.

3. LIQUIDITY PAYOUT AMOUNTS

3.1 Award Agreement. Participant's award under the Plan, shall be evidenced by the Award Agreement entered into between the Company and Participant.

3.2 Liquidity Payout Following Liquidity Event. Upon the occurrence of a Liquidity Event with respect to the Cardiac EP Business Unit or the Company, the Participant's right to a payment will vest and the Company or its successor in interest, as applicable, will pay to Participant a Liquidity Payout as follows:

(a) If the Liquidity Event occurs solely with respect to the Cardiac EP Business Unit, a Liquidity Payout will be made to Participant based on the following calculation: (i) the transaction value paid to the Company or its stockholders upon closing of the Liquidity Event ("Transaction Value"), multiplied by (ii) the Participant's then current Participation Interest.

(b) If the Liquidity Event occurs with respect to the Company, as a whole, the Board will determine, in consultation with the Company's financial advisors and Participant, a reasonable allocation of transaction value to the Cardiac EP Business Unit. Based on that allocation to the Cardiac EP Business Unit, a Liquidity Payout will be made to the Participant based on the following calculation: (i) Transaction Value allocated to the Cardiac EP Business Unit, multiplied by (ii) the Participant's then current Participation Interest.

(c) If the Company and/or its stockholders receive non-cash consideration in connection with the Liquidity Event, then the Company or its successor in interest, as applicable, may, without obligation, fund the Liquidity Payout with cash and/or such non-cash consideration in the same proportion that the Company and/or its stockholders receive such consideration in connection with the Liquidity Event. Non-cash consideration shall be valued in good faith by the Board, in consultation with the Company's financial advisors and Participant.

3.3 Payment. A Liquidity Payout resulting from the occurrence of a Liquidity Event will be made within thirty (30) days following the Liquidity Event. In the event that the Company or its stockholders may receive any payments ("Contingent Payments") after the closing of the Liquidity Event which payments are subject to any substantial contingencies as of the closing which are not within the control of the Company, its stockholders or Participant, then for purposes of computing the Liquidity Payout due within thirty (30) days of the Liquidity Event, the Transaction Value shall not include such Contingent Payments or any estimated value thereof, but the removal of the contingencies to the right of the Company or its stockholders to a Contingent Payment shall be considered a separate vesting event for Participant and shall entitle Participant to a Liquidity Payout within sixty (60) days of such event based on the amount of the Contingent Payment then no longer subject to contingencies.

3.4 Dilution of Participation Interest.

(a) Participant's Participation Interest will be equitably reduced to take into account and reflect any direct investment into, or any direct financing of, the Cardiac EP Business Unit (i.e., not an investment in or financing of the Company as a whole). For the avoidance of any doubt, this would include a monetary investment in the Cardiac EP Business Unit by the Company in lieu of third-party financing.

(b) Participant's Participation Interest will be subject to dilution in the event of a Qualified Financing of the Company. A "Qualified Financing" means a financing transaction occurring after the effective date of the Plan in which the Company issues shares of its common stock, or securities convertible (directly or indirectly) into shares of its common stock, in exchange for cash proceeds. Solely as an example and without limiting the generality of the foregoing definition, the initial public offering of shares of the Company's common stock will constitute a Qualified Financing.

(c) Following each Qualified Financing, Participant's Participation Interest will be reduced by multiplying his Participation Interest in effect immediately prior to the Qualified Financing by the Dilution Factor. Such "Dilution Factor" will be calculated in the following manner:

Dilution Factor = 1 – ((Post Shares – Pre Shares) ÷ Post Shares), where:

Pre Shares means the number of Issued and Outstanding Shares immediately prior to the Qualified Financing;

Post Shares means the number of Issued and Outstanding Shares immediately following the Qualified Financing; and

Issued and Outstanding Shares means, as of a given date/time, the total number of shares of the Company's common stock (a) issued and outstanding, and (b) issuable upon the conversion of any and all outstanding securities convertible into shares of the Company's common stock, whether then convertible.

4. ELIGIBILITY FOR LIQUIDITY PAYOUT

4.1 Eligibility. Participant's right to receive any Liquidity Payout will be subject to and conditioned on the following:

(a) Participant must disclose this Plan to, and seek the approval of, the University of Utah Conflicts of Interest Committee within ninety (90) days following the effective date of this Plan;

(b) The University of Utah Conflicts of Interest Committee must review and approve in writing Participant's participation in this Plan;

(c) Participant must not engage in any material Competing Activities during the term of the Plan;

(d) To the extent Participant serves as a consultant to or employee of the Company, the Participant's consultancy or employment must not be terminated by the Company for cause during the term of the Plan;

(e) Participant must remain in Good Standing during the term of the Plan; and

(f) Participant must comply, in all material respects, with applicable disclosure and/or reporting obligations regarding Participant's relationship with and interest in the Company, during the term of the Plan.

4.2 Competing Activities. For purposes of the Plan, Participant shall be deemed to have engaged in "Competing Activities" if Participant, directly or indirectly through one or more intermediaries, (a) owns (other than ownership of a publicly-held companies in an amount less than 0.1% of the outstanding shares of such company), manages, operates, finances or controls, (b) is employed by or associated with, (c) consults for or otherwise render services to, or (iv) lends his name or credit to, any business whose products, activities or services compete anywhere in the world with products, activities or services (or proposed products, activities or services) of the Cardiac EP Business Unit in the Field. For the avoidance of any doubt, the term "Competing Activities" (i) in no way restricts or inhibits Participant's ability to engage in the practice of medicine or Participant's use of any product that is for patient care or treatment, it being understood that Participant directs all medical decisions regarding the care and treatment of his patients and Participant assumes full responsibility for any clinical decisions made in connection with the care and treatment of his patients; and (ii) does not include Participant's involvement with eCardio Diagnostics, Marrek, the University of Utah or other universities or hospitals (foreign or domestic), so long as those entities' products, activities or services do not compete in whole or in material part anywhere in the world with products, activities or services (or proposed products, activities or services) of the Cardiac EP Business Unit in the Field.

4.3 Death. In the event of Participant's death within three (3) years prior to the occurrence of a Liquidity Event, the Company will make any Liquidity Payout resulting from the Liquidity Event to Participant's estate, assuming Participant otherwise satisfied all of the conditions set forth in Section 4.1 above through the date of his death).

5. AMENDMENT

At any time prior to the consummation of a Liquidity Event, the Board may amend or alter (a) this Plan and/or (b) Participant's Award Agreement issued under this Plan. Notwithstanding the foregoing, no amendment or alteration of this Plan or Participant's Award Agreement shall impair Participant's rights under this Plan, without Participant's prior consent.

6. MISCELLANEOUS

6.1 Taxes. Liquidity Payouts are subject to applicable federal, state, and local withholding taxes. The Company shall withhold from Liquidity Payouts payable under the Plan all income, employment and payroll taxes which, by applicable federal, state or local law, the Company is required to withhold.

6.2 Consultancy Status Not Conferred. The adoption of this Plan and the receipt of an award under this Plan shall not confer upon Participant any right to continued consultancy with the Company or its subsidiaries, as the case may be, nor shall it interfere in any way with the right of the Company or its subsidiaries to terminate the Participant's consultancy.

6.3 Governing Law. The Plan and all awards made and actions taken thereunder shall be governed by and construed in accordance with the laws of the State of Delaware.

6.4 Successors. In the event of any merger, consolidation or other similar event involving the Company, the provisions of the Plan shall be binding upon the surviving or resulting entity of such transaction.

6.5 Arbitration. Any controversy, claim or dispute arising out of, in connection with or relating to this Plan or any Incentive Award Agreement ("Dispute"), which cannot otherwise be resolved through good faith negotiations between the parties, may be submitted by either the Company or Participant to binding arbitration in accordance with the then prevailing Commercial Arbitration Rules of the American Arbitration Association (the "AAA"), except as such rules conflict with the provisions of this Section, in which case the provisions of this Section shall control. The Dispute shall be submitted to binding arbitration before three (3) arbitrators in Memphis, Tennessee under the AAA's Commercial Arbitration Rules (the "Rules") as modified or supplemented hereby. Within ten (10) days after commencement of any arbitration proceeding, as provided herein, the Company shall choose an arbitrator, and Particpant shall choose an arbitrator. Thereafter, a third neutral arbitrator shall be selected by the two (2) arbitrators chosen by the parties. If the arbitrators chosen by the parties cannot agree upon the neutral arbitrator within ten (10) business days after their appointment, then, in any such event, the neutral arbitrator shall be selected, pursuant to the Rules. The costs of the arbitration, including the fees and expenses of the arbitrators, shall be shared equally by the parties, but each party shall be responsible for its own costs, including attorneys and witness fees, incurred by that party in the arbitration proceedings. In rendering an award, the parties agree that the arbitrators shall not have any power or authority to modify any provisions of the Plan or Participant's Award Agreement, and in no event shall the arbitrator have the power or authority to make awards that provide for damages expressly excluded or limited by the same. The arbitration award shall be in writing and shall specify the factual or legal basis for the award.

A judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Nothing in this Section shall be construed to prevent any party from instituting legal proceedings to seek a temporary restraining order or other temporary or preliminary injunctive relief to prevent immediate and irreparable harm to such party, and for which monetary damages would be inadequate, pending final resolution of a Dispute pursuant to this Section. Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder or to obtain interim relief, and except as reasonably necessary to comply with any applicable law, rule, regulation of any governmental authority or securities exchange, neither party may, nor may the arbitrator, disclose the existence, content or results of any arbitration hereunder without the prior written consent of both parties. The Federal Arbitration Act, 9 U.S.C. Sections 1 through 14, except as modified hereby, shall govern the interpretation and enforcement of this Section. THE PARTIES ACKNOWLEDGE AND AGREE THAT IN AGREEING TO SUBMIT ALL DISPUTES TO BINDING ARBITRATION, THEY ARE IRREVOCABLY WAIVING ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO THIS AGREEMENT.

6.6 No Trust. The amounts to be paid in respect of the Plan shall not constitute or be treated as a trust of any kind. The Company shall not be required to fund or otherwise segregate assets to be used for the payment of a Liquidity Payout under the Plan. The Company shall make such payments only out of its general assets, and, therefore, the Company's obligation to make such payments shall be subject to any claims of its other creditors having priority as to its assets. Participant's rights under the Plan are solely those of a general unsecured creditor of the Company and are subject to forfeiture under the terms hereof and under Participant's Award Agreement. If the Company designates any assets to pay its liabilities hereunder, such assets shall at all times remain the property of the Company, and Participant shall not have any property interest in such assets.

6.7 Interpretation. The Board, acting in good faith, shall have discretion to interpret the Plan and Participant's Award Agreement. The Board's interpretation and actions hereunder, if made in the exercise of good faith discretion and not in an arbitrary and capricious manner, shall be conclusive and binding upon all Persons for all purposes. Neither the Company nor any of its directors, officers or employees (including members of the Board) shall be liable to Participant or any other Person for any action taken in connection with the interpretation of the Plan or Participant's Award Agreement.

6.8 No Right of Equity Ownership. Neither the Plan nor Participant's Award Agreement grants to Participant any right or privilege of equity ownership in the Company.

6.9 Assignment. Participant's rights under the Plan and his Award Agreement may not be transferred, conveyed, encumbered or assigned, whether voluntarily or involuntarily

6.10 Section 409A Compliance. The foregoing provisions of this Plan are intended to cause the Plan to conform with the requirements of a plan providing only for short-term deferrals as provided in Treasury Regulation §1.409A-1(b)(4), as amended from time to time or to any successor provision, and the provisions of this Plan shall be construed in accordance with that intention. If any provision of this Plan shall be inconsistent or in conflict with any applicable

requirements for a short-term deferral plan, then such requirement shall be deemed to override and supersede the inconsistent or conflicting provision, and any required provision of a short-term deferral plan that is omitted from this Plan shall be incorporated herein by reference and shall apply retroactively, if necessary, and be deemed to be a part of this Plan to the same extent as though expressly set forth herein. To the extent permissible under Treasury Regulation §1.409A-1(b)(4)(ii), the payments may be delayed within the discretion of the Board on the following grounds: (a) it is administratively impracticable to make the payment by the regular payment date due to unforeseeable reasons; (b) the payment would jeopardize the Company's ability to continue as a going concern; (c) the payment is reasonably anticipated not to be deductible under Section 162(m) of the Code due to circumstances that a reasonable person would not have anticipated; or (d) such other grounds as may be from time to time be permissible under the foregoing regulation; provided, however, any delayed payment shall be made within the period required under the foregoing regulation.

7. EFFECTIVENESS OF PLAN, PLAN TERMINATION

This Plan shall become effective on June 2, 2010, and shall expire and terminate, together with the Award Agreement, upon the earlier to occur of (a) the Expiration Date, or (b) the consummation of a Liquidity Event of the Cardiac EP Business Unit or the Company; provided, however, that upon the occurrence of such Liquidity Event, the terms of the Plan (and the Award Agreement) shall survive to the extent, but only to the extent, necessary for the Company to satisfy its obligations to Participant hereunder.

Exhibit 10.30

June 2, 2010

Dr. Nassir F. Marrouche
3293 Niblick Drive
Park City, UT 84098

Re: Cardiac EP Business Participation Plan Award Agreement

Dear Nassir:

This letter (this "Letter Agreement") sets forth the agreement between you and SurgiVision, Inc., a Delaware corporation (the "Company"), regarding the terms upon which you are eligible to receive a payment (the "Liquidity Payout") pursuant to the Company's Cardiac EP Business Participation Plan (the "Plan"), a copy of which is attached hereto and the terms of which are incorporated herein. This Letter Agreement is in addition to, and not in substitution for, any other agreement between you and the Company.

1. Participation Interest. As contemplated by the Plan, you are hereby awarded a six and 60/100ths percent (6.60%) Participation Interest, subject to adjustment as provided in Section 3.4 of the Plan.

2. Plan Governs. You acknowledge receipt of a copy of the Plan and agree to be bound by all the terms and provisions thereof. The terms of this Letter Agreement are governed by and are subject to the terms of the Plan, and in the case of any inconsistency between the terms of this Letter Agreement and the terms of the Plan, the terms of the Plan will govern.

3. Definitions. For purposes of this Letter Agreement, capitalized terms not expressly defined herein will have the meanings ascribed to those terms in the Plan.

4. Amendments. At any time prior to the consummation of a Liquidity Event, the Company may amend or alter the terms of this Letter Agreement and/or the Plan; provided, however, that any such amendment or alteration that impairs your rights under this Letter Agreement or the Plan will require your prior consent.

5. Non-Transferable. You acknowledge and agree that your rights under this Letter Agreement may not be transferred, conveyed, encumbered or assigned, whether voluntarily or involuntarily.

6. Counterparts. This Letter Agreement may be executed in counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument.

If this Letter Agreement sets forth our agreement on the subject matter hereof, kindly sign and return this letter to the Company.

Sincerely,

SURGIVISION, INC.

By: /s/ Kimble L. Jenkins
Kimble L. Jenkins
Chief Executive Officer and President

Agreed to as of this 3rd day of June, 2010.

/s/ Nassir F. Marrouche
Nassir F. Marrouche

Exhibit 10.31

June 2, 2010

Dr. Paul A. Bottomley
601 N. Caroline St
John Hopkins University
Dept of Radiology JHOPC 4221
Baltimore, MD 21287

Re: Amended and Restated Key Personnel Incentive Award Agreement

Dear Paul:

This letter (this "Letter Agreement") sets forth the agreement between you and SurgiVision, Inc., a Delaware corporation (the "Company"), regarding the terms upon which you are eligible to receive an incentive bonus payment (the "Incentive Payment") pursuant to the Company's Amended and Restated Key Personnel Incentive Program (the "Program"), a copy of which is attached hereto and the terms of which are incorporated herein. This Letter Agreement supersedes and replaces the prior Letter Agreement between you and the Company dated May 15, 2007. This Letter Agreement is in addition to, and not in substitution for, any other agreements between you and the Company, and the Incentive Payment is in addition to, and not in substitution for, any other compensation or benefits to which you otherwise are entitled or eligible.

1. Incentive Payment Upon Triggering Event. The amount of your Incentive Payment with respect to a Triggering Event will be equal to your Individual Share multiplied by the Maximum Program Amount. Your "Individual Share" is thirty three and 33/100 percent (33.33%) of the Maximum Program Amount. Therefore, your Maximum Incentive Payment is $1,000,000. Notwithstanding the foregoing, your Incentive Payment with respect to any Triggering Event shall be reduced by your Service Payments, in accordance with the terms of the Program.

2. Service Payments. Provided that on each of the following dates this Letter Agreement has not been terminated pursuant to Section 4.1, Section 4.2 or Section 4.3 of the Program, a Service Payment will be made to you in the following amounts:

June 30, 2012	$125,000.00
December 31, 2012	$125,000.00
June 30, 2013	$125,000.00
December 31, 2013	$125,000.00
June 30, 2014	$125,000.00
December 31, 2014	$125,000.00
June 30, 2015	$125,000.00
December 31, 2015	$125,000.00

; provided, however, any Service Payment that would otherwise be due after March 15 of the year following the year in which your employment or consultancy with the Company terminates pursuant to Section 4.2 or Section 4.3 of the Program, shall instead be paid on March 15 of the year following the termination year.

3. Term. Unless earlier terminated as provided in Section 4 of the Program, this Letter Agreement will expire and terminate upon the earlier to occur of (a) December 31, 2015, or (b) the consummation of a Triggering Event; provided, however, that upon any such termination the terms of this Letter Agreement will survive to the extent, but only to the extent, necessary for the Company to satisfy its obligations to you that result from such Triggering Event or any unpaid Service Payments.

4. Program Governs. You acknowledge receipt of a copy of the Program and agree to be bound by all the terms and provisions thereof. The terms of this Letter Agreement are governed by the terms of the Program, and in the case of any inconsistency between the terms of this Letter Agreement and the terms of the Program, the terms of the Program will govern.

5. Definitions. For purposes of this Letter Agreement, capitalized terms not expressly defined herein will have the meanings ascribed to those terms in the Program.

6. Amendments. At any time prior to the consummation of a Triggering Event, the Company, through the Committee, may amend or alter the terms of this Letter Agreement and/or the Program; provided, however, that any such amendment or alteration that impairs your rights under this Letter Agreement or the Program will require your prior consent.

7. Non-Transferable. You acknowledge and agree that your rights under this Letter Agreement may not be transferred, conveyed, encumbered or assigned, whether voluntarily or involuntarily.

8. Counterparts. This Letter Agreement may be executed in counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument.

9. Certain Tax Implications. Notwithstanding anything herein to the contrary, to the extent the Committee determines in good faith that your Incentive Payment would constitute an “excess parachute payment” (as defined in Section 280G of the Internal Revenue Code of 1986, as amended (the “Code”)) when taking into account all factors contemplated by Section 280G of the Code, the amount of your Incentive Payment may be reduced by the amount necessary to prevent your Incentive Payment from creating or increasing an “excess parachute payment” under Section 280G of the Code, as determined in good faith by the Committee.

If this Letter Agreement sets forth our agreement on the subject matter hereof, kindly sign and return this letter to the Company.

Sincerely,

SURGIVISION, INC.

By: /s/ Kimble L. Jenkins
Kimble L. Jenkins
Chief Executive Officer

Accepted and agreed to as of this 3rd day of June, 2010.

/s/ Paul A. Bottomley
Paul A. Bottomley

Exhibit 10.32

June 2, 2010

Dr. Paul A. Bottomley
601 N. Caroline St
John Hopkins University
Dept of Radiology JHOPC 4221
Baltimore, MD 21287

Re: Key Personnel Incentive Award Agreement

Dear Paul:

This letter (this "Letter Agreement") sets forth the agreement between you and SurgiVision, Inc., a Delaware corporation (the "Company"), regarding the terms upon which you are eligible to receive an incentive bonus payment (the "Incentive Payment") pursuant to the Company's Amended and Restated Key Personnel Incentive Program (the "Program"), a copy of which is attached hereto and the terms of which are incorporated herein. This Letter Agreement is in addition to, and not in substitution for, the Amended and Restated Letter Agreement between you and the Company of even date herewith. This Letter Agreement is also in addition to, and not in substitution for, any other agreements between you and the Company, and the Incentive Payment is in addition to, and not in substitution for, any other compensation or benefits to which you are otherwise entitled or eligible.

1. Incentive Payment Upon Triggering Event. The amount of your Incentive Payment with respect to a Triggering Event will be equal to your Individual Share multiplied by the amount of the Bonus Pool. Your "Individual Share" is twenty three and 33/100 percent (23.33%) of the amount of the Bonus Pool. Notwithstanding the foregoing, your Incentive Payment with respect to any Triggering Event shall be reduced by your Service Payments, in accordance with the terms of the Program.

2. Service Payments. Provided that on each of the following dates, this Letter Agreement has not been terminated pursuant to Sections 4.1, 4.2 or 4.3 of the Program, a Service Payment will be made to you in the following amounts:

June 30, 2012	$87,500.00
December 31, 2012	$87,500.00
June 30, 2013	$87,500.00
December 31, 2013	$87,500.00
June 30, 2014	$87,500.00
December 31, 2014	$87,500.00
June 30, 2015	$87,500.00
December 31, 2015	$87,500.00

; provided, however, any Service Payment that would otherwise be due after March 15 of the year following the year in which your employment or consultancy with the Company terminates

pursuant to Section 4.2 or Section 4.3 of the Program, shall instead be paid on March 15 of the year following the termination year.

3. Term. Unless earlier terminated as provided in Section 4 of the Program, this Letter Agreement will expire and terminate upon the earlier to occur of (a) December 31, 2015, or (b) the consummation of a Triggering Event; provided, however, that upon any such termination the terms of this Letter Agreement will survive to the extent, but only to the extent, necessary for the Company to satisfy its obligations to you that result from such Triggering Event or any unpaid Service Payments.

4. Program Governs. You acknowledge receipt of a copy of the Program and agree to be bound by all the terms and provisions thereof. The terms of this Letter Agreement are governed by the terms of the Program, and in the case of any inconsistency between the terms of this Letter Agreement and the terms of the Program, the terms of the Program will govern.

5. Definitions. For purposes of this Letter Agreement, capitalized terms not expressly defined herein will have the meanings ascribed to those terms in the Program.

6. Amendments. At any time prior to the consummation of a Triggering Event, the Company, through the Committee, may amend or alter the terms of this Letter Agreement and/or the Program; provided, however, that any such amendment or alteration that impairs your rights under this Letter Agreement or the Program will require your prior consent.

7. Non-Transferable. You acknowledge and agree that your rights under this Letter Agreement may not be transferred, conveyed, encumbered or assigned, whether voluntarily or involuntarily.

8. Counterparts. This Letter Agreement may be executed in counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument.

9. Certain Tax Implications. Notwithstanding anything herein to the contrary, to the extent the Committee determines in good faith that your Incentive Payment would constitute an “excess parachute payment” (as defined in Section 280G of the Internal Revenue Code of 1986, as amended (the “Code”)) when taking into account all factors contemplated by Section 280G of the Code, the amount of your Incentive Payment may be reduced by the amount necessary to prevent your Incentive Payment from creating or increasing an “excess parachute payment” under Section 280G of the Code, as determined in good faith by the Committee.

If this Letter Agreement sets forth our agreement on the subject matter hereof, kindly sign and return this letter to the Company.

Sincerely,

SURGIVISION, INC.

By: /s/ Kimble L. Jenkins
Kimble L. Jenkins
Chief Executive Officer

Accepted and agreed to as of this 3rd day of June, 2010.

/s/ Paul A. Bottomley
Paul A. Bottomley

Exhibit 10.33

June 2, 2010

Parag V. Karmarkar
1101 East 33rd St.
Suite B307
Baltimore, MD 21218

Re: Amended and Restated Key Personnel Incentive Award Agreement

Dear Perry:

This letter (this "Letter Agreement") sets forth the agreement between you and SurgiVision, Inc., a Delaware corporation (the "Company"), regarding the terms upon which you are eligible to receive an incentive bonus payment (the "Incentive Payment") pursuant to the Company's Amended and Restated Key Personnel Incentive Program (the "Program"), a copy of which is attached hereto and the terms of which are incorporated herein. This Letter Agreement supersedes and replaces the prior Letter Agreement between you and the Company dated May 15, 2007. This Letter Agreement is in addition to, and not in substitution for, any other agreements between you and the Company, and the Incentive Payment is in addition to, and not in substitution for, any other compensation or benefits to which you otherwise are entitled or eligible.

1. Incentive Payment Upon Triggering Event. The amount of your Incentive Payment with respect to a Triggering Event will be equal to your Individual Share multiplied by the Maximum Program Amount. Your "Individual Share" is thirty three and 33/100 percent (33.33%) of the Maximum Program Amount. Therefore, your Maximum Incentive Payment is $1,000,000. Notwithstanding the foregoing, your Incentive Payment with respect to any Triggering Event shall be reduced by your Service Payments, in accordance with the terms of the Program.

2. Service Payments. Provided that on each of the following dates this Letter Agreement has not been terminated pursuant to Section 4.1, Section 4.2 or Section 4.3 of the Program, a Service Payment will be made to you in the following amounts:

June 30, 2012	$125,000.00
December 31, 2012	$125,000.00
June 30, 2013	$125,000.00
December 31, 2013	$125,000.00
June 30, 2014	$125,000.00
December 31, 2014	$125,000.00
June 30, 2015	$125,000.00
December 31, 2015	$125,000.00

; provided, however, any Service Payment that would otherwise be due after March 15 of the

year following the year in which your employment or consultancy with the Company terminates pursuant to Section 4.2 or Section 4.3 of the Program, shall instead be paid on March 15 of the year following the termination year.

3. Term. Unless earlier terminated as provided in Section 4 of the Program, this Letter Agreement will expire and terminate upon the earlier to occur of (a) December 31, 2015, or (b) the consummation of a Triggering Event; provided, however, that upon any such termination the terms of this Letter Agreement will survive to the extent, but only to the extent, necessary for the Company to satisfy its obligations to you that result from such Triggering Event or any unpaid Service Payments.

4. Program Governs. You acknowledge receipt of a copy of the Program and agree to be bound by all the terms and provisions thereof. The terms of this Letter Agreement are governed by the terms of the Program, and in the case of any inconsistency between the terms of this Letter Agreement and the terms of the Program, the terms of the Program will govern.

5. Definitions. For purposes of this Letter Agreement, capitalized terms not expressly defined herein will have the meanings ascribed to those terms in the Program.

6. Amendments. At any time prior to the consummation of a Triggering Event, the Company, through the Committee, may amend or alter the terms of this Letter Agreement and/or the Program; provided, however, that any such amendment or alteration that impairs your rights under this Letter Agreement or the Program will require your prior consent.

7. Non-Transferable. You acknowledge and agree that your rights under this Letter Agreement may not be transferred, conveyed, encumbered or assigned, whether voluntarily or involuntarily.

8. Counterparts. This Letter Agreement may be executed in counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument.

9. Certain Tax Implications. Notwithstanding anything herein to the contrary, to the extent the Committee determines in good faith that your Incentive Payment would constitute an “excess parachute payment” (as defined in Section 280G of the Internal Revenue Code of 1986, as amended (the “Code”)) when taking into account all factors contemplated by Section 280G of the Code, the amount of your Incentive Payment may be reduced by the amount necessary to prevent your Incentive Payment from creating or increasing an “excess parachute payment” under Section 280G of the Code, as determined in good faith by the Committee.

If this Letter Agreement sets forth our agreement on the subject matter hereof, kindly sign and return this letter to the Company.

Sincerely,

SURGIVISION, INC.

By: /s/ Kimble L. Jenkins
Kimble L. Jenkins
Chief Executive Officer

Accepted and agreed to as of this 3rd day of June, 2010.

/s/ Parag V. Karmarkar
Parag V. Karmarkar