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Registration No. 333-

This draft registration statement has not been filed publicly with the Securities and Exchange Commission and all information contained herein remains confidential. As confidentially submitted to the Securities and Exchange Commission on October 16, 2013.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-1
REGISTRATION STATEMENT
Under
The Securities Act of 1933

INOGEN, INC.

(Exact name of registrant as specified in its charter)

Delaware	**5960**	**33-0989359**
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

326 Bollay Drive
Goleta, California 93117
(805) 562-0500

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

Raymond Huggenberger
326 Bollay Drive
Goleta, California 93117
(805) 562-0500

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Martin J. Waters **Robert F. Kornegay** **Wilson Sonsini Goodrich & Rosati,** **Professional Corporation** **633 West Fifth Street, 15th Floor** **Los Angeles, CA 90071** **Telephone: (323) 210-2900** **Facsimile: (866) 974-7329**	**Charles K. Ruck** **B. Shayne Kennedy** **Latham & Watkins LLP** **650 Town Center Drive, 20th Floor** **Costa Mesa, CA 92626-1925** **Telephone: (714) 540-1235** **Facsimile: (714) 755-8290**

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

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

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

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

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

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 ☐

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	**Proposed maximum aggregate offering price(1)**	**Amount of registration fee**
Common Stock, $0.001 par value per share	$	$

(1) Estimated solely for the purpose of calculating the amount of the registration fee in accordance with Rule 457(o) under the Securities Act of 1933, as amended. Includes shares that the underwriters have the option to purchase to cover over-allotments, if any.

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

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and is it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Subject to completion, dated October 16, 2013

Prospectus

Shares

Common Stock

This is an initial public offering of common stock of Inogen, Inc. We are selling shares of common stock, and the selling stockholders are selling shares of common stock. We will not receive any proceeds from the sale of shares by the selling stockholders. The estimated initial public offering price is expected to be between $ and $ per share.

Prior to this offering, there has been no public market for our common stock. We intend to apply to list our common stock on the NASDAQ Global Market under the symbol "INGN."

We are an "emerging growth company" under applicable Securities and Exchange Commission rules and will be subject to reduced public company reporting requirements.

	Per Share	Total
Initial public offering price	$	$
Underwriting discounts and commissions(1)	$	$
Proceeds to Inogen, Inc., before expenses	$	$
Proceeds to selling stockholders	$	$

(1) See "Underwriting" for additional disclosure regarding underwriting discounts, commissions and estimated offering expenses.

We and the selling stockholders have granted the underwriters a 30-day option to purchase up to an additional and shares of common stock, respectively.

Investing in our common stock involves a high degree of risk. See "Risk factors" beginning on page 12.

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

The underwriters expect to deliver the shares to purchasers on or about , 2014.

J.P. Morgan

Leerink Swann

William Blair **Stifel**

, 2014

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Neither we, the selling stockholders, nor the underwriters have authorized anyone to provide any information other than that contained in this prospectus or in any free writing prospectus prepared by or on behalf of us or to which we have referred you. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. We, the selling stockholders and the underwriters are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus is accurate only as of the date on the front cover of this prospectus, regardless of the time of delivery of this prospectus or any sale of our common stock. Our business, financial condition, results of operations and prospects may have changed since that date.

Until , 2014 (25 days after the commencement of this offering), all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

For investors outside of the United States: Neither we, the selling stockholders, nor the underwriters have done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than the United States. Persons outside of the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of common stock and the distribution of this prospectus outside of the United States.

Prospectus summary

The items in the following summary are described in more detail later in this prospectus. This summary provides an overview of selected information and does not contain all of the information you should consider before buying our common stock. Therefore, you should read the entire prospectus carefully, especially the "Risk Factors" section beginning on page 12 and our financial statements and the related notes appearing at the end of this prospectus, before deciding to invest in our common stock. In this prospectus, unless the context otherwise requires, references to "we," "us," "our" or "Inogen" refer to Inogen, Inc.

Overview

We are a medical technology company that develops, manufactures and markets innovative portable oxygen concentrators, or POCs, used to deliver supplemental long-term oxygen therapy, or LTOT, to patients suffering from chronic respiratory conditions. Traditionally, these patients have relied on stationary oxygen concentrator systems for use in the home and oxygen tanks or cylinders for mobile use, which we call the delivery model. The tanks and cylinders must be delivered regularly and have a finite amount of oxygen, which requires patients to plan activities outside of their homes around delivery schedules and a finite oxygen supply. Additionally, patients must attach long, cumbersome tubing to their stationary concentrators simply to enable mobility within their homes. Our proprietary Inogen One systems concentrate the air around the patient to offer a single source of supplemental oxygen anytime, anywhere with a portable device weighing approximately 4.8 or 7.1 pounds. Our systems eliminate the patient's reliance on stationary concentrators and scheduled deliveries of tanks with a finite supply of oxygen, thereby improving patient quality of life and fostering mobility.

Although POCs represent the fastest-growing segment of the oxygen therapy market, Medicare claims data from 2011 suggest that patients using POCs represent approximately 3% to 4% of the total addressable oxygen market in the United States. Based on 2012 data, we are the leading worldwide manufacturer of POCs, as well as the largest provider of POCs to Medicare patients, as measured by dollar volume. We believe we are the only POC manufacturer that employs a direct-to-consumer, or DTC, strategy in the United States, meaning we market our products to patients, process their physician paperwork, provide clinical support as needed and bill Medicare or insurance on their behalf. To pursue a DTC strategy, our manufacturing competitors would need to meet national accreditation and state-by-state licensing requirements and secure Medicare billing privileges, as well as compete with the home medical equipment, or HME, providers that many rely on across their entire homecare business.

We believe our DTC strategy has been critical to driving patient adoption of our technology. Our POC manufacturing competitors access patients through HME providers that we believe are disincentivized to encourage POC adoption. In order to facilitate the regular delivery and pickup of oxygen tanks, HME providers have invested in geographically dispersed distribution infrastructure consisting of delivery vehicles, physical locations and delivery personnel within each area. Because POC technology eliminates the need for a physical distribution infrastructure, but has higher initial equipment costs than the delivery model, we believe converting to a POC model would require significant restructuring and capital investment for HME providers. Our DTC marketing strategy allows us to sidestep the HME channel, appeal to patients directly and capture both the manufacturing and provider margin associated with LTOT. We believe our ability to capture this top-to-bottom margin, combined with our POC technology that eliminates the need for the service and infrastructure costs associated with the delivery model, gives us a cost structure advantage over our competitors.

Since adopting our DTC strategy in 2009, we have directly sold or rented our Inogen One systems to more than 40,000 patients, growing our revenue from $10.7 million in 2009 to $48.6 million in 2012. In 2012, 27.6% of our revenue came from our international markets and 40.9% of our revenue came from oxygen rentals. Our percentage of rental revenue increased from 35.8% in 2011, increasing our proportion of recurring revenue. Additionally, we have increased our gross margin from 48.0% in 2011 to 49.3% in 2012 by increasing rental mix, improving system reliability, reducing material cost per system and lowering overhead cost per system. We achieved positive income from operations in 2012.

Our Market

Overview of oxygen therapy market

We believe the current addressable oxygen therapy market in the United States is approximately $4 billion, based on 2011 Medicare data and our estimate of the ratio of the Medicare market to the total market. Currently, approximately 3 million patients in the United States and 5 million patients worldwide use oxygen therapy, and more than 60% of oxygen therapy patients in the United States are covered by Medicare. The number of oxygen therapy patients in the United States is projected to grow by approximately 7% to 10% per year, which we believe is the result of earlier diagnosis of chronic respiratory conditions, demographic trends and longer durations of LTOT.

LTOT has been shown to be a cost-efficient and clinically effective means to treat hypoxemia, a condition in which patients have insufficient oxygen in the blood. Hypoxemic patients are unable to convert oxygen found in the air into the bloodstream in an efficient manner, causing organ damage and poor health. Chronic obstructive pulmonary disease, or COPD, is a leading cause of hypoxemia. Approximately 70% of our patient population has been diagnosed with COPD, which we believe is reflective of the LTOT market in general. Industry sources estimate that 24 million people in the United States suffer from COPD, of which one-half are undiagnosed.

Currently, an estimated 66% of U.S. oxygen users require ambulatory oxygen and the remaining 34% require only stationary or nocturnal oxygen. Clinical data has shown that ambulatory patients that use oxygen twenty-four hours a day, seven days a week, or 24/7, have approximately two times the survival rate and spend at least 60% fewer days annually in the hospital than non-ambulatory 24/7 patients. Of the ambulatory patients, we estimate that approximately 85% rely upon the delivery model that has the following disadvantages:

- limited flexibility outside the home, dictated by the finite oxygen supply provided by tanks and cylinders and dependence on delivery schedules;
- restricted mobility and inconvenience within the home, as patients must attach long, cumbersome tubing to a noisy stationary concentrator to move within their homes;
- products are not cleared for use on commercial aircraft and cannot plug into a vehicle outlet for extended use; and
- high costs driven by the infrastructure necessary to establish a geographically diverse distribution network to serve patients locally, as well as personnel, fuel and other costs, which have limited economies of scale and generally increase over time.

POCs were developed in response to many of the limitations associated with traditional oxygen therapy. POCs are designed to offer a self-replenishing, unlimited supply of oxygen that is concentrated from the surrounding air and to operate without the need for oxygen tanks or regular oxygen deliveries, allowing patients to enhance their independence and mobility. Additionally, because POCs do not require the physical infrastructure and service intensity of the delivery model, we believe POCs can provide LTOT with a lower cost structure. Despite the ability of POCs to address many of the shortcomings of traditional oxygen therapy, we estimate patients with POCs represent approximately 3% to 4% of total oxygen therapy spend, according to 2011 Medicare data. We believe the following has hindered the market acceptance of POCs:

- to obtain POCs, patients are dependent on HME providers, which have made significant investments in the physical distribution infrastructure to support the delivery model;

- constrained manufacturing costs of conventional POCs, driven by HME provider preference for products that have lower upfront equipment cost; and
- limitations of conventional POCs, including bulkiness, poor reliability and lack of suitability beyond intermittent or travel use.

Our Solution

Our Inogen One systems provide patients who require LTOT with a reliable, lightweight, single solution product that improves quality-of-life, fosters mobility and eliminates dependence on both oxygen tanks and cylinders as well as stationary concentrators. We believe our DTC strategy increases our ability to effectively develop, design and market our Inogen One solutions, as it allows us to:

- drive patient awareness of our POC solutions through direct marketing, sidestepping the HME channel that other manufacturers rely upon and that is incentivized to continue to service oxygen patients through the delivery model;
- capture the manufacturer and HME margin, allowing us to focus on the total cost of the solution and to invest in the development of product features that improve patient satisfaction, product reliability, durability and longevity; and
- access and utilize direct patient feedback in our research and development efforts, allowing us to stay at the forefront of patient preference.

Our two product offerings, the Inogen One G3 and Inogen One G2, at approximately 4.8 and 7.1 pounds, respectively, offer portability without compromising or constraining other patient-friendly features. We believe our Inogen One solutions offer the following benefits as compared to conventional lightweight POCs:

- single solution for home, ambulatory, travel and nocturnal treatment, meaning our POCs do not need to be used with another oxygen solution in the home;
- reliability, which is critical to both patient satisfaction and our cost management;

- clinical validation for nocturnal use, demonstrating the efficacy of our Intelligent Delivery Technology in providing consistent levels of oxygen during sleep despite decreased patient respiratory rates;
- unparalleled flow capacity, with at least 50% and at least 15% more flow than competitive products in the sub-5 and sub-10 pound weight classes, respectively; and
- multiple user-friendly features, including long battery life and low noise-levels relative to products in their respective weight categories.

Our Strengths

We believe our products and business model position us well to compete not only against other oxygen device manufacturers, but also to increase our share of the overall oxygen therapy market. We believe we have the following advantages relative to both traditional oxygen therapy providers and other oxygen device manufacturers:

- *Cost-efficient model.* Following the implementation of round two of Medicare's competitive bidding program in July 2013, the average monthly reimbursement rate for oxygen delivery in regions covered by round two is $113. We estimate that the aggregate cost of the delivery model, including delivery costs, costs of oxygen fill and costs of the concentrater and tanks, could be as high as $107 per month, which includes an estimated $73 per month for delivery. As a result of the limited reimbursement amount, providers have a small remaining margin to cover additional costs associated with providing customer service and billing. We believe our POC technology and DTC strategy allow us to provide our solutions through a more efficient cost structure. Following the last round of competitive bidding, we retained access to approximately 90% of the U.S. LTOT market, with the majority in contracts through mid-2016, while many regional and local delivery providers were priced out of this market.
- *Direct-to-consumer capabilities*. We believe our DTC strategy enables patient access and retention as well as innovation and investment in our product portfolio. To pursue a DTC strategy, our manufacturing competitors would need to meet national accreditation and state-by-state licensing requirements and secure Medicare billing privileges. In doing so, many of these manufacturers risk negative reaction from the HME providers that sell their other homecare products, such as sleep apnea and mobility products, which generally represent significantly larger portions of their businesses than oxygen therapy products.
- *Commitment to customer service.* We are focused on providing our patients the highest quality of customer service. We guide them through the reimbursement and physician paperwork process, perform clinical titration and offer 24/7 telephone support, which includes clinical support as required. We believe our focus on customer service has helped drive our sustained patient satisfaction rating of approximately 95%, as measured by our customer satisfaction surveys.
- *Patient-friendly, single-solution, sub-5 and sub-10 pound POCs.*We believe our current product offerings, Inogen One G3 and Inogen One G2, are the only sub-5 and sub-10 pound single-solution POCs on the market today, meaning patients can use our Inogen One systems 24/7 without regular or nocturnal use of a stationary concentrator. Additionally, we believe our products provide a unique combination of durability and reliability, ease-of-use and other user friendly-features.
- *Commitment to research and development and developing intellectual property portfolio*. We have 22 issued U.S. patents, 1 issued Canadian patent and 6 pending U.S. patent applications covering the design and construction of our oxygen concentrators and system optimization. Additionally, we have invested significantly in research and development and have a robust product pipeline of next-generation oxygen concentrators.

- *Management team with proven track record and cost focus*. Our management team has built our DTC capabilities and launched our two current primary product offerings, Inogen One G2 and Inogen One G3. We continue to realize meaningful product manufacturing cost savings of approximately 36% from our Inogen One G1 to our Inogen One G3 as a result of management's improvements in design, sourcing and reliability, as well as higher production volumes.
- *Revenue growth, profitability and recurring revenue*. We have grown our revenue from $10.7 million in 2009 to $48.6 million in 2012, representing a year-over-year growth rate of 58.8%. We achieved positive income from operations in 2012, and our recurring rental revenue represented 40.9% of sales in 2012.

Our Strategy

Our goal is to design, build and market oxygen solutions that redefine how oxygen therapy is delivered. To accomplish this goal, we will continue to invest in our product offerings and our commercial infrastructure to:

- Expand our sales and marketing channels, including more internal and physician-based salespeople, increased DTC advertising and greater international distribution;
- Develop innovative products, including next-generation oxygen concentrators and other innovations that improve quality of life;
- Secure contracts with private payors and Medicaid in order to become in-network with non-Medicare payors, which represent at least 30% of our home oxygen therapy patients, and we believe represent a younger and more active patient population; and
- Continue to focus on cost reduction through scalable manufacturing, reliability improvements, asset utilization and service cost reduction.

Risks Associated with Our Business

Our ability to implement our business strategy is subject to numerous risks that you should be aware of before making an investment decision. These risks are described more fully in the section entitled "Risk Factors" immediately following this prospectus summary. These risks include, among others:

- A significant majority of our customers have health coverage under the Medicare program, and recently enacted and future changes in the reimbursement rates or payment methodologies under Medicare and other government programs have and could continue to materially and adversely affect our business and operating results;
- The implementation of the competitive bidding process under Medicare could negatively affect our business and financial condition;
- We face intense national, regional and local competition and if we are unable to compete successfully, it could have an adverse effect on our revenue, revenue growth rate, if any, and market share;

- If we are unable to continue to enhance our existing products, develop and market new products that respond to customer needs and preferences and achieve market acceptance, we may experience a decrease in demand for our products and our business could suffer;
- If we fail to expand and maintain an effective sales force or successfully develop our international distribution network, our business, financial condition and operating results may be adversely affected; and
- If we are unable to secure and maintain patent or other intellectual property protection for the intellectual property used in our products, we will lose a significant competitive advantage.

Corporate History and Information

We were incorporated in Delaware in November 2001. Our principal executive offices are located at 326 Bollay Drive, Goleta, California 93117. Our telephone number is (805) 562-0500. Our website address is *www.inogen.net*. Information contained on the website is not incorporated by reference into this prospectus, and should not be considered to be part of this prospectus.

We use “Inogen,” “Inogen One,” “Inogen One G2,” “Inogen One G3,” “oxygen.anytime.anywhere” and other marks as trademarks in the United States and other countries. This prospectus contains references to our trademarks and service marks and to those belonging to other entities. Solely for convenience, trademarks and trade names referred to in this prospectus, including logos, artwork and other visual displays, may appear without the ® or ™ symbols, but such references are not intended to indicate in any way that we will not assert, to the fullest extent under applicable law, our rights or the rights of the applicable licensor to these trademarks and trade names. We do not intend our use or display of other entities’ trade names, trademarks or service marks to imply a relationship with, or endorsement or sponsorship of us by, any other entity.

The offering

Common stock offered by us	shares
Common stock offered by the selling stockholders	shares
Common stock to be outstanding after this offering	shares (or if the underwriters exercise their option to purchase additional shares in full)
Underwriters' option to purchase additional shares	shares
Use of proceeds	We intend to use the net proceeds received by us from this offering for general corporate purposes, including working capital and investments in rental assets. We also may use a portion of the net proceeds to acquire complementary businesses, products or technologies. We will not receive any of the net proceeds from the sale of shares of common stock by the selling stockholders. See "Use of proceeds."
Risk factors	You should read the "Risk Factors" section of this prospectus for a discussion of factors to consider carefully before deciding to invest in shares of our common stock.
Proposed NASDAQ Global Market symbol	"INGN"

The number of shares of common stock to be outstanding following this offering is based on 43,432,248 shares of common stock outstanding as of June 30, 2013 and excludes:

- 6,239,692 shares of common stock issuable upon exercise of options outstanding, 4,247,782 of which were vested and then exercisable, at a weighted average exercise price of $0.3625 per share;
- shares of common stock reserved for future issuance under stock-based compensation plans, including shares of common stock reserved for issuance under the 2014 Equity Incentive Plan, which will become effective on the date of this prospectus, and any future automatic increase in shares reserved for issuance under that plan, shares of common stock reserved for issuance under the 2014 Employee Stock Purchase Plan, and any future automatic increase in shares reserved for issuance under that plan and 3,653,083 shares of common stock reserved for issuance under the 2012 Equity Incentive Plan as of June 30, 2013, which shares will be added to the 2014 Equity Incentive Plan upon effectiveness of such plan; and
- 1,013,933 shares of common stock issuable upon the exercise of warrants outstanding as of June 30, 2013, at a weighted average exercise price of $1.1775 per share, after conversion of the convertible preferred stock.

Unless otherwise indicated, this prospectus reflects and assumes the following:

- the conversion of all outstanding shares of our convertible preferred stock into an aggregate of 42,489,888 shares of common stock upon the closing of this offering;
- the cash exercise of warrants to purchase an aggregate of 112,389 shares of common stock at a weighted average exercise price of $3.5578 per share, which we expect will occur prior to the closing of this offering as the warrants will otherwise expire at that time;
- the filing of our amended and restated certificate of incorporation immediately upon the closing of this offering; and
- no exercise by the underwriters of their over-allotment option.

In addition, we expect to effect a reverse stock split prior to the effectiveness of this offering. This prospectus does not reflect the effects of such a reverse stock split.

Summary financial data

We have derived the following summary of statements of operations data for the years ended December 31, 2011 and 2012 from audited financial statements appearing elsewhere in this prospectus. We derived the following statements of operations data for the six months ended June 30, 2012 and 2013 and the balance sheet data as of June 30, 2013 from unaudited interim financial statements included elsewhere in this prospectus. In the opinion of management, the unaudited financial statements reflect all adjustments, which include only normal recurring adjustments necessary for a fair statement of results of operations and financial position. Historical results are not necessarily indicative of the results that may be expected in the future and the results for the six months ended June 30, 2013 are not necessarily indicative of the results that may be expected for the full year. The summary financial data set forth below should be read together with the financial statements and the related notes to those statements, as well as the sections of this prospectus captioned "Management's discussion and analysis of financial condition and results of operations."

(amounts in thousands, except share and per share amounts)	Year ended December 31,		Six months ended June 30,	
	2011	2012	2012	2013
	(as restated)		(unaudited)	
Statements of operations:				
Total revenue	$ 30,634	$ 48,576	$ 21,584	$ 35,904
Total cost of revenue	15,930	24,627	11,166	16,730
Gross profit	14,704	23,949	10,418	19,174
Operating expenses				
Research and development	1,789	2,262	1,173	1,143
Selling, general and administrative	14,637	20,858	9,025	15,006
Total operating expenses	16,426	23,120	10,198	16,149
Income (loss) from operations	(1,722)	829	220	3,025
Total other income (expense), net	(267)	(247)	14	(227)
Provision for income taxes	13	18	—	108
Net (loss) income	$ (2,002)	$ 564	$ 234	$ 2,690
Less deemed dividend on redeemable convertible preferred stock	(3,027)	(5,781)	(2,515)	(3,508)
Net loss attributable to common stockholders	$ (5,029)	$ (5,217)	$ (2,281)	$ (818)
Net loss per share attributable to common stockholders—basic and diluted[1]	$ (6.72)	$ (6.66)	$ (2.93)	$ (0.99)
Weighted average shares used in computing basic and diluted net loss per share[1]	748,638	783,906	777,500	823,187
Unaudited pro forma net income per share attributable to common stockholders[1]:				
Basic:		$ 0.01		$ 0.06
Diluted:		$ 0.01		$ 0.06
Unaudited weighted average shares used in computing pro forma net income per share[1]:				
Basic:		38,496,117		43,465,544
Diluted:		39,825,871		45,186,754
Other financial data:				
EBITDA[2]	$ 1,357	$ 5,971	$ 2,628	$ 6,644
Adjusted EBITDA[2]	1,620	5,883	2,458	6,938

(1) See note 2 to each of our audited and unaudited financial statements included elsewhere in this prospectus for an explanation of the calculations of our basic and diluted net loss per share attributable to common stockholders and pro forma net loss per share attributable to common stockholders.

(2) For a discussion of our use of EBITDA and Adjusted EBITDA and their calculations, please see "— Non GAAP Financial Measures" below.

(in thousands)	As of June 30, 2013		
	Actual	Pro Forma[1]	Pro Forma As Adjusted[2][3]
		(unaudited)	
Balance Sheet Data:			
Cash and cash equivalents	$ 14,174	$ 14,888	$
Working capital	11,814	12,528	
Total assets	55,745	56,459	
Warranty liability	362	280	
Total liabilities	23,153	23,071	
Redeemable convertible preferred stock	114,129	—	
Preferred Stock	247	—	
Common Stock	1	43	
Additional paid in capital	—	115,178	
Total stockholders' (deficit) equity	(81,537)	33,436	

(1) Gives effect to (i) the conversion of all outstanding shares of convertible preferred stock into an aggregate of 42,489,888 shares of common stock upon the closing of this offering, (ii) the cash exercise of warrants to purchase an aggregate of 112,389 shares of common stock, which we expect will occur prior to the closing of this offering as the warrants will otherwise expire at that time, and (iii) the reclassification of our preferred stock warrant liability to additional paid-in-capital upon the closing of this offering.

(2) Gives further effect to our sale of shares of common stock in this offering at an assumed initial public offering price of $ per share, the midpoint of the range reflected on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

(3) A $1.00 increase (decrease) in the assumed initial public offering price of $ per share, the midpoint of the price range reflected on the cover page of this prospectus, would increase (decrease) each of pro forma as adjusted cash and cash equivalents, working capital, total assets and total stockholders' equity by approximately $ million, assuming that the number of shares offered by us, as set forth on the cover of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. A 1,000,000 share increase (decrease) in the number of shares offered by us would increase (decrease) each of pro forma as adjusted cash and cash equivalents, working capital, total assets and total stockholders' equity by approximately $ million after deducting estimated underwriting discounts and commissions and any estimated offering expenses payable by us.

Non-GAAP Financial Measures

EBITDA and Adjusted EBITDA are financial measures that are not calculated in accordance with generally accepted accounting principles in the United States, or GAAP. We define EBITDA as net income or loss excluding interest income, interest expense, taxes and depreciation and amortization. Adjusted EBITDA also excludes the change in the fair value of our preferred stock warrant liability and stock-based compensation. Below, we have provided a reconciliation of EBITDA and Adjusted EBITDA to our net income or loss, the most directly comparable financial measure calculated and presented in accordance with GAAP. EBITDA and Adjusted EBITDA should not be considered as alternatives to net income or loss or any other measure of financial performance calculated and presented in accordance with GAAP. Our EBITDA and Adjusted EBITDA may not be comparable to similarly titled measures of other organizations because other organizations may not calculate EBITDA and Adjusted EBITDA in the same manner as we calculate these measures.

We include EBITDA and Adjusted EBITDA in this prospectus because they are important measures upon which our management assesses our operating performance. We use EBITDA and Adjusted EBITDA as key performance measures because we believe they facilitate operating performance comparisons from period to period by excluding potential differences primarily caused by variations in capital structures, tax positions, the impact of depreciation and amortization expense on our fixed assets, changes related to the fair value remeasurements of our preferred stock warrant, and the impact of stock-based compensation expense. Because EBITDA and Adjusted EBITDA facilitate internal comparisons of our historical operating performance on a more consistent basis, we also use EBITDA and Adjusted EBITDA for business planning purposes, to incentivize and compensate our management personnel, and in evaluating acquisition opportunities. In addition, we believe EBITDA and Adjusted

EBITDA and similar measures are widely used by investors, securities analysts, ratings agencies, and other parties in evaluating companies in our industry as a measure of financial performance and debt-service capabilities.

Our use of EBITDA and Adjusted EBITDA have limitations as analytical tools, and you should not consider them in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- EBITDA and Adjusted EBITDA do not reflect our cash expenditures for capital equipment or other contractual commitments;
- Although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and EBITDA and Adjusted EBITDA do not reflect capital expenditure requirements for such replacements;
- EBITDA and Adjusted EBITDA do not reflect changes in, or cash requirements for, our working capital needs;
- EBITDA and Adjusted EBITDA do not reflect the interest expense or the cash requirements necessary to service interest or principal payments on our indebtedness; and
- Other companies, including companies in our industry, may calculate EBITDA and Adjusted EBITDA measures differently, which reduces their usefulness as a comparative measure.

In evaluating EBITDA and Adjusted EBITDA, you should be aware that in the future we will incur expenses similar to the adjustments in this presentation. Our presentation of EBITDA and Adjusted EBITDA should not be construed as an inference that our future results will be unaffected by these expenses or any unusual or non-recurring items. When evaluating our performance, you should consider EBITDA and Adjusted EBITDA alongside other financial performance measures, including our net loss and other GAAP results.

The following table presents a reconciliation of EBITDA and Adjusted EBITDA to our net income or loss, the most comparable GAAP measure, for each of the periods indicated:

	Year Ended December 31,		Six Months Ended June 30,	
(In thousands)	**2011**	**2012**	**2012**	**2013**
Net income (loss)	$ (2,002)	$ 564	234	$ 2,690
Non-GAAP adjustments:				
Interest income	(113)	(88)	(67)	(6)
Interest expense	261	493	256	199
Provision for income taxes	13	18	—	108
Depreciation and amortization	3,198	4,984	2,205	3,653
EBITDA	1,357	5,971	2,628	6,644
Change in fair value of preferred stock warrant liability	119	(148)	(203)	243
Stock-based compensation	144	60	33	51
Adjusted EBITDA	$ 1,620	$ 5,883	$ 2,458	$ 6,938

Risk factors

Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this prospectus, including our financial statements and related notes, before deciding whether to purchase shares of our common stock. If any of the following risks are realized, our business, financial condition, results of operations and prospects could be materially and adversely affected. In that event, the price of our common stock could decline and you could lose part or all of your investment.

Risks Related to Our Business and Strategy

A significant majority of our customers have health coverage under the Medicare program, and recently enacted and future changes in the reimbursement rates or payment methodologies under Medicare and other government programs have affected and could continue to materially and adversely affect our business and operating results.

As a provider of oxygen product rentals, we have historically depended heavily on Medicare reimbursement as a result of the higher proportion of elderly persons suffering from chronic respiratory conditions. Medicare Part B, or Supplementary Medical Insurance Benefits, provides coverage to eligible beneficiaries that includes items of durable medical equipment, or DME, for use in the home, such as oxygen equipment and other respiratory devices. We believe that more than 60% of oxygen therapy patients in the United States have primary coverage under Medicare Part B. In 2011 and 2012, we derived approximately 26% and 27%, respectively, of our revenue from Medicare. There are increasing pressures on Medicare to control health care costs and to reduce or limit reimbursement rates for home medical products.

Legislation, including the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, or MMA, the Deficit Reduction Act of 2005, or DRA, the Medicare Improvements for Patients and Providers Act of 2008, or MIPPA, and the Patient Protection and Affordable Care Act, or PPACA, contain provisions that directly impact reimbursement for the DME products provided by us:

- The MMA significantly reduced reimbursement for inhalation drug therapies beginning in 2005, reduced payment amounts for certain DME, including oxygen, beginning in 2005, froze payment amounts for other covered HME items through 2008, established a competitive bidding program for HME and implemented quality standards and accreditation requirements for DME suppliers.
- The DRA capped the Medicare rental period for oxygen equipment at 36 months of continuous use, after which time title of the equipment would transfer to the beneficiary. For purposes of this cap, the DRA provided for a new 36-month rental period that began January 1, 2006 for all oxygen equipment. With the passage of MIPPA, transfer of title of oxygen equipment at the end of the 36-month rental cap was repealed, although the rental cap remained in place. This meant that a new rental period may begin, but this new rental period commences only after five years of continuous use. We anticipate that the DRA oxygen payment rules will continue to negatively affect our net revenue on an ongoing basis, as each month additional customers reach the 36-month capped service period, resulting in potentially two or more years without rental income from these customers.

- MIPPA retroactively delayed the implementation of competitive bidding for 18 months from previously established dates and decreased the 2009 fee schedule payment amounts by 9.5% for product categories included in competitive bidding. In addition to the 9.5% reduction under MIPPA, the Centers for Medicare & Medicaid Services, or CMS, implemented a reduction to the monthly payment amount for stationary oxygen equipment by 2.3% in 2009 and 1.5% in 2010, which reduced the monthly payment rate to $175.79 and $173.17 in 2009 and 2010, respectively. The stationary oxygen payment rate for 2011 and 2012 was increased by 0.1%, 1.6%, and 0.7% in 2011, 2012, and 2013, respectively, thereby increasing the monthly payment rate to $173.31, $176.06, and $177.36 in 2011, 2012, and 2013, respectively. The monthly payment rate for non-delivery ambulatory oxygen in the relevant period was flat at $51.63.
- The PPACA includes, among other things, a deductible excise tax on any entity that manufactures or imports medical devices offered for sale in the United States, with limited exceptions including oxygen products such as ours, which began in 2013; new face-to-face physician encounter requirements for DME and home health services; and a requirement that by 2016, the competitive bidding process must be nationalized or prices in non-competitive bidding areas must be adjusted to match competitive bidding prices.

These legislative provisions, as currently in effect and when fully implemented, have had and will continue to have a material and adverse effect on our business, financial condition and operating results.

Due to budgetary shortfalls, many states are considering, or have enacted, cuts to their Medicaid programs. These cuts have included, or may include, elimination or reduction of coverage for our products, amounts eligible for payment under co-insurance arrangements, or payment rates for covered items. Continued state budgetary pressures could lead to further reductions in funding for the reimbursement for our products which, in turn, would adversely affect our business, financial conditions, and results of operations.

The implementation of the competitive bidding process under Medicare could negatively affect our business and financial condition.

The MMA required the Secretary of Health and Human Services to establish and implement programs under which competitive acquisition areas are established throughout the United States for purposes of awarding contracts for the furnishing of competitively priced items of DME, including oxygen equipment.

CMS, the agency responsible for administering the Medicare program, conducts a competition for each competitive acquisition area under which providers submit bids to supply certain covered items of DME. Successful bidders must meet certain program quality standards in order to be awarded a contract and only successful bidders can supply the covered items to Medicare beneficiaries in the acquisition area. There are, however, regulations in place that allow non-contracted providers to continue to provide products and services to their existing customers at the new competitive bidding payment amounts. The contracts are expected to be re-bid every three years. CMS is required to award contracts to multiple entities submitting bids in each area for an item or service, but has the authority to limit the number of contractors in a competitive acquisition area to the number it determines to be necessary to meet projected demand.

Although CMS concluded the bidding process for the first round of MSAs in September 2007, in July 2008, Congress enacted MIPPA, which retroactively delayed the implementation of competitive bidding. MIPPA also reduced Medicare prices nationwide by 9.5% beginning in 2009 for the product categories, including oxygen, that were initially included in competitive bidding.

In 2009, CMS implemented a new bidding process in nine MSA markets, covering approximately 7% of the Medicare oxygen market. Reimbursement rates from the re-bidding process were publicly released by CMS on June 30, 2010. CMS announced average savings of approximately 35% off the current payment rates in effect for the product categories included in competitive bidding. As of January 1, 2011, these payment rates were in effect in the nine markets only. We were offered six three-year contracts to provide oxygen equipment in six of the nine markets, and we accepted and signed those contracts.

CMS implemented the second phase of competitive bidding in an additional 100 competitive bidding markets, or CBAs, covering approximately 50% of the Medicare oxygen market, with three-year contracts effective July 1, 2013. CMS announced average savings of approximately 45% off the current payment rates in effect for the product categories included in competitive bidding. As of July 1, 2013, these payment rates were in effect in the 100 CBAs. We were offered 89 contracts to provide oxygen equipment in 89 of the 100 CBAs, and we accepted and signed those contracts.

Round one re-competes are expected or planned to go into effect in January 2014; reimbursement rates from the re-bidding process were publicly released by CMS on October 1, 2013. CMS announced average savings of approximately 37% off the current payment rates in effect from the product categories included in competitive bidding. Contracting is still in progress. We are required to be able to supply additional respiratory products such as sleep and aerosol therapy, which have lower margins than our existing products. This could have a negative impact on our financial conditions and results of operations.

The PPACA legislation requires CMS to expand competitive bidding further to additional geographic markets or to use competitive bid pricing information to adjust the payment amounts otherwise in effect for areas that are not competitive acquisition areas by January 1, 2016.

Although we continue to monitor developments regarding the implementation of the competitive bidding program, we cannot predict the outcome of the competitive bidding program on our business when fully implemented, nor the Medicare payment rates that will be in effect in future years for the items subjected to competitive bidding, including our products. We expect that the stationary oxygen and non-delivery ambulatory oxygen payment rates will continue to fluctuate, and a large negative payment adjustment could adversely affect our business, financial conditions and results of operations.

We face intense national, regional and local competition and if we are unable to compete successfully, it could have an adverse effect on our revenue, revenue growth rate, if any, and market share.

The oxygen therapy market is a highly competitive industry. We compete with a number of manufacturers and distributors of POCs, as well as providers of other oxygen therapy solutions such as home delivery of oxygen tanks or cylinders.

Our significant manufacturing competitors are Invacare Corporation, Respironics (a subsidiary of Koninklijke Philips N.V.), AirSep Corporation and SeQual Technologies (subsidiaries of Chart Industries, Inc.), Inova Labs, Inc. and DeVilbiss Healthcare. Given the relatively straightforward regulatory path in the oxygen therapy device manufacturing market, we expect that the industry will become increasingly competitive in the future. Manufacturing companies compete for sales to providers primarily on the basis of product features, service and price.

Lincare Inc., Apria Healthcare, Inc. Rotech Healthcare, Inc. and American HomePatient, Inc. are among the market leaders in providing oxygen therapy for many years, while the remaining oxygen therapy market is serviced by local providers. Because many local and regional oxygen therapy providers were either excluded from contract in the Medicare competitive bidding process, or will have difficulty providing service at the prevailing Medicate reimbursement rates, we expect more industry consolidation. Oxygen therapy providers compete primarily on the basis of product features and service, rather than price, since reimbursement levels are established by Medicare and Medicaid, or by the individual determinations of private payors.

Some of our competitors are large, well-capitalized companies with greater resources than we have. As a consequence, they are able to spend more aggressively on product development, marketing, sales and other product initiatives than we can. Some of these competitors have:

- significantly greater name recognition;
- established relations with healthcare professionals, customers and third-party payors;

- established distribution networks;
- additional lines of products, and the ability to offer rebates or bundle products to offer higher discounts or other incentives to gain a competitive advantage;
- greater history in conducting research and development, manufacturing, marketing and obtaining regulatory approval for oxygen device products; and
- greater financial and human resources for product development, sales and marketing, patent litigation and customer financing.

As a result, our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standard regulatory and reimbursement development and customer requirements. In light of these advantages that our competitors maintain, even if our technology and DTC distribution strategy is more effective than the technology and distribution strategy of our competitors, current or potential customers might accept competitor products and services in lieu of purchasing our products. We anticipate that we will face increased competition in the future as existing companies and competitors develop new or improved products and distribution strategies and as new companies enter the market with new technologies and distribution strategies. We may not be able to compete effectively against these organizations. Our ability to compete successfully and to increase our market share is dependent upon our reputation for providing responsive, professional and high-quality products and services and achieving strong customer satisfaction. Increased competition in the future could adversely affect our revenue, revenue growth rate, margins and market share.

Healthcare reform measures may have a material adverse effect on our business and results of operations.

In the United States, the legislative landscape, particularly as it relates to healthcare regulation and reimbursement coverage, continues to evolve. In March 2010, the PPACA was passed, which has the potential to substantially change health care financing by both governmental and private insurers, and significantly impact the U.S. medical device industry. As discussed above, the PPACA, among other things, imposes a new excise tax, which began in 2013, on entities that manufacture, produce or import medical devices in an amount equal to 2.3% of the price for which such devices are sold in the United States, however oxygen products such as ours were exempt. In addition, as discussed above, the PPACA also expands the round two of competitive bidding to a total of 91 CBAs, and by 2016, the process must be nationalized or prices in non-competitive bidding areas must be adjusted to match competitive bidding prices.

In addition, other legislative changes have been proposed and adopted in the United States since the PPACA was enacted. On August 2, 2011, the Budget Control Act of 2011 among other things, created measures for spending reductions by Congress. A Joint Select Committee on Deficit Reduction, tasked with recommending a targeted deficit reduction of at least $1.2 trillion for the years 2013 through 2021, was unable to reach required goals, thereby triggering the legislation's automatic reduction to several government programs. This includes aggregate reductions of Medicare payments to providers up to 2% per fiscal year, which went into effect on April 1, 2013. On January 2, 2013, President Obama signed into law the American Taxpayer Relief Act of 2012, or the ATRA, which, among other things, further reduced Medicare payments to certain providers, including physicians, hospitals, imaging centers and cancer treatment centers, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that federal and state governments will pay for healthcare products and services, which could result in reduced demand for our products or additional pricing pressures.

If we are unable to continue to enhance our existing products and develop and market new products that respond to customer needs and preferences and achieve market acceptance, we may experience a decrease in demand for our products and our business could suffer.

We may not be able to compete as effectively with our competitors, and ultimately satisfy the needs and preferences of our customers, unless we can continue to enhance existing products and develop new innovative products. Product development requires significant financial, technological, and other resources. While we expended $1.8 million and $2.3 million for research and development efforts in 2011 and 2012, respectively, we cannot assure you that this level of investment in research and development will be sufficient to maintain a competitive advantage in product innovation, which could cause our business to suffer. Product improvements and new product introductions also require significant planning, design, development, and testing at the technological, product, and manufacturing process levels and we may not be able to timely develop product improvements or new products. Our competitors' new products may beat our products to market, be more effective with more features, obtain better market acceptance, or render our products obsolete. Any new products that we develop may not receive market acceptance or otherwise generate any meaningful sales or profits for us relative to our expectations based on, among other things, existing and anticipated investments in manufacturing capacity and commitments to fund advertising, marketing, promotional programs, and research and development.

We depend upon reimbursement from Medicare, private payors and Medicaid for a significant portion of our revenue, and if we fail to manage the complex and lengthy reimbursement process, our business and operating results could suffer.

A significant portion of our revenue is derived from reimbursement by third-party payors. We accept assignment of insurance benefits from customers and, in a majority of cases, invoice and collect payments directly from Medicare, private payors and Medicaid, as well as from customers under co-payment provisions. In 2012, approximately 41% of our revenue was derived from Medicare, private payors and Medicaid, and the balance directly from individual customers and commercial entities.

Our financial condition and results of operations may be affected by the health care industry's reimbursement process, which is complex and can involve lengthy delays between the time that a product is delivered to the consumer and the time that the reimbursement amounts are settled. Depending on the payor, we may be required to obtain certain payor-specific documentation from physicians and other health care providers before submitting claims for reimbursement. Certain payors have filing deadlines and they will not pay claims submitted after such time. We are also subject to extensive pre-payment and post-payment audits by governmental and private payors that could result in material delays, refunds of monies received or denials of claims submitted for payment under such third-party payor programs and contracts. We cannot ensure that we will be able to continue to effectively manage the reimbursement process and collect payments for our products promptly. If we fail to manage the complex and lengthy reimbursement process, it would adversely affect our business, financial conditions, and results of operations.

Failure to obtain private payor contracts and future reductions in reimbursement rates from private payors could have a material adverse effect on our financial condition and operating results.

A portion of our revenue is derived from private payors. Based on our patient population, we estimate at least 30% of potential customers have non-Medicare insurance coverage, and we believe these patients represent a market segment as they tend to be younger, more active and drawn to the quality-of-life benefits of POCs. Failing to maintain and obtain private payor contracts from private insurance companies and employers and secure in-network provider status could have a material adverse effect on our financial condition and operating results. In addition, private payors are under pressure to increase profitability and reduce costs. In response, certain private payors are limiting coverage or reducing reimbursement rates for the products we provide. We believe that private payor reimbursement levels will generally be reset in accordance with the Medicare payment amounts determined by competitive bidding. We cannot predict the extent to which reimbursement for our products will be affected by competitive bidding or by initiatives to reduce costs for private payors. Failure to obtain or maintain private payor contracts or the unavailability of third-party coverage or inadequacy of reimbursement for our products would adversely affect our business, financial conditions, and results of operations.

We obtain some of the components, subassemblies and completed products included in our Inogen One systems from a single source or a limited group of manufacturers or suppliers, and the partial or complete loss of one of these manufacturers or suppliers could cause significant production delays, an inability to meet customer demand and a substantial loss in revenue.

We utilize single source suppliers for some of the components and subassemblies we use in our Inogen One systems. We have qualified alternate sources of supply sufficient to support future needs and we have taken other mitigating steps to reduce the impact of a change in supplier; however, there may be delays in switching to these alternative suppliers if our primary source is terminated without notice. Our dependence on single source suppliers of components may expose us to several risks, including, among other things:

- Our suppliers may encounter financial hardships as a result of unfavorable economic and market conditions unrelated to our demand for components, which could inhibit their ability to fulfill our orders and meet our requirements;
- Suppliers may fail to comply with regulatory requirements, be subject to lengthy compliance, validation or qualification periods, or make errors in manufacturing components that could negatively affect the efficacy or safety of our products or cause delays in supplying of our products to our customers;

- Newly identified suppliers may not qualify under the stringent regulatory standards to which our business is subject;
- We or our suppliers may not be able to respond to unanticipated changes in customer orders, and if orders do not match forecasts, we or our suppliers may have excess or inadequate inventory of materials and components;
- We may be subject to price fluctuations due to a lack of long-term supply arrangements for key components;
- We may experience delays in delivery by our suppliers due to changes in demand from us or their other customers;
- We or our suppliers may lose access to critical services and components, resulting in an interruption in the manufacture, assembly and shipment of our systems;
- Our suppliers may be subject to allegations by other parties of misappropriation of proprietary information in connection with their supply of products to us, which could inhibit their ability to fulfill our orders and meet our requirements;
- Fluctuations in demand for products that our suppliers manufacture for others may affect their ability or willingness to deliver components to us in a timely manner;
- Our suppliers may wish to discontinue supplying components or services to us; and
- We may not be able to find new or alternative components or reconfigure our system and manufacturing processes in a timely manner if the necessary components become unavailable.

In addition, we may be deemed to manufacture or contract to manufacture products that contain certain minerals that have been designated as “conflict minerals” under the Dodd-Frank Wall Street Reform and Consumer Protection Act. As a result, in future periods, we may be required to diligence the origin of such minerals and disclose and report whether or not such minerals originated in the Democratic Republic of the Congo or adjoining countries. The implementation of these new requirements could adversely affect the sourcing, availability, and pricing of minerals used in the manufacture of our products. In addition, we may incur additional costs to comply with the disclosure requirements, including costs related to determining the source of any of the relevant minerals and metals used in our products.

If any of these risks materialize, costs could significantly increase and our ability to meet demand for our products could be impacted. If we are unable to satisfy commercial demand for our Inogen One systems in a timely manner, our ability to generate revenue would be impaired, market acceptance of our products could be adversely affected, and customers may instead purchase or use alternative products. In addition, we could be forced to secure new or alternative components and subassemblies through a replacement supplier. Finding alternative sources for these components and subassemblies could be difficult in certain cases and may entail a significant amount of time and disruption. In some cases, we would need to change the components or subassemblies if we sourced them from an alternative supplier. This, in turn, could require a redesign of our Inogen One systems and, potentially, require additional FDA clearance or approval before we could use any redesigned product with new components or subassemblies, thereby causing further costs and delays that could adversely affect our business, financial condition and operating results.

We do not have long-term supply contracts with many of our third-party suppliers.

We purchase components and subassemblies from third-party suppliers, including some of our single source suppliers, through purchase orders and do not have long-term supply contracts with many of these third-party suppliers. Many of our third-party suppliers, therefore, are not obligated to perform services or supply products to us for any specific period, in any specific quantity or at any specific price, except as may be provided in a particular purchase order. We do not maintain large volumes of inventory from most of these suppliers. If we inaccurately forecast demand for components or subassemblies, our ability to manufacture and commercialize our Inogen One systems could be delayed and our competitive position and reputation could be harmed. In addition, if we fail to effectively manage our relationships with these suppliers, we may be required to change suppliers which would be time consuming and disruptive and could adversely affect our business, financial condition and operating results.

If we fail to comply with U.S. export control and economic sanctions or fail to expand and maintain an effective sales force or successfully develop our international distribution network, our business, financial condition and operating results may be adversely affected.

We currently derive the majority of our revenues from rentals or sales generated from our own direct sales force. Failure to maintain or expand our direct sales force could adversely impact our financial and operating performance. Additionally, we use international distributors to augment our sales efforts, certain of which are exclusive distributors in certain foreign countries. We cannot assure you that we will be able to successfully develop our relationships with third-party distributors internationally. In addition, we are subject to United States export control and economic sanctions laws relating to the sale of our products, the violation of which could result in substantial penalties being imposed against us. In particular, we have secured annual export licenses from the U.S. Treasury Department's Office of Foreign Assets Control to sell our products to a distributor and hospital and clinic end-users in Iran. The use of this license requires us to observe strict conditions with respect to products sold, end-user limitations and payment requirements. Although we believe we have maintained compliance with license requirements, there can be no assurance that the license will not be revoked, be renewed in the future or that we will remain in compliance. More broadly, if we fail to comply with export control laws or successfully develop our relationship with international distributors, our sales could fail to grow or could decline, and our ability to grow our business could be adversely affected. Distributors that are in the business of selling other medical products may not devote a sufficient level of resources and support required to generate awareness of our products and grow or maintain product sales. If our distributors are unwilling or unable to market and sell our products, or if they do not perform to our expectations, we could experience delayed or reduced market acceptance and sales of our products.

We may be subject to substantial warranty or product liability claims or other litigation in the ordinary course of business that may adversely affect our business, financial condition and operating results.

As manufacturers of medical devices, we may be subject to substantial warranty or product liability claims or other litigation in the ordinary course of business that may require us to make significant expenditures to defend these claims or pay damage awards. For example, our Inogen One systems contain lithium ion batteries, which, under certain circumstances, can be a fire hazard. We, as well as our key suppliers, maintain product liability insurance, but this insurance is limited in amount and subject to significant deductibles. There is no guarantee that insurance will be available or adequate to protect against all claims. Our insurance policies are subject to annual renewal and we may not be able to obtain liability insurance in the future on acceptable terms or at all. In addition, our insurance premiums could be subject to increases in the future, which may be material. If the coverage limits are inadequate to cover our liabilities or our insurance costs continue to increase as a result of warranty or product liability claims or other litigation, then our business, financial condition and operating results may be adversely affected.

Increases in our operating costs could have a material adverse effect on our business, financial condition and operating results.

Reimbursement rates are established by fee schedules mandated by Medicare, private payors and Medicaid are likely to remain constant or decrease due, in part, to federal and state government budgetary constraints. As a result, with respect to Medicare and Medicaid related revenue, we are not able to offset the effects of general inflation on our operating costs through increases in prices for our products. In particular, labor and related costs account for a significant portion of our operating costs and we compete with other

health care providers to attract and retain qualified or skilled personnel and with various industries for administrative and service employees. This competitive environment could result in increased labor costs. As such, we must control our operating costs, particularly labor and related costs, and failing to do so could adversely affect our financial conditions and results of operations.

We depend on the services of our senior executives and other key technical personnel, the loss of whom could negatively affect our business.

Our success depends upon the skills, experience and efforts of our senior executives and other key technical personnel, including certain members of our engineering staff, and our sales and marketing executives. Much of our corporate expertise is concentrated in relatively few employees, the loss of which for any reason could negatively affect our business. Competition for our highly skilled employees is intense and we cannot prevent the resignation of any employee. We do not maintain "key man" life insurance on any of our senior executives. None of our senior executive team is bound by written employment contracts to remain with us for a specified period. In addition, we have not entered into non-compete agreements with members of our senior management team. The loss of any member of our senior management team could harm our ability to implement our business strategy and respond to the market conditions in which we operate.

We have incurred losses since inception until fiscal year 2012, and we have only recently achieved profitability.

We have a limited operating history and have incurred significant net losses in each fiscal year until fiscal year 2012, when we achieved positive net income. As of June 30, 2013, we had an accumulated deficit of $81.7 million. These net losses have resulted principally from costs incurred in our research and development programs and from our selling, general and administrative expenses. We expect to incur increases in expenses for research and development and significant expansion of our sales and marketing capabilities. Additionally, following this offering, we expect that our selling, general and administrative expenses will increase due to the additional operational and reporting costs associated with being a public company. Because of the numerous risks and uncertainties associated with our commercialization efforts and future product development, we are unable to predict if we will maintain or increase our net income.

Our financial results may vary significantly from quarter-to-quarter due to a number of factors, which may lead to volatility in our stock price.

Our quarterly revenue and results of operations have varied in the past and may continue to vary significantly from quarter-to-quarter. This variability may lead to volatility in our stock price as research analysts and investors respond to these quarterly fluctuations. These fluctuations are due to numerous factors, including: fluctuations in consumer demand for our products; seasonal cycles in consumer spending; our ability to design, manufacture and deliver products to our consumers in a timely and cost-effective manner; quality control problems in our manufacturing operations; our ability to timely obtain adequate quantities of the components used in our products; new product introductions and enhancements by us and our competitors; unanticipated increases in costs or expenses; and fluctuations in foreign currency exchange rates. For example, we typically experience higher sales in the second quarter, as a result of consumers traveling and vacationing during the summer months. The foregoing factors are difficult to forecast, and these, as well as other factors, could materially and adversely affect our quarterly and annual results of operations. In addition, a significant amount of our operating expenses are relatively fixed due to our manufacturing, research and development, and sales and general administrative efforts. Any failure to adjust spending quickly enough to compensate for a revenue shortfall could magnify the adverse impact of such revenue shortfall on our results of operations. Our results of operations may not meet the expectations of research analysts or investors, in which case the price of our common stock could decrease significantly.

The terms of our revolving credit and term loan agreement of which may restrict our current and future operations, and which could affect our ability to respond to changes in our business and to manage our operations.

We are parties to an amended and restated revolving credit and term loan agreement with Comerica Bank as administrative agent, which we refer to as our revolving credit and term loan agreement. The agreement provides for a previously existing term loan in the amount of $3.0 million, another previously existing term loan in the amount of $8.0 million and a new term loan facility in the amount of $12.0 million. As of June 30, 2013, we had term loan borrowings outstanding under the agreement of $8.0 million, which included $0.9 million and $5.1 million under the pre-existing term loans, and $2.0 million under the new term loan. The agreement also provides for a $1.0 million revolving line of credit, none of which was outstanding as of June 30, 2013. The agreement is secured by all or substantially all of our assets. Pursuant to the agreement, we are subject to certain financial covenants relating to liquidity requirements and debt service ratios. The agreement contains events of default customary for transactions of this type, including nonpayment, misrepresentation, breach of covenants, material adverse effect and bankruptcy. In addition, this offering would constitute an event of default under the revolving credit and term loan agreement. ComericaBank has waived this provision and this offering will not constitute an event of default. As June 30, 2013, we have no outstanding balance under the revolving line of credit and an outstanding balance of $8.0 million under the term loan. In the event we fail to satisfy our covenants, or otherwise go into default, Comerica Bank has a number of remedies, including sale of our assets and acceleration of all outstanding indebtedness. Certain of these remedies would likely have a material adverse effect on our business.

An adverse outcome of a sales and use tax audit could have a material adverse effect on our results of operations and financial condition.

The California State Board of Equalization, or BOE, conducted a sales and use tax audit of our operations in California in 2008. As a result of the audit, the BOE confirmed that our sales are not subject to California sales and use tax. We believe that our sales in other states should not be subject to sales and use tax. There can be no assurance, however, that other states may agree with our position and we may be subject to an audit that may not be resolved in our favor. Such an audit could be expensive and time-consuming and result in substantial management distraction. If the matter were to be resolved in a manner adverse to us, it could have a material adverse effect on our results of operations and financial position.

Our ability to use net operating losses to offset future taxable income may be subject to certain limitations.

As of December 31, 2012, we had federal net operating loss carryforwards, or NOLs, of approximately $62.0 million, which expire in various years beginning in 2022, if not utilized. In general, under Section 382 of the Internal Revenue Code of 1986, as amended, or the Code, a corporation that undergoes an “ownership change” is subject to limitations on its ability to utilize its pre-change NOLs to offset future taxable income. In general, an “ownership change” occurs if there is a cumulative change in our ownership by “5% shareholders” that exceeds 50 percentage points over a rolling three-year period. Our existing NOLs may be subject to limitations arising from previous ownership changes, and if we undergo one or more ownership changes in connection with this offering or future transactions in our stock, our ability to utilize NOLs could be further limited by Section 382 of the Code. As a result of these limitations, we may not be able to utilize a material portion of the NOLs reflected on our balance sheet and for this reason, we have fully reserved against the value of our NOLs on our balance sheet.

Risks Related to the Regulatory Environment

We are subject to extensive federal and state regulation, and if we fail to comply with applicable regulations, we could suffer severe criminal or civil sanctions or be required to make significant changes to our operations that could adversely affect our business, financial condition and operating results.

The federal government and all states in which we currently operate regulate various aspects of our business. In particular, our operating centers are subject to federal laws that regulate interstate motor-carrier transportation. Our operations also are subject to state laws governing, among other things, distribution of medical equipment and certain types of home health activities, and we are required to obtain and maintain licenses in each state to act as a DME supplier. Certain of our employees are subject to state laws and regulations governing the professional practices of respiratory therapy.

As a health care provider participating in governmental healthcare programs, we are subject to laws directed at preventing fraud and abuse, which subject our marketing, billing, documentation and other practices to government scrutiny. To ensure compliance with Medicare, Medicaid and other regulations, government agencies or their contractors often conduct routine audits and request customer records and other documents to support our claims submitted for payment of services rendered. Government agencies or their contractors also periodically open investigations and obtain information from health care providers. Violations of federal and state regulations can result in severe criminal, civil and administrative penalties and sanctions, including debarment, suspension or exclusion from Medicare, Medicaid and other government reimbursement programs, any of which would have a material adverse effect on our business.

Changes in healthcare laws and regulations and new interpretations of existing laws and regulations may affect permissible activities, the relative costs associated with doing business, and reimbursement amounts paid by federal, state and other third-party payors. There have been and will continue to be regulatory initiatives affecting our business and we cannot predict the extent to which future legislation and regulatory changes could have a material adverse effect on our business.

We are subject to burdensome and complex billing and record-keeping requirements in order to substantiate our claims for payment under Federal, state and commercial health care reimbursement programs, and our failure to comply with existing requirements, or changes in those requirements or interpretations thereof, could adversely affect our business, financial condition and operating results.

We are subject to burdensome and complex billing and record-keeping requirements in order to substantiate our claims for payment under federal, state and commercial health care reimbursement programs. Our records also are subject to routine and other reviews by third-party payors, which can result in delays in payments or refunds of paid claims. For example, we have also experienced a significant increase in pre-payment reviews of our claims by the Durable Medical Equipment Medicare Administrative Contractors, or DME MACs, which has caused substantial delays in the collection of our Medicare accounts receivable as well as related amounts due under supplemental insurance plans.

Current law provides for a significant expansion of the government's auditing and oversight of suppliers who care for patients covered by various government health care programs. Examples of this expansion include audit programs being implemented by the DME MACs, the Zone Program Integrity Contractors, or ZPICs, the Recovery Audit Contractors, or RACs, and the Comprehensive Error Rate Testing contractors, or CERTs, operating under the direction of CMS.

We have been informed by these auditors that health care providers and suppliers of certain DME product categories are expected to experience further increased scrutiny from these audit programs. When a government auditor ascribes a high billing error rate to one or more of our locations, it generally results in protracted pre-payment claims review, payment delays, refunds and other payments to the government and/or our need to request more documentation from providers than has historically been required. It may also result in additional audit activity in other company locations in that state or DME MAC jurisdiction. We cannot currently predict the adverse impact that these audits, methodologies and interpretations might have on our business, financial condition or operating results, but such impact could be material.

We are subject to significant regulation by numerous government agencies, including the U.S. Food and Drug Administration, or FDA. We cannot market or commercially distribute our products without obtaining and maintaining necessary regulatory clearances or approvals.

Our Inogen One systems are medical devices subject to extensive regulation in the United States and in the foreign markets where we distribute our products. The FDA and other U.S. and foreign governmental agencies regulate, among other things, with respect to medical devices:

- design, development and manufacturing;
- testing, labeling, content and language of instructions for use and storage;
- clinical trials;

- product safety;
- marketing, sales and distribution;
- pre-market clearance and approval;
- record keeping procedures;
- advertising and promotion;
- recalls and field safety 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;
- post-market approval studies; and
- product import and export.

Before we can market or sell a medical device in the United States, we must obtain either clearance from the FDA under Section 510(k) of the Federal Food, Drug, and Cosmetic Act, or the FDCA, or approval of a pre-market approval, or PMA, application from the FDA, unless an exemption from pre-market review applies. 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 and safety and effectiveness, in order to clear the proposed device for marketing. Clinical data is sometimes required to support substantial equivalence. The PMA pathway requires an applicant to demonstrate the safety and effectiveness of the device based, in part, on extensive data, including, but not limited to, technical, preclinical, clinical trial, manufacturing and labeling data. The PMA process is typically required for devices that are deemed to pose the greatest risk, such as life-sustaining, life-supporting or implantable devices. Products that are approved through a PMA application generally need FDA approval before they can be modified. Similarly, some modifications made to products cleared through a 510(k) may require a new 510(k). Both the 510(k) and PMA processes can be expensive and lengthy and require the payment of significant fees, unless an exemption applies. The FDA’s 510(k) clearance process usually takes from three to 12 months, but may take longer. The process of obtaining a PMA is much more costly and uncertain than the 510(k) clearance process and generally takes from one to three years, or longer, from the time the application is submitted to the FDA until an approval is obtained. The process of obtaining regulatory clearances or approvals to market a medical device can be costly and time consuming, and we may not be able to obtain these clearances or approvals on a timely basis, if at all.

In the United States, our currently commercialized products are marketed pursuant to pre-market clearance under Section 510(k) of the FDCA. If the FDA requires us to go through a lengthier, more rigorous examination for future products or modifications to existing products than we had expected, our product introductions or modifications could be delayed or canceled, which could cause our sales to decline. In addition, the FDA may determine that future products will require the more costly, lengthy and uncertain PMA process. Although we do not currently market any devices under a PMA, the FDA may demand that we obtain a PMA prior to marketing certain of our future products. In addition, if the FDA disagrees with our determination that a product we currently market is subject to an exemption from pre-market review, the FDA may require us to submit a 510(k) or PMA application in order to continue marketing the product. Further, even with respect to those future products where a PMA is not required, we cannot assure you that we will be able to obtain the 510(k) clearances with respect to those products.

The FDA can delay, limit or deny clearance or approval of a device for many reasons, including:

- we may not be able to demonstrate to the FDA's satisfaction that our products are safe and effective for their intended users;
- the data from our pre-clinical studies and clinical trials may be insufficient to support clearance or approval, where required; and
- the manufacturing process or facilities we use may not meet applicable requirements.

In addition, the FDA may change its clearance and approval policies, adopt additional regulations or revise existing regulations, or take other actions which may prevent or delay approval or clearance of our products under development or impact our ability to modify our currently approved or cleared products on a timely basis. For example, in response to industry and healthcare provider concerns regarding the predictability, consistency and rigor of the 510(k) regulatory pathway, the FDA initiated an evaluation of the program, and in January 2011, announced several proposed actions intended to reform the review process governing the clearance of medical devices. The FDA intends these reform actions to improve the efficiency and transparency of the clearance process, as well as bolster patient safety. Some of these proposals, if enacted, could impose additional regulatory requirements upon us which could delay our ability to obtain new 510(k) clearances, increase the costs of compliance or restrict our ability to maintain our current clearances. In addition, as part of the Food and Drug Administration Safety and Innovation Act, or FDASIA, Congress reauthorized the Medical Device User Fee Amendments with various FDA performance goal commitments and enacted several "Medical Device Regulatory Improvements" and miscellaneous reforms which are further intended to clarify and improve medical device regulation bot pre- and post-market.

Medical devices may only be promoted and sold for the indications for which they are approved or cleared. In addition, even if the FDA has approved or cleared a product, it can take action affecting such product approvals or clearances if serious safety or other problems develop in the marketplace. Delays in obtaining clearances or approvals could adversely affect our ability to introduce new products or modifications to our existing products in a timely manner, which would delay or prevent commercial sales of our products. Additionally, the FDA and other regulatory authorities have broad enforcement powers. Regulatory enforcement or inquiries, or other increased scrutiny on us, could affect the perceived safety and efficacy of our products and dissuade our customers from using our products.

If we modify our FDA cleared devices, we may need to seek additional clearances or approvals, which, if not granted, would prevent us from selling our modified products.

Our Inogen One systems have received pre-market clearance under Section 510(k) of the FDCA. Any modifications to a 510(k)-cleared device that could significantly affect its safety or effectiveness, or would constitute a major change in its intended use, manufacture, design, components, or technology requires the submission and clearance of a new 510(k) pre-market notification or, possibly, approval of a PMA. The FDA requires every manufacturer to make this determination in the first instance, but the FDA may review any manufacturer's decision. The FDA may not agree with our decisions regarding whether new clearances or approvals are necessary. We have modified some of our 510(k) cleared products, and have determined based on our review of the applicable FDA guidance that in certain instances new 510(k) clearances or PMAs are not required. If the FDA disagrees with our determination and requires us to submit

new 510(k) notifications or PMAs for modifications to our previously cleared products for which we have concluded that new clearances or approvals are unnecessary, we may be required to cease marketing or to recall the modified product until we obtain clearance or approval, and we may be subject to significant regulatory fines or penalties.

Furthermore, the FDA's ongoing review of the 510(k) program may make it more difficult for us to make modifications to our previously cleared products, either by imposing more strict requirements on when a manufacturer must submit a new 510(k) for a modification to a previously cleared product, or by applying more onerous review criteria to such submissions. Specifically, pursuant to FDASIA, which was signed into law in July 2012, the FDA is obligated to prepare a report for Congress on the FDA's approach for determining when a new 510(k) will be required for modifications or changes to a previously cleared device. After submitting this report, the FDA is expected to issue revised guidance to assist device manufacturers in making this determination. Until then, manufacturers may continue to adhere to the FDA's 1997 guidance on this topic when making a determination as to whether or not a new 510(k) is required for a change or modification to a device, but the practical impact of the FDA's continuing scrutiny of these issues remains unclear.

If we fail to comply with FDA or state regulatory requirements, we can be subject to enforcement action.

The regulations to which we are subject are complex and have become more stringent over time. Regulatory changes could result in restrictions on our ability to continue or expand our operations, higher than anticipated costs or lower than anticipated sales. Even after we have obtained the proper regulatory clearance or approval to market a product, we have ongoing responsibilities under FDA regulations. The FDA and state authorities have broad enforcement powers. Our failure to comply with applicable regulatory requirements could result in enforcement action by the FDA or state agencies, which may include any of the following sanctions:

- warning letters, fines, injunctions, consent decrees and civil penalties;
- recalls, termination of distribution, or seizure of our products;
- operating restrictions or partial suspension or total shutdown of production;
- delays in the introduction of products into the market;
- refusal to grant our requests for future 510(k) clearances or approvals of new products, new intended uses, or modifications to exiting products;
- withdrawals or suspensions of current 510(k) clearances or approvals, resulting in prohibitions on sales of our products; and
- criminal prosecution.

Any of these sanctions could result in higher than anticipated costs or lower than anticipated sales and have a material adverse effect on our reputation, business, results of operations and financial condition.

A recall of our products, either voluntarily or at the direction of the FDA or another governmental authority, or the discovery of serious safety issues with our products that leads to corrective actions, could have a significant adverse impact on us.

Medical devices, such as our Inogen One systems, can experience performance problems in the field that require review and possible corrective action by us or the product manufacturer. We cannot provide assurance that component failures, manufacturing errors, design defects and/or labeling inadequacies, which could result in an unsafe condition or injury to the operator or the patient will not occur. 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 or manufacture of a product or in the event that a product poses an unacceptable risk to health. Manufacturers may also, under their own initiative, recall a product if any material deficiency in a device is found or withdraw a product to improve device performance or for other reasons. A government-mandated or voluntary recall by us or one of our distributors could occur as a result of an unacceptable risk to health, component failures, manufacturing errors, design or labeling defects or other deficiencies and issues. Similar regulatory agencies in other countries have similar authority to recall devices because of material deficiencies or defects in design or manufacture that could endanger health. Any recall would divert management attention and financial resources, could cause the price of our stock to decline and expose us to product liability or other claims and harm our reputation with customers. A recall involving our Inogen One systems could be particularly harmful to our business, financial and operating results.

In addition, under the FDA's medical device reporting regulations, we are required to report to the FDA any incident in which our product 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. Repeated product malfunctions may result in a voluntary or involuntary product recall. Depending on the corrective action we take to redress a product's deficiencies or defects, the FDA may require, or we may decide, that we will need to obtain new approvals or clearances for the device before we may market or distribute the corrected device. Seeking such approvals or clearances may delay our ability to replace the recalled devices in a timely manner. Moreover, if we do not adequately address problems associated with our devices, we may face additional regulatory enforcement action, including FDA warning letters, product seizure, injunctions, administrative penalties, or civil or criminal fines. We may also be required to bear other costs or take other actions that may have a negative impact on our sales as well as face significant adverse publicity or regulatory consequences, which could harm our business, including our ability to market our products in the future.

Any adverse event involving our products, whether in the United States or abroad, 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.

If we or our component manufacturers fail to comply with the FDA's Quality System Regulation, our manufacturing operations could be interrupted, and our product sales and operating results could suffer.

We and our component manufacturers are required to comply with the FDA's Quality System Regulation, or QSR, which covers the procedures and documentation of the design, testing, production, control, quality assurance, labeling, packaging, sterilization, storage and shipping of our devices. The FDA audits compliance with the QSR through periodic announced and unannounced inspections of manufacturing and other facilities. We and our component manufacturers have been, and anticipate in the future being, subject to such inspections. Although we believe our manufacturing facilities and those of our component manufacturers are in compliance with the QSR, we cannot provide assurance that any future inspection will not result in adverse findings. If our manufacturing facilities or those of any of our component manufacturers or suppliers are found to be in violation of applicable laws and regulations, or we or our manufacturers or suppliers fail to take satisfactory corrective action in response to an adverse inspection, the FDA could take enforcement action, including any of the following sanctions:

- untitled letters, warning letters, fines, injunctions, consent decrees and civil penalties;

- customer notifications or repair, replacement, refunds, recall, detention or seizure of our products;
- operating restrictions or partial suspension or total shutdown of production;
- refusing or delaying our requests for 510(k) clearance or pre-market approval of new products or modified products;
- withdrawing 510(k) clearances or pre-market approvals that have already been granted;
- refusal to grant export approval for our products; or
- criminal prosecution.

Any of these sanctions could adversely affect our business, financial conditions and operating results.

Outside the United States, our products and operations are also often required to comply with standards set by industrial standards bodies, such as the International Organization for Standardization, or ISO. Foreign regulatory bodies may evaluate our products or the testing that our products undergo against these standards. The specific standards, types of evaluation and scope of review differ among foreign regulatory bodies. If we fail to adequately comply with any of these standards, a foreign regulatory body may take adverse actions similar to those within the power of the FDA. Any such action may harm our reputation and could have an adverse effect on our business, results of operations and financial condition.

If we fail to obtain and maintain regulatory approval in foreign jurisdictions, our market opportunities will be limited.

Approximately 28% of our revenue was from sales outside of the United States in 2012. We sell our products in 41 countries outside of the United States through distributors or directly to large “house” accounts. In order to market our products in the European Union or other foreign jurisdictions, we must obtain and maintain separate regulatory approvals and comply with numerous and varying regulatory requirements. The approval procedure varies from country to country and can involve additional testing. The time required to obtain approval abroad may be longer than the time required to obtain FDA clearance. The foreign regulatory approval process includes many of the risks associated with obtaining FDA clearance and we may not obtain foreign regulatory approvals on a timely basis, if at all. FDA clearance does not ensure approval by regulatory authorities in other countries, and approval by one foreign regulatory authority does not ensure approval by regulatory authorities in other foreign countries. However, the failure to obtain clearance or approval in one jurisdiction may have a negative impact on our ability to obtain clearance or approval elsewhere. If we do not obtain or maintain necessary approvals to commercialize our products in markets outside the United States, it would negatively affect our overall market penetration.

We may be subject to fines, penalties or injunctions if we are determined to be promoting the use of our products for unapproved or “off-label” uses, resulting in damage to our reputation and business.

Our promotional materials and training methods must comply with FDA and other applicable laws and regulations, including the prohibition of the promotion of a medical device for a use that has not been cleared or approved by the FDA. Use of a device outside its cleared or approved indications is known as “off-label” use. Physicians may use our products off-label, as the FDA does not restrict or regulate a physician’s choice of treatment within the practice of medicine. 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, which could have an adverse impact on our reputation and financial results.

Failure to comply with the Federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, the Health Information Technology for Economic and Clinical Health Act, or HITECH Act, and implementing regulations (including the final omnibus rule published on January 25, 2013) affecting the transmission, security and privacy of health information could result in significant penalties.

Numerous federal and state laws and regulations, including HIPAA and the HITECH Act, govern the collection, dissemination, security, use and confidentiality of patient-identifiable health information. HIPAA and the HITECH Act require us to comply with standards for the use and disclosure of health information within our company and with third parties. The Privacy Standards and Security Standards under HIPAA establish a set of basic national privacy and security standards for the protection of individually identifiable health information by health plans, healthcare clearinghouses and certain healthcare providers, referred to as covered entities, and the business associates with whom such covered entities contract for services. Notably, whereas HIPAA previously directly regulated only these covered entities, the HITECH Act, which was signed into law as part of the stimulus package in February 2009, makes certain of HIPAA's privacy and security standards also directly applicable to covered entities' business associates. As a result, both covered entities and business associates are now subject to significant civil and criminal penalties for failure to comply with Privacy Standards and Security Standards.

HIPAA and the HITECH Act also include standards for common health care electronic transactions and code sets, such as claims information, plan eligibility, payment information and the use of electronic signatures, and privacy and electronic security of individually identifiable health information. Covered entities, such as health care providers, are required to conform to such transaction set standards pursuant to HIPAA.

HIPAA requires health care providers like us to develop and maintain policies and procedures with respect to protected health information that is used or disclosed, including the adoption of administrative, physical and technical safeguards to protect such information. The HITECH Act expands the notification requirement for breaches of patient-identifiable health information, restricts certain disclosures and sales of patient-identifiable health information and provides a tiered system for civil monetary penalties for HIPAA violations. The HITECH Act also increased the civil and criminal penalties that may be imposed against covered entities, business associates and possibly other persons and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce the federal HIPAA laws and seek attorney fees and costs associated with pursuing federal civil actions. Additionally, certain states have adopted comparable privacy and security laws and regulations, some of which may be more stringent than HIPAA.

If we do not comply with existing or new laws and regulations related to patient health information, we could be subject to criminal or civil sanctions. New health information standards, whether implemented pursuant to HIPAA, the HITECH Act, congressional action or otherwise, could have a significant effect on the manner in which we handle health care related data and communicate with payors, and the cost of complying with these standards could be significant.

The 2013 final HITECH omnibus rule modifies the breach reporting standard in a manner that will likely make more data security incidents qualify as reportable breaches. Any liability from a failure to comply with the requirements of HIPAA or the HITECH Act could adversely affect our financial condition. The costs of complying with privacy and security related legal and regulatory requirements are burdensome

and could have a material adverse effect on our results of operations. These new provisions, as modified, will be subject to interpretation by various courts and other governmental authorities, thus creating potentially complex compliance issues for us, as well as our clients and strategic partners. In addition, we are unable to predict what changes to the HIPAA Privacy Standards and Security Standards might be made in the future or how those changes could affect our business. Any new legislation or regulation in the area of privacy and security of personal information, including personal health information, could also adversely affect our business operations.

Regulations requiring the use of "standard transactions" for healthcare services issued under HIPAA may negatively impact our profitability and cash flows.

Pursuant to HIPAA, final regulations have been implemented to improve the efficiency and effectiveness of the healthcare system by facilitating the electronic exchange of information in certain financial and administrative transactions while protecting the privacy and security of the information exchanged.

The HIPAA transaction standards are complex, and subject to differences in interpretation by third-party payors. For instance, some third-party payors may interpret the standards to require us to provide certain types of information, including demographic information not usually provided to us by physicians. As a result of inconsistent application of transaction standards by third-party payors or our inability to obtain certain billing information not usually provided to us by physicians, we could face increased costs and complexity, a temporary disruption in accounts receivable and ongoing reductions in reimbursements and net revenue. In addition, requirements for additional standard transactions, such as claims attachments or use of a national provider identifier, could prove technically difficult, time-consuming or expensive to implement, all of which could harm our business.

If we fail to comply with state and federal fraud and above laws, including anti-kickback, false claims and anti-inducement laws, we could face substantial penalties and our business, operations, and financial condition could be adversely affected.

The federal anti-kickback statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration to induce or in return for purchasing, leasing, ordering, or arranging for the purchase, lease or order of any healthcare item or service reimbursable under Medicare, Medicaid, or other federal financed healthcare programs. Although there are a number of statutory exceptions and regulatory safe harbors protecting certain common activities from prosecution, the exceptions and safe harbors are drawn narrowly, and any remuneration to or from a prescriber or purchaser of healthcare products or services may be subject to scrutiny if they do not qualify for an exception or safe harbor. Our practices may not in all cases meet all of the criteria for safe harbor protection from anti-kickback liability.

Federal false claims laws prohibit any person from knowingly presenting or causing to be presented a false claim for payment to the federal government, or knowingly making or causing to be made a false statement to get a false claim paid. The majority of states also have statutes or regulations similar to the federal anti-kickback law and false claims laws, which apply to items or services reimbursed under Medicaid and other state programs, or, in several states, apply regardless of payor. These false claims statutes allow any person to bring suit in the name of the government alleging false and fraudulent claims presented to or paid by the government (or other violations of the statutes) and to share in any amounts paid by the entity to the government in fines or settlement. Such suits, known as *qui tam* actions, have increased significantly in the healthcare industry in recent years. Sanctions under these federal and state laws may include civil monetary penalties, exclusion of a manufacturer's products from reimbursement under government programs, criminal fines and imprisonment. In addition, the recently enacted PPACA, among other things, amends the

intent requirement of the federal anti-kickback and criminal healthcare fraud statutes. A person or entity no longer needs to have actual knowledge of this statute or specific intent to violate it. In addition, the PPACA provides that the government may assert that a claim including items or services resulting from a violation of the federal anti-kickback statute constitutes a false or fraudulent claim for purposes of the false claims statutes. Because of the breadth of these laws and the narrowness of the safe harbors and exceptions, it is possible that some of our business activities could be subject to challenge under one or more of such laws. Such a challenge, regardless of the outcome, could have a material adverse effect on our business, business relationships, reputation, financial condition and results of operations.

The PPACA also imposes new reporting and disclosure requirements on device and drug manufacturers for any "transfer of value" made or distributed to prescribers and other healthcare providers. Device and drug manufacturers will also be required to report and disclose any investment interests held by physicians and their immediate family members during the preceding calendar year. Failure to submit required information may result in civil monetary penalties of up to an aggregate of $150,000 per year (and up to an aggregate of $1 million per year for "knowing failures"), for all payments, transfers of value or ownership or investment interests not reported in an annual submission. As of August 1, 2013, manufacturers are required to collect data, and they will be required to submit their first data reports to CMS by March 31, 2014 and by the 90th day of each calendar year thereafter.

In addition, there has been a recent trend of increased federal and state regulation of payments made to physicians. Certain states, mandate implementation of compliance programs and/or the tracking and reporting of gifts, compensation and other remuneration to physicians. The shifting compliance environment and the need to build and maintain robust and expandable systems to comply with different compliance and/or reporting requirements in multiple jurisdictions increase the possibility that a healthcare company many violate one or more of the requirements.

The Federal Civil Monetary Penalties Law prohibits the offering or giving of remuneration to a Medicare or Medicaid beneficiary that the person knows or should know is likely to influence the beneficiary's selection of a particular supplier of items or services reimbursable by a Federal or state governmental program. We sometimes offer customers various discounts and other financial incentives in connection with the sales of our products. While it is our intent to comply with all applicable laws, the government may find that our marketing activities violate the Civil Monetary Penalties Law. If we are found to be in noncompliance, we could be subject to civil money penalties of up to $10,000 for each wrongful act, assessment of three times the amount claimed for each item or service and exclusion from the Federal healthcare programs.

The scope and enforcement of each of these laws is uncertain and subject to rapid change in the current environment of healthcare reform, especially in light of the lack of applicable precedent and regulations. If our operations are found to be in violation of any of the laws described above or any other government regulations that apply to us, we may be subject to penalties, including civil and criminal penalties, damages, fines and the curtailment or restricting of our operations. Any penalties, damages, fines, curtailment or restructuring or our operations could harm our ability to operate our business and our financial results. 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 operation of our business. Moreover, achieving and sustaining compliance with applicable federal and state fraud laws may prove costly.

Foreign governments tend to impose strict price controls, which may adversely affect our future profitability.

We sell our products in 41 countries outside the United States through distributors or directly to large "house" accounts. In some foreign countries, particularly in the European Union, the pricing of medical devices is subject to governmental control. In these countries, pricing negotiations with governmental authorities can take considerable time after the receipt of marketing approval for a product. To obtain reimbursement or pricing approval in some countries, we may be required to supply data that compares the cost-effectiveness of our Inogen One systems to other available oxygen therapies. If reimbursement of our products is unavailable or limited in scope or amount, or if pricing is set at unsatisfactory levels, it may not be profitable to sell our products in certain foreign countries, which would negatively affect the long-term growth of our business.

Our business activities involve the use of hazardous materials, which require compliance with environmental and occupational safety laws regulating the use of such materials. If we violate these laws, we could be subject to significant fines, liabilities or other adverse consequences.

Our research and development programs as well as our manufacturing operations involve the controlled use of hazardous materials. Accordingly, we are subject to federal, state and local laws governing the use, handling and disposal of these materials. Although we believe that our safety procedures for handling and disposing of these materials comply in all material respects with the standards prescribed by state and federal regulations, we cannot completely eliminate the risk of accidental contamination or injury from these materials. In the event of an accident or failure to comply with environmental laws, we could be held liable for resulting damages, and any such liability could exceed our insurance coverage.

Risks Related to Our Intellectual Property

If we are unable to secure and maintain patent or other intellectual property protection for the intellectual property used in our products, we will lose a significant competitive advantage.

Our commercial success depends, in part, on obtaining and maintaining patent and other intellectual property protection for the technologies used in our products. The patent positions of medical device companies, including ours, can be highly uncertain and involve complex and evolving legal and factual questions. Furthermore, we might in the future opt to license intellectual property from other parties. If we, or the other parties from whom we would license intellectual property, fail to obtain and maintain adequate patent or other intellectual property protection for intellectual property used in our products, or if any protection is reduced or eliminated, others could use the intellectual property used in our products, resulting in harm to our competitive business position. In addition, patent and other intellectual property protection may not:

- prevent our competitors from duplicating our products;
- prevent our competitors from gaining access to our proprietary information and technology; or
- permit us to gain or maintain a competitive advantage.

Any of our patents may be challenged, invalidated, circumvented or rendered unenforceable. We cannot provide assurance that we will be successful should one or more of our patents be challenged for any reason. If our patent claims are rendered invalid or unenforceable, or narrowed in scope, the patent coverage afforded our products could be impaired, which could make our products less competitive.

As of September 30, 2013, we had 6 pending U.S. patent applications, 22 issued U.S. patents and 1 issued Canadian patent relating to the design and construction of our oxygen concentrators and our intelligent delivery technology. We cannot specify which of these patents individually or as a group will permit us to gain or maintain a competitive advantage. U.S. patents and patent applications may be subject to interference proceedings, and U.S. patents may be subject to re-examination *inter parte* review, post-grant review, and derivation proceedings in the U.S. 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 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, re-examination and opposition proceedings may be costly and time consuming, and we, or the other parties from whom we might potentially license intellectual property, may be unsuccessful in defending against such proceedings. Thus, any patents

that we own or might license may provide limited or no protection against competitors. In addition, our pending patent applications and those we may file in the future may have claims narrowed during prosecution or may not result in patents being issued. Even if any of our pending or future applications are issued, they may not provide us with adequate protection or any competitive advantages. Our patents and patent applications cover particular aspects of our products. Other parties may develop and obtain patent protection for more effective technologies, designs or methods for oxygen therapy. If these developments were to occur, it would likely have an adverse effect on our sales. 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 other parties. In addition, many countries limit the enforceability of patents against other 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 products and procedures

Our products could infringe the intellectual property rights of others, which may lead to patent and other intellectual property litigation that could itself be costly, could result in the payment of substantial damages or royalties, prevent us from using technology that is essential to our products, and/or force us to discontinue selling our products.

The medical device industry in general has been characterized by extensive litigation and administrative proceedings regarding patent infringement and intellectual property rights. Our competitors hold a significant number of patents relating to oxygen therapy devices and products. From time to time, we have commenced litigation to enforce our intellectual property rights. For example, we have pursued litigation against Inova Labs for infringement of two of our patents seeking damages, injunctive relief, costs, and attorney fees. An adverse decision in this action or in any other legal action could limit our ability to assert our intellectual property rights, limit the value of our technology or otherwise negatively impact our business, financial condition and results of operations.

Monitoring unauthorized use of our intellectual property is difficult and costly. Unauthorized use of our intellectual property may have occurred or may occur in the future. Although we have taken steps to minimize the risk of this occurring, any such failure to identify unauthorized use and otherwise adequately protect our intellectual property would adversely affect our business. Moreover, if we are required to commence litigation, whether as a plaintiff or defendant as has occurred with Inova Labs, not only will this be time-consuming, but we will also be forced to incur significant costs and divert our attention and efforts of our employees, which could, in turn, result in lower revenue and higher expenses.

We cannot provide assurance that our products or methods do not infringe the patents or other intellectual property rights of third parties and if our business is successful, the possibility may increase that others will assert infringement claims against us.

Determining whether a product infringes a patent involves complex legal and factual issues, and the outcome of a patent litigation action is often uncertain. We have not conducted an extensive search of patents issued or assigned to other parties, including our competitors, and no assurance can be given that patents

containing claims covering our products, parts of our products, technology or methods do not exist, have not been filed or could not be filed or issued. Because of the number of patents issued and patent applications filed in our technical areas, our competitors or other parties may assert that our products and the methods we employ in the use of our products are covered by U.S. or foreign patents held by them. In addition, because patent applications can take many years to issue and because publication schedules for pending applications vary by jurisdiction, there may be applications now pending of which we are unaware and which may result in issued patents which our current or future products infringe. Also, because the claims of published patent applications can change between publication and patent grant, there may be published patent applications that may ultimately issue with claims that we infringe. There could also be existing patents that one or more of our products or parts may infringe and of which we are unaware. As the number of competitors in the market for oxygen products and as the number of patents issued in this area grows, the possibility of patent infringement claims against us increases. In certain situations, we may determine that it is in our best interests or their best interests to voluntarily challenge a party's products or patents in litigation or other proceedings, including patent interferences or re-examinations. As a result, we may become involved in unwanted litigation that could be costly, result in diversion of management's attention, require us to pay damages and force us to discontinue selling our products.

Infringement and other intellectual property claims and proceedings brought against us, whether successful or not, could result in substantial costs and harm to our reputation. Such claims and proceedings can also distract and divert management and key personnel from other tasks important to the success of the business. We cannot be certain that we will successfully defend against allegations of infringement of patents and intellectual property rights of others. In the event that we become subject to a patent infringement or other intellectual property lawsuit and if the other party's patents or other intellectual property were upheld as valid and enforceable and we were found to infringe the other party's patents or violate the terms of a license to which we are a party, we could be required to do one or more of the following:

- cease selling or using any of our products that incorporate the asserted intellectual property, which would adversely affect our revenue;
- pay substantial damages for past use of the asserted intellectual property;
- obtain a license from the holder of the asserted intellectual property, which license may not be available on reasonable terms, if at all, and which could reduce profitability; and
- redesign or rename, in the case of trademark claims, our products to avoid infringing the intellectual property rights of third parties, which may not be possible and could be costly and time-consuming if it is possible to do so.

If we are unable to prevent unauthorized use or disclosure of trade secrets, unpatented know-how and other proprietary information, our ability to compete will be harmed.

We rely on a combination of trade secrets, copyrights, trademarks, confidentiality agreements and other contractual provisions and technical security measures to protect certain aspects of our technology, especially where we do not believe that patent protection is appropriate or obtainable. 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. We also require our corporate partners, outside scientific collaborators and sponsored researchers, advisors and others with access to our confidential information to sign confidentiality agreements. We also have taken precautions to initiate reasonable safeguards to protect our information technology systems. However, these measures may not be adequate to safeguard our proprietary intellectual

property and conflicts may, nonetheless, arise regarding ownership of inventions. Such conflicts may lead to the loss or impairment of our intellectual property or to expensive litigation to defend our rights against competitors who may be better funded and have superior resources. Our employees, consultants, contractors, outside clinical collaborators and other advisors may unintentionally or willfully disclose our confidential information to competitors. In addition, confidentiality agreements may be unenforceable or may not provide an adequate remedy in the event of unauthorized disclosure. Enforcing a claim that a third party illegally obtained and is using our trade secrets is expensive and time consuming, and the outcome is unpredictable. Moreover, our competitors may independently develop equivalent knowledge, methods and know-how. Unauthorized parties may also attempt to copy or reverse engineer certain aspects of our products that we consider proprietary, and in such cases we could not assert any trade secret rights against such party. As a result, other parties may be able to use our proprietary technology or information, and our ability to compete in the market would be harmed.

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

Many of our employees were previously employed at other medical device companies focused on the development of oxygen therapy products, including our competitors. Although no claims against us are currently pending, we may 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 such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights. Even if we are successful in defending against these claims, litigation could result in substantial costs, damage to our reputation and be a distraction to management.

Risks Related to Being a Public Company

We will incur increased costs as a result of operating as a public company and our management will be required to devote substantial time to new compliance initiatives and corporate governance practices.

As a public company, and increasingly after we are no longer an “emerging growth company,” we will incur significant legal, accounting and other expenses that we did not incur as a private company. In addition, the Sarbanes-Oxley Act and rules subsequently implemented by the SEC and the NASDAQ Global Market impose numerous requirements on public companies, including establishment and maintenance of effective disclosure and financial controls and corporate governance practices. Also, the Securities Exchange Act of 1934, as amended, or the Exchange Act, requires, among other things, that we file annual, quarterly and current reports with respect to our business and operating results. Our management and other personnel will need to devote a substantial amount of time to compliance with these laws and regulations. These requirements have increased and will continue to increase our legal, accounting, and financial compliance costs and have made and will continue to 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 incur substantial costs to maintain the same or similar coverage. These rules and regulations could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors or our board committees or as executive officers.

Overall, we estimate that our incremental costs resulting from operating as a public company, including compliance with these rules and regulations, may be between $1.5 million and $3.0 million per year. However, these rules and regulations are often subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices.

The Sarbanes-Oxley Act requires, among other things, that we assess the effectiveness of our internal control over financial reporting annually and the effectiveness of our disclosure controls and procedures quarterly. In particular, Section 404(a) of the Sarbanes-Oxley Act, or Section 404(a), will require us to perform system and process evaluation and testing of our internal control over financial reporting to allow management to report on the effectiveness of our internal control over financial reporting. Section 404(b) of Sarbanes-Oxley Act also requires our independent registered public accounting firm to attest to the effectiveness of our internal control over financial reporting. As an "emerging growth company" we expect to avail ourselves of the exemption from the requirement that our independent registered public accounting firm attest to the effectiveness of our internal control over financial reporting under Section 404(b). However, we may no longer avail ourselves of this exemption when we are no longer an "emerging growth company." When our independent registered public accounting firm is required to undertake an assessment of our internal control over financial reporting, the cost of our compliance with Section 404(b) will correspondingly increase. Our compliance with applicable provisions of Section 404 will require that we incur substantial accounting expense and expend significant management time on compliance-related issues as we implement additional corporate governance practices and comply with reporting requirements.

Furthermore, investor perceptions of our company may suffer if deficiencies are found, and this could cause a decline in the market price of our stock. Irrespective of compliance with Section 404, any failure of our internal control over financial reporting could have a material adverse effect on our stated operating results and harm our reputation. If we are unable to implement these requirements effectively or efficiently, it could harm our operations, financial reporting, or financial results and could result in an adverse opinion on our internal controls from our independent registered public accounting firm.

We have identified material weaknesses in our internal control over financial reporting. If we do not remediate the material weaknesses in our internal control over financial reporting, we may not be able to accurately report our financial results or file our periodic reports in a timely manner, which may cause investors to lose confidence in our reported financial information and may lead to a decline in the market price of our price.

Effective internal control over financial reporting is necessary for us to provide reliable financial reports in a timely manner. In connection with the audits of our financial statements for the years ended December 31, 2011 and 2012, we concluded that there were material weaknesses in our internal control over financial reporting. A material weakness is a significant deficiency, or a combination of significant deficiencies, in internal control over financial reporting such that it is reasonably possible that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis. The material weaknesses that we identified related to (1) a lack of sufficient staff to deal with the various rules and regulations with respect to financial reporting, (2) accounting for revenue recognition as it relates to properly recording deferred revenue, estimated earned but unbilled revenue and billing adjustments and (3) accounting for warranty revenue and cost recognition with regard to lifetime warranties.

In an attempt to remediate our staff resource weakness, we have taken steps to hire additional finance and accounting personnel to augment our accounting staff and to provide more resources for complex GAAP accounting matters. In an attempt to remediate our revenue recognition weakness, we intend to review our revenue recognition policies and procedures, enhance training of our personnel with respect to such policies and procedures and devote additional resources to our revenue recognition, including adding additional accounting staff with technical experience in revenue recognition arrangements. However, we cannot assure you that these efforts will remediate our material weaknesses in a timely manner, or at all, or prevent restatements of our financial statements in the future. If we are unable to successfully remediate our material weaknesses, or identify any future significant deficiencies or material weaknesses, the accuracy and timing of our financial reporting may be adversely affected, we may be unable to maintain compliance with securities law requirements regarding timely filing of periodic reports, and the market price of our stock may decline as a result.

Our management and independent registered public accounting firm did not perform an evaluation of our internal control over financial reporting during any period in accordance with the provisions of the Sarbanes-Oxley Act. Had we and our independent registered public accounting firm performed an evaluation of our internal control over financial reporting in accordance with the provisions of the Sarbanes-Oxley Act, additional control deficiencies amounting to material weaknesses may have been identified. We cannot be certain as to when we will be able to implement the requirements of Section 404 of the Sarbanes-Oxley Act. If we fail to implement the requirements of Section 404 in a timely manner, we might be subject to sanctions or investigation by regulatory agencies such as the SEC. In addition, failure to comply with Section 404 or the report by us of a material weakness may cause investors to lose confidence in our financial statements, and the trading price of our common stock may decline. If we fail to remedy any material weakness, our financial statements may be inaccurate, our access to the capital markets may be restricted and the trading price of our ordinary shares may suffer.

We are an "emerging growth company," and the reduced disclosure requirements applicable to emerging growth companies could make our common stock less attractive to investors.

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups, or JOBS, Act enacted in April 2012, and may remain an "emerging growth company" for up to five years following the completion of this offering, although, if we have more than $1.0 billion in annual revenue, if the market value of our common stock that is held by non-affiliates exceeds $700 million as of June 30 of any year, or we issue more than $1.0 billion of non-convertible debt over a three-year period before the end of that five-year period, we would cease to be an "emerging growth company" as of the following December 31. For as long as we remain an "emerging growth company," we are permitted and intend to rely on exemptions from certain disclosure requirements that are applicable to other public companies that are not "emerging growth companies." These exemptions include:

- being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements, with correspondingly reduced "Management's Discussion and Analysis of Financial Condition and Results of Operations" disclosure;
- not being required to comply with the auditor attestation requirements in the assessment of our internal control over financial reporting;

- not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements;
- reduced disclosure obligations regarding executive compensation; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved.

We have taken advantage of reduced reporting burdens in this prospectus. In particular, in this prospectus, we have provided only two years of audited financial statements and have not included all of the executive compensation related information that would be required if we were not an emerging growth company. In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards, delaying the adoption of these accounting standards until they would apply to private companies. We have elected to avail ourselves of this exemption and, as a result, our financial statements may not be comparable to the financial statements of issuers who are required to comply with the effective dates for new or revised accounting standards that are applicable to public companies. We cannot predict whether investors will find our common stock less attractive if we rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be reduced or more volatile.

Risks Related to Our Common Stock and this Offering

We expect that our stock price will fluctuate significantly, and you may not be able to resell your shares at or above the initial public offering price.

Prior to this offering, there has been no public market for shares of our common stock. We cannot predict the extent to which investor interest in our company will lead to the development of an active trading market on the NASDAQ Global Market or otherwise or how liquid that market might become. If an active trading market does not develop, you may have difficulty selling any of our shares of common stock that you buy. We and the underwriters will determine the initial public offering price of our common stock through negotiation. This price will not necessarily reflect the price at which investors in the market will be willing to buy and sell our shares following this offering. In addition, the trading price of our common stock following this offering may be highly volatile and could be subject to wide fluctuations in response to various factors, some of which are beyond our control. These factors include:

- actual or anticipated quarterly variation in our results of operations or the results of our competitors;
- announcements by us or our competitors of new commercial products, significant contracts, commercial relationships or capital commitments;
- issuance of new or changed securities analysts' reports or recommendations for our stock;
- developments or disputes concerning our intellectual property or other proprietary rights;
- commencement of, or our involvement in, litigation;
- market conditions in the oxygen therapy market;
- reimbursement or legislative changes in the oxygen therapy market;

- failure to complete significant sales;
- manufacturing disruptions that could occur if we were unable to successfully expand our production in our current or an alternative facility;
- any future sales of our common stock or other securities;
- any major change to the composition of our board of directors or management; and
- general economic conditions and slow or negative growth of our markets.

The stock market in general, and market prices for the securities of technology-based companies like ours in particular, have from time to time experienced volatility that often has been unrelated to the operating performance of the underlying companies. A certain degree of stock price volatility can be attributed to being a newly public company. These broad market and industry fluctuations may adversely affect the market price of our common stock, regardless of our operating performance. In several recent situations where the market price of a stock has been volatile, holders of that stock have instituted securities class action litigation against the company that issued the stock. If any of our stockholders were to bring a lawsuit against us, the defense and disposition of the lawsuit could be costly and divert the time and attention of our management and harm our operating results.

If securities or industry analysts do not publish research or publish unfavorable research about our business, our stock price and trading volume could decline.

The trading market for our common stock will rely in part on the research and reports that equity research analysts publish about us and our business. We do not currently have and may never obtain research coverage by equity research analysts. Equity research analysts may elect not to provide research coverage of our common stock after the completion of this offering, and such lack of research coverage may adversely affect the market price of our common stock. In the event we obtain equity research analyst coverage, we will not have any control of the analysts or the content and opinions included in their reports. The price of our stock could decline if one or more equity research analysts downgrade our stock or issue other unfavorable commentary or research. If one or more equity research analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our stock could decrease, which in turn could cause our stock price or trading volume to decline.

Purchasers in this offering will experience immediate and substantial dilution in the book value of their investment.

The initial public offering price of our common stock is substantially higher than the net tangible book value per share of our common stock immediately prior to this offering. Therefore, if you purchase our common stock in this offering, you will incur an immediate dilution of $ in pro forma as adjusted net tangible book value per share as of June 30, 2013 from the price you paid, based on an assumed initial public offering price of $ per share, the midpoint of the range set forth on the cover page of this prospectus. In addition, new investors who purchase shares in this offering will contribute approximately % of the total amount of equity capital raised by us through the date of this offering, but will only own approximately % of the outstanding share capital and approximately % of the voting rights. In addition, we have issued options and warrants to acquire common stock at prices below the initial public offering price. To the extent outstanding options and warrants are ultimately exercised, there will be further dilution to investors who purchase shares in this offering. In addition, if the underwriters exercise their over-allotment option or if we issue additional equity securities, investors purchasing shares in this offering will experience additional dilution.

Future sales of shares of our common stock by existing stockholders could cause our stock price to decline.

Based on shares outstanding as of September 30, 2013, upon completion of this offering, we will have outstanding a total of shares of common stock, assuming no exercise of the underwriters' over-allotment option. Of these shares, only the shares of common stock sold in this offering by us will be freely tradable, without restriction, in the public market immediately after the offering. Each of our directors and officers, and certain of our stockholders, have entered into lock-up agreements with the underwriters that restrict their ability to sell or transfer their shares. The lock-up agreements pertaining to this offering will expire 180 days from the date of this prospectus. Our underwriters, however, may, in their sole discretion, permit our officers, directors and other current stockholders who are subject to the contractual lock-up to sell shares prior to the expiration of the lock-up agreements. After the lock-up agreements expire, based on shares outstanding as of September 30, 2013, up to an additional shares of common stock will be eligible for sale in the public market, of which are held by our directors and executive officers and will be subject to volume limitations under Rule 144 under the Securities Act and various vesting agreements. In addition, shares of our common stock that are subject to outstanding options as of September 30, 2013 will become eligible for sale in the public market to the extent permitted by the provisions of various vesting agreements, the lock-up agreements and Rules 144 and 701 under the Securities Act. We cannot predict what effect, if any, sales of our shares in the public market or the availability of shares for sale will have on the market price of our common stock. Future sales of substantial amounts of our common stock in the public market, including shares issued upon exercise of outstanding options, or the perception that such sales may occur, however, could adversely affect the market price of our common stock and also could adversely affect our future ability to raise capital through the sale of our common stock or other equity-related securities of ours at times and prices we believe appropriate.

Our directors and executive officers will continue to have substantial control over us after this offering and could limit your ability to influence the outcome of key transactions, including changes of control.

Following the completion of this offering, our executive officers, directors and their affiliates will beneficially own or control approximately % of the outstanding shares of our common stock, assuming no exercise of the underwriters' over-allotment option. Accordingly, these executive officers, directors and their affiliates, acting as a group, will have substantial influence over the outcome of corporate actions requiring stockholder approval, including the election of directors, any merger, consolidation or sale of all or substantially all of our assets or any other significant corporate transactions. These stockholders may also delay or prevent a change of control of us, even if such a change of control would benefit our other stockholders. The significant concentration of stock ownership may adversely affect the trading price of our common stock due to investors' perception that conflicts of interest may exist or arise.

Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of us, which may be beneficial to our stockholders, more difficult and may prevent attempts by our stockholders to replace or remove our current management and limit the market price of our common stock.

Provisions in our certificate of incorporation and bylaws, as amended and restated upon the closing of this offering, may have the effect of delaying or preventing a change of control or changes in our management. Our amended and restated certificate of incorporation and amended and restated bylaws to become effective upon completion of this offering include provisions that:

- authorize our board of directors to issue, without further action by the stockholders, up to 10,000,000 shares of undesignated preferred stock;
- require that any action to be taken by our stockholders be effected at a duly called annual or special meeting and not by written consent;
- specify that special meetings of our stockholders can be called only by our board of directors, the Chairman of the board of directors, or the Chief Executive Officer;
- establish an advance notice procedure for stockholder approvals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to our board of directors;
- establish that our board of directors is divided into three classes, Class I, Class II and Class III, with each class serving staggered three year terms;
- provide that our directors may be removed only for cause;
- provide that vacancies on our board of directors may be filled only by a majority of directors then in office, even though less than a quorum;
- specify that no stockholder is permitted to cumulate votes at any election of directors; and
- require a super-majority of votes to amend certain of the above-mentioned provisions.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management. In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which limits the ability of stockholders owning in excess of 15% of our outstanding voting stock to merge or combine with us.

We have broad discretion in the use of the net proceeds from this offering and may not use them effectively.

We will have broad discretion in the application of the net proceeds from this offering and could spend the proceeds in ways that do not improve our results of operations or enhance the value of our common stock. We intend to use the net proceeds from this offering for investments in rental assets; sales and marketing activities, including expansion of our sales force to support the ongoing commercialization of our products; for research and product development activities; for facilities improvements or expansions and the purchase of manufacturing and other equipment; and for working capital and other general corporate purposes. We may also use a portion of our net proceeds to acquire and invest in complementary products, technologies or businesses; however, we currently have no agreements or commitments to complete any such transaction. We have not allocated these net proceeds for any specific purposes. We might not be able to yield a significant return, if any, on any investment of these net proceeds. You will not have the opportunity to influence our management’s decisions on how to use the net proceeds from this offering, and our failure to apply these funds effectively could have a material adverse effect on our business and cause the price of our common stock to decline.

We have never paid dividends on our capital stock, and we do not anticipate paying any cash dividends in the foreseeable future.

We have paid no cash dividends on any of our classes of capital stock to date, have contractual restrictions against paying cash dividends and currently intend to retain our future earnings to fund the development and growth of our business. As a result, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future.

Special note regarding forward-looking statements

This prospectus contains forward-looking statements that are based on management's beliefs and assumptions and on information currently available to management. Some of the statements under "Prospectus Summary," "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Business" and elsewhere in this prospectus contain forward-looking statements. In some cases, you can identify forward-looking statements by the following words: "may," "will," "could," "would," "should," "expect," "intend," "plan," "anticipate," "believe," "estimate," "predict," "project," "potential," "continue," "ongoing" or the negative of these terms or other comparable terminology, although not all forward-looking statements contain these words.

These statements involve risks, uncertainties and other factors that may cause 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 prospectus, 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.

In addition, you should refer to the "Risk Factors" section of this prospectus for a discussion of other important factors that may cause actual results to differ materially from those expressed or implied by the forward-looking statements. As a result of these factors, we cannot assure you that the forward-looking statements in this prospectus will prove to be accurate. Furthermore, if the 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 undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law. The Private Securities Litigation Reform Act of 1995 and Section 27A of the Securities Act of 1933 do not protect any forward-looking statements that we make in connection with this offering.

This prospectus contains market data and industry forecasts that were obtained from industry publications. These data involve a number of assumptions and limitations, and you are cautioned not to give undue weight to such estimates. We have not independently verified any third-party information. While we believe the market position, market opportunity and market size information included in this prospectus is generally reliable, such information is inherently imprecise.

Use of proceeds

We estimate that the net proceeds to us from the sale of the shares of common stock in this offering will be approximately $, or approximately $ if the underwriters exercise their option to purchase additional shares in full, based upon an assumed initial price to the public of $ per share, the mid-point of the range reflected on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses. We will not receive any proceeds from the sale of common stock by the selling stockholders. Each $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) the net proceeds to us from this offering by approximately $, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same. We may also increase or decrease the number of shares we are offering. Each increase (decrease) of 1,000,000 shares in the number of shares offered by us would increase (decrease) the net proceeds to us from this offering by approximately $, assuming that the assumed initial public offering price remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The principal purposes of this offering are to create a public market for our common stock, obtain additional capital, facilitate our future access to the public equity markets, increase awareness of our company among potential customers and improve our competitive position. We intend to use the net proceeds received by us in this offering for general corporate purposes, including working capital and investments in rental assets. In addition, we also may use a portion of the net proceeds to acquire complementary businesses, products or technologies; however, we have no current agreements or commitments to complete any such transaction. The amount and timing of these expenditures will vary depending on a number of factors, including competitive and technological developments and the rate of growth, if any, of our business.

Pending their use, we plan to invest our net proceeds from this offering in short-term, interest-bearing obligations, investment-grade instruments, certificates of deposit or direct or guaranteed obligations of the U.S. government. Our management will have broad discretion in the application of the net proceeds from this offering to us, and investors will be relying on the judgment of our management regarding the application of the proceeds.

Dividend policy

We have never declared or paid any cash dividends on our common stock or any other securities. We anticipate that we will retain all available funds and any future earnings, if any, for use in the operation of our business and do not anticipate paying cash dividends in the foreseeable future. In addition, our revolving credit and term loan agreement materially restricts, and future debt instruments we issue may materially restrict, our ability to pay dividends on our common stock. Payment of future cash dividends, if any, will be at the discretion of our board of directors after taking into account various factors, including our financial condition, operating results, current and anticipated cash needs, the requirements of current or then-existing debt instruments and other factors our board of directors deems relevant.

Capitalization

The following table summarizes our capitalization as of June 30, 2013:

- on an actual basis;
- on a pro forma basis, to reflect (i) the conversion of all outstanding shares of convertible preferred stock into an aggregate of 42,489,888 shares of common stock upon the closing of this offering, (ii) the cash exercise of warrants to purchase an aggregate of 112,389 shares of common stock, which we expect will occur prior to this offering as the warrants will otherwise expire at that time, (iii) the reclassification of our preferred stock warrant liability to additional-paid-in-capital upon the closing of this offering and (iv) the filing of our amended and restated certificate of incorporation; and
- on a pro forma as adjusted basis, to further reflect the sale and issuance by us of shares of common stock in this offering at an assumed initial public offering price of $ per share, the midpoint of the range reflected on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses.

You should read the information in this table together with the financial statements and related notes to those statements, as well as the sections of this prospectus captioned “Selected Financial Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

	As of June 30, 2013		
	Actual	Pro Forma	Pro Forma as Adjusted(1)
	(In thousands, except per share and share amounts)		
Long-term debt, net of current portion	$ 4,701	$ 4,701	$
Redeemable convertible preferred stock, $0.001 par value per share; issuable in series, 28,819,351 authorized, 28,535,946 shares issued and outstanding, actual; no shares authorized, no shares issued or outstanding, pro forma as adjusted	114,129	—	
Stockholders’ equity (deficit):			
Preferred stock, $0.001 par value per share; 200,000 shares authorized, issued and outstanding, actual; 10,000,000 authorized, no shares issued or outstanding, pro forma and pro forma as adjusted	247	—	
Common stock, $0.001 par value per share, 55,000,000 shares authorized, 829,971 shares issued and outstanding, actual; 200,000,000 shares authorized, shares issued and outstanding, pro forma and shares issued and outstanding pro forma as adjusted	1	43	
Additional paid-in capital	—	115,178	
Accumulated deficit	(81,785)	(81,785)	
Total stockholders’ (deficit) equity	(81,537)	33,436	
Total capitalization	$ 37,293	$ 38,117	$

(1) Each $1.00 increase (decrease) in the assumed initial price to the public of $ per share, the midpoint of the range reflected on the cover page of this prospectus, would increase (decrease) each of additional paid-in capital, total stockholders’ equity and total capitalization by approximately $, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting estimated underwriting discounts and commissions and estimated offering expenses. We may also increase or decrease the number of shares we are

offering. Each increase (decrease) of 1,000,000 shares in the number of shares offered by us would increase (decrease) each of additional paid-in capital, total stockholders' equity and total capitalization by approximately $, assuming that the assumed initial price to the public remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses. The pro forma as adjusted information discussed above is illustrative only and will adjust based on the actual initial price to the public and other terms of this offering determined at pricing.

The outstanding share information in the table above excludes as of June 30, 2013:

- 6,239,692 shares of common stock issuable upon exercise of options outstanding, 4,247,782 of which were vested and then exercisable, at a weighted average exercise price of $0.3625 per share;
- shares of common stock reserved for future issuance under stock-based compensation plans, including shares of common stock reserved for issuance under the 2014 Equity Incentive Plan, which will become effective on the date of this prospectus, and any future automatic increase in shares reserved for issuance under such plan, shares of common stock reserved for issuance under the 2014 Employee Stock Purchase Plan, and any future automatic increase in shares reserved for issuance under such plan and 3,653,083 shares of common stock reserved for issuance under the 2012 Equity Incentive Plan as of June 30, 2013, which shares will be added to the 2014 Equity Incentive Plan upon effectiveness of such plan; and
- 1,013,933 shares of common stock issuable upon the exercise of warrants outstanding as of June 30, 2013, at a weighted average exercise price of $1.1775 per share, after conversion of the convertible preferred stock.

Dilution

If you invest in our common stock in this offering you will experience immediate and substantial dilution in the pro forma as adjusted net tangible book value of your shares of common stock. Dilution in pro forma as adjusted net tangible book value represents the difference between the assumed initial price to the public per share of our common stock and the pro forma as adjusted net tangible book value per share of our common stock immediately after the offering.

Net tangible book value (deficit) per share represents our total tangible assets (total assets less intangible assets) less total liabilities divided by the number of shares of outstanding common stock. The historical net tangible book value (deficit) of our common stock as of June 30, 2013 was $(81.8) million, or $(99.5) per share. Our pro forma net tangible book value as of June 30, 2013 was $ million, or $ per share, based on the total number of shares of our common stock outstanding as of June 30, 2013. Pro forma net tangible book value, before the issuance and sale of shares in this offering, gives effect to: (1) the automatic conversion of the outstanding convertible preferred stock into an aggregate of 42,489,888 shares of common stock immediately prior to the completion of this offering, (2) the cash exercise of warrants to purchase an aggregate of 112,389 shares of common stock, which we expect will occur prior to the closing of this offering as the warrants will otherwise expire at that time and (3) the reclassification of our preferred stock warrant liability to additional paid-in-capital upon the closing of this offering.

After giving effect to our sale of shares of common stock in this offering at an assumed initial public offering price $ per share, the midpoint of the range reflected on the cover page of this prospectus, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of June 30, 2013 would have been approximately $ million, or $ per share. This represents an immediate increase in pro forma as adjusted net tangible book value of $ per share to existing stockholders and an immediate dilution of $ per share to investors participating in this offering.

The following table illustrates this dilution on a per share basis to new investors:

Assumed initial public offering price per share		$
Historical net tangible book value (deficit) per share as of June 30, 2013, before giving effect to this offering	$ (99.5)	
Increase per share attributable to conversion of redeemable convertible preferred stock		
Pro forma net tangible book value per share as of June 30, 2013, before giving effect to this offering	$	
Increase per share attributable to this offering		
Pro forma net tangible book value, as adjusted to give effect to this offering		
Dilution in pro forma net tangible book value per share to new investors purchasing shares in this offering		$

Each $1.00 increase (decrease) in the assumed initial price to the public of $ per share, the midpoint of the range reflected on the cover page of this prospectus, would increase (decrease) the pro forma as adjusted net tangible book value by approximately $, or approximately $ per share, and increase (decrease) the dilution per share to investors participating in this offering by approximately $ per share, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses. We may also increase or decrease the number of shares we are offering. An increase of in the number of shares offered by us would increase the pro forma as adjusted net tangible book value by approximately $, or $ per share, and the dilution per share to investors participating in this offering would be $ per share, assuming that the assumed initial price to the public remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses. Similarly, a decrease of shares in the number of shares offered by us would decrease the pro forma as adjusted net tangible book

value by approximately $, or $ per share, and the dilution per share to investors participating in this offering would be $ per share, assuming that the assumed initial price to the public remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses. The pro forma as adjusted information discussed above is illustrative only and will adjust based on the actual initial price to the public and other terms of this offering determined at pricing.

If the underwriters exercise their option to purchase additional shares in full, the pro forma as adjusted net tangible book value per share after the offering would be $ per share, the increase in the pro forma as adjusted net tangible book value per share to existing stockholders would be $ per share and the dilution to investors participating in this offering would be $ per share.

The following table summarizes, on the pro forma as adjusted basis as of June 30, 2013 described above, the differences between the number of shares of common stock purchased from us, the total consideration and the weighted-average price per share paid by existing stockholders and by investors participating in this offering. For purposes of this table, the shares to be sold by the selling stockholders in this offering are not included in shares held by existing stockholders and are included as shares held by investors participating in this offering.

	Shares Purchased		Total Consideration		Weighted Average Price Per Share
	Number	Percent	Amount	Percent	
Existing stockholders before this offering		%	$	%	$
Investors participating in this offering					
Total		%	$	%	

In addition, if the underwriters' option to purchase additional shares is exercised in full, the number of shares held by existing stockholders will be reduced to % of the total number of shares of common stock to be outstanding upon completion of this offering, and the number of shares of common stock held by investors participating in this offering will be further increased to % of the total number of shares of common stock to be outstanding upon completion of the offering.

Each $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) total consideration paid by new investors by approximately $, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses. We may also increase or decrease the number of shares we are offering. An increase (decrease) of 1,000,000 in the number of shares offered by us would increase (decrease) total consideration paid by new investors by $, assuming that the assumed initial price to the public remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses.

The outstanding share information in the tables above excludes as of June 30, 2013:

- 6,239,692 shares of common stock issuable upon exercise of options outstanding, 4,247,782 of which were vested and then exercisable, at a weighted average exercise price of $0.3625 per share;

- shares of common stock reserved for future issuance under stock-based compensation plans, including shares of common stock reserved for issuance under the 2014 Equity Incentive Plan, which will become effective on the date of this prospectus, and any future automatic increase in shares reserved for issuance under such plan, shares of common stock reserved for issuance under the 2014 Employee Stock Purchase Plan, and any future automatic increase in shares reserved for issuance under such plan and 3,653,083 shares of common stock reserved for issuance under the 2012 Equity Incentive Plan as of June 30, 2013, which shares will be added to the 2014 Equity Incentive Plan upon effectiveness of such plan; and
- 1,013,933 shares of common stock issuable upon the exercise of warrants outstanding as of June 30, 2013, at a weighted average exercise price of $1.1775 per share, after conversion of the convertible preferred stock.

Share reserves for the equity incentive plans will also be subject to automatic annual increases in accordance with the terms of the plans. To the extent that new options are issued under the equity benefit plans or we issue additional shares of common stock in the future, there will be further dilution to investors participating in this offering.

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Selected financial data

You should read the following selected financial data below in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the financial statements, related notes and other financial information included elsewhere in this prospectus. The selected financial data in this section are not intended to replace the financial statements and are qualified in their entirety by the financial statements and related notes included elsewhere in this prospectus.

The statements of operations data for the years ended December 31, 2011 and 2012 and the balance sheet data as of December 31, 2011 and 2012 are derived from our audited financial statements included elsewhere in this prospectus. The statements of operations data for the six months ended June 30, 2012 and 2013 and the balance sheet data as of June 30, 2013 are derived from our unaudited interim financial statements included elsewhere in this prospectus. Our unaudited interim financial statements were prepared on a basis consistent with our audited financial statements and include, in our opinion, all adjustments, consisting only of normal recurring adjustments that we consider necessary for a fair presentation of the financial information set forth in those statements included elsewhere in this prospectus. Our historical results are not necessarily indicative of the results that may be expected in any future period, and our interim results are not necessarily indicative of the results that may be expected for the full year or any other period.

(amounts in thousands, except share and per share amounts)	Year Ended December 31,		Six Months Ended June 30,	
	2011	2012	2012	2013
Statements of Operations Data:	(as restated)		(unaudited)	
Total revenue				
Sales revenue	$ 19,076	$ 28,077	$ 13,033	$ 21,126
Rental revenue	10,977	19,872	8,259	14,258
Sales of used rental revenue	46	95	39	145
Other revenue	535	532	253	375
Total revenue	30,634	48,576	21,584	35,904
Cost of revenue				
Cost of sales revenue	12,127	17,359	7,956	11,582
Cost of rental revenue	3,783	7,243	3,196	5,075
Cost of used rental equipment sales	20	25	14	73
Total cost of revenue	15,930	24,627	11,166	16,730
Gross profit	14,704	23,949	10,418	19,174
Operating expenses:				
Research and development	1,789	2,262	1,173	1,143
Sales and marketing	9,014	12,569	5,378	8,742
General and administrative	5,623	8,289	3,647	6,264
Total operating expenses	16,426	23,120	10,198	16,149
Income (loss) from operations	(1,722)	829	220	3,025
Other income (expense), net	(267)	(247)	14	(227)
Income (loss) before provision for income taxes	(1,989)	582	234	2,798
Provision for income taxes	13	18	—	108
Net income (loss)	(2,002)	564	234	2,690
Less deemed dividend on redeemable convertible preferred stock	(3,027)	(5,781)	(2,515)	(3,508)
Net loss attributable to common stockholders	$ (5,029)	$ (5,217)	$ (2,281)	$ (818)
Net income (loss) attributable to common stockholders:[1]				
Basic:	$ (6.72)	$ (6.66)	$ (2.93)	$ (0.99)
Diluted:	$ (6.72)	$ (6.66)	$ (2.93)	$ (0.99)
Weighted average shares used in computing net income (loss) per share attributable to common stockholders:[1]				
Basic:	748,638	783,906	777,500	823,187
Diluted:	748,638	783,906	777,500	823,187
Unaudited pro forma net income (loss) per share attributable to common stockholders:[1]				
Basic:		$ 0.01		$ 0.06
Diluted:		$ 0.01		$ 0.06
Unaudited weighted average shares used in computing pro forma net income per share attributable to common stockholders:				
Basic:		38,496,117		43,465,544
Diluted:		39,825,871		45,186,754
Other Financial Data:				
EBITDA[2]	$ 1,357	$ 5,971	$ 2,628	$ 6,644
Adjusted EBITDA[2]	$ 1,620	$ 5,883	$ 2,458	$ 6,938

(1) See note 2 to each of our audited and unaudited financial statements included elsewhere in this prospectus for an explanation of the calculations of our basic and diluted net loss per share attributable to common stockholders and pro forma net loss per share attributable to common stockholders.

(2) For a discussion of our use of EBITDA and Adjusted EBITDA and their calculations, please see "—Non GAAP Financial Measures."

	Year Ended December 31,		Six Months Ended June 30,	
	2011	2012	2012	2013
Balance Sheet Data:	(as restated)		(unaudited)	
Cash and cash equivalents	$ 3,906	$ 15,112	$ 21,774	$ 14,174
Working capital	1,302	12,880	17,855	11,814
Total assets	24,131	47,586	48,013	55,745
Total indebtedness	9,629	8,936	10,585	8,997
Deferred revenue	594	1,094	718	1,448
Total liabilities	16,575	19,011	20,050	23,153
Redeemable convertible preferred stock	83,122	109,345	105,827	114,129
Total stockholders' deficit	75,566	80,770	77,864	81,537

Non-GAAP Financial Measures

EBITDA and Adjusted EBITDA are a financial measures that are not calculated in accordance with generally accepted accounting principles in the United States, or GAAP. We define EBITDA as net income or loss excluding interest income, interest expense, taxes and depreciation and amortization. Adjusted EBITDA also excludes the change in the fair value of our preferred stock warrant liability and stock-based compensation. Below, we have provided a reconciliation of EBITDA and Adjusted EBITDA to our net income or loss, the most directly comparable financial measure calculated and presented in accordance with GAAP. EBITDA and Adjusted EBITDA should not be considered alternatives to net income or loss or any other measure of financial performance calculated and presented in accordance with GAAP. Our EBITDA and Adjusted EBITDA may not be comparable to similarly titled measures of other organizations because other organizations may not calculate EBITDA and Adjusted EBITDA in the same manner as we calculate these measures.

We include EBITDA and Adjusted EBITDA in this prospectus because they are important measures upon which our management assesses our operating performance. We use EBITDA and Adjusted EBITDA as key performance measures because we believe they facilitate operating performance comparisons from period to period by excluding potential differences primarily caused by variations in capital structures, tax positions, the impact of depreciation and amortization expense on our fixed assets, changes related to the fair value remeasurements of our preferred stock warrant, and the impact of stock-based compensation expense. Because EBITDA and Adjusted EBITDA facilitate internal comparisons of our historical operating performance on a more consistent basis, we also use EBITDA and Adjusted EBITDA for business planning purposes, to incentivize and compensate our management personnel, and in evaluating acquisition opportunities. In addition, we believe EBITDA and Adjusted EBITDA and similar measures are widely used by investors, securities analysts, ratings agencies, and other parties in evaluating companies in our industry as a measure of financial performance and debt-service capabilities.

Our use of EBITDA and Adjusted EBITDA have limitations as analytical tools, and you should not consider them in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- EBITDA and Adjusted EBITDA do not reflect our cash expenditures for capital equipment or other contractual commitments;
- Although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and EBITDA and Adjusted EBITDA do not reflect capital expenditure requirements for such replacements;
- EBITDA and Adjusted EBITDA do not reflect changes in, or cash requirements for, our working capital needs;
- EBITDA and Adjusted EBITDA do not reflect the interest expense or the cash requirements necessary to service interest or principal payments on our indebtedness; and
- Other companies, including companies in our industry, may calculate EBITDA and Adjusted EBITDA measures differently, which reduces their usefulness as a comparative measure.

In evaluating EBITDA and Adjusted EBITDA, you should be aware that in the future we will incur expenses similar to the adjustments in this presentation. Our presentation of EBITDA and Adjusted EBITDA should not be construed as an inference that our future results will be unaffected by these expenses or any unusual or non-recurring items. When evaluating our performance, you should consider EBITDA and Adjusted EBITDA alongside other financial performance measures, including our net loss and other GAAP results.

The following table presents a reconciliation of EBITDA and Adjusted EBITDA to our net income or loss, the most comparable GAAP measure, for each of the periods indicated:

	Year Ended December 31,		Six Months Ended June 30,	
	2011	2012	2012	2013
	(In thousands)			
Net income (loss)	$ (2,002)	$ 564	$ 234	$ 2,690
Non-GAAP adjustments:				
Interest income	(113)	(88)	(67)	(6)
Interest expense	261	493	256	199
Provision for income taxes	13	18	—	108
Depreciation and amortization	3,198	4,984	2,205	3,653
EBITDA	1,357	5,971	2,628	6,644
Change in fair value of preferred stock warrant liability	119	(148)	(203)	243
Stock-based compensation	144	60	33	51
Adjusted EBITDA	$ 1,620	$ 5,883	$ 2,458	$ 6,938

Management's discussion and analysis of financial condition and results of operations

You should read the following discussion and analysis of our financial condition and results of operations together with the financial statements and the related notes thereto included elsewhere in this prospectus. This discussion contains forward-looking statements that reflect our plans, estimates and beliefs. Our actual results may differ materially from those discussed in these forward-looking statements. Factors that could cause or contribute to these differences include those discussed below and elsewhere in this prospectus, particularly in the section of the prospectus entitled "Risk Factors" and "Special Note Regarding Forward-Looking Statements."

Overview

We are a medical technology company that develops, manufactures and markets innovative portable oxygen concentrators, or POCs, used to deliver supplemental long-term oxygen therapy, or LTOT, to patients suffering from chronic respiratory conditions. Traditionally, these patients have relied on stationary oxygen concentrator systems for use in the home and oxygen tanks or cylinders for mobile use. The tanks and cylinders must be delivered regularly and have a finite amount of oxygen, which limits patient mobility and requires patients to plan activities outside of their homes around delivery schedules and a finite oxygen supply. Additionally, patients must attach long, cumbersome tubing to their stationary concentrators simply to enable mobility within their homes. We refer to this traditional delivery approach as the delivery model. Our proprietary Inogen One systems are portable devices that concentrate the air around them to offer a single source of supplemental oxygen anytime, anywhere into a device weighing 4.8 or 7.1 pounds. Using our systems, patients can eliminate their dependence on stationary concentrators and tank and cylinder deliveries, thereby improving quality-of-life and fostering mobility.

In May 2004, we received 510(k) clearance from the U.S. Food and Drug Administration, or the FDA, for our Inogen One G1. Since we launched the Inogen One G1 in 2004, through 2008, we derived our revenue almost exclusively from sales to healthcare providers and distributors. In December 2008, we acquired Comfort Life Medical Supply, LLC in order to secure access to the Medicare rental market and began accepting Medicare reimbursement for our oxygen solutions in certain states. In January 2009, we initiated our DTC marketing strategy and began selling Inogen One systems directly to patients in the United States. In April 2009, we became a Durable, Medical Equipment, Prosthetics, Orthotics, and Supply, or DMEPOS, accredited Medicare supplier by the Accreditation Commission for Health Care for our Goleta, California facility for Home/Durable Medical Equipment Services for oxygen equipment and supplies. We believe we are the only POC manufacturer that employs a direct-to-consumer, or DTC, marketing strategy in the United States, meaning we advertise directly to patients, process the physician paperwork, provide clinical support as needed and bill Medicare or insurance on their behalf.

We believe our DTC strategy has been critical to driving patient adoption of our technology. All other POC manufacturers access patients through home medical equipment, or HME providers, who we believe are disincentivized to encourage POC adoption. In order to facilitate the regular delivery and pickup of oxygen tanks, HME providers have invested in geographically dispersed distribution infrastructures consisting of delivery vehicles, physical locations, and delivery personnel within each area. Because POC technology eliminates the need for physical distribution infrastructure but has higher initial equipment costs than oxygen tanks and cylinders, we believe converting to a POC model would require both significant restructuring and capital investment for HME providers. Our DTC marketing strategy allows us to sidestep the HME channel, appeal to patients directly, and capture both the manufacturing and provider margin. We believe our ability to capture the top-to-bottom margin, combined with our POC technology that eliminates the need for the costs associated with oxygen deliveries, gives us a cost structure advantage over our competitors.

We derive a majority of our revenue from the sale and rental of our Inogen One systems and related accessories to patients, insurance carriers, home healthcare providers and distributors. We sell multiple configurations of our Inogen One systems with various batteries, accessories, warranties, power cords, and language settings. We also rent our products to Medicare beneficiaries and patients with other insurance coverage to support their oxygen needs as prescribed by a physician as part of a care plan. Our goal is to design, build and market oxygen solutions that redefine how oxygen therapy is delivered. To accomplish this goal and to grow our revenue, we intend to continue to:

- *Expand our sales and marketing channels*. We will continue to hire additional internal salespeople to drive our DTC marketing efforts. During the first three quarters of 2013, we increased our internal sales force from 93 to 116. Additionally, we are building a physician referral channel that currently consist of 9 people. Lastly, we are focused on building our international distribution capabilities.
- *Invest in our product offerings to develop innovative products* We invested $1.8 million and $2.30 million in 2011 and 2012, respectively, in research and development and intend to continue to make investments in research and development.
- *Secure contracts with healthcare payors and insurers*. Based on our patient population, we estimate that at least 30% of oxygen therapy patients are covered by non-Medicare payors, and that these patients often represent a younger, more active patient segment. By becoming an in-network provider with more insurance companies, we can reduce the co-pay for patients, which we believe will allow us to attract more patients to our Inogen One solutions.

We have been developing and refining the manufacturing of our Inogen One Systems over the past eight years. While nearly all of our manufacturing and assembly process was originally outsourced, assembly of the manifold, compressor, sieve bed and concentrator is now conducted in-house in order to improve quality control and reduce cost. Additionally, we use lean manufacturing practices to maximize our manufacturing efficiency. We rely on third-party manufacturers to supply several components of our Inogen One Systems. We typically enter into supply agreements for these components that specify quantity, quality requirements and delivery terms, which, in certain cases, can be terminated by either party upon relatively short notice. We have elected to source certain key components from single sources of supply, including our batteries, bearings, carry bags, motors, pistons, valves, and molded plastic components. While alternative sources of supply are readily available for these components, we believe that maintaining a single-source of supply allows us to control production costs and inventory levels, and to manage component quality.

Historically, we have generated a majority of our revenue from sales and rentals to customers in the United States; however, in 2011 and 2012, approximately 26% and 28%, respectively, of our sales have been to customers outside the United States, primarily in Europe. To date, all of our sales have been denominated in United States dollars. We sell our products in 41 countries outside the United States through distributors or directly to large “house” accounts, which include gas companies and home oxygen providers. In this case, we sell to and bill the distributor or “house” accounts directly, leaving the patient billing, support and clinical setup to the local provider. We have three people who focus on selling our products to distributors and “house” accounts.

Our total revenue increased to $48.6 million in 2012 from $10.7 million in 2009, which was driven by the growth in rental revenue associated with an increase in the number of patients using Medicare or private payors to rent our products, and growth in sales revenue associated with the increase in international sales, the increase in DTC cash sales of our Inogen One systems and new product launches. In 2010 our total revenue was $23.6 million and in 2011 our total revenue was $30.6 million. We generated Adjusted EBITDA of $1.6 million and $5.9 million in 2011 and 2012, respectively. We generated a net loss of $2.0 million in 2011 and net income of $0.6 million in 2012. For the six months ended June 30, 2013, we had total revenue and net income of $35.9 million and $2.7 million, respectively. As of June 30, 2013, our accumulated deficit was $81.8 million.

The vast majority of our revenue consists of sales revenue and rental revenue.

Sales Revenue

Our future financial performance will be driven in part by the growth in sales of our Inogen One systems, and, to a lesser extent, the sale of batteries and other accessories. We plan to grow our system sales in the coming years through multiple strategies, including: expanding our DTC sales efforts through hiring additional sales representatives, investing in consumer awareness, expanding our sales infrastructure and efforts outside of the United States and enhancing our product offering through additional product launches. As our product offerings grow, we solicit feedback from our customers and focus our research and development efforts on continuing to improve patient preference and also reducing total cost of the product, which we expect will help to drive additional sales of our products.

Our DTC sales process involves numerous interactions with the individual patient, the physician and the physician’s staff, and includes an in-depth analysis and review of our product, the patient’s diagnosis and prescribed oxygen needs, including procuring an oxygen prescription, and the patient’s available insurance benefits. The patient considers whether they would like to finance the product through an Inogen-approved third party or whether they would like to purchase the equipment. Product is not deployed until both the prescription and payment are

received. Once product is deployed, the patient has 30 days to return the product under a free trial outside of a small processing fee. Approximately 5% to 10% of these patients who purchase a system for cash return the system during this 30-day trial period. As a result, we have experienced fluctuations in our DTC sales on a period-to-period basis in the past, which we expect will continue in the future.

Our business-to-business efforts are focused on selling to HME distributors, oxygen providers and resellers who are primarily based outside of the United States. This process involves interactions with various key customer stakeholders, including sales, purchasing, product testing, and clinical personnel. Businesses that have patient demand that can be met with our POC systems place purchase orders to secure product deployment. This may be influenced based on outside factors including the result of tender offerings, changes in insurance plan coverage, and overall changes in the net oxygen patient population. Products are shipped FOB Inogen, and based on financial history and profile, businesses may either prepay or receive extended terms. As a result of these factors, product purchases can be subject to changes in demand by customers. Given the potential for variability in ordering history that we have in the past experienced, and likely will in the future experience, there may be fluctuations in our business-to-business sales on a period-to-period basis.

We sold more than 7,300 Inogen One systems in 2011 and 11,900 Inogen One systems in 2012. Management focuses on system sales as an indicator of current business success and a leading indicator of likely future sales of accessories.

Rental Revenue

Our rental process involves numerous interactions with the individual patient, the physician and the physician's staff. The process includes an in-depth analysis and review of our product, the patient's diagnosis and oxygen needs, and their medical history to confirm the appropriateness of our product for the patient's oxygen needs and compliance with Medicare and private payor billing requirements, which often times includes the need for the patient to have an additional evaluation and/or testing from their physician as well as a Certificate of Medical Necessity. Once the product is deployed, the patient receives direction on product use and receives a clinical titration from our trained staff to confirm the product meets their needs prior to billing. As a result of these factors, the time from initial contact with a customer to billing can vary significantly and be up to one month or longer.

We plan to grow our rental revenue in the coming years through multiple strategies, including expanding our DTC marketing efforts through hiring additional sales representatives and investing in patient awareness, investing in physician-based sales, securing additional insurance contracts and continuing to enhance our product offering through additional product launches. In addition, patients may come off of our services due to death, a change in their condition, a change in location, a change in provider or other factors, but we maintain asset ownership and can redeploy assets as appropriate following such events. Given the length and uncertainty of our patient acquisition cycle and potential returns we have in the past experienced, and likely will in the future experience, there may be fluctuations in our net new patient setups on a period-to-period basis.

As the rental patient base increases, this rental model generates recurring revenue with minimal additional sales and general and administrative expenses associated. A significant portion of rentals include a capped rental period when no additional reimbursement will be allowed unless additional criteria are met. In this scenario, the ratio of billable patients to patients on service is critical to maintaining rental revenue growth as patients on service increases. As the rental base expands, rental revenue is expected to increase and over time should be an increasingly important contributor to our total revenue. Over time, we believe that rental revenue should be subject to less period-to-period fluctuation than our sales revenue.

As of December 31, 2012, we had over 13,500 oxygen rental patients, an increase from over 7,500 oxygen rental patients as of December 31, 2011. Management focuses on oxygen rental patients as an indicator of current business success and a leading indicator of likely future rental revenue; however, rental revenue is subject to a variety of other factors, including reimbursement levels in their zip code, capped patients, adjustments and patients in transition.

Reimbursement

We rely heavily on reimbursement from Medicare, and secondarily from private payors and Medicaid, for our rental revenue. For the six months ended June 30, 2013, approximately 74% of our rental revenue was derived from Medicare reimbursement. The U.S. Medicare list price for our stationary oxygen rentals (E1390) is $260 per month and for our oxygen generating portable equipment (OGPE) rentals (E1392) is $70 per month. The current standard Medicare allowable effective January 1, 2013 for stationary oxygen rentals (E1390) is $177.36 per month and for OGPE rentals (E1392) is $51.63 per month. These are the two primary codes that we bill to Medicare and other payors for our product rentals.

As of January 1, 2011, Medicare has phased in a program called competitive bidding. Competitive bidding impacts the amount Medicare pays suppliers for durable medical equipment, including POCs. The program is defined geographically, with suppliers submitting bids to provide medical equipment for a specific product category within that geography. Once bids have been placed, an individual company's bids across products within the category are aggregated and weighted by each product's market share in the category. The weighted average price is then indexed against competitors. Medicare determines a "clearing price" out of these weighted average prices at which sufficient suppliers have indicated they will support patients in the category, and this threshold is typically designed to have theoretical supply two times greater than expected demand. Bids for each modality among the suppliers that made the cut are then arrayed to determine what Medicare will reimburse for each product category. The program has strict anti-collusion guidelines to ensure bidding is truly competitive. Competitive bidding contracts last three years once implemented, after which they are subject to a new round of bidding. Discounts off the standard Medicare allowable occur in competitive bidding Metropolitan Statistical Areas, or MSAs, where contracts have been awarded as well as in cases where private payors pay less than this allowable. Current Medicare payment rates in competitive bidding areas are at 48-70% of the standard Medicare allowable for stationary oxygen rentals (average of $94.98 per month) and OGPE rentals are at 72-97% of the standard Medicare allowable (average of $42.65 per month). Competitive bidding rates are based on the zip code where the patient resides. Rental revenue includes payments for product, disposables, and customer service/support.

The following table sets forth the current Medicare standard allowable reimbursement rates and the weighted average reimbursement rates applicable in MSAs covered by rounds one and two of competitive bidding.

	Medicare Standard Allowable	Round One Weighted Average 1/1/11-12/11/13	Round Two Weighted Average 7/1/13-6/30/16	Round One Re-Compete Weighted Average 1/1/14-12/31/16
E1390	177.36	116.16	93.10	95.74
E1392	51.63	41.89	42.69	38.08
Total	228.99	158.05	135.79	133.82
% of Standard		*69%*	*59%*	*58%*

In addition to reducing the Medicare reimbursement rates in the MSAs, the competitive bidding program has effectively reduced the number of oxygen suppliers that can participate in the Medicare program. We believe that more than 75% of existing oxygen suppliers were eliminated in round one of competitive bidding, which was implemented January 1, 2011 in 9 U.S. MSAs. Round two of competitive bidding was implemented July 1, 2013 in 91 MSAs and we believe the impact on the number of oxygen suppliers will be similar when released. We believe that 59% of the market was covered by round one and round two of competitive bidding.

In both round one and round two we were offered contracts for a substantial majority of the CBAs and products for which we submitted bids. However, there is no guarantee that we will garner additional market share as a result of these contracts. The contracts include products that may require us to subcontract certain services or products to third parties, which must be approved by CMS. In the CBAs for which we do not have competitive bidding contracts, we will generally not be allowed to supply Medicare beneficiaries for contracted products or services, unless we elect to continue to service existing patients under the grandfathering provision and the applicable beneficiary chooses to continue to receive equipment from us. We have elected to grandfather all patients in CBAs where we are not contracted.

For rental equipment, Medicare reimbursement for oxygen equipment is limited to a maximum of 36 months, after which time the equipment continues to be owned by the home oxygen provider for as long as the patient's medical need exists. The provider that billed Medicare for the 36th month continues to be responsible for the patient's care for months 37 through 60, and there is generally no additional reimbursement for oxygen generating portable equipment for these later months. CMS does not reimburse suppliers for oxygen tubing, cannulas and supplies that may be required for the patient. The provider is required to keep the equipment provided in working order and in some cases CMS will reimburse for repair costs. After the five year useful life is reached, the patient may request replacement equipment and, if he or she can be re-qualified for the Medicare benefit, a new maximum 36-month rental period would begin. The supplier may not arbitrarily issue new equipment.

In addition to the adoption of the competitive bidding program, oxygen rental services in non-CBA areas were eligible to receive mandatory annual Consumer Price Index for all Urban Consumers, or CPI-U updates, beginning in 2010. The CPI-U for 2012 was +3.6%, but the "multi-factor productivity adjustment" remained -1.2%, so the net result was a 2.4% increase in fee schedule payments in 2012 for items and services not included in an area subject to competitive bidding. For 2013, the CPI-U is +1.7%, but the adjustment is -0.9%, so the net result is a 0.8% increase in fee schedule payments in 2013. At this time, it is unclear if the current CPI-U method or a proposed inflation method included in President Obama's 2014 fiscal budget proposal would apply to future year's calculations.

As of September 30, 2013, we had contracts with 31 private payors. These contracts qualify us an in-network provider for these payors, which enables patients to use our systems at the same cost as other in-network solutions, including the delivery model. Based on our patient population, we believe private payors represent at least 30% of all oxygen therapy patients. Private payors typically provide reimbursement at 60% to 100% of Medicare allowables for in network plans and some private payor plans have three year caps similar to Medicare. We also believe that private payor reimbursement levels will generally be reset in accordance with Medicare payment amounts established through competitive bidding.

We cannot predict the full extent to which reimbursement for our products will be affected by competitive bidding re-compete or by initiatives to reduce costs for private payors; however, we believe that we are well positioned to respond to the changing reimbursement environment due to competitive bidding as a result of our ability to develop innovative products at a reduced cost due to our manufacturing and design improvements. We have historically been able to reduce our costs through scalable manufacturing, better sourcing, continuous innovation, and reliability improvements, as well as innovations that reduce our product service costs by minimizing exchanges, such as user replaceable batteries and oxygen filtration cartridges. As a result of bringing manufacturing and assembly largely in-house, combined with our consistent focus on driving efficient manufacturing processes, we have reduced our overall system cost by 36% since 2009. We intend to continue to seek ways to reduce our cost of revenue through manufacturing and design improvements.

Basis of Presentation

The following describes the line items set forth in our statements of operations.

Revenue

We classify our revenue in four main categories: sales revenue, rental revenue, sale of used rental equipment and other revenue. There will be fluctuations in mix between business-to-business sales, DTC sales and rentals from period to period. We expect rental revenue should constitute a larger percentage of total revenue, which would increase our gross margins. In addition, we expect both the average selling price and the manufacturing cost of our products to decrease following the introduction of future generations of our Inogen One systems. Future Inogen One system selling prices and gross margins for our Inogen One systems may fluctuate as we introduce new products and reduce our product costs.

Sales Revenue. Our sales revenue is derived from the sale of our Inogen One systems and related accessories to patients in the United States and to home healthcare providers, distributors and resellers worldwide. Sales revenue is classified into two areas: business-to-business sales and DTC sales. Business-to-business sales were 67% of sales revenue in 2011 and 69% of sales revenue in 2012. Generally, our DTC sales have higher margins than our business-to-business sales.

Rental Revenue. Our rental revenue is derived from the rental of our Inogen One systems to patients through Medicare, private payors and Medicaid, which typically also include a patient responsibility component for patient co-insurance and deductibles. Generally, our rentals have higher gross margins than our sales.

Sales of used rental equipment. Our sales of used rental equipment revenue is derived from the sale of our Inogen One systems and related accessories to home healthcare providers and patients when the product has previously been sold or rented to another patient or business. Sales in this category are not material.

Other Revenue. Other revenue consist of service and freight revenue. Service revenue consists of fees associated with extended service contracts. Business-to-business sales include a three-year warranty with the sale of our product and direct to consumer sales include either a three year warranty or a lifetime warranty with the sale of our product. We offer extended service contracts, which are purchased by a small portion of our customer base. Freight revenue consists of fees associated with the deployment of product internationally or domestically when expedited freight options or minimum order quantities are not met. Freight revenue is a percentage markup of freight costs.

Cost of Revenue

Cost of sales revenue and cost of used rental equipment sales consists primarily of costs incurred in the production process, including costs of component materials and assembly labor and overhead, warranty, provisions for slow-moving and obsolete inventory and delivery costs for items sold. Cost of rental revenue consists primarily of depreciation expense for rental assets, service costs for rental assets including material, labor, freight, consumable disposables and logistics costs for items rented. We provide a three-year or lifetime warranty on Inogen One systems sold and establish a reserve for warranty repairs based on historical warranty repair costs incurred. Provisions for warranty obligations, which are included in cost of sales revenue, are also provided for at the time of shipment. We expect the average unit costs of our Inogen One systems to decline in future periods as a result of our ongoing efforts to develop lower-cost Inogen One systems, ongoing efforts to improve our manufacturing processes, reduced rental service costs and expected increases in production volume and yields.

Operating Expenses

Research and Development

Research and development expenses consist primarily of personnel-related expenses, including salaries, benefits and stock-based compensation, allocated facility costs, laboratory supplies, consulting fees and related costs, costs associated with patent amortization costs, patent legal fees including defense costs and testing costs for new product launches. We have made substantial investments in research and development since our inception. Our research and development efforts have focused primarily on the tasks required to enhance our technologies and to support development and commercialization of new and existing products. We expect to have moderate increases in research and development expense over time.

Sales and Marketing

Our sales and marketing expenses primarily support our DTC strategy. Our sales and marketing expenses consist primarily of personnel-related expenses, including salaries, commissions, benefits, and stock-based compensation, for employees, and allocated facilities costs. They also include expenses for media and advertising, informational kits, public relations and other promotional and marketing activities, including travel and entertainment expenses, as well as customer service and clinical services. Sales and marketing expenses increased throughout 2012 primarily due to an increase in the sales force and the increasing number of rental patients and we expect a further increase in 2013 as we continue to increase sales and marketing activities.

General and Administrative

General and administrative expenses consist primarily of personnel-related expenses, including salaries, benefits, and stock-based compensation for employees in our compliance, finance, medical billing, human resources, information technology, business development and general management functions, and allocated facilities costs. In addition, general and administrative expenses include professional services, such as legal, consulting and accounting services. We expect general and administrative expenses to increase in future periods as the number of administrative personnel grows and we continue to introduce new products, broaden our customer base and grow our business. We also expect legal, accounting and compliance costs to increase due to costs associated with our initial public offering, including ongoing costs of being a public company.

Other Income (Expense), Net

Other income (expense), net consists primarily of interest expense related to our revolving credit and term loan agreement and interest income driven by the interest accruing on cash and cash equivalents and on past due customer balances. Other income (expense) includes valuation of warrant liability based on the Monte Carlo valuation model.

Result of Operations

Comparison of Six Months Ended June 30, 2012 and 2013

Revenue

(Dollars in thousands)	Six Months Ended June 30, 2012	2013	Change 2012 v. 2013 $	%
Revenue:				
Sales revenue	$ 13,033	$ 21,126	$ 8,093	62.1%
Rental revenue	8,259	14,258	5,999	72.6%
Sales of used equipment	39	145	106	271.8%
Other revenue	253	375	122	48.2%
Total revenue	$ 21,584	$ 35,904	$ 14,320	66.3%

The increase in sales revenue was attributable to an increase in the number of systems sold, primarily related to the launch of the Inogen One G3, an increase in DTC sales in the United States due to increased sales and marketing efforts and an increase in business-to-business sales in the United States and worldwide as the adoption of POCs has increased. The average selling price of our products was relatively flat at a 1% decrease period-to-period. We experienced price erosion of 4% in business to business sales and 1% in DTC sales, this was partially offset by an increased proportion of higher average selling price DTC sales. The increase in rental patients from over 10,100 as of June 30, 2012 to over 18,000 as of June 30, 2013 due to additional marketing efforts and increased sales personnel.

Cost of Revenue and Gross Profit

(Dollars in thousands)	Six Months Ended June 30, 2012	2013	Change 2012 v. 2013 $	%
Cost of sales revenue	$ 7,956	$ 11,582	$ 3,626	45.6%
Cost of rental revenue	3,196	5,075	1,879	58.8%
Cost of used rental equipment sales	14	73	59	421.4%
Total cost of revenue	11,166	16,730	5,564	49.8%
Gross profit	$ 10,418	$ 19,174	$ 8,756	84.0%
Gross margin %	*48.3%*	*53.4%*		

We manufacture our Inogen One product line in our Goleta, California and Richardson, Texas facilities; the manufacturing process includes final assembly, testing, and packaging to customer specifications. The increase in cost of sales revenue was attributable to an increase in the number of systems sold, partially offset by reduced bill of material and labor and overhead costs for our products associated with better sourcing and increased volumes. The increase in cost of rental revenue was attributable to an increase of rental patients and related rental assets, depreciation and product exchange and logistics costs. Cost of rental revenue includes depreciation of our rental assets of $3.0 million for the six months ending June 30, 2013 versus $1.8 million for the six months ending June 30, 2012.

Gross margin is defined as revenue less costs of revenue divided by revenue. The reduced cost of revenue and the continued shift towards rental revenue in our revenue mix accounts for the gross margin improvement from 48.3% to 53.4%. The rental revenue gross margin was 64.4% in the six months ended June 30, 2013 versus 61.3% in the six months ended June 30, 2012 due to lower asset deployment costs per patient and also additional economies of scale of our servicing costs. The sales revenue gross margin was 45.6% in the six months ended June 30, 2013 versus 39.1% in the six months ended June 30, 2012 due to the reduction in average cost per unit sold and improved sales revenue mix towards DTC sales.

Research and Development Expense

(Dollars in thousands)	Six Months Ended June 30, 2012	2013	Change 2012 v. 2013 $	%
Research and development expense	$ 1,173	$ 1,143	$ (30)	(2.6)%

The decrease was primarily attributable to decreasing patent litigation expenses of $0.1 million, partially offset by an increase in personnel-related expenses of $0.1 million. Headcount remained relatively flat due to our Inogen One G3 product launch in 2013 and Inogen At Home product development in 2013. Research and development expenses were $1.1 million, or 3.2% of total revenue, for the six months ending June 30, 2013 compared to $1.2 million, or 5.4% of total revenue, for the six months ending June 30, 2012.

General and Administrative Expense

(Dollars in thousands)	Six Months Ended June 30, 2012	2013	Change 2012 v. 2013 $	%
General and administrative expense	$ 3,647	$ 6,264	$ 2,617	71.8%

The increase was primarily attributable to a $1.2 million increase in personnel-related expenses as a result of increased administrative headcount in compliance, billing, human resources, IT, and finance to support the growth of our business.

In addition, bad debt expense increased $0.5 million due to the growth of our rental patients and associated rental revenue bad debt expense. The provision for doubtful accounts, expressed as a percentage of total net revenue, was 2.7% and 2.1% in the six months ended June 30, 2013 and June 30, 2012, respectively. Days sales outstanding (calculated as of each period-end by dividing accounts receivable, less allowance for doubtful accounts, by the rolling average of total revenue) were 57 days at June 30, 2013 and 63 days at June 30, 2012.

General and administrative expenses were $6.3 million, or 17.4% of total revenue, for the six months ending June 30, 2013 compared to $3.6 million, or 16.9% of total revenue, for the six months ending June 30, 2012.

Sales and Marketing Expense

(Dollars in thousands)	Six Months Ended June 30, 2012	2013	Change 2012 v. 2013 $	%
Sales and marketing expense	$ 5,378	$ 8,742	$ 3,364	62.6%

The increase was primarily attributable to a $2.5 million increase in personnel-related expenses as a result of increased sales and marketing headcount to support the growth of our business, $0.5 million in primarily media-related marketing costs to continue to grow our rental patient base and consumer cash sales, and a $0.4 million increase in personnel-related expenses for customer service and clinical services to support our increased rental patient base.

Sales and marketing expenses were $8.7 million, or 24.3% of total net revenue for, the six months ending June 30, 2013 compared to $5.4 million, or 24.9% of total revenue, for the six months ending June 30, 2012.

Other Income (Expense), Net

(Dollars in thousands)	Six Months Ended June 30, 2012	2013	Change 2012 v. 2013 $	%
Interest income	$ 67	$ 6	$ (61)	(91.0)%
Interest expense	(256)	(199)	57	22.3%
(Increase) Decrease in fair value of preferred stock warrant liability	203	(243)	(446)	(219.7)%
Other income (expense)	—	209	209	N/A
Total other income (expense), net	$ 14	$ (227)	$ (241)	(1721.4)%

The higher interest income in 2012 was associated with interest accruing on a past due customer balance that was not relevant in 2013. The decrease in interest expense was driven by the decrease in debt balances under our revolving credit and term loan agreement compared to the prior period level. The other income was associated with investment income received in connection with the sale of our interest in our former product liability insurance company. This other income is not expected to recur in future periods.

The increase in preferred stock warrant liability was due to the revaluation of our preferred warrants outstanding through a Monte Carlo valuation model due to higher enterprise value and increased likelihood an initial public offering.

Comparison of Years Ended December 31, 2011 and 2012

Revenue

(Dollars in thousands)	Year Ended December 31, 2011	2012	Change 2011 v. 2012 $	%
Revenue:				
Sales revenue	$ 19,076	$ 28,077	$ 9,001	47.2%
Rental revenue	10,977	19,872	8,895	81.0%
Sales of used equipment	46	95	49	106.5%
Other revenue	535	532	(3)	(0.6)%
Total revenue	$ 30,634	$ 48,576	$ 17,942	58.6%

The increase in sales revenue was attributable to an increase in the number of systems sold, primarily related to an increase in business-to-business sales as well as an increase in DTC sales in the United States due to increased sales and marketing efforts and worldwide as the adoptions of POCs has increased overall and the adoption of the Inogen One G2 increased internationally. We experienced a 4% price erosion in business-to-business sales, which was partially offset by the shift towards DTC sales, which experienced a 2% increase in the average selling price. This resulted in a 4% decrease in the average selling price of our products. The increase in rental revenue was related to our increased rental patients from over 7,500 as of December 31, 2011 to over 13,500 as of December 31, 2012 due to additional marketing efforts and increased sales personnel.

Cost of Revenue and Gross Profit

(Dollars in thousands)	Year Ended December 31, 2011	2012	Change 2011 v. 2012 $	%
Cost of sales revenue	12,127	17,359	5,232	43.1%
Cost of rental revenue	3,783	7,243	3,460	91.5%
Cost of used rental equipment sales	20	25	5	25.0%
Total cost of revenue	$ 15,930	$ 24,627	$ 8,697	54.6%
Gross Profit	14,704	23,949	9,245	62.9%
Gross Margin %	*48.0%*	*49.3%*		

The increase in cost of revenue was attributable to an increase in the number of systems sold and increased bill of material costs for our products associated with the sales shift to the DTC channel where system packages include higher accessories per order. Cost of revenue includes depreciation of our rental assets of $4.1 million for the year ended December 31, 2012 versus $2.4 million for the year ended December 31, 2011.

The continued shift towards rental revenue in our revenue mix accounts for the gross margin improvement from 48% to 49%. The gross margin on our rental revenue was 64% in the year ended December 31, 2012 versus 66% in the year ended December 31, 2011 due to lower revenue per patient. The gross margin on our sales revenue including sales of used rental equipment was 39% in the year ended December 31, 2012 versus 36% in the year ended December 31, 2011 due to the improved revenue mix towards DTC sales.

Research and Development Expense

(Dollars in thousands)	Year Ended December 31, 2011	2012	Change 2011 v. 2012 $	%
Research and development expense	$ 1,789	$ 2,262	$ 473	26.4%

The increase was primarily attributable to a $0.1 million increase in personnel related expenses as a result of increased headcount, a $0.3 million increase in patent and patent defense costs, and $0.1 million in additional research and development spend on new product development.

Research and development expenses were $2.3 million, or 4.7% of total net revenue, for the year ending 2012 compared to $1.8 million, or 5.8% of total net revenue, for the year ending 2011.

General and Administrative Expense

(Dollars in thousands)	Year Ended December 31, 2011	2012	Change 2011 v. 2012 $	%
General and administrative expense	$ 5,623	$ 8,289	$ 2,666	47.4%

The increase was primarily attributable to a $2.6 million increase in personnel-related expenses as a result of increased administrative headcount in compliance, billing, human resources, IT, and finance to support the growth of our business and an increase in facility costs as we leased additional space in Richardson, Texas.

In addition, bad debt expense increased $0.06 million due to the growth of our patient population and associated rental revenue bad debt as well as increased bad debt from our business-to-business channel due to a single customer write off. The provision for doubtful accounts, expressed as a percentage of

total net revenue, was 2.2% and 3.3% in the year ended December 31, 2012 and December 31, 2011, respectively. Days sales outstanding (calculated as of each period-end by dividing accounts receivable, less allowance for doubtful accounts, by the rolling average of total net revenue) were 57 days at June 30, 2013 and 63 days at June 30, 2012.

General and administrative expenses were $8.3 million, or 17.1% of total net revenue, for the year ending 2012 compared to $5.6 million, or 18.4% of total net revenue, for the year ending 2011.

Sales and Marketing Expense

	Year Ended December 31,		Change 2011 v. 2012	
(Dollars in thousands)	**2011**	**2012**	**$**	**%**
Sales and marketing expense	$ 9,014	$ 12,569	$ 3,555	39.4%

The increase was primarily attributable to a $1.7 million increase in personnel-related expenses as a result of increased sales and marketing headcount to support the growth of our business, $0.9 million in primarily media-related marketing costs to continue to grow our rental patient base and consumer cash sales, and a $0.5 million increase in personnel-related expenses for customer service and clinical services to support our increased number of rental patients.

Sales and marketing expenses were $12.6 million, or 25.9% of total net revenue, for the year ending 2012 compared to $9.0 million, or 29.4% of total net revenue, for the year ending 2011.

Other Income (Expense), Net

	Year Ended December 31,		Change 2011 v. 2012	
(Dollars in thousands)	**2011**	**2012**	**$**	**%**
Interest income	$ 113	$ 88	$ (25)	(22.1%)
Interest expense	(261)	(493)	(232)	88.9
Revaluation of preferred stock warrant liability	(119)	148	267	(224.4)
Other income (expense)	—	10	10	—
Total other income (expense), net	$ (267)	$ (247)	$ 20	(7.5)%

The increase in interest expense was driven by a $5.3 million increase in borrowings under our revolving credit and term loan agreement. The decrease in interest income was driven by the reduction of interest accruing on past due customer balances as a result of lower past due accounts receivable balances for business-to-business sales in fiscal 2012, as compared to fiscal 2011.

Liquidity and Capital Resources

As of June 30, 2013, we had cash and cash equivalents of $14.2 million, which consisted of highly-liquid investments with an original maturity of three months or less. Since inception, we have financed our operations primarily through the sale of equity securities and, to a lesser extent, from borrowings. As of June 30, 2013, we had $9.0 million secured debt outstanding including $8.0 million in bank financing and $1.0 million in patent licensing debt. Since inception, we had received net proceeds of $90.7 million from the issuance of redeemable convertible preferred stock. Our principal uses of cash are funding our capital expenditures including additional rental assets and debt service payments as described below.

We believe that our current cash and cash equivalents together with our short-term investments and available borrowings under our revolving credit and term loan agreement and the cash to be generated from expected product sales and rentals, will be sufficient to meet our projected operating and investing requirements for at least the next twelve months.

The following table shows a summary of our cash flows for the periods indicated:

(Dollars in thousands)	Year Ended December 31, 2011	Year Ended December 31, 2012	Six Months Ended June 30, 2012	Six Months Ended June 30, 2013
Cash provided by operating activities	$ 1,859	$ 4,004	$ 2,320	$ 6,877
Cash used in investing activities	(8,918)	(12,475)	(5,535)	(9,107)
Cash provided by financing activities	5,176	19,677	21,083	1,292

Operating Activities

We derive operating cash flows from cash collected from the sale of our products and services. These cash flows received are partially offset by our use of cash for operating expenses to support the growth of our business.

Net cash provided by operating activities for the six months ended June 30, 2013 consisted of our net income of $2.7 million, non-cash expense items such as depreciation and amortization of our equipment and leasehold improvements of $3.7 million, stock-based compensation of $0.05 million, loss on change in fair value of warrants of $0.2 million, which were partially offset by changes in our operating assets and liabilities of $1.2 million.

Net cash provided by operating activities for the six months ended June 30, 2012 consisted of our net income of $0.2 million, non-cash expense items such as depreciation and amortization of our equipment and leasehold improvements of $2.2 million, stock-based compensation of $0.03 million, gain on change in fair value of warrants of $0.2 million, which were partially offset by changes in our operating assets and liabilities of $0.6 million.

Net cash provided by operating activities for 2012 consisted of our net income of $0.6 million, non-cash expense items such as depreciation and amortization of our equipment and leasehold improvements of $5.0 million, stock-based compensation of $0.1 million, gain on change in fair value of warrants of $0.2 million, which were partially offset by changes in our operating assets and liabilities of $1.4 million.

Net cash provided by operating activities for 2011 consisted of our, non-cash expense items such as depreciation and amortization of our equipment and leasehold improvements of $3.2 million, stock-based compensation of $0.1 million, loss on change in fair value of warrants of $0.1 million, which were partially offset by net losses of $2.0 million and changes in our operating assets and liabilities of $0.9 million.

Investing Activities

Net cash used in investing activities for each of the periods presented was primarily for the purchase of rental assets, research and development laboratory, manufacturing and computer equipment and software to support our expanding business.

In the six months ended June 30, 2013, we invested $7.7 million in rental assets deployed. In the six months ended June 30, 2012, we invested $4.6 million in rental assets deployed. In 2012, we invested $10.4 million in rental assets deployed. In 2011, we invested $7.9 million in rental assets deployed.

During the year ended December 31, 2011, we acquired Breathe Oxygen Services, LLC. The acquisition resulted in recording an intangible asset in the amount of $0.1 million which amortizes over its estimated useful life of ten years. As of June 30, 2013, December 31, 2012 and 2011, there were no impairments recorded related to this intangible asset. In 2011, Breathe Oxygen Services, LLC merged with us, and was simultaneously dissolved.

We expect to continue investing in property and equipment as we expand our operations. Other than the deployment of product for rental to our customers and the necessary manufacturing equipment/tooling for the launch of our next oxygen concentrator in development, we have no major capital expenditures planned for the remainder of 2013. Our operations are inherently capital intensive due to our portions of revenue derived from our rental business model; investments will continue to be required in order to grow rental revenue.

Financing Activities

Historically, we have funded our operations through the issuance of preferred stock and the incurrence of indebtedness.

For the six months ended June 30, 2013, net cash provided by financing activities consisted of $1.2 million of the exercise of series D convertible preferred stock warrants and common stock options and $2.0 million of new debt issuance under our revolving credit and term loan agreement entered into in October 2012. This was partially offset by repayments of borrowings under our revolving credit and term loan agreement of $1.8 million as existing balances and payback terms were not changed.

For the six months ended June 30, 2012, net cash provided by financing activities consisted of the issuance of 8,520,791 shares of series G convertible preferred stock for net proceeds of $19.9 million in March 2012, the incurrence of an aggregate of $2.0 million of borrowings under our revolving credit and term loan agreement, which were offset in part by repayment of $1.0 million of such borrowings, and the exercise of series B convertible and series C convertible preferred stock warrants for $0.2 million.

For 2012, net cash provided by financing activities consisted of the issuance of 8,520,791 shares of series G convertible preferred stock which generated net proceeds of $19.9 million in March 2012, the incurrence of an aggregate of $6.0 million of borrowings under our revolving credit and term loan agreement, which were offset in part by repayment of $6.5 million of such borrowings, and the exercise of series B convertible and series C convertible preferred stock warrants for $0.4 million.

For 2011, net cash provided by financing activities consisted of net incurrence of indebtedness under our revolving credit and term loan agreement of $5.3 million.

Sources of Funds

Our cash provided in operations in the six months ended June 30, 2013 was $6.9 million compared to $2.3 million in the six months ended June 30, 2012. As of June 30, 2013 we had cash and cash equivalents of $14.2 million and available borrowing capacity under our revolving credit and term loan agreement totaling $10.0 million.

We believe, based on our current operating plan, that our existing cash and cash equivalents, cash generated from operating activities and available borrowings under our revolving credit and term loan agreement will be sufficient to fund capital expenditures, operating expenses and other cash requirements for at least the next 12 months. Although we are not currently a party to any agreement or letter of intent with respect to potential material investments in, or acquisitions of, complementary businesses, we may enter into these types of arrangements in the future, which could require us to seek additional equity or debt financing. Additional funds may not be available on terms favorable to us or at all.

Amended and Restated Revolving Credit and Term Loan Agreement

In October 2012, we entered into an amended and restated revolving credit and term loan agreement with Comerica Bank as the administrative agent, which we refer to as our revolving credit and term loan agreement. This agreement incorporated amounts outstanding under one prior loan agreement whereby the existing balances and the payback terms were not changed. This transaction did not result in any debt extinguishment losses or gains. We did not incur or defer any financing cost directly related to the amended loan and security agreement.

The revolving credit and term loan agreement also provides for a pre-existing term loan facility for rental assets amounting to up to $3.0 million, which we refer to as Term Loan A, a pre-existing term loan facility for rental assets amounting to up to $8.0 million, which we refer to as Term Loan B, a new term loan facility for rental assets amounting to up to $12.0 million, which we refer to as Term Loan C, and an accounts receivable revolving line of credit amounting to up to $1.0 million based on 80% of eligible accounts receivable, which we refer to as the revolver.

We had borrowings of $1.4 million, $2.3 million and $0.9 million outstanding under Term Loan A as of December 31, 2012 and 2011 and June 30, 2013, respectively. We had borrowings of $6.4 million, $6.0 million and $5.1 million outstanding under Term Loan B, as of December 31, 2012 and 2011 and June 30, 2013, respectively. There were no borrowings and borrowings of $2.0 million outstanding under Term Loan C as of December 31, 2012 and June 30, 2013, respectively. Future draws under Term Loan C will bear variable interest at the Base Rate. There were no borrowings under the revolver during 2011, 2012, or as of June 30, 2013. The maturity date of the revolver is October 13, 2013.

Payments of interest for the Term Loan are generally payable monthly. Payment of principal is payable monthly. Each term loan bears interest at the Base Rate, which is a rate equal to the applicable margin plus the greater of (i) the prime rate, (ii) the federal funds effective rate, as defined in the agreement, plus 1%, and (iii) the daily adjusting LIBOR rate, plus 1%. The applicable margins for Term Loans A, B and C are 1.25%, 2.5% and 2.25%, respectively. Upon the closing of an acquisition or initial public offering during the term of the revolving credit and term loan agreement, the lenders are entitled to a fee equal to $120,000.

The revolving credit and term loan agreement contains customary conditions to borrowing, events of default and covenants, including covenants that restrict our ability to dispose of assets, merge with or acquire other entities, incur indebtedness, incur encumbrances, make distributions to holders of our capital stock, make investments, engage in transactions with our affiliates. This offering would constitute an event of default under the revolving credit and term loan agreement. Comerica Bank has waived this provision and this offering will not constitute an event of default. In addition, we must comply with certain financial covenants related to relating to liquidity requirements and debt service ratios. We were in compliance with all covenants as of December 31, 2012 and June 30, 2013. Our obligations under the revolving credit and term loan agreement are secured by substantially all of our assets, including intellectual property.

We may from time to time, depending upon market conditions and financing needs, seek to refinance or repurchase our debt securities or loans in privately negotiated or open market transactions, by tender offer or otherwise.

Use of Funds

Our principal uses of cash are funding our new rental asset deployments and other capital purchases, operations, satisfaction of our obligations under our debt instruments, and other working capital requirements. Over the past several years, our revenue has increased significantly from year to year and, as a result, our cash flows from customer collections have increased as have our profits. As a result, our cash used in operating activities has decreased over time and now is a source of capital to the business. We expect operating activities to continue to be a source of capital to the business in the future.

Due to the portion of our business that drives rental revenue, which needs continuing asset deployments to new patients, our cash used in investing activities has increased over time. We expect our investment cash requirements to increase in the future as we increase our rental patient base and deploy rental assets among Medicare and private payors.

We may need to raise additional funds to support our investing operations, and such funding may not be available to us on acceptable terms, or at all. If we are unable to raise additional funds when needed, our operations and ability to execute our business strategy could be adversely affected. We may seek to raise additional funds through equity, equity-linked or debt financings. If we raise additional funds through the incurrence of indebtedness, such indebtedness would have rights that are senior to holders of our equity securities and could contain covenants that restrict our operations. Any additional equity financing may be dilutive to our stockholders.

Contractual Obligations

The following table reflects a summary of our contractual obligations as of December 31, 2012.

	Payments Due by Period				
Contractual Obligations	**Total**	**Less than 1 Year**	**1-3 Years**	**3-5 Years**	**More than 5 Years**
(In thousands)					
Operating lease obligations (1)	$ 3,605	$ 788	$1,864	$ 329	$ 624
Long-term debt obligations (2)(3)	8,936	3,879	5,057	—	—
Total	$12,541	$ 4,667	$6,921	$ 329	$ 624

(1) Operating lease costs are primarily for office and manufacturing space.

(2) Includes principal and accrued interest on long-term debt obligations.

(3) In 2011, we entered into an amendment of a licensing agreement whereby we were assigned the entire right, title and interest in a portfolio of patents in exchange for a non-interest bearing promissory note for $650,000, in addition to an $850,000 existing obligation to the original licensor, for a total of $1.5 million due to the original licensor in installments starting May 22, 2011, and ending October 31, 2016.

Critical Accounting Policies and Significant Estimates

Our discussion and analysis of our financial condition and results of operations are based upon our financial statements which have been prepared in accordance with GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets and liabilities and related disclosure of contingent assets and liabilities, revenue and expenses at the date of the financial statements. Generally, we base our estimates on historical experience and on various other assumptions in accordance with GAAP that we believe to be reasonable under the circumstances. Actual results may differ from these estimates and such differences could be material to the financial position and results of operations.

Critical accounting policies and estimates are those that we consider the most important to the portrayal of our financial condition and results of operations because they require our most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. Our critical accounting policies and estimates include those related to:

- revenue recognition;
- stock-based compensation;

- inventory and rental asset valuation;
- Accounts receivables and allowance for bad debts, returns and adjustments;
- fair value measurements; and
- income taxes.

Revenue Recognition

We generate revenue primarily from sales and rentals of our products. Our products consist of our proprietary line of oxygen concentrators and related accessories. A small portion of our revenue comes from extended service contracts and freight revenue for product shipments.

Revenue from product sales is recognized when all of the following criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the price to the customer is fixed or determinable; and (4) collectability is reasonable assured. Revenue from product sales is generally recognized upon shipment of the product. Provisions for estimated returns and discounts are made at the time of shipment. Provisions for warranty obligations, which are included in cost of sales revenue, are also provided for at the time of shipment.

Accruals for estimated warranty expenses are made at the time that the associated revenue is recognized. We use judgment to estimate these accruals and, if we were to experience an increase in warranty claims or if costs of servicing our products under warranty were greater than our estimates, our cost of revenue could be adversely affected in future periods. The provisions for estimated returns, discounts and warranty obligations are made based on known claims and discount commitments and estimates of additional returns and warranty obligations based on historical data and future expectations. We have accrued $0.4 million and $0.3 million to provide for future warranty costs at December 31, 2012 and 2011, respectively.

We recognize equipment rental revenue over the rental period, which is typically one month, less estimated adjustments. Revenue is recognized on the date products are shipped to patients and are recorded at amounts estimated to be received under reimbursement arrangements with third-party payors, including Medicare, private payors, and Medicaid. Due to the nature of the industry and the reimbursement environment in which we operate certain estimates are required to record net revenue and accounts receivable at their net realizable values. Inherent in these estimates is the risk that they will have to be revised or updated as additional information becomes available. Specifically, the complexity of many third-party billing arrangements and the uncertainty of reimbursement amounts for certain products may result in adjustments to amounts originally recorded. Such adjustments are typically identified and recorded at the point of cash application, claim denial or account review. Accounts receivable are reduced by an allowance for doubtful accounts which provides for those accounts from which payment is not expected to be received, although product was delivered and revenue was earned. Upon determination that an account is uncollectible, it is written-off and charged to the allowance. Amounts billed but not earned due to the timing of the billing cycle are deferred and recognized in income on a straight-line basis over the monthly billing period.

Revenue from the sale of used rental equipment is recognized upon delivery and when collectability is reasonably assured and other revenue recognition criteria are met. When a rental unit is sold, the related cost and accumulated depreciation are removed from their respective accounts, and any gains or losses are included in gross profit.

Revenue from the sales of our services is recognized when no significant obligations remain undelivered and collection of the receivables is reasonably assured, which is generally when shipment has occurred. We offer extended service contracts on our Inogen One systems for periods ranging from 12 to 24 months after the end of the standard warranty period. Revenue from extended service contracts and lifetime warranty is deferred and recognized in income over the contract period.

Stock-Based Compensation

We measure and recognize compensation expense for the cost of employee services received in exchange for an award of equity instruments based on the grant date fair value of the award. The fair value of options on the grant date is estimated using the Black-Scholes option-pricing model, which requires the use of certain subjective assumptions including expected term, volatility, risk-free interest rate and the fair value of our common stock. These assumptions generally require significant judgment.

The resulting costs, net of estimated forfeitures, are recognized over the period during which an employee is required to provide service in exchange for the award, usually the vesting period. We amortize the fair value of stock-based compensation on a straight-line basis over the requisite service periods.

Currently, our equity awards consist only of stock options; however, in the future we may grant shares of restricted stock and restricted stock units under the terms of our equity incentive plans. We account for stock options issued to nonemployees at their estimated fair value determined using the Black-Scholes option-pricing model. The fair value of the options granted to nonemployees is re-measured as they vest, and the resulting change in value, if any, is recognized as a stock-based compensation expense during the period the related services are rendered. In the years ending December 31, 2011 and 2012 and the period ending June 30, 2013, we did not issue stock options to any non-employees and all previous stock options issued to non-employees were fully vested in previous periods.

The Black-Scholes option-pricing model requires the input of highly subjective assumptions, including the expected volatility of the price of our common stock, the expected term of the option, the expected dividend yield, and the risk-free interest rate. These estimates involve inherent uncertainties and the significant application of management's judgment. If factors change and different assumptions are used, our stock-based compensation expense could be materially different in the future. We determined weighted average valuation assumptions as follows:

Risk free rate. The risk free interest rate is based on the yields of U.S. Treasury securities with maturities similar to the expected term of the options for each option group.

Expected term. Using the simplified method, the expected term is estimated as the midpoint of the expected time to vest and the contractual term, as permitted by the SEC. For out of the money option grants, we estimate the expected lives based on the midpoint of the expected time to a liquidity event and the contractual term.

Dividend yield. We have never declared or paid any cash dividends and do not presently plan to pay cash dividends in the foreseeable future. Consequently, we use an expected dividend yield of zero.

Volatility. Our expected volatility is derived from the historical volatilities of several unrelated public companies in the medical manufacturing and healthcare service industries because we have little information on the volatility of the price of our common stock since we have no trading history. When making the selections of our industry peer companies to be used in the volatility calculation, we consider operational area, size, business model, industry and the business of potential comparable companies. These historical volatilities are weighted based on certain qualitative factors and combined to produce a single volatility factor.

The following table summarizes the assumptions relating to our stock options for the years ended December 31, 2011 and 2012 and the six months ended June 30, 2012 and 2013:

	Year Ended December 31,		Six Months Ended June 30,	
	2011	2012	2012	2013
Risk-free interest rates	1.18%-2.71%	0.73%-1.33%	0.93%-1.33%	1.08%-1.12%
Expected term	5.91-6.08 years	5.51-6.07 years	5.97-6.03 years	5.96-6.03 years
Expected dividend yield	0%	0%	0%	0%
Volatility	47.76-48.55%	48.95-50.52%	48.95-49.32%	50.10-50.29%

If in the future we determine that another method is more reasonable, or if another method for calculating these input assumptions is prescribed by authoritative guidance, and, therefore, should be used to estimate volatility or expected life, the fair value calculated for our stock options could change significantly. Higher volatility and longer expected lives result in an increase to stock-based compensation expense determined at the date of grant. Stock-based compensation expense affects our cost of revenue, research and development expense, and selling, general and administrative expense.

We estimate our forfeiture rate based on an analysis of our actual forfeitures and will continue to evaluate the appropriateness of the forfeiture rate based on actual forfeiture experience, analysis of employee turnover behavior and other factors. Quarterly changes in the estimated forfeiture rate can have a significant effect on reported stock-based compensation expense, as the cumulative effect of adjusting the rate for all expense amortization is recognized in the period the forfeiture estimate is changed. If a revised forfeiture rate is higher than the previously estimated forfeiture rate, an adjustment is made that will result in a decrease to the stock-based compensation expense recognized in the financial statements. If a revised forfeiture rate is lower than the previously estimated forfeiture rate, an adjustment is made that will result in an increase to the stock-based compensation expense recognized in the financial statements. The effect of forfeiture adjustments was insignificant for the years ended December 31, 2011 and 2012 and the six months ended June 30, 2013. We will continue to use significant judgment in evaluating the expected term, volatility and forfeiture rate related to our stock-based compensation.

We recorded stock-based compensation of $144,000 and $60,000 for the years ended December 31, 2011 and 2012, respectively, and $33,000 and $51,000 for the six month periods ended June 30, 2012 and 2013, respectively. As of June 30, 2013, we had $0.3 million of unrecognized stock-based compensation costs, which are expected to be recognized over an average period of four years. In future periods, we expect stock-based compensation to increase due in part to our existing unrecognized stock-based compensation, and as we issue additional stock-based awards to continue to attract and retain employees.

Common Stock Valuation

It is also necessary to estimate the fair value of the common stock underlying our equity awards when computing the fair value calculation of options under the Black-Scholes option-pricing model. The fair value of the common stock underlying our equity awards was assessed on each grant date by our board of directors. Given the absence of an active market for our common stock prior to this offering, our board of directors determined the estimated fair value of our common stock based on an analysis of a number of objective and subjective factors that we believe market participants would consider, including the following:

- our results of operations, history of losses and other financial metrics;
- our capital resources and financial condition;
- the contemporaneous valuations of our common stock by an unrelated third-party valuation firm;
- the prices of our convertible redeemable preferred stock sold to outside investors in arms-length transactions;
- the rights, preferences and privileges of our convertible preferred stock relative to those of our common stock;
- the rights of freestanding warrants and other similar instruments related to our securities that are redeemable;
- the hiring of key personnel;
- the introduction of new products;
- the fact that the option grants involve illiquid securities in a private company;
- the risks inherent in the development and expansion of our products and services; and
- the likelihood of achieving a liquidity event, such as an initial public offering or sale of our company given prevailing market conditions.

We have historically granted stock options with exercise prices no less than the fair value of our common stock underlying the stock options, as determined at the date of grant by our board of directors, with input from our management. The following table summarizes, by grant date, the number of stock options granted since January 1, 2012 and the associated per share exercise price:

Grant Date	Common Shares Underlying Options Granted	Exercise Price Per Share	Fair Value Per Common Share as Determined by the Board of Directors at Grant Date	Fair Value Per Common Share for Financial Reporting Purposes at Grant Date	Intrinsic Value Per Underlying Common Share
March 28, 2012	629,903	$ 0.27	$ 0.27	$ 0.27	$ 0.00
June 6, 2012	30,370	0.27	0.27	0.27	0.00
September 18, 2012	25,211	0.27	0.27	0.27	0.00
December 7, 2012	60,317	0.27	0.27	0.27	0.00
February 12, 2013	1,130,000	0.39	0.39	0.39	0.00
May 14, 2013	190,000	0.39	0.39	2.08	1.69
October 11, 2013	829,030	2.79	2.79	2.79	0.00

Our board of directors intended that all options granted be exercisable at a price per share not less than the per share fair market value of our common stock underlying those options on the date of grant. The following is a discussion of all options we have granted since January 1, 2012 and the significant factors contributing to our board of director's determination of the fair value:

- *March 28, 2012, June 6, 2012, September 18, 2012, and December 7, 2012* — Options granted on these dates had an exercise price of $0.27 per share, which was equal to the fair value of our common stock as determined by our board of directors on each grant date. In anticipation of the March grants, our board of directors obtained a third-party valuation of our common stock in December 2011 and March 2012, described in more detail below, both of which assumed a $20.0 million financing event and suggested a fair value of $0.27 per share. Our board of directors considered these valuations together with the other objective and subjective factors described above in reaching its determination of the fair value of our common stock as of March 2012. In particular, our board of directors considered the price of its most recent round of financing, which occurred in March 2012 and involved the sale and issuance of an additional $20.0 million in Series G convertible preferred stock; the other rights, privileges and preferences associated with our convertible preferred stock relative to the common stock; the general financial condition of the business and its capital resources at that time; and the risks and uncertainties associated with further development and expansion of our products. For each of the grant dates subsequent to March 2012 through December 2012, our board of directors again considered the March 2012 third-party valuation together with additional changes that may occurred within the business since March 2012. At each grant date, our board of directors considered the impact of the rights, privileges and preferences of our outstanding shares of convertible preferred stock, the continued illiquidity of our common stock given our status as a private company, the ongoing risks associated with further development of the company and generally low likelihood of a liquidity event, such as an IPO or a sale of the company, occurring during 2012. Our board of directors also noted the initial launch of the Inogen One G3 in September 2012, but given the limited nature of the launch and the inability to predict its impact on the business at that time our board of directors determined this did not constitute a significant change in the business. In particular, our board of directors considered that in December 2011 we decided to raise an additional $20.0 million in financing through the sale and issuance of our series G preferred stock, the proceeds of which were used to continue to invest the business operations, in particular the capital intensive rental business. This financing closed on March 12, 2012 and was critical to the success of growing our revenues to $48.6 million in 2012. The amount of the financing was determined based on the projections of capital necessary to achieve our goal of exceeding $100 million of sales in order to pursue a sale of the company or an initial public offering following the achievement of this goal, which was estimated to be achieved in a minimum of three years. Based on these considerations, our board of directors determined that no significant change in our business or expectations of future business had occurred as of each grant date since the March 31, 2012 valuation that would have warranted a materially different determination of the value of our common stock than that suggested by the board's original determination in March 2012 and the corresponding contemporaneous third-party valuation.
- *February 12, 2013* — Options granted on this date had an exercise price of $0.39 per share, which was equal to the fair value of our common stock as determined by our board of directors on that date. In reaching this determination, our board of directors considered each of the objective and subjective factors described above, including our most recent unrelated-third party valuation, described in more detail below, which suggested a fair value of our common stock of $0.39 per share as of December 31, 2012. In addition to the third-party valuation, our board of directors considered that in December 2012 the Inogen One G3 product manufacturing was at full capacity and that we had shown year over year improvement in financial results due to the strength of business to business and DTC sales. However, the board of directors also noted that, while financial results had improved, they were still in line with expectations set in December 2011. The board of directors also considered the likelihood of a liquidity event. We had engaged an investment banker to consider a sale of the company, which increased this likelihood from 40% to 65%. Due to our continued growth, the likelihood of an initial public offering had increased from 5% to 10% as well, although no immediate plans were made to pursue an initial public offering. Based on these considerations, our board of directors determined that no significant change in our business or expectations of future business had occurred between the December 31, 2012 unrelated third-party valuation and the February 12, 2013 grant date that would have warranted a materially different determination of the value of our common stock than that suggested by the valuation.
- *May 14, 2013* — Options granted on this date had an exercise price of $0.39 per share, which was equal to the fair value of our common stock as determined by our board of directors on that date. In reaching this determination, our board of directors considered each of the objective and subjective factors described above, including the most recent unrelated third-party valuation of our common stock as of December 31, 2012. Based on these considerations, our board of directors determined that no significant change in our business or expectations of future business had occurred between the December 31, 2012 unrelated third-party valuation and the May 14, 2013 grant date that would have warranted a materially different determination of the value of our common stock than that suggested by the valuation.

In preparing for this offering, we determined that a retrospective valuation of the fair value of our common stock as of May 14, 2013 was appropriate for accounting purposes. In assessing the retrospective value of the common stock, our board of directors considered the unrelated-third party valuation it received as of July 31, 2013, described in more detail below, which suggested a fair market value at that date of $2.08 per share. Our board of directors noted that the primary drivers for increased value in the July 2013 third-party valuation were largely associated with increases in the likelihood of a potential liquidity event. Our board of directors determined that the likelihood of a strategic sale decreased and the likelihood of an initial public offering increased due to the fact that the initial public offering market was now accessible to companies with less than $100 million in sales, the valuations for similarly situated companies were increasing, and the JOBS Act was allowing for a more streamlined initial public offering process. Management estimated that the probability of an initial public offering within 180 days was 40%. In July 2013, we held our organizational meeting in connection with this offering. As a result of these factors, the unrelated third-party valuation performed in July 2013 indicated a fair value of our common stock of $2.08 per share. Based on this analysis, our board of directors determined that for accounting purposes the retrospective fair value of our common stock on May 14, 2013 was $2.08 per share.

- October 11, 2013. Options granted on this date had an exercise price of $2.79 per share, which was equal to the fair value of our common stock as determined by our board of directors on that date. In reaching this determination, our board of directors considered each of the objective and subjective factors described above. Our board of directors also considered that sales and profits continued to grow in 2013 in line with our planning expectations. Our board of directors also considered the most recent unrelated-third party valuation of our common stock as of September 30, 2013, described in detail below, which suggested a fair value of $2.79 per share. In addition to third-party valuation, our board of directors noted that over the past 12 months, we had consistently added new customers and improved efficiencies in operations, such that our revenue had grown as had our overall profits. This growth was experienced across the entire company in both our rental channel, DTC sales channel and business-to-business sales channel. Moreover, revenue growth and profits had slightly exceeded expectations. In addition, management estimated that the probability of an initial public offering within 180 days was 60%. Based on these considerations, our board of directors determined that the fair value of our common stock as of October 11, 2013 was $2.79 per share.

Contemporaneous Third-Party Valuations

The unrelated third-party valuations described below were prepared using methodologies, approaches and assumptions consistent with the American Institute of Certified Public Accountants, or AICPA, Audit and Accounting Practice Aid Series: *Valuation of Privately Held Company Equity Securities Issued as Compensation,* or the AICPA Practice Guide. At the March 31, 2012 and December 31, 2012 valuation dates described below, we used the income approach to estimate our aggregate enterprise value. The income approach measures the value of a company as the present value of its future economic benefits by applying an appropriate risk-adjusted discount rate to expected cash flows, based on forecasted revenue and costs. We prepared a financial forecast for each valuation date to be used in the computation of the enterprise value for the income approach. The financial forecasts took into account our past experience and future expectations. The risks associated with achieving these forecasts were assessed in selecting the appropriate discount rate. There is inherent uncertainty in these estimates.

In order to arrive at the estimated fair value of our common stock, the indicated enterprise value of our company calculated at each valuation date using the income approach was allocated to the shares of convertible redeemable preferred stock and the warrants to purchase these shares, and shares of common stock and the options to purchase these shares using a Black Scholes option-pricing model. The Black-Scholes option-pricing model treats common stock and preferred stock as call options on the total equity value of a company, with exercise prices based on the value thresholds at which the allocation among the various holders of a company's securities changes. Under the Black-Scholes option-pricing model, the common stock has value only if the funds available for distribution to stockholders exceed the value of the liquidation preference at the time of a liquidity event, such as a strategic sale, merger or initial public offering, assuming the enterprise has funds available to make a liquidation preference meaningful and collectable by the holders of preferred stock. The common stock is modeled as a call option on the underlying equity value at a predetermined exercise price. In the model, the exercise price is based on a comparison with the total equity value rather than, as in the case of a regular call option, a comparison with a per share stock price. Thus, common stock is considered to be a call option with a claim on the enterprise at an exercise price equal to the remaining value immediately after the preferred stock is liquidated. The Black-Scholes option-pricing model is then used to price the options. This model defines the securities' fair values as functions of the current fair value of a company and uses assumptions such as the anticipated timing of a potential liquidity event, marketability, cost of capital and the estimated volatility of the equity securities. The anticipated timing of a liquidity event utilized in these valuations was based on then-current plans and estimates of our board of directors and management regarding a liquidity event. Estimates of the volatility of our stock were based on available information on the volatility of capital stock of comparable publicly-traded companies. In addition, the valuation considers the fact that our stockholders cannot freely trade our common stock in the public markets. Therefore, the estimated fair value of our common stock at each grant date reflects a non-marketability discount.

December 31, 2011 and March 31, 2012 Common Stock Valuation Analyses

Our December 2011 and March 2012 unrelated third-party valuations used a Black-Scholes option pricing model to allocate our estimated enterprise value to the common stock. The valuations applied a risk-adjusted discount of 30%, a non-marketability discount of 15%, and an estimated time to a liquidity event of 3 years. The risk-adjusted discount was estimated to be 30% due to the assumption is that we were in the "Bridge / IPO" stage of development per AICPA valuation methodologies since we have product revenue and achieved positive EBITDA in 2012. Based on these considerations, the third-party valuations suggested that the fair market value of our common stock was $0.27 per share as of December 31, 2011 and March 31, 2012.

December 31, 2012 Common Stock Valuation Analysis

Our December 2012 unrelated third-party valuation analysis also used a Black-Scholes option pricing model to allocate our estimated enterprise value to the common stock. The analysis applied a risk-adjusted discount of 30%, a non-marketability discount of 15%, and an estimated time to a liquidity event of 1 to 3 years, with a weighted average time to exit estimated at 1.9 years. The risk-adjusted discount was estimated to be 30% due to the assumption is that we were in the "Bridge / IPO" stage of development per AICPA valuation methodologies since we have product revenue and achieved positive EBITDA in 2012. Based on these considerations, the third-party valuation suggested that the fair market value of our common stock was $0.39 per share as of December 31, 2012.

July 31, 2013 and September 30, 2013 Common Stock Valuation Analyses

Due to our decision to pursue this offering, along with our belief that we could reasonably estimate the form and timing of potential liquidity events, we utilized a probability weighted expected return method, or PWERM, to allocated our estimated enterprise value to our common stock for purposes of our July 31, 2013 and September 30, 2013 common stock valuations. The values derived under the income or discounted cash flow approach were first used to determine an initial estimated enterprise value. The initial estimated enterprise value was then subjected to the PWERM model which produced the per share value utilizing a probability-weighted scenarios analysis. The following scenarios were assumed:

- *Initial Public Offering*. Estimates the value based on an estimated initial public offering, or IPO, value discounted to the present value based on both risk and timing.
- *Sale of the Company.* Estimates the value assuming the sale of the entire enterprise, based on estimates of future value in a potential sale transaction discounted to the present value.
- *Private company*. Uses both the market comparable approach and the income approach to estimate the equity value as of the valuation date, and then allocates that value using the option pricing model, assuming that the company remains private for longer than in either of the previous scenarios.
- *Liquidation*. Assumes we are dissolved, in which case the book value less the applicable liquidation preferences represents the amount available to the holders of common stock.

Over time, as we achieve certain milestones, the probabilities, likely exit values in an initial public offering and sale of the company scenarios, and current value in the private company scenario are adjusted accordingly, with the probability of a successful exit such as an initial public offering or sale of the company increasing over time.

The July 2013 valuation used a risk-adjusted discount of 30%, a non-marketability discount of 12-16%, and an estimated time to liquidity event of 0.5 years to 3.0 years, with a weighted average time to exit estimated at 0.71 years. The risk-adjusted discount was estimated to be 30% due to the assumption is that we were in the "Bridge / IPO" stage of development per AICPA valuation methodologies since we have product revenue and achieved positive EBITDA in 2012. The unrelated third-party valuation analysis used the following probability weighted scenarios:

Scenario	Weight
IPO within 180 days	40%
Sale of the Company within 1 year	30%
Private Company	0%
Liquidation	30%

Based on these considerations, the third-party valuation suggested that the fair market value of our common stock was $2.08 per share as of July 31, 2013.

The September 2013 valuation used a risk-adjusted discount of 30%, a non-marketability discount of 12-16%, and an estimated time to liquidity event of 0.5 years to 3.0 years, with a weighted average time to exit estimated at 0.63 years. The risk-adjusted discount was estimated to be 30% due to the assumption is that we were in the "Bridge / IPO" stage of development per AICPA valuation methodologies since we have product revenue and achieved positive EBITDA in 2012. The unrelated third-party valuation analysis used the following probability weighted scenarios:

Scenario	Weight
IPO within 180 days	60%
Sale of the Company within 1 year	20%
Private Company	0%
Liquidation	20%

Based on these considerations, the third-party valuation suggested that the fair market value of our common stock was $2.79 per share as of September 30, 2013.

We believe that it is reasonable to expect that the completion of an initial public offering will add value to the shares of our

common stock because they will have increased liquidity and marketability. We believe that the estimates above are a reasonable description of the value that market participants would place on the common stock as of each valuation date. There is inherent uncertainty in these estimates and if we or the valuation firm had made different assumptions than those described above, the amount of our stock-based compensation expense, net loss and net loss per share amounts could have been significantly different.

Inventory and Rental Asset Valuation

Inventory consists of raw materials, certain component parts to be used in manufacturing our products and finished goods. Inventory is stated at the lower of cost or market. Cost is determined using a standard cost method, including material, labor, and manufacturing overhead, whereby the standard costs are updated periodically to reflect current costs and market represents the lower of replacement cost or estimated net realizable value. We record adjustments to inventory for potentially excess, obsolete, slow-moving or impaired items. The business environment in which we operate is subject to changes in technology and customer demand. We regularly review inventory for excess and obsolete products and components, taking into account product life cycle and development plans, product expiration and quality issues, historical experience and our current inventory levels. If actual market conditions are less favorable than anticipated, additional inventory adjustments could be required.

Rental assets are valued at standard cost to manufacture or purchase the product, including appropriate labor and overhead. Costs are reviewed regularly to confirm standard costs approximate actual costs. Rental assets are depreciated over the life of the asset, typically 18 months to 60 months. Rental asset disposals or losses are recorded at net book value in cost of revenue.

Accounts Receivable and Allowance for Bad Debts, Returns, and Adjustments

Accounts receivable are customer obligations due under normal sale terms. We perform continuing credit evaluations of the customers' financial condition and generally does not require collateral. The allowance for bad debts is maintained at a level that, in our opinion, is adequate to absorb potential losses related to account receivables. The allowance for bad debts is based upon our continuous evaluation of the collectability of outstanding receivables. Our evaluation takes into consideration such factors as past bad debt experience, economic conditions, and information about specific receivables. The allowance is based on estimates and ultimate losses may vary from current estimates. As adjustments to these estimates become necessary, they are reported in earnings in the periods that they become known. The allowance is increased by bad debt provisions charged to operating expense and reduced by direct write-offs, net of recoveries.

For DTC sales and rentals, the Company has two additional allowances: Allowance for sales returns associated with DTC sales, and allowance for adjustments associated with rentals. The allowance for sales returns is based on historical return rates under our 30-day trial program and the allowance for Medicare rentals is based on our evaluation of collection risks.

Included in accounts receivable are earned but unbilled receivables of $1.0 million at June 30, 2013 and $1.0 million at December 31, 2012. Delays in billing can occur between the date revenue is earned and when billing occurs due to delays in receiving the appropriate paperwork for each payor. Earned but unbilled receivables are aged from the date of service and are considered in our analysis of historical performance and collectability. A portion of revenue and related costs are deferred each month for monthly rental revenue based on the timing of the recurring billing and then recorded as revenue in the subsequent month.

Fair Value Measurements

Accounting Standards Codification (ASC) 820, Fair Value Measurements and Disclosures, creates a single definition of fair value, establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. ASC 820 emphasizes that fair value is a market-based measurement, not an entity-specific measurement, and states that a fair value measurement should be determined based on assumptions that market participants would use in pricing the asset or liability. Assets and liabilities adjusted to fair value in the balance sheet are categorized based upon the level of judgment associated with the inputs used to measure their fair value.

The warrant liability is marked to market each reporting date until the warrants are settled. The fair value of the warrant liability is estimated using a Monte Carlo option pricing model, which takes into consideration the market values of comparable public companies, considering among other factors, the use of multiples of earnings, and adjusted to reflect the restrictions on the ability of the company's securities to trade in an active market.

Income Taxes

We use the liability method of accounting for income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to the differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax basis. Deferred tax assets and liabilities are measured using enacted tax rates expected to be in effect when such assets and liabilities are recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the year that includes the enactment date. We determine deferred tax assets including net operating losses and liabilities, based on temporary differences between the book and tax bases of assets and liabilities. We believe that it is currently more likely than not that our deferred tax assets will not be realized, and as such, a full valuation allowance is required.

We utilize a two-step approach for evaluating uncertain tax positions. Step one, recognition, requires us to determine if the weight of available evidence indicates that a tax position is more likely than not to be sustained upon audit, including resolution of related appeals or litigation processes, if any. If a tax position is not considered "more likely than not" to be sustained, no benefits of the position are recognized. If we determine that a position is "more likely than not" to be sustained, then we proceed to step two, measurement, which is based on the largest amount of benefit which is more likely than not to be realized on effective settlement. This process involves estimating our actual current tax exposure, including assessing the risks associated with tax audits, together with assessing temporary differences resulting from the different treatment of items for tax and financial reporting purposes. If actual results differ from our estimates, our net operating loss and credit carryforwards could be materially impacted.

At December 31, 2012, we had federal net operating loss carryforwards, or NOLs, of approximately $62 million and federal research and experimentation credit carryforwards of approximately $0.6 million, which may be used to reduce future taxable income or offset income taxes due. These NOLs and credit carryforwards expire during the period 2022 through 2032.

Our realization of the benefits of the NOLs and credit carryforwards is dependent on sufficient taxable income in future fiscal years. We have established a valuation allowance against the carrying value of our deferred tax assets, as it is not currently more likely than not that we will be able to realize these deferred tax assets. In addition, utilization of NOLs and credits to offset future income subject to taxes may be subject to substantial annual limitations due to the "change in ownership" provisions of the Code and similar state provisions. We may have already experienced one or more ownership changes. Depending on the timing of any future utilization of our carryforwards, we may be limited as to the amount that can be utilized each year as a result of such previous ownership changes. However, we do not believe such limitations will cause our NOL and credit carryforwards to expire unutilized. We are in the process of determining whether this offering would constitute an ownership change resulting in further limitations on our ability to use our net operating loss and tax credit carryforwards. If an ownership change is deemed to have occurred as a result of this offering, potential near term utilization of these assets could be reduced.

We recognize interest and penalties on taxes, if any, within operations as income tax expense. No significant interest or penalties were recognized during the periods presented.

We operate in multiple states. The statute of limitations has expired for all tax years prior to 2009 for federal and 2008 to 2009 for various state tax purposes. However, the net operating loss generated on the federal and state tax returns in prior years may be subject to adjustments by the federal and state tax authorities.

We do not anticipate that the amount of our existing unrecognized tax benefits will significantly increase or decrease within the next 12 months. Due to the presence of NOLs in most jurisdictions, our tax years remain open for examination by taxing authorities back to the inception of the company.

Recent Accounting Pronouncements

We have reviewed recent accounting pronouncements and concluded that they are either not applicable to our business or that no material effect is expected on the financial statements as a result of future adoption.

As an “emerging growth company” the JOBS Act allows us to delay adoption of new or revised accounting pronouncements applicable to public companies until such pronouncements are made applicable to private companies. As a result, our financial statements may not be comparable to the financial statements of issuers who are required to comply with the effective dates for new or revised accounting standards that are applicable to public companies.

Internal Controls and Procedures

In connection with the audits of our financial statements for the years ended December 31, 2011 and 2012, we concluded that there were material weaknesses in our internal control over financial reporting. A material weakness is a significant deficiency, or a combination of significant deficiencies, in internal control over financial reporting such that it is reasonably possible that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis. The material weaknesses that we identified related to (1) a lack of sufficient staff to deal with the various rules and regulations with respect to financial reporting, (2) accounting for revenue recognition as it relates to properly recording deferred revenue, estimated earned but unbilled revenue and billing adjustments and (3) accounting for warranty revenue and cost recognition with regard to lifetime warranties. The lack of adequate staffing levels resulted in insufficient time spent on review and approval of certain information used to prepare our financial statements and the maintenance of effective controls to adequately monitor and review significant transactions for financial statement completeness and accuracy. These control deficiencies, although varying in severity, contributed to the material weaknesses in the control environment. If one or more material weaknesses persist or if we fail to establish and maintain effective internal control over financial reporting, our ability to accurately report our financial results could be adversely affected.

Although remediation efforts are still in progress, management is taking steps to remediate the material weakness in our internal control over financial reporting, including the implementation of new accounting processes and control procedures and the identification of gaps in our skills base and expertise of the staff required to meet the financial reporting requirements of a public company. We have hired and plan to hire additional accounting personnel who are degreed accountants, which has enabled us to expedite our month-end close process, thereby facilitating the timely preparation of financial reports and strengthen our segregation of duties.

We will be required, pursuant to Section 404(a) of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting for the year following our first annual report required to be filed with the SEC. This assessment will need to include disclosure of any material weaknesses identified by management over our internal control over financial reporting. However, our independent registered public accounting firm will not be required to report on the effectiveness of our internal control over financial reporting pursuant to Section 404(b) until the later of the year following our first annual report required to be filed with the SEC, or the date we are no longer an “emerging growth company” if we take advantage of the exemptions contained in the JOBS Act.

We are in the very early stages of the costly and challenging process of compiling the system and processing documentation necessary to perform the evaluation needed to comply with Section 404. We may not be able to complete our evaluation, testing or any required remediation in a timely fashion. During the evaluation and testing process, if we identify one or more material weaknesses in our internal control over financial reporting, we will be unable to assert that our internal controls are designed and operating effectively, which could result in a loss of investor confidence in the accuracy and completeness of our financial reports. This could cause the price of our common stock to decline, and we may be subject to investigation or sanctions by the SEC.

Off-Balance Sheet Arrangements

We do not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or for any other contractually narrow or limited purpose. However, from time to time we enter into certain types of contracts that contingently require us to indemnify parties against third-party claims including certain real estate leases, supply purchase agreements, and directors and officers. The terms of such obligations vary by contract and in most instances a maximum dollar amount is not explicitly stated therein. Generally, amounts under these contracts cannot by reasonably estimated until a specific claim is asserted thus no liabilities have been recorded for these obligations on our balance sheets for any of the periods presented.

Inflation

We experience pricing pressures in the form of continued reductions in reimbursement rates, particularly from governmental payors such as Medicare or Medicaid but also private payors. We can also be impacted by rising costs for certain inflation-sensitive operating expenses such as labor and employee benefits. However, we do not believe that inflation has had a material effect on our business, financial condition or results of operations. If our costs were to become subject to significant inflationary

pressures, we may not be able to fully offset such higher costs through price increases, especially in contracts where pricing is fixed over a specific period. Our inability or failure to do so could adversely affect our business, financial condition and results of operations.

Quantitative and Qualitative Disclosures about Market Risk

We are exposed to various market risks, including changes in commodity prices and interest rates. Market risk is the potential loss arising from adverse changes in market rates and prices. Prices for our products are denominated in U.S. dollars and, as a result, we do not face significant risk with respect to foreign currency exchange rates.

Interest Rate Fluctuation Risk

The principal market risk we face is interest rate risk. We had cash and cash equivalents of $14.2 million as of June 30, 2013, which consisted of highly-liquid investments with an original maturity of three months or less. The goals of our investment policy are liquidity and capital preservation; we do not enter into investments for trading or speculative purposes. We believe that we do not have any material exposure to changes in the fair value of these assets as a result of changes in interest rates due to the short term nature of our cash and cash equivalents. Declines in interest rates, however, would reduce future investment income. A 1% decline in interest rates, occurring on July 1, 2013 and sustained throughout the period ended June 30, 2014, would not be material.

As of June 30, 2013, the principal and accrued interest outstanding under our term borrowings was $8.0 million. The interest rates on our term borrowings under our revolving credit and term loan agreement are fixed. If overall interest rates had increased by 10% during the periods presented, our interest expense would not have been affected since our interest rates are fixed.

Foreign Currency Exchange Risk

To date, our international customer and distributor agreements have been denominated almost exclusively in U.S. dollars. Accordingly, we have limited exposure to foreign currency exchange rates. The effect of a 10% adverse change in exchange rates on foreign denominated cash, receivables and payables would not have been material for the periods presented. As our operations in countries outside of the United States grow, our results of operations and cash flows will be subject to fluctuations due to changes in foreign currency exchange rates, which could harm our business in the future. To date, we have not entered into any material foreign currency hedging contracts although we may do so in the future.

Business

Overview

We are a medical technology company that develops, manufactures and markets innovative portable oxygen concentrators, or POCs, used to deliver supplemental long-term oxygen therapy, or LTOT, to patients suffering from chronic respiratory conditions. Traditionally, these patients have relied on stationary oxygen concentrator systems for use in the home and oxygen tanks or cylinders for mobile use, which we call the delivery model. The tanks and cylinders must be delivered regularly and have a finite amount of oxygen, which requires patients to plan activities outside of their homes around delivery schedules and a finite oxygen supply. Additionally, patients must attach long, cumbersome tubing to their stationary concentrators simply to enable mobility within their homes. Our proprietary Inogen One systems concentrate the air around the patient to offer a single source of supplemental oxygen anytime, anywhere with a portable device weighing approximately 4.8 or 7.1 pounds. Our systems eliminate the patient's reliance on stationary concentrators and scheduled deliveries of tanks with a finite supply of oxygen, thereby improving patient quality of life and fostering mobility.

Although POCs represent the fastest-growing segment of the oxygen therapy market, Medicare claims data suggest that patients using POCs represent approximately 3% to 4% of the total addressable oxygen market in the United States. Based on 2012 data, we are the leading worldwide manufacturer of POCs, as well as the largest provider of POCs to Medicare patients, as measured by dollar volume. We believe we are the only POC manufacturer that employs a direct-to-consumer, or DTC, strategy in the United States, meaning we market our products to patients, process their physician paperwork, provide clinical support as needed and bill Medicare or insurance on their behalf. To pursue a DTC strategy, our manufacturing competitors would need to meet national accreditation and state-by-state licensing requirements and secure Medicare billing privileges, as well as compete with the home medical equipment, or HME, providers that many rely on across their entire homecare business.

We believe our DTC strategy has been critical to driving patient adoption of our technology. Our POC manufacturing competitors access patients through HME providers that we believe are disincentivized to encourage POC adoption. In order to facilitate the regular delivery and pickup of oxygen tanks, HME providers have invested in geographically dispersed distribution infrastructure consisting of delivery vehicles, physical locations and delivery personnel within each area. Because POC technology eliminates the need for a physical distribution infrastructure, but has higher initial equipment costs than the delivery model, we believe converting to a POC model would require significant restructuring and capital investment for HME providers. Our DTC marketing strategy allows us to sidestep the HME channel, appeal to patients directly and capture both the manufacturing and provider margin associated with LTOT. We believe our ability to capture this top-to-bottom margin, combined with our POC technology that eliminates the need for the service and infrastructure costs associated with the delivery model, gives us a cost structure advantage over our competitors.

Since adopting our DTC strategy in 2009, we have directly sold or rented our Inogen One systems to more than 40,000 patients, growing our revenue from $10.7 million in 2009 to $48.6 million in 2012. In 2012, 27.6% of our revenue came from our international markets and 40.9% of our revenue came from oxygen rentals. Our percentage of rental revenue increased from 35.8% in 2011, increasing our proportion of recurring revenue. Additionally, we have increased our gross margin from 48.0% in 2011 to 49.3% in 2012 by increasing rental mix, improving system reliability, reducing material cost per system and lowering overhead cost per system. We achieved positive income from operations in 2012.

Our Market

Overview of oxygen therapy market

We believe the current addressable oxygen therapy market in the United States is approximately $4.0 billion, based on 2011 Medicare data and our estimate of the ratio of the Medicare market to the total market. Currently, approximately 3 million patients in the United States and 5 million patients worldwide use oxygen therapy, and more than 60% of oxygen therapy patients in the United States are covered by Medicare. The number of oxygen therapy patients in the United States is projected to grow by approximately 7% to 10% per year, which we believe is the result of earlier diagnosis of chronic respiratory conditions, demographic trends and longer durations of LTOT.

LTOT is used by patients with a variety of respiratory conditions that suffer from hypoxemia, a condition in which patients have insufficient oxygen in the blood. Hypoxemic patients are unable to convert oxygen found in the air into the bloodstream in an efficient manner. Sufficient oxygen in the blood is critical for healthy organ function. Air contains approximately 21% oxygen, which is sufficient to supply individuals with normal lung function, but for individuals suffering from hypoxemia, a high-purity oxygen stream, typically 85% to 99% pure, is used to supplement regular air to compensate for the inefficiencies of the lungs. A variety of conditions can cause breathing-related problems that lead to impaired lung function, including chronic obstructive pulmonary disease, or COPD, congestive heart failure and pulmonary fibrosis. COPD refers to a group of diseases including emphysema and chronic bronchitis, and is generally associated with long term tobacco use. Approximately 70% of our patient population has been diagnosed with COPD, which we believe is reflective of the LTOT market in general.

LTOT has been shown to be a cost-efficient and clinically effective means to treat hypoxemia. For example, the cost of one year of home oxygen therapy costs less than one day in the hospital. Increasing emphasis on early diagnosis and more intensive management of respiratory conditions is driving increased diagnosis rates of COPD and other conditions that lead to hypoxemia. Industry sources estimate that 24 million people in the United States have COPD, and one-half are undiagnosed. We believe the increased emphasis on early diagnosis of respiratory conditions and awareness of the benefits of oxygen therapy will continue to drive growth in the oxygen therapy patient population.

Treatment alternatives

Currently, an estimated 66% of U.S. oxygen users require ambulatory oxygen and the remaining 34% require only stationary or nocturnal oxygen. Clinical data has shown that ambulatory patients that use oxygen twenty-four hours a day, seven days a week, or 24/7, have approximately two times the survival rate and spend at least 60% fewer days annually in the hospital than non-ambulatory 24/7 patients. Of the ambulatory patients, we estimate that approximately 85% rely upon the delivery model that has the following disadvantages:

- limited flexibility outside the home, dictated by the finite oxygen supply provided by tanks and cylinders and dependence on delivery schedules;
- restricted mobility and inconvenience within the home, as patients must attach long, cumbersome tubing to a noisy stationary concentrator to move within their homes;
- products are not cleared for use on commercial aircraft and cannot plug into a vehicle outlet for extended use; and
- high costs driven by the infrastructure necessary to establish a geographically diverse distribution network to serve patients locally, as well as personnel, fuel and other costs, which have limited economies of scale and generally increase over time.

The drawbacks of the delivery model and stationary concentrator systems have led to the emergence of a variety of oxygen therapy solutions, including home transfill systems, and most recently, POCs. Home transfill systems attach to a stationary machine and allow patients to refill oxygen canisters at home, eliminating the need for deliveries but not the finite oxygen supply contraints or the need to use a bulky, noisy stationary concentrator in the home. POCs were developed in response to many of the limitations associated with traditional oxygen therapy and other sources. POCs are designed to offer a self-replenishing, unlimited supply of oxygen that is concentrated from the surrounding air and operate without the need for oxygen tanks or regular oxygen deliveries. With the exception of POCs, we believe that none of the currently available oxygen therapy alternatives fully eliminate both the delivery and finite supply constraints that impede a patient's travel and mobility. The following table summarizes the current oxygen therapy alternatives.

Oxygen therapy solutions comparison

	Solutions	Approximate Weight (product)	Eliminates delivery	Ambulatory	Unlimited supply out of house	Enables Travel*
Stationary	Stationary concentrators	30–55 lbs	✓	✗	✗	✗
Ambulatory	Portable cylinders + Stationary concentrator	4–18 lbs (cylinder) 30–55 lbs (concentrator)	✗	✓	✗	✗
	Liquid oxygen systems	4–8 lbs (canister) >100 lbs (reservoir)	✗	✓	✗	✗
	Home Transfill systems	4–18 lbs (cylinder) 20–45 lbs (compressor) 30–55 lbs (concentrator)	✓	✓	✗	✗
	Single-solution POCs	5–20 lbs	✓	✓	✓	✓

* Cleared for use on commercial aircraft and can plug into a car outlet for extended use

By freeing patients from having to plan their activities around oxygen supply and deliveries, POCs allow patients to enhance their independence and mobility. Additionally, because POCs do not require the physical infrastructure and service intensity of the delivery model, we believe POCs can provide oxygen therapy with a lower cost structure. As a result, we believe POC technology is well suited for Medicare's competitive bidding program, which is designed to reduce and control Medicare expenditures on select medical supplies used in the home, such as oxygen therapy, sleep apnea products, diabetic infusion supplies and other equipment. This program requires providers to compete on the price they can receive for servicing Medicare beneficiaries.

Despite the ability of POCs to address many of the shortcomings of traditional oxygen therapy, we estimate patients with POCs represent approximately 3% to 4% of total oxygen therapy spend, according to 2011 Medicare data. We believe the following has hindered the market acceptance of POCs:

- *To obtain POCs, patients are dependent on HME providers, which have made investments in the physical distribution infrastructure to support the delivery model.* In order to provide oxygen therapy using the delivery model, most HME providers have made significant investments in fleets of delivery vehicles, personnel, and physical locations required to provide traditional oxygen therapy and other homecare products in local markets. As a result, HME providers are somewhat disincentivized to drive patients to adopt POCs, which do not require physical infrastructure but require higher upfront equipment costs.
- *Manufacturing cost of conventional POCs is constrained by manufacturer reliance on HME channel.*In order to incentivize third-party HME providers to represent them, other POC manufacturers have to compete not only against POCs, but also against other oxygen solutions that are highly commoditized, such as oxygen tanks, home transfill, liquid oxygen and stationary concentrators. Additionally, these POC manufacturers have to share the resulting top-to-bottom margin with the distribution channel. As a result, these POC manufacturers have been particularly focused on constraining manufacturing costs in order to enable them to compete effectively within the HME market.
- *Limitations of conventional POCs.* We believe POCs have historically suffered from a reputation as being bulky, unreliable, impractical, and suitable only for intermittent or travel use. The 5th Consensus Conference on Oxygen recommended that ambulatory oxygen products weigh less than 10 pounds. While in recent years several other manufacturers have introduced sub-10 pound POCs, we believe that none are explicitly designed to provide a single oxygen solution for the patient's regular oxygen needs, and patients must generally use conventional POCs for intermittent or travel purposes or with a stationary concentrator in the home. We believe this is because many other sub-10 pound POCs on the market lack the durability and clinical validation to be used 24/7.

In spite of the HME channel resistance to POCs and the limitations of conventional POCs, patients continue to demand POCs. According to Medicare data, the number of patients using POCs grew by 109% from 2010 to 2012. As patients bear more of their healthcare cost and become more involved in their own healthcare decisions, we believe they will continue to demand POCs in increasingly greater numbers, especially as the traditional technological and channel limitations break down.

Our Solution

Our Inogen One systems provide patients who require LTOT with a reliable, lightweight single solution product that improves quality-of-life, fosters mobility and eliminates dependence on both oxygen tanks and cylinders as well as stationary concentrators. We believe our DTC strategy increases our ability to effectively develop, design and market our Inogen One solutions, as it allows us to:

- drive patient awareness of our POC solutions through direct marketing, sidestepping the HME channel that other manufacturers rely upon across their homecare businesses and that is incentivized to continue to service oxygen patients through the delivery model;

- capture the manufacturer and HME margin, allowing us to focus on the total cost of the solution and to invest in the development of product features instead of being constrained by the price required to attract representation from a distribution channel. For example, we have invested in features that improve patient satisfaction, product durability, reliability and longevity, which increase the cost of our hardware, but reduce the total cost of our solution by reducing our maintenance and repair cost; and
- access and utilize direct patient feedback in our research and development efforts, allowing us to innovate based on this feedback and stay at the forefront of patient preference. For example, we have integrated a double battery into our product offering based on direct patient feedback.

We believe the combination of our DTC strategy with our singular focus on designing and developing oxygen concentrator technology has created the best-in-class portfolio of POCs. Our two product offerings, the Inogen One G3 and Inogen One G2, at approximately 4.8 and 7.1 pounds, respectively, are amongst the most lightweight POCs on the market. We believe our Inogen One solutions offer the following benefits as compared to conventional lightweight POCs:

- *Single solution for home, ambulatory, travel and nocturnal treatment.*We believe our Inogen One solutions are the only POCs marketed as a single solution, by which we mean a patient can use our Inogen One systems as their only supplemental oxygen source with no need to also use a stationary concentrator regularly. Our compressors are specifically designed to enable our patients to run our POCs 24/7.
- *Reliability.* We have made reliability a priority and have improved reliability with each generation. Reliability is not only critical to patient satisfaction, but also cost management, as our minimal physical infrastructure makes product exchanges more costly to us than providers with greater local physical infrastructure.
- *Clinical validation for nocturnal use.* We have clinically validated our Intelligent Delivery Technology, which enables our POCs to provide consistent levels of oxygen during sleep despite decreased respiratory rates, allowing our systems to be used at night. We are not aware of any other POC manufacturer that has clinically validated their technology for nocturnal use.
- *Unparalleled flow capacity.* Our 4.8 pound Inogen One G3 has at least 50% more flow capacity than other sub-5 pound POCs, and our 7.1 pound Inogen One G2 has at least 15% more flow capacity than other sub-10 pound POCs.
- *User-friendly features*. Our systems are designed with multiple user friendly features, including long battery life and low noise-levels in their respective weight categories.

Our Strengths

We believe our products and business model position us well to compete not only against other oxygen device manufacturers, but also to increase our share of the overall oxygen therapy market. We believe we have the following advantages relative to both traditional oxygen therapy providers and other oxygen device manufacturers:

- *Cost-efficient model.* Following the implementation of round two of Medicare's competitive bidding program in July 2013, the average monthly reimbursement rate for oxygen delivery in regions covered by round two is $113. We estimate that the aggregate cost of the delivery model, including delivery costs, costs of oxygen fill and costs of the concentrater and tanks, could be as high as $107 per month, which includes an estimated $73 per month for delivery. As a result of the limited reimbursement amount, providers have a small remaining margin to cover additional costs associated with providing customer service and billing. We believe our POC technology and DTC strategy allow us to provide our solutions through a more efficient cost structure. Following the last round of competitive bidding, we retained access to approximately 90% of the U.S. LTOT market, with the majority in contracts through mid-2016, while many regional and local delivery providers were priced out of this market.
- *Direct-to-consumer capabilities*. We believe our DTC strategy enables patient access and retention as well as innovation and investment in our product portfolio. To pursue a DTC strategy, our manufacturing competitors would need to meet national accreditation and state-by-state licensing requirements and secure Medicare billing privileges. In doing so, many of these manufacturers risk negative reaction from the HME providers that sell their other homecare products, such as sleep apnea and mobility products, which generally represent significantly larger portions of their businesses than oxygen therapy products.
- *Commitment to customer service.* We are focused on providing our patients the highest quality of customer service. We guide them through the reimbursement and physician paperwork process, perform clinical titration and offer 24/7 telephone support, which includes clinical support as required. We believe our focus on customer service has helped drive our sustained patient satisfaction rating of approximately 95%, as measured by our customer satisfaction surveys.
- *Patient-friendly, single-solution, sub-5 and sub-10 pound POCs.*We believe our current product offerings, Inogen One G3 and Inogen One G2, are the only sub-5 and sub-10 pound single-solution POCs on the market today, meaning patients can use our Inogen One systems 24/7 without regular or nocturnal use of a stationary concentrator. Additionally, we believe our products provide a unique combination of durability and reliability, ease-of-use and other user friendly-features.
- *Commitment to research and development and developing intellectual property portfolio*. We have 22 issued U.S. patents, 1 issued Canadian patent and 6 pending U.S. patent applications covering the design and construction of our oxygen concentrators and system optimization. Additionally, we have invested significantly in research and development and have a robust product pipeline of next-generation oxygen concentrators.
- *Management team with proven track record and cost focus*. Our management team has built our DTC capabilities and launched our two current primary product offerings, Inogen One G2 and Inogen One G3. We continue to realize meaningful product manufacturing cost savings of approximately 36% from our Inogen One G1 to our Inogen One G3 as a result of management's improvements in design, sourcing and reliability, as well as higher production volumes.
- *Revenue growth, profitability and recurring revenue*. We have grown our revenue from $10.7 million in 2009 to $48.6 million in 2012, representing a year-over-year growth rate of 58.8%. We achieved positive income from operations in 2012, and our recurring rental revenue represented 40.9% of sales in 2012.

Our Strategy

Our goal is to design, build and market oxygen solutions that redefine how oxygen therapy is delivered. To accomplish this goal, we will continue to invest in our product offerings and our commercial infrastructure to:

- *Expand our sales and marketing channels.* We plan to continue to expand our DTC efforts and invest in advertising as well as internal and physician-based salespeople, as we have been able to drive growth through these investments historically. We intend to invest in additional distribution, particularly in our international markets.
- *Develop innovative products.* We intend to continue to invest in research and development to stay at the forefront of innovation and patient preference. Our product pipeline includes a stationary concentrator and a fourth-generation POC. The stationary concentrator, which we are calling Inogen At Home and expect to launch in 2014, will allow us to access the non-ambulatory patient group and serve as an emergency backup for our Inogen One patients. The fourth-generation POC will be an ultra-lightweight POC and we expect to launch this in the next several years.
- *Secure contracts with health care payors and insurers.* We are actively pursuing additional private payor and Medicaid contracts. Based on our patient population, at least 30% of our home oxygen therapy patients have non-Medicare coverage, and we believe these patients represent a younger and more active patient population that will be drawn to the quality-of-life benefits of our solution. By increasing the number of private payors for which we are an in-network provider, we believe we can expand oxygen patient access to our products and services at more favorable in-network terms.
- *Focus on cost reduction through scalable manufacturing, reliability improvements, asset utilization and service cost reduction.* Close interaction between our design engineering, manufacturing and materials teams has resulted in numerous design improvements that have enabled us to cut our material and labor costs by approximately 36% from our Inogen One G1 to our Inogen One G3. We intend to continue to reduce our cost basis through scalable manufacturing, better sourcing, continuous innovation and reliability improvements, as well as innovations that reduce our product service costs by minimizing exchanges, such as user-replaceable batteries and oxygen filtration cartridges.

Our Inogen One Systems

We believe our current product offerings, the Inogen One G3 and the Inogen One G2, are the only sub-10 pound single solutions on the market today, meaning they can be run 24/7 without supplemental use of a stationary concentrator by the patient. Our Inogen One systems are marketed as providing patients with “Oxygen. Anytime. Anywhere.” The following table summarizes our key product features:

Key Product Specifications

	Inogen One G3	Inogen One G2
Capacity (ml/min)	840	1,260
Weight (lbs)	4.8 (single battery) 5.8 (double battery)	7.1 (single battery) 8.4 (double battery)
Battery run-time	Up to 4.5 hours (single battery) Up to 9.0 hours (double battery)	Up to 5.5 hours (single battery) Up to 11.0 hours (double battery)
Maintenance prevention advantages	User replaceable oxygen filtration cartridges & battery	Air dryer & user replaceable battery
Technology clinically validated for overnight use	Yes	Yes
Sound	42 dBA	37 dBA

We have focused our research and development efforts on creating solutions that we believe have overcome the reputation of POCs as being limited in durability and reliability as well as unsuitable for nighttime or 24/7 use. We specifically designed our compressors for 24/7 use. We have worked to improve our reliability and reduce service costs by equipping our POCs with features such as membrane air dryers and user replaceable filtration cartridges.

All of our Inogen One systems are equipped with Intelligent Delivery Technology, a form of pulse-dose technology from which the patient receives a bolus of oxygen upon inhalation. Pulse dose technology was developed to extend the number of hours an oxygen tank would last and is generally used on all ambulatory oxygen therapy devices. Our proprietary conserver technology utilizes differentiated triggering sensitivity to quickly detect a breath and ensure oxygen delivery within the first 400 milliseconds of inspiration, the interval when oxygen has the most effect on lung gas exchange. During periods of sleep, respiratory rates typically decrease. Our Inogen One systems actively respond to this changing physiology through the use of proprietary technology that increases bolus size. We have clinically validated our Intelligent Delivery Technology in five published, peer-reviewed clinical studies, and we have demonstrated levels of blood oxygen saturation during sleep and all other periods of rest and activity that are substantially equivalent to continuous flow systems.

The Inogen One G3, our next-generation product, is among the most lightweight products on the market with substantially higher oxygen production capabilities than the other sub-5 pound POCs on the market. We believe the performance parameters around the Inogen One G3 and Inogen One G2 allow us to serve approximately 95% of the ambulatory oxygen patients and enable us to address a patient's particular clinical needs, as well as lifestyle and performance preferences.

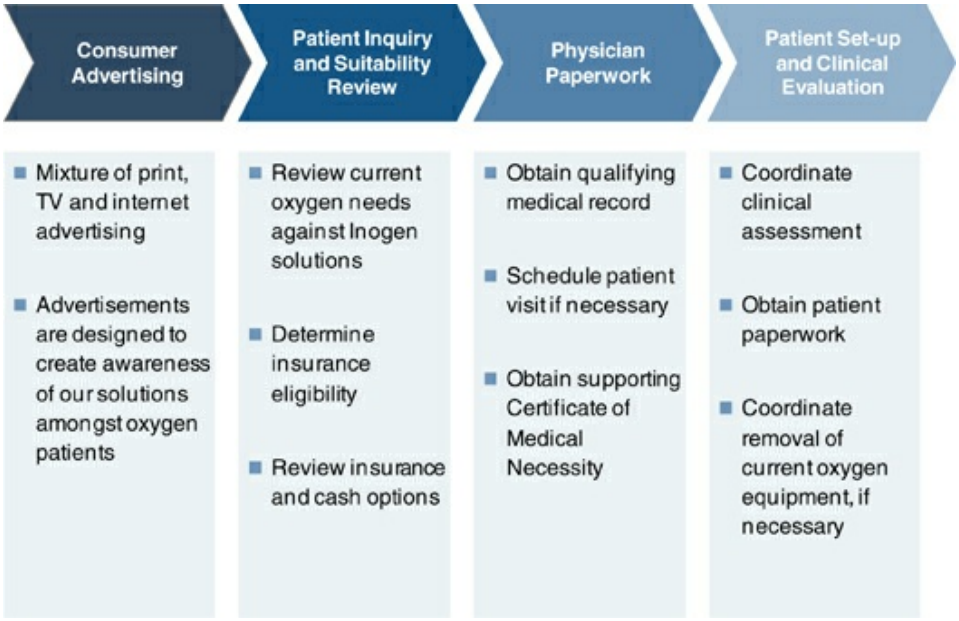
Our DTC business model has enabled us to receive direct patient feedback, and we have used this feedback to create POCs that address the full suite of features and benefits critical to patient preference and retention. Our products prevent patients from having to choose between lightweight size, suitability for 24/7 use, reliability, and key features such as battery life, flow and reduced noise levels.

Sales and marketing

Our DTC sales and marketing efforts are focused on generating awareness and demand for our Inogen One systems among patients, physicians and other clinicians, and third-party payors. In the United States, we employ a marketing team of seven people, an in-house sales team of 116 people, and a field-based sales force of nine people. Of the $34.6 million of our 2012 revenue derived from the United States, approximately 57% represented direct-to-patient rentals through Medicare or private insurance, 26% represented cash pay sales to patients and 17% represented sales to third-party HME providers.

Our Medicare and private insurance patients rent our systems, while a portion of our patients choose to pay cash for our Inogen One solutions. Our ability to rent to patients directly, bill third-party payors on their behalf, and service patients in their homes requires that we hold a valid Medicare supplier number, are accredited by an independent agency approved by Medicare, and comply with the unique licensure and process requirements in the 49 states in which we serve patients.

We use a variety of DTC marketing strategies to generate interest in our solutions among current oxygen therapy patients. After a patient contacts us, we guide them through product selection and insurance eligibility, and, if they choose to move forward, process the necessary reimbursement and physician paperwork on their behalf, as well as coordinate the shipping, instruction, and clinical setup process. In accordance with Medicare regulations we do not initially contact patients directly and contact them only upon an inbound inquiry. The below chart describes our United States DTC sales process.



In addition to the DTC sales model, we are increasingly utilizing a physician referral model as a complementary sales method. Under this model, our field sales representatives work with physicians in the representative's territory to help physicians understand our products and the value these products provide for patients. We believe that by educating physicians on our products, we can cost-effectively supplement our DTC sales and capture a greater number of patients earlier in the course of their oxygen therapy.

We engage in a number of other initiatives to increase awareness, demand, and orders for Inogen One systems. These include attendance at oxygen therapy support groups, guest speaking arrangements at trade shows, and product demonstrations as requested. Additionally, we are targeting private payors to become an in-network provider of oxygen therapy solutions, which we expect will reduce or eliminate any additional patient co-pay associated with using our solution. We believe this will result in both increased conversion of our initial leads, as well as direct referrals from insurance companies in some cases.

International

Approximately 28% of our sales were from outside the United States in 2012. We sell our products in 41 countries outside the United States through distributors or directly to large "house" accounts, which include gas companies and home oxygen providers. In this case, we sell to and bill the distributor or "house" accounts directly, leaving the patient billing, support, and clinical setup to the local provider. We have three people who focus on selling our products to distributors and "house" accounts. In fiscal year 2012, an international distributor accounted for 12% of our revenue, however this distributor accounts for less than 10% of our revenue as of June 30, 2013.

International sales have been a rapidly growing portion of our business, and we estimate there are 2 million LTOT patients outside of the United States. We believe that the international market is attractive for the following reasons:

- More favorable reimbursement in certain countries, including France and the United Kingdom, where POCs receive more favorable reimbursement than in the United States.
- Less developed oxygen delivery infrastructure in some countries. We believe that some countries outside the United States have less developed oxygen delivery infrastructure than in the United States. As a result, POCs enable providers to reach and service patients they cannot economically reach with the delivery model.
- An absence of reimbursement for any ambulatory oxygen therapy modalities in some countries, resulting in patients bearing all of the cost of ambulatory oxygen therapy and therefore becoming more involved in the selection of the modality. In Australia, for example, patients shoulder the burden of all costs associated with ambulatory oxygen therapy. In these cases, they tend to choose products like POCs that provide a higher level of personal freedom.

We will continue to focus on building out our international sales efforts.

Customer support and order fulfillment

Our procedures enable us to package and ship a system directly to the patient in the patient's preferred configuration the same day the order is received. This enables us to minimize the amount of finished goods inventory we keep on hand. Our primary logistics partner is United Parcel Service, or UPS. UPS supports both our domestic and international shipments and provides additional services that support our DTC oxygen therapy program. The UPS pick up service is used to retrieve patient paperwork, products requiring repair and systems that are no longer needed by the patient. Additionally, UPS, when necessary and requested by us, will go into a patient's home to remove a replacement product from the box, box the failed device and return it to us. In this manner, we are able to operate as a remote provider while maintaining the level of customer service of a local oxygen therapy provider.

We believe it is crucial to provide patients with the highest quality customer support to achieve satisfaction with our products and optimal outcomes. We have a dedicated client service team of 20 people who are trained on our products, a clinical support team of 18 people who are licensed nurses or respiratory therapists, and a dedicated billing services team of 48 people. We provide our patients with a dedicated 24/7 hotline that is only given to our Inogen One patients and is not published publicly. Via the hotline, patients have direct access to our client services representatives, who can handle product-related questions. Additionally, clinical staff is on call 24/7 and available to patients whenever either the patient or the client services representative deems appropriate. Our dedicated billing services team is available to answer patient questions regarding invoicing, reimbursement, and account status during normal business hours. We receive no additional reimbursement for patient support, but provide high-quality customer service to enhance patient comfort, satisfaction, compliance, and safety with our products. We believe our focus on providing the highest level of customer service has helped drive our sustained patient satisfaction rating of approximately 95%.

Third-Party Reimbursement

Medicare or private insurance rentals represented approximately 40.9% of our revenue in 2012. In cases where we rent our oxygen therapy solutions directly to patients, we bill third-party payors, such as Medicare or private insurance, for monthly rentals on behalf of our patients. We process and coordinate all physician paperwork necessary for reimbursement of our solutions. A common medical criterion for oxygen therapy reimbursement is insufficient blood oxygen saturation level. Our team in sales and sales administration are trained on how to verify benefits, review medical records and process physician paperwork. Additionally, an independent internal review is performed and our products are not deployed until after physician paperwork is processed and reimbursement eligibility is verified and communicated to the patient. As of September 30, 2013, our sales and sales administration consisted of 134 people.

We are authorized by Medicare to bill for oxygen therapy, and we believe that more than 60% of oxygen therapy patients have Medicare coverage. Our Inogen One systems are reimbursed under HCPCS codes E1390 and E1392. E1390 covers stationary/nocturnal oxygen therapy systems, while E1392 provides additional reimbursement for POCs for the treatment of ambulatory patients. Currently, Medicare reimburses oxygen therapy as a monthly rental for up to 36 months. We retain equipment ownership at all times with no recourse. After 36 months, payment is “capped,” meaning the monthly payment amounts are discontinued. After five years or another qualifying event, the patient is eligible for replacement equipment and a new capped rental period.

As of January 1, 2011, Medicare has phased in a program called competitive bidding. Competitive bidding impacts the amount Medicare pays suppliers for durable medical equipment, including POCs. The program is defined geographically, with suppliers submitting bids to provide medical equipment for a specific product category within that geography. Once bids have been placed, an individual company’s bids across products within the category are aggregated and weighted by each product’s market share in the category. The weighted average price is then indexed against competitors. Medicare determines a “clearing price” out of these weighted average prices at which sufficient suppliers have indicated they will support patients in the category, and this threshold is typically designed to have theoretical supply two times greater than expected demand. Bids for each modality among the suppliers that made the cut are then arrayed to determine what Medicare will reimburse for each product category. The program has strict anti-collusion guidelines to ensure bidding is truly competitive. Competitive bidding contracts last three years once implemented, after which they are subject to re-bidding or competitive bidding re-compete.

The competitive bidding program effectively reduces the number of oxygen suppliers that can participate in the Medicare program. We believe that more than 75% of existing oxygen suppliers were eliminated in round one of competitive bidding implemented January 1, 2011 in 9 U.S. MSAs. Round two of competitive bidding was implemented July 1, 2013 in 91 U.S. MSAs and we believe the impact on the number of oxygen suppliers will be similar when released. Combined with the round one of competitive bidding, we believe that approximately 59% of the market was covered by round one and two. The following table sets forth the current standard Medicare reimbursement rates and the weighted average of reimbursement rates applicable in MSAs covered by rounds one and two of competitive bidding:

	Medicare Standard Allowable	Round 1 Weighted Average 1/1/11-12/11/13	Round 2 Weighted Average 7/1/13-6/30/16	Round 1 Recompete Weighted Average 1/1/14-12/31/16
E1390	$ 177.36	$ 116.16	$ 93.10	$ 95.74
E1392	51.63	41.89	42.69	38.08
Total	$ 228.99	$ 158.05	$ 135.79	$ 133.82
% of Standard		69%	59%	58%

As of September 30, 2013, we had contracts with 31 non-Medicare payors. These contracts enable us to become an in-network provider for these payors, which enables patients to use our systems at the same cost as other in-network solutions, including the delivery model. Based on our patient population, we believe non-Medicare payors represent at least 30% of all oxygen therapy patients. We believe that private payor reimbursement levels will generally be reset in accordance with Medicare reimbursement level determined by competitive bidding.

We cannot predict the extent to which reimbursement for our products will be affected by competitive bidding or by initiatives to reduce costs for private payors. The unavailability of third-party coverage or inadequacy of reimbursement for our current or future products would adversely affect our business, financial conditions, and results of operations.

Manufacturing

We have been developing and refining the manufacturing of our Inogen One systems over the past eight years. While nearly all of our manufacturing and assembly process was originally outsourced, assembly of the manifold, compressor, sieve bed and concentrator is now conducted in-house in order to improve quality control and reduce cost. Additionally, we use lean manufacturing practices to maximize our manufacturing efficiency. Bringing manufacturing and assembly largely in-house, combined with our consistent focus on driving efficient manufacturing processes, has enabled us to reduce our cost of revenue per system by 36% over the past four years.

We rely on third party manufacturers to supply several components of our Inogen One systems. We typically enter into supply agreements for these components that specify quantity, quality requirements, and delivery terms, which, in certain cases, can be terminated by either party upon relatively short notice. We have elected to source certain key components from single sources of supply, including our batteries, bearings, carry bags, motors, pistons, valves, and molded plastic components. While alternative sources of supply are readily available for these components, we believe that maintaining a single-source of supply allows us to control production costs and inventory levels, and to manage component quality. In order to mitigate against the risks related to a single-source of supply, we qualify alternative suppliers and develop contingency plans for responding to disruptions. If any single-source supplier were no longer able to supply a component, we believe we would be able to promptly and cost-effectively switch to an alternative supplier without a significant disruption to our business and operations. We have adopted additional contingency plans to protect against an immediate disruption in supply of our battery and motor components, and any potential delay that may result from a switch to a new supplier. These contingency plans include our own inventory management, along with a requirement that each supplier maintains specified quantities of inventory in multiple locations, and our maintenance of back-up tooling that can easily be transferred to the new supplier. We believe that these contingency plans would limit any disruption to our business in the event of an immediate termination of either our battery or motor supply.

We currently manufacture in two leased buildings in Goleta, California and Richardson, Texas, which we have registered with the FDA and for which have obtained ISO 13485 certification. The Goleta, California facility is approximately 39,000 square feet

The Richardson, Texas facility is approximately 31,000 square feet. Because we have two separate manufacturing facilities, in the event one facility is incapacitated, the other facility will enable us to continue manufacturing our products to meet our current level of demand. We believe we have sufficient capacity to meet anticipated demand.

Our entire organization is responsible for quality management. Our Quality Assurance department oversees this by tracking component, device and organization performance and by training team members outside the Quality Assurance department to become competent users of our Quality Management system. By measuring component performance, communicating daily with the production group and our suppliers, and reviewing customer complaints, our Quality Assurance department, through the use of our corrective action program, drives and documents continuous performance improvement of our suppliers and internal departments. Our Quality Assurance department also trains internal auditors to audit our adherence to the Quality Management system. Our Quality Management system has been certified to International Standards Organization, or ISO, 13485:2012 by Intertek, a Notified Body to ISO.

As a medical device manufacturer, our manufacturing facilities are subject to periodic inspection by the FDA and certain corresponding state agencies. We have been audited twice since April 2012 by the FDA and found to be in compliance with Good Manufacturing Practices guidelines. We have completed two surveillance audits by our notifying body over the same period and identified one minor non-conformance, which is currently being addressed through implementation of new training software. Additionally, we have had two unannounced inspections by state inspectors from California and Texas within the past year and were determined to be in complete compliance with state health and safety requirements.

As of September 30, 2013, we had approximately 75 employees in operations, manufacturing and quality assurance.

Research and Development

We are committed to ongoing research and development to stay at the forefront of patient preference in the oxygen concentrator field. As of September 30, 2013, our research and development staff included 17 engineers and scientists with expertise in air separation, compressors, pneumatics, electronics, embedded software, mechanical design, sensors and manufacturing technologies. Our current research and development efforts are focused primarily on increasing functionality, improving design for ease-of-use, and reducing production costs of our Inogen One systems, as well as development of our next-generation oxygen concentrators. Over the last 3 fiscal years, Inogen has invested over $5 million to efficiently bring two new generations of POCs to market, leveraging our 23 issued patents, while also reducing the bill of product costs 36% from the original Inogen One G1.

Utilizing lean product development methodologies, we have released three generations of disruptive products over the last 10 years, including our Inogen One G1 in October 2004, our Inogen One G2 in March 2010, and our Inogen One G3 in September 2012. Our dedication to continuous improvement has also resulted in three mid-cycle product updates and numerous incremental improvements. Development projects utilize a combination of rapid prototyping and accelerated life testing methods to ensure products are taken from concept to commercialization in a fast and capital efficient manner. We leverage our direct patient expertise to rapidly gain insight from end users and to identify areas of innovation that lead to higher-quality products and lower total cost of ownership for its products.

Our product pipeline consists of both a stationary concentrator and a fourth generation, ultralightweight POC. The stationary concentrator, which we are calling Inogen At Home, will allow us to access non-ambulatory patients and will serve as a backup to our Inogen One patients. We expect to commercialize Inogen At Home in 2014. Our fourth-generation POC will be smaller and lighter than our Inogen One G3 and we expect to commercialize this product in the next several years. Additionally, we continue to focus our efforts on other design and functionality improvements that enhance patient quality of life.

Competition

The oxygen therapy market is a highly competitive industry. We compete with a number of manufacturers and distributors of POCs, as well as providers of other oxygen therapy solutions such as home delivery of oxygen tanks, or cylinders.

Our significant manufacturing competitors are Invacare Corporation, Respironics (a subsidiary of Koninklijke Philips N.V.), AirSep Corporation and SeQual Technologies (subsidiaries of Chart Industries, Inc.), Inova Labs, Inc. and DeVilbiss Healthcare. Given the relatively low barriers to entry in the oxygen therapy device manufacturing market, we expect that the industry will become increasingly competitive in the future. Manufacturing companies compete for sales to providers primarily on the basis of product features, service and price. We believe our manufacturing competitors' complete reliance on HME distribution compresses their margins and limits their ability to invest in product features that address consumer preferences. To pursue a DTC strategy, our manufacturing competitors would need to meet national accreditation and state-by-state licensing requirements and secure Medicare billing privileges, as well as compete directly with the home medical equipment, or HME, providers that many rely on across their entire homecare businesses. For our two largest medical device competitors, their entire oxygen business, including stationary and homefill, represents less than 13% percent of their billion-dollar plus homecare businesses.

Lincare Inc., Apria Healthcare, Inc. Rotech Healthcare, Inc. and American HomePatient, Inc. have been among the market leaders in providing oxygen therapy for many years, while the remaining oxygen therapy market is serviced by local providers. Because many local and regional oxygen therapy providers were either excluded from contract in the Medicare competitive bidding process, or will have difficulty providing service at the prevailing Medicate reimbursement rates, we expect more industry consolidation. Oxygen therapy providers compete primarily on the basis of product features and service, rather than price, since reimbursement levels are established by Medicare and Medicaid, or by the individual determinations of private payors. We believe that the investment made by oxygen therapy providers in the physical distribution required for oxygen delivery limits their ability to easily switch their business model and employ a solution directly competitive to Inogen.

Some of our competitors are large, well-capitalized companies with greater resources than we have. As a consequence, they are able to spend more aggressively on product development, marketing, sales and other product initiatives than we can. Some of these competitors have:

- significantly greater name recognition;
- established relations with healthcare professionals, customers and third-party payors;
- established distribution networks;
- additional lines of products, and the ability to offer rebates or bundle products to offer higher discounts or other incentives to gain a competitive advantage;
- greater history in conducting research and development, manufacturing, marketing and obtaining regulatory approval for oxygen device products; and
- greater financial and human resources for product development, sales and marketing, patent litigation and customer financing.

As a result, our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards or customer requirements. In light of these advantages that our competitors maintain, even if our technology and DTC distribution strategy is more effective than the technology and distribution strategy of our competitors, current or potential customers might accept competitor products and services in lieu of purchasing our products. We anticipate that we will face increased competition in the future as existing companies and competitors develop new or improved products and distribution strategies and as new companies enter the market with new technologies and distribution strategies. We may not be able to compete effectively against these organizations. Our ability to compete successfully and to increase our market share is dependent upon our reputation for providing responsive, professional and high-quality products and services and achieving strong customer satisfaction. Increased competition in the future could adversely affect our revenue, revenue growth rate, if any, margins and market share.

Government Regulation

Inogen One systems are medical devices subject to extensive and ongoing regulation by the FDA, as well as other federal and state regulatory bodies in the United States and comparable authorities in other countries. The FDA regulations govern the following activities that we perform, or that are performed on our behalf, to ensure that medical products distributed domestically or exported internationally are safe and effective for their intended uses: product design and development, pre-clinical and clinical testing, manufacturing, labeling, storage, pre-market clearance or approval, record keeping, product marketing, advertising and promotion, sales and distribution, and post-marketing surveillance.

FDA's Pre-Market Clearance and Approval Requirements

Unless an exemption applies, each medical device we seek to commercially distribute in the United States will require either a prior 510(k) clearance or a PMA from the FDA. Medical devices are classified into one of three classes — Class I, Class II or Class III — depending on the degree of risk associated with each medical device and the extent of control needed to ensure safety and effectiveness. Devices deemed to pose lower risks are placed in either Class I or II, which requires the manufacturer to submit to the FDA a premarket notification requesting permission to commercially distribute the device. This process is generally known as 510(k) clearance. Some low risk devices are exempted from this requirement. Devices deemed by the FDA to pose the greatest risk, such as life-sustaining, life-supporting or implantable devices, or devices deemed not substantially equivalent to a previously cleared 510(k) device, are placed in Class III, requiring premarket approval.

510(k) Clearance Pathway

When a 510(k) clearance is required, we must submit a premarket notification to the FDA demonstrating that our proposed device is substantially equivalent to a previously cleared and legally marketed 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 a PMA application. 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 often takes significantly longer. The FDA may require further information, including clinical data, to make a determination regarding substantial equivalence. If the FDA determines that the device, or its intended use, is not substantially equivalent to a previously-cleared device or use, the FDA will place the device, or the particular use, into Class III. We have obtained 510(k) clearance for the Inogen One systems.

Premarket Approval Pathway

A PMA application must be submitted to the FDA if the device cannot be cleared through the 510(k) process. The PMA application process is much more demanding than the 510(k) premarket notification process. A PMA must be supported by extensive data, including but not limited to technical, preclinical, clinical trials, manufacturing and labeling to demonstrate to the FDA's satisfaction reasonable evidence of safety and effectiveness of the device.

After a PMA application is submitted and the FDA determines that the application is sufficiently complete to permit a substantive review, the FDA will accept the application for review. The FDA has 180 days to review an "accepted" PMA application, although the review of an application generally occurs over a significantly longer period of time and can take up to several years. During this review period, the FDA may 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. In addition, the FDA will conduct a preapproval inspection of the manufacturing facility to ensure compliance with quality system regulations.

Clinical Trials

Clinical trials are almost always required to support a PMA and are sometimes required for 510(k) clearance. In the United States, these trials generally require submission of an application for an Investigational Device Exemption, or IDE, to the FDA. The IDE application must be supported by appropriate data, such as animal and laboratory testing results, showing it is safe to test the device in humans and that the testing protocol is scientifically sound. The IDE must be approved in advance by the FDA for a specific number of patients unless the product is deemed a non-significant risk device eligible for more abbreviated IDE requirements. Clinical trials for significant risk devices may not begin until the IDE application is approved by the FDA and the appropriate institutional review boards, or IRBs, at the clinical trial sites. We, the FDA or the IRB at each site at which a clinical trial is being performed may suspend a clinical trial at any time for various reasons, including a belief that the risks to study subjects outweigh the benefits. Even if a trial is completed, the results of clinical testing may not demonstrate the safety and efficacy of the device, may be equivocal or may otherwise not be sufficient to obtain approval or clearance of the product.

Pervasive and Ongoing Regulation by the FDA

Even after a device receives clearance or approval and is placed on the market, numerous regulatory requirements apply. These include:

- establishment registration and device listing;
- quality system regulation, which requires manufacturers, including third-party manufacturers, to follow stringent design, testing, control, documentation and other quality assurance procedures during all aspects of the manufacturing process;
- labeling regulations and the FDA prohibitions against the promotion of products for un-cleared, unapproved or "off-label" uses, and other requirements related to promotional activities;
- medical device reporting regulations, which require that manufacturers report to the FDA if their device may have caused or contributed to a death or serious injury or malfunctioned in a way that would likely cause or contribute to a death or serious injury if the malfunction were to recur;
- corrections and removals reporting regulations, which require that manufacturers report to the FDA field corrections and product recalls or removals if undertaken to reduce a risk to health posed by the device or to remedy a violation of the Federal Food, Drug and Cosmetic Act that may present a risk to health; and
- post-market surveillance regulations, which apply when necessary to protect the public health or to provide additional safety and effectiveness data for the device.

After a device receives 510(k) clearance or a PMA, any modification that could significantly affect its safety or effectiveness, or that would constitute a major change in its intended use, will require a new clearance or approval. The FDA requires each manufacturer to make this determination initially, but the FDA can review any such decision and can disagree with a manufacturer's determination. We have modified various aspects of our Inogen One systems since receiving regulatory clearance, but we believe that new 510(k) clearances are not required for these modifications. If the FDA disagrees with our determination not to seek a new 510(k) clearance, the FDA may retroactively require us to seek 510(k) clearance or PMA. The FDA could also require us to cease marketing and distribution and/or recall the modified device until 510(k) clearance or PMA is obtained. Also, in these circumstances, we may be subject to significant regulatory fines and penalties.

Failure to comply with applicable regulatory requirements can result in enforcement action by the FDA, which may include any of the following sanctions: Warning Letters, fines, injunctions, civil or criminal penalties, recall or seizure of our products, operating restrictions, partial suspension or total shutdown of production, refusing our request for 510(k) clearance or PMA approval of new products, rescinding previously granted 510(k) clearances or withdrawing previously granted PMA approvals.

We are subject to announced and unannounced inspections by the FDA, and these inspections may include the manufacturing facilities of our subcontractors. Inogen has been audited twice since April 2012 by the FDA and found to be in compliance with the Quality System Regulation. We cannot assure you that we can maintain a comparable level of regulatory compliance in the future at our facility.

International sales of medical devices are subject to foreign government regulations, which may 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 approval, and the requirements may differ. There is a trend towards harmonization of quality system standards among the European Union, United States, Canada and various other industrialized countries.

Licensure

Several states require that durable medical equipment, or DME, providers be licensed in order to sell products to patients in that state. Certain of these states require that DME providers maintain an in-state location. In April 2009, we became a DMEPOS accredited Medicare supplier by Accreditation Commission for Health Care for our Goleta, California facility for Home/Durable Medical Equipment Services for oxygen equipment and supplies. Although we believe we are in compliance with all applicable state regulations regarding licensure requirements, if we were found to be noncompliant, we could lose our licensure in that state, which could prohibit us from selling our current or future products to patients in that state. In addition, we are subject to certain state laws regarding professional licensure. We believe that our certified clinicians are in compliance with all such state laws. If our clinicians were to be found non-compliant in a given state, we would need to modify our approach to providing education, clinical support and customer service in such state.

Federal Anti-Kickback and Self-Referral Laws

The Federal Anti-Kickback Statute prohibits the knowing and willful offer, payment, solicitation or receipt of any form of remuneration in return for, or to induce the:

- referral of a person;
- furnishing or arranging for the furnishing of items or services reimbursable under Medicare, Medicaid or other governmental programs; or
- purchase, lease, or order of, or the arrangement or recommendation of the purchasing, leasing, or ordering of any item or service reimbursable under Medicare, Medicaid or other governmental programs.

The Federal Anti-Kickback Statute applies to our arrangements with sales representatives, customers and health care providers, as well as certain coding and billing information that we may provide to purchasers of Inogen One systems. Although we believe that we have structured such arrangements to be in compliance with the Anti-Kickback Statute and other applicable laws, regulatory authorities may determine otherwise. Noncompliance with the federal anti-kickback statute can result in exclusion from Medicare, Medicaid or other governmental programs, restrictions on our ability to operate in certain jurisdictions, as well as civil and criminal penalties, any of which could have an adverse effect on our business and results of operations.

Federal law also includes a provision commonly known as the “Stark Law,” which prohibits a physician from referring Medicare or Medicaid patients to an entity providing “designated health services,” including a company that furnishes durable medical equipment, in which the physician has an ownership or investment interest or with which the physician has entered into a compensation arrangement. Violation of the Stark Law could result in denial of payment, disgorgement of reimbursements received under a noncompliant arrangement, civil penalties, and exclusion from Medicare, Medicaid or other governmental programs. Although we believe that we have structured our provider arrangements to comply with current Stark Law requirements, these arrangements may not expressly meet the requirements for applicable exceptions from the law.

Additionally, as some of these laws are still evolving, we lack definitive guidance as to the application of certain key aspects of these laws as they relate to our arrangements with providers with respect to patient training. We cannot predict the final form that these regulations will take or the effect that the final regulations will have on us. As a result, our provider arrangements may ultimately be found to be not in compliance with applicable federal law.

Federal False Claims Act

The Federal False Claims Act provides, in part, that the federal government may bring a lawsuit against any person whom it believes has knowingly presented, or caused to be presented, a false or fraudulent request for payment from the federal government, or who has made a false statement or used a false record to get a claim approved. In addition, amendments in 1986 to the Federal False Claims Act have made it easier for private parties to bring “qui tam” whistleblower lawsuits against companies. Although we believe that we are in compliance with the federal government’s laws and regulations, if we are found in violation of these laws, penalties include fines ranging from $5,500 to $11,000 for each false claim, plus three times the amount of damages that the federal government sustained because of the act of that person. We believe that we are in compliance with the federal government’s laws and regulations concerning the filing of reimbursement claims.

Civil Monetary Penalties Law

The Federal Civil Monetary Penalties Law prohibits the offering or transferring of remuneration to a Medicare or Medicaid beneficiary that the person knows or should know is likely to influence the beneficiary's selection of a particular supplier of Medicare or Medicaid payable items or services. We sometimes offer customers various discounts and other financial incentives in connection with the sales of our products. While it is our intent to comply with all applicable laws, the government may find that our marketing activities violate the Civil Monetary Penalties Law. If we are found to be in noncompliance, we could be subject to civil money penalties of up to $10,000 for each wrongful act, assessment of three times the amount claimed for each item or service and exclusion from the Federal healthcare programs. In addition, to the extent we are found to not be in compliance, we may be required to curtail or restructure 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.

State Fraud and Abuse Provisions

Many states have also adopted some form of anti-kickback and anti-referral laws and false claims act that may apply to all payors. We believe that we are in compliance with such laws. Nevertheless, a determination of liability under such laws could result in fines and penalties and restrictions on our ability to operate in these jurisdictions.

HIPAA

In addition to creating the two new federal healthcare crimes, regulations implementing HIPAA also establish 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. Three standards have been promulgated under HIPAA's regulations: the Standards for Privacy of Individually Identifiable Health Information, which restrict the use and disclosure of certain individually identifiable health information, the Standards for Electronic Transactions, which establish standards for common healthcare transactions, such as claims information, plan eligibility, payment information and the use of electronic signatures, and the Security Standards, which require covered entities to implement and maintain certain security measures to safeguard certain electronic health information, including the adoption of administrative, physical and technical safeguards to protect such information.

In 2009, Congress passed the American Recovery and Reinvestment Act of 2009, or ARRA, which included sweeping changes to HIPAA, including an expansion of HIPAA's privacy and security standards. ARRA includes HITECH, which, among other things, made HIPAA's privacy and security standards directly applicable to business associates of covered entities effective February 17, 2010. A business associate is a person or entity that performs certain functions or activities on behalf of a covered entity that involve the use or disclosure of protected health information in connection with recognized health care operations activities. As a result, business associates are now subject to significant civil and criminal penalties for failure to comply with applicable standards. Moreover, HITECH creates a new requirement to report certain breaches of unsecured, individually identifiable health information and imposes penalties on entities that fail to do so. HITECH also increased the civil and criminal penalties that may be imposed against covered entities, business associates and possibly other persons and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce the federal HIPAA laws and seek attorney fees and costs associated with pursuing federal civil actions. The 2013 final HITECH omnibus rule modifies the breach reporting standard in a manner that will likely make more data security incidents qualify as reportable breaches.

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. Any liability from failure to comply with the requirements of HIPAA, HITECH or state privacy and security statutes or regulations could adversely affect our financial condition. The costs of complying with privacy and security related legal and regulatory requirements are burdensome and could have a material adverse effect on our results or operations.

Intellectual Property

We believe that to maintain a competitive advantage, we must develop and preserve the proprietary aspect of our technologies. We rely on a combination of patent, trademark, trade secret and other intellectual property laws, non-disclosure agreements and other measures to protect our proprietary rights. Currently, we require our employees, consultants and advisors to execute non-disclosure agreements in connection with their employment, consulting or advisory relationships with us, where appropriate. We also require our employees, consultants and advisors who we expect to work on our current or future products to agree to disclose and assign to us all inventions conceived during the work day, developed using our property or which relate to our business. Despite any measures taken to protect our intellectual property, unauthorized parties may attempt to copy aspects of our Inogen One systems or to obtain and use information that we regard as proprietary.

Patents

As of September 30, 2013, we had 22 issued U.S. patents, 1 issued Canadian patent and 6 additional pending U.S. patent applications. We anticipate it will take several years for the most recent of these U.S. patent applications to result in issued patents. Our issued U.S. patents have more than ten years remaining, assuming we pay all required maintenance fees. The issued patents and pending patent applications cover, among other things:

- system design and assembly, including design for low noise, high durability and high manufacturability, weight optimization and air separation optimization;
- control algorithms for dynamic sieve bed pressure balancing, adaptive autopulse and compressor speed control; and

- advanced technologies, including free piston compressors and expandable twin compressor systems.

Trademarks

We have registered the trademarks Inogen; Inogen One; Inogen One G2; Oxygenation; Live Life in Moments, not Minutes; Never Run Out of Oxygen; Oxygen Therapy on Your Terms; Oxygen.Anytime.Anywhere; Reclaim Your Independence; Intelligent Delivery Technology; and the Inogen design with the United States Patent and Trademark Office on the Principal Register. We have applied with the United States Patent and Trademark Office to register the trademark Inogen at Home.

Legal Proceedings

On November 4, 2011, we filed a lawsuit in the United States District Court for the Central District of California against Inova Labs Inc., or Defendant, for infringement of two of our patents. The case, Inogen Inc. v. Inova Labs Inc., Case No. 8:11-cv-01692-JST-AN, or the Lawsuit, involves U.S. Patent Nos. 7,841,343, entitled “Systems and Methods For Delivering Therapeutic Gas to Patients”, or the ’343 patent, and 6,605,136 entitled “Pressure Swing Adsorption Process Operation And Optimization”, or the ’136 patent. We alleged in the Lawsuit that certain of Defendant’s oxygen concentrators infringe various claims of the ’343 and ’136 patents. The Lawsuit seeks damages, injunctive relief, costs and attorney fees.

The Defendant has answered the complaint, denying infringement and asserting various sets of defenses including non-infringement, invalidity and unenforceability, patent misuse, unclean hands, laches and estoppel. The Defendant also filed counterclaims against us alleging patent invalidity, non-infringement and inequitable conduct. We denied the allegations in the Defendant’s counterclaims. We have filed a motion to dismiss Defendant’s inequitable conduct counterclaim.

The Defendant filed a request with the U.S. Patent and Trademark Office seeking an inter partes reexamination of the ’343 and ’136 patents. The Defendant also filed a motion to stay the Lawsuit pending outcome of the reexamination. On March 20, 2012, the Court granted the Defendant’s motion to stay the Lawsuit pending outcome of the reexamination and also granted our motion to dismiss the Defendant’s inequitable conduct counterclaim.

Facilities and Property

We lease approximately 39,000 square feet of manufacturing and office space at our corporate headquarters in Goleta, California under a lease that expires in September 2015, and approximately 31,000 square feet of manufacturing and office space in Richardson, Texas under a lease that expires in December 2019. In addition, we lease office space in Smyrna, Tennessee, and Corinth, Mississippi under leases expiring in August 2014 and May 2014, respectively. We believe that our existing facilities are adequate to meet our business requirements for the near-term and that additional space will be available on commercially reasonable terms, if required.

Employees

As of September 30, 2013 we had 343 full and part-time employees, including 172 in sales, marketing, and clinical client services, 78 in operations, 76 in general administration and 17 in research and development. None of our employees is represented by a collective bargaining agreement. We believe that our employee relations are good.

Corporate and Available Information

We were incorporated in Delaware in November 2001. Our principal executive offices are located at 326 Bollay Drive, Goleta, California 93117. Our telephone number is (805) 562-0500. Our website address is *www.inogen.net*. Information contained on our website is not incorporated by reference into this prospectus, and should not be considered to be part of this prospectus.

Environmental Matters

Our research and development and manufacturing processes involve the controlled use of hazardous materials, including flammables, toxics, and corrosives. Our research and manufacturing operations produce hazardous chemical waste products. We seek to comply with applicable laws regarding the handling and disposal of such materials. Given the small volume of such materials used or generated at our facilities, we do not expect our compliance efforts to have a material effect on our capital expenditures, earnings, and competitive position. However, we cannot eliminate the risk of accidental contamination or discharge and any resultant injury from these materials. We do not currently maintain separate environmental liability coverage and any such contamination or discharge could result in significant cost to us in penalties, damages, and suspension of our operations.

Backlog

We have no material backlog of orders.

Geographic Information

During the last two years, all of our long-lived assets were located within the United States. Approximately 28% of our 2012 revenue and 25% of our 2011 revenue came from international markets. Please see *Note 2* to each of our audited and unaudited financial statements included elsewhere in the prospectus for additional information related to our U.S. and non-U.S. revenue.

Seasonality

We believe our sales may be impacted by seasonal factors. For example, we typically experience higher sales in the second quarter, as a result of consumers traveling and vacationing during the summer months.

Management

Executive Officers and Directors

Our executive officers and directors, and their ages and positions as of September 1, 2013 are as set forth below:

Name	Age	Position
Raymond Huggenberger	54	President, Chief Executive Officer and Director
Scott Wilkinson	48	Executive Vice President, Sales and Marketing
Alison Bauerlein	31	Vice President, Finance and Chief Financial Officer, Secretary and Treasurer
Matt Scribner	46	Vice President, Operations
Brenton Taylor	32	Vice President, Engineering
Byron Myers	34	Vice President, Marketing
Heath Lukatch, Ph.D.(2)	46	Chairman of the Board
Stephen E. Cooper	67	Director
William J. Link, Ph.D.	67	Director
Charles E. Larsen(1)	62	Director
Timothy Petersen(1)(2)	49	Director
Benjamin Anderson-Ray(2)	58	Director
Loren McFarland(1)	54	Director

(1) Member of our audit committee.

(2) Member of our compensation, nominating and governance committee.

Executive Officers

Raymond Huggenberger has served as our President, Chief Executive Officer and as a member of the board of directors of Inogen since 2008. Prior to joining our company, Mr. Huggenberger held various management positions with Sunrise Medical Inc., a global manufacturer and distributor of durable medical equipment, including: President of Marketing for Sunrise's German subsidiary from 1994 to 1996, President of Sunrise's German division from 1998 until 2000, President of the European Operating Group from 2000 to 2002, President and Chief Operating Officer from 2002 until 2004, and President of European Operations 2006 to 2007. Mr. Huggenberger also held various management positions with McDermott and Bull Inc., an executive search firm, from 2005 to 2006 and in the healthcare division of TA Triumph Adler AG, a document process management firm, from 1996 to 1998. Mr. Huggenberger currently serves on the board of directors of Wellfount Corporation, a pharmacy services company, and previously served on the board of IYIA Technologies, a healthcare company. Mr. Huggenberger graduated from AKAD University in Rendsburg, Germany in Economics and completed the Advanced Marketing Strategies Program at INSEAD, Fontainebleau, France. The board of directors believes that he is qualified to serve as a director of Inogen because of his deep understanding of our business, operations and strategy.

Scott Wilkinson has served as our Executive Vice President, Sales and Marketing since 2008. Previously, he served as our Director of Product Management from 2005 to 2006 and Vice President, Product Management from 2006 to 2008. From 2000 to 2005, Mr. Wilkinson worked for Invacare Corporation, a designer and manufacturer of oxygen products, as a Group Product Manager and helped launch their $100 million O_2 product line segment. From 1999 to 2000, Mr. Wilkinson served as a Product Line Director with Johnson & Johnson, a healthcare company. From 1988 to 1999, Mr. Wilkinson worked as a Research Scientist, Product Manager, and Project Leader at Kimberly Clark, a consumer products company. Mr. Wilkinson received a Bachelor's degree in Chemical Engineering from the University of Akron and an MBA from University of Wisconsin, Oshkosh.

Alison Bauerlein is a co-founder of Inogen and has served as our Chief Financial Officer since 2009 and Vice President, Finance since 2008. Prior to serving in these positions, Ms. Bauerlein also served as Controller with our company from 2001 to 2004 and 2008 to 2009, and Director of Financial Planning and Analysis from 2004 to 2008. Ms. Bauerlein has also served as Corporate Secretary and Corporate Treasurer since 2002. During her time with our company, Ms. Bauerlein has helped the company raise approximately $91 million in venture capital funding. Ms. Bauerlein currently serves on the board of directors of Active Life Scientific, Inc. Ms. Bauerlein received a Bachelor of Arts degree in Economics/Mathematics with high honors from the University of California, Santa Barbara.

Matthew Scribner has served as our Vice President, Operations since 2008. Previously, he served as our Director of Supply Chain from 2004 to 2007 and Director of Manufacturing from 2007 to 2008. From 1998 to 2004, Mr. Scribner worked for Computer Motion, a manufacturer of surgical robots that was acquired by Intuitive Surgical, in various executive capacities, including as a Manufacturing Manager and as a Project Manager. From 1989 to 2013, Mr. Scribner also served in the United States Navy as a helicopter pilot, on both active duty and as a reservist. He was mobilized and deployed to Iraq in 2003 to fly in support of Operation Iraqi Freedom. He achieved the rank of Commander and retired from the U.S. Navy in July 2013. Mr. Scribner received a Bachelor of Science degree in Ocean Engineering from the United States Naval Academy. Mr. Scribner also received an MBA from the University of San Diego.

Brenton Taylor is a co-founder of Inogen and has served as our Vice President, Engineering since 2008. Prior to serving in this position, Mr. Taylor served as Director of Technology with our company from 2003 to 2008. Mr. Taylor is listed as an inventor on 18 of the company's U.S. patents related to portable oxygen concentrator development. Mr. Taylor received a Bachelor of Science degree in Microbiology from the University of California, Santa Barbara.

Byron Myers is a co-founder of Inogen and has served as our Vice President, Marketing since 2011. Prior to serving in this position, Mr. Myers held various roles with our company, including: Product Manager from 2002 to 2006, Director of Marketing from 2006 to 2007 and 2008 to 2011, International Product Manager during 2007, and Director of International Product Management from 2007 to 2008. Mr. Myers received a Bachelor's degree in Economics/Mathematics from the University of California, Santa Barbara and an MBA from University of California, San Diego.

Board of Directors

Heath Lukatch, Ph.D. has served as chairman of our board of directors since 2008, and as a director since 2006. Dr. Lukatch is a Partner at Novo Ventures (US) Inc., a health care and life sciences venture capital firm, which he joined in 2006. Prior to joining Novo Ventures (US) Inc., Dr. Lukatch was a Managing Director responsible for biotechnology venture investments at Piper Jaffray Ventures and SightLine Partners, a private equity firm and spin off of Piper Jaffray Ventures, from 2001 to 2006. Prior to joining Piper Jaffray Ventures, Dr. Lukatch worked as a strategy consultant with McKinsey & Company, a consulting firm, from 1997 to 2000. Dr. Lukatch also served as co-founder and chief executive officer of AutoMate Scientific, a biotechnology instrumentation company from 1991 to 1997, and held scientific positions with Chiron Corporation, a biotechnology company, from 1990 to 1991, Roche Bioscience, a healthcare company, from 1996 to 1997, and Cetus Corporation, a biotechnology company, in 1987. He currently serves on the boards of directors of AnaptysBio, Inc., Cianna Medical, Inc., Flexion Therapeutics, Inc., FLAPCo LLC, and Panmira Pharmaceuticals LLC. Dr. Lukatch previously served on the boards of directors of Amira Pharmaceuticals, Elevation Pharmaceuticals, Inc., FoldRx Pharmaceuticals, Inc., InSound Medical, Inc., NeuroTherapeutics Pharma, Inc., Synosia Therapeutics, Inc., and Verax Biomedical, Inc. Dr. Lukatch received his Ph.D. in Neuroscience from Stanford University where he was a DOD USAF Fellow, and his B.A. in Biochemistry from the University of California at Berkeley. The board of directors believes that he is qualified to serve as a director of Inogen because of his extensive industry experience and experience as a venture capital investor and a board member for several venture-backed healthcare companies.

Stephen Cooper has served as a member of the board of directors of Inogen since 2002 and previously served as chairman of the board of directors. Since 2012, Mr. Cooper has served as chief executive officer and co-founder of Solution Deposition Systems, Inc. and has owned High Tech CEO Advisor, a consulting firm, since 2010. From 2003 to 2010, Mr. Cooper was Chairman, chief executive officer and co-founder of Skyler Technology, Inc., a software company. From 1993 to 2000, Mr. Cooper worked for Etec Systems, a technology company, as its chairman, president and chief executive officer, which was sold to Applied Materials, an electronics company, in March of 2000. From 1987 to 1990, Mr. Cooper served as president and chief executive officer of Bipolar Integrated Technology, a manufacturer of bipolar semiconductors. From 1980 to 1987, Mr. Cooper held various positions, including president and chief operating officer, with Silicon Systems, Inc., a manufacturer of analog/digital semiconductors. From 1973 to 1980, Mr. Cooper worked for Intel, a semiconductor company, in various engineering and management positions, including as an engineering manager and wafer fabrication manager. He currently serves on the board of directors of Aurrion, Inc., Solution Deposition Systems, Inc., Built on Logic, Inc., and AgentBridge, LLC. Previously, Mr. Cooper served on the boards of directors of Active Scientific, Inc., and Skyler Technology, Inc. Mr. Cooper holds a BS in Electrical Engineering from the University of California, Santa Barbara, where he is a Trustee and former Chair of the Foundation, a member of the Dean's Cabinet of the College of Engineering, and a member of the Steering Committee for the Technology Management Program. The board of directors believes that he is qualified to serve as a director of Inogen because of his extensive industry and leadership experience with technology and medical device companies.

William J. Link, Ph.D. has served as a member of the board of directors of Inogen since 2003. Since 1999, Dr. Link has served as a managing director and co-founder of Versant Ventures, a venture capital firm investing in early-stage healthcare companies. Dr. Link has also served as a general partner at Brentwood Venture Capital, a venture capital firm, since 1998. From 1986 to 1997, Dr. Link was founder, chairman and chief executive officer of Chiron Vision, a healthcare company, which was later sold to Bausch & Lomb, Inc., a health products company. He also founded and served as president of American Medical Optics, Inc., a medical supply company, which was acquired by Allergan, Inc., a pharmaceutical company. Before entering the healthcare industry, Dr. Link was an assistant professor in the Department of Surgery at the Indiana University School of Medicine from 1973 to 1976. Dr. Link currently serves on the board of directors of Edwards Lifesciences Inc. (NYSE: EW), Glaukos, Inc., Neurotech Pharmaceuticals, Inc., Oculeve, Inc., Nexis Vision, Inc., ForSight VISION 4, Inc., ForSight VISION 5, Inc., Alpheon, Inc., and Second Sight Medical Products, Inc. Previously, Dr. Link served on the boards of Cameron Health, Inc., LenSx, Inc., NeoVista, Inc., and ROX, Inc. Dr. Link earned his Bachelor's, Master's, and Doctorate degrees in Mechanical Engineering from Purdue University. The board of directors believes that he is qualified to serve as a director of Inogen because of his extensive industry and leadership experience along with his experience as a venture capital investor.

Charles E. Larsen has served as a member of the board of directors of Inogen since 2006. Mr. Larsen is a co-founder of Accuitive Medical Ventures, a venture capital firm, where he has served as a managing director since 2003. Mr. Larsen also serves as vice chairman of The Innovation Factory, a medical device venture that he co-founded in 1999. Mr. Larsen was co-founder of Novoste Corporation, a medical technology company, in 1992 and held various management positions with the company, including chief operating officer from 1992 until 1997, and then as senior vice president and chief technical officer until 1999. Mr. Larsen co-founded and was vice president and director of Novoste Puerto Rico, Inc. from 1987 to May 1992. From 1983 through 1987, Mr. Larsen was a manager of manufacturing engineering at Cordis Corporation, a healthcare company. Mr. Larsen currently serves as a board member for Acufocus, Inc., CardioFocus, Inc. and Torax Medical, Inc. Previously, Mr. Larsen served on the boards of Novalign Orthopaedics, Inc., and Neovista, Inc. Mr. Larsen received a Bachelor of Science degree in Mechanical Engineering from New Jersey Institute of Technology. The board of directors believes that he is qualified to serve as a director of Inogen because of his extensive industry and leadership experience in the medical industry.

Timothy Petersen has served as a member of the board of directors of Inogen since 2010. He has been a managing director at Arboretum Ventures, a venture capital firm, since 2002. Prior to joining Arboretum, he was the managing director of the Zell Lurie Institute for Entrepreneurial Studies at the University of Michigan from 1999 to 2002. During his tenure at the University of Michigan, he also directed the Wolverine Venture Fund, the Institute's venture capital fund focusing on early-stage life science and technology investments. Prior to the University of Michigan, Mr. Petersen was a manager in the investment banking practice at Plante Moran Corporate Finance, a professional services and consulting firm, and served as a management consultant at Industrial Economics, Inc., a consulting firm. He currently serves on the boards of Advanced ICU Care, Inc., IntelliCyt Corp., Fidelis SeniorCare, Inc., Tangent Medical Technologies, Inc., My Health Direct, Inc., and CerviLenz, Inc. Previously, Mr. Petersen served on the boards of HealthMedia, Inc. (sold to Johnson & Johnson), KFx Medical Corp., PathCentral, Inc., and Accuri Cytometers, Inc (sold to Becton, Dickinson and Company). Mr. Petersen earned a BA in Economics from Williams College. He also holds an MS in Economics from the University of Wisconsin-Madison, and an MBA from the Ross School of Business at the University of Michigan. The board of directors believes that he is qualified to serve as a director of Inogen because of his extensive experience as an investor and board member for various healthcare companies.

Benjamin Anderson-Ray has served as a member of the board of directors since 2013. He has been a partner and advisor with Trinitas Advisors, a consulting firm, since 2009. Prior to joining Trinitas Advisors, he served as the chief executive officer of three manufacturing companies: Hubbardton Forge, LLC from 2008 to 2009, Chromcraft Revington, Inc. from 2005 to 2008 and Gravograph New Hermes from 2002 to 2004. Prior to that, Mr. Anderson-Ray held various senior leadership roles at Sunrise Medical, a medical equipment manufacturer, including president of the Global Business Group in 2001, president of the Continuing Care Group from 1998 to 2000, and president of the Mobility Products Division from 1996 to 2001. Earlier in his career, Mr. Anderson-Ray held management and marketing roles at GE Lighting, a lighting solutions company, from 1984 to 1993, Black & Decker Home Products, a product manufacturing company, from 1993 to 1994, and Rubbermaid Home Products, a manufacturer and distributor of household items, from 1994 to 1996. He currently serves on the boards of 5i Science, the Episcopal Church Foundation, and the Addison County Economic Development Corporation. Previously, Mr. Anderson-Ray served on the board of Briggs Plant Propagation. Mr. Anderson-Ray has Bachelor's degrees in Marketing and Horticulture from Michigan State University, an MBA from the University of Michigan, and is a Certified Advisor with The CEO Advantage. The board of directors believes that he is qualified to serve as a director of Inogen because of his leadership experience and his extensive industry experience.

Loren McFarland has served as a member of the board of directors of Inogen since 2013. He has been president and managing member of Santa Barbara Financial Services, LLC since 2008. Prior to founding Santa Barbara Financial Services, he served as the chief financial officer and treasurer of Mentor Corporation, a medical equipment company (now Ethicon, Inc., a Johnson & Johnson company), from 2004 to 2007. Prior to that, Mr. McFarland fulfilled various finance and accounting roles at Mentor from 1985 to 2004. He worked as a certified public accountant and audit supervisor with Touche Ross, an accounting firm, from 1981 to 1985 and served in the North Dakota Army National Guard from 1978 to 1984. He currently serves on the board of Cure Medical, LLC, a privately held manufacturer of disposable urology products, and on the board and executive committee of the MIT Enterprise Forum of the Central Coast. Previously, Mr. McFarland served on the board of directors of Patient Safety Technologies, Inc. (PSTX) as the financial expert on the audit committee and as a member of the compensation committee. Mr. McFarland has a Bachelor's degree in accounting from the University of North Dakota and an MBA from the University of California, Los Angeles. He completed an ISS Director Certification Program in October 1988 at the University of California, Los Angeles' Anderson School. The board of directors believes that he is qualified to serve as a director of Inogen because of his leadership experience and his extensive experience in finance and accounting.

Family Relationships

There are no family relationships among any of our directors and executive officers.

Board Composition and Risk Oversight

Our board of directors is currently composed of eight members. Upon the completion of this offering, Dr. Link and Mr. Cooper will voluntarily resign from our board of directors and our board of directors will be comprised of six directors. Five of the six directors that will comprise our board of directors upon the completion of this offering are independent within the meaning of the independent director guidelines of the NASDAQ Global Market. All of the directors were initially elected to our board of directors pursuant to a voting agreement that will terminate automatically by its terms upon the completion of this offering. The certificate of incorporation and bylaws to be in effect upon the completion of this offering provide that the number of directors shall be at least one and will be fixed from time to time by resolution of our board of directors.

During 2012, our board of directors met four times.

Immediately prior to this offering, our board of directors will be divided into three classes of directors. At each annual meeting of stockholders, a class of directors will be elected for a three-year term to succeed the class whose term is then expiring. The terms of the directors will expire upon the election and qualification of successor directors at the annual meeting of stockholders to be held during the years 2014 for the Class I directors, 2015 for the Class II directors and 2016 for the Class III directors.

The Class I directors will be Timothy Petersen and Charles E. Larsen.

The Class II directors will be Loren McFarland and Benjamin Anderson-Ray.

The Class III directors will be Heath Lukatch, Ph.D. and Raymond Huggenberger.

The division of our board of directors into three classes with staggered three-year terms may delay or prevent a change of our management or a change in control. See the section of this prospectus captioned “Description of Capital Stock—Anti-Takeover Effects of Delaware Law and Our Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws” for a discussion of other anti-takeover provisions found in the certificate of incorporation.

Our board of directors has an active role, as a whole and also at the committee level, in overseeing the management of our risks. Our board of directors is responsible for general oversight of risks and regular review of information regarding our risks, including credit risks, liquidity risks and operational risks. Our compensation, nominating and corporate governance committee is responsible for overseeing the management of risks relating to our executive compensation plans and arrangements and the risks associated with the independence of our board of directors and potential conflicts of interest. Our audit committee is responsible for overseeing the management of our risks relating to accounting matters and financial reporting. While each committee is responsible for evaluating certain risks and overseeing the management of such risks, the entire board of directors is regularly informed through discussions from committee members about such risks. Our board of directors believes its administration of its risk oversight function has not affected our board of directors’ leadership structure.

Director Independence

Upon the completion of this offering, we anticipate that our common stock will be listed on the NASDAQ Global Market. Under the rules of the NASDAQ Global Market, independent directors must comprise a majority of a listed company's board of directors within a specified period of the completion of this offering. In addition, the rules of the NASDAQ Global Market require that, subject to specified exceptions, each member of a listed company's audit and compensation, nominating and governance committee be independent. Audit committee members must also satisfy the independence criteria set forth in Rule 10A-3 under the Securities Exchange Act of 1934, as amended, or the Exchange Act). Under the rules of the NASDAQ Global Market, a director will only qualify as an "independent director" if, in the opinion of that company's board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

To be considered to be independent for purposes of Rule 10A-3, a member of an audit committee of a listed company may not, other than in his or her capacity as a member of our audit committee, our board of directors, or any other board committee: (1) accept, directly or indirectly, any consulting, advisory, or other compensatory fee from the listed company or any of its subsidiaries; or (2) be an affiliated person of the listed company or any of its subsidiaries.

In October 2013, our board of directors undertook a review of its composition, the composition of its committees and the independence of our directors and considered whether any director has a material relationship with us that could compromise his or her ability to exercise independent judgment in carrying out his or her responsibilities. Based upon information requested from and provided by each director concerning his background, employment and affiliations, including family relationships, our board of directors has determined that none of Mr. Anderson-Ray, Mr. Larsen, Dr. Lukatch, Mr. McFarland, and Mr. Petersen, representing five of our six directors that will be seated upon the completion of this offering, 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 the rules of the NASDAQ Global Market. Our board of directors also determined that Messrs. McFarland (chairman), Petersen and Larsen, who comprise our audit committee, and Dr. Lukatch (chairman), Mr. Petersen, and Mr. Anderson-Ray, who will comprise our compensation, nominating and governance committee, upon the completion of this offering, satisfy the independence standards for those committees established by applicable Securities and Exchange Commission, or SEC, rules and the listing standards of the NASDAQ Global Market.

In making this determination, our board of directors considered the relationships that each non-employee director has with us and all other facts and circumstances our board of directors deemed relevant in determining independence, including the beneficial ownership of our capital stock by each non-employee director.

Board Committees

Our board of directors has an audit committee and a compensation, nominating and governance committee, each of which has the composition and the responsibilities described below.

Audit Committee

The members of our audit committee are Messrs. McFarland, Petersen and Larsen, each of whom is a non-employee member of our board of directors. Our audit committee chairman, Mr. McFarland, is our audit committee financial expert, as that term is defined under the SEC rules implementing Section 407 of the Sarbanes-Oxley Act of 2002, and possesses financial sophistication, as defined under the listing standards of the NASDAQ Global Market. Our audit committee oversees our corporate accounting and financial reporting process and assists our board of directors in monitoring our financial systems. Our audit committee will also:

- approve the hiring, discharging and compensation of our independent auditors;

- oversee the work of our independent auditors;
- approve engagements of the independent auditors to render any audit or permissible non-audit services;
- review the qualifications, independence and performance of the independent auditors;
- review our financial statements and our critical accounting policies and estimates;
- review the adequacy and effectiveness of our internal controls; and
- review and discuss with management and the independent auditors the results of our annual audit, our annual and quarterly financial statements and our publicly filed reports.

Our audit committee met one time during 2012.

Compensation, Nominating and Governance Committee

The members of our compensation, nominating and governance committee upon the completion of this offering will be Dr. Lukatch and Messrs. Petersen and Anderson-Ray. Dr. Lukatch is the chairman of our compensation, nominating and governance committee. Our compensation, nominating and governance committee oversees our compensation policies, plans and benefits programs. Our compensation, nominating and governance committee will also:

- review and recommend policies relating to compensation and benefits of our officers and employees;
- review and approve corporate goals and objectives relevant to compensation of our chief executive officer and other senior officers;
- evaluate the performance of our officers in light of established goals and objectives;
- recommend compensation of our officers based on its evaluations;
- administer the issuance of stock options and other awards under our stock plans;
- evaluate and make recommendations regarding the organization and governance of our board of directors and its committees;
- evaluate and propose nominees for election to our board of directors;
- assess the performance of members of our board of directors and make recommendations regarding committee and chair assignments;
- recommend desired qualifications for board of directors membership and conduct searches for potential members of our board of directors; and
- review and make recommendations with respect to our corporate governance guidelines.

Our compensation, nominating and governance committee was recently formed and did not meet during 2012.

Our board of directors may from time to time establish other committees.

Director Compensation

We did not pay cash or any other compensation to our directors during the year ended December 31, 2012. Compensation paid or accrued for services rendered to us by Mr. Huggenberger in his role as chief executive officer is included in our disclosures related to executive compensation in the section of this prospectus captioned "Executive Compensation." Messrs. Anderson-Ray and McFarland joined the board in October 2013.

In October 2013, our board of directors, after reviewing data provided by our independent compensation consulting firm, Pearl Meyer & Partners, regarding practices at comparable companies, adopted a compensation program for non-employee directors to attract, retain and reward its qualified directors and align the financial interests of the non-employee directors with those of our stockholders. Pursuant to this compensation program, each member of our board of directors who is not our employee will receive the following cash and equity compensation for board services. We also will continue to reimburse our non-employee directors for expenses incurred in connection with attending board and committee meetings.

Cash Compensation

Non-employee directors will be entitled to receive the following cash compensation for their services following the effective date of the registration statement of which this prospectus forms a part:

$35,000 per year for service as a board member;

$20,000 per year for service as chair of the board;

$20,000 per year for service as chair of the audit committee; and

$15,000 per year for service as chair of the compensation, nominating and governance committee.

All cash payments to non-employee directors will be paid quarterly in arrears.

Equity Compensation

Within 90 days of the effective date of the registration statement of which this prospectus forms a part, we will grant each non-employee director an option to purchase 40,000 shares of our common stock, which will vest in twenty-four equal monthly installments beginning on the first monthly anniversary after the grant date, subject to the non-employee director continuing to provide services to us through any vesting date.

On the date of each annual meeting of stockholders beginning with the first annual meeting following this offering, each non-employee director will be granted an nonstatutory stock option to purchase 20,000 shares of our common stock, which grant will vest in twelve equal monthly installments beginning with the first monthly anniversary after the grant date, but will vest fully on the date of the next annual meeting held after the date of grant if not fully vested on such date, in each case, subject to the non-employee director continuing to be a service provider through each vesting date.

On the date of each annual meeting of stockholders beginning with the first annual meeting following this offering, each non-employee director who serves as chairman of our board of directors or one of its committees will be granted a nonstatutory stock option to purchase: 5,000 shares of our common stock (chairman of the board of directors), 5,000 shares of our common stock (chairman of the audit committee), and/or 3,500 shares of our common stock (chairman of the compensation committee). Each of these grants will vest in twelve equal monthly installments beginning with the first monthly anniversary after the grant date, but will vest fully on the date of the next annual meeting held after the date of grant if not fully vested on such date, in each case, subject to the non-employee director continuing to be a service provider through each vesting date.

For further information regarding the equity compensation of our non-employee directors, see the section titled "Executive Compensation—Employee Benefit and Stock Plans."

Code Ethics and Conduct

We have adopted a written code of ethics and conduct that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions that will become effective upon the completion of this offering. Following this offering, a current copy of the code will be posted on the investor section of our website, *www.inogen.net*.

Compensation, Committee Interlocks and Insider Participation

Upon the completion of this offering, the members of our compensation, nominating and governance committee will be Dr. Lukatch and Messrs. Petersen and Anderson-Ray. None of the members of our compensation, nominating and governance committee is an officer or employee of Inogen. None of our executive officers currently serves, or in the past year has served, as a member of the board of directors or compensation committee (or other board committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) of any entity that has one or more executive officers serving on our board of directors or compensation, nominating and governance committee.

Limitation of Liability and Indemnification

Our amended and restated certificate of incorporation and amended and restated bylaws that will become effective upon the completion of this offering contain provisions that limit the personal liability of our directors for monetary damages to the fullest

extent permitted by Delaware law. Consequently, our directors will not be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duties as directors, except liability for:

- any breach of the director’s duty of loyalty to us or our stockholders;

- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the Delaware General Corporation Law; or
- any transaction from which the director derived an improper personal benefit.

Our amended and restated certificate of incorporation that will become effective upon the completion of this offering, provides that we indemnify our directors to the fullest extent permitted by Delaware law. In addition, our amended and restated bylaws, that will become effective prior to the completion of this offering, provide that we indemnify our directors and officers to the fullest extent permitted by Delaware law. Our amended and restated bylaws, that will become effective upon the completion of this offering, also provide that we shall advance expenses incurred by a director or officer in advance of the final disposition of any action or proceeding, and 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 that capacity, regardless of whether we would otherwise be permitted to indemnify him or her under the provisions of Delaware law. We have entered and expect to continue to enter into agreements to indemnify our directors, executive officers and other employees as determined by our board of directors. With certain exceptions, these agreements provide for indemnification for related expenses including, among others, attorneys' fees, judgments, fines and settlement amounts incurred by any of these individuals in any action or proceeding. We believe that these bylaw provisions and indemnification agreements are necessary to attract and retain qualified persons as directors and officers. We also maintain directors' and officers' liability insurance.

The limitation of liability and indemnification provisions in our amended and restated certificate of incorporation and amended and restated bylaws, that will become effective upon the completion of this offering, and our indemnification agreements may discourage stockholders from bringing a lawsuit against our directors for breach of their fiduciary duty of care. They may also reduce the likelihood of derivative litigation against our directors and officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder's investment may be adversely affected to the extent that we pay the costs of settlement and damage awards against directors and officers. At present, there is no pending litigation or proceeding involving any of our directors, officers or employees for which indemnification is sought, and we are not aware of any threatened litigation that may result in claims for indemnification.

Executive compensation

2012 Summary Compensation Table

The following table provides information regarding the compensation of our named executive officers during 2012, which consist of our principal executive officer and the next two most highly compensated executive officers.

Name and Principal Position	Year	Salary ($)	Bonus ($)(1)	Option Awards ($)(2)	Non-Equity Incentive Plan Compensation ($)(3)	All Other Compensation ($)	Total ($)
Raymond Huggenberger President and Chief Executive Officer	2012	337,905	40,000	28,262	148,086	19,657(4)	573,910
Scott Wilkinson Executive Vice President, Sales and Marketing	2012	205,598	15,000	9,209	45,446	—	275,253
Alison Bauerlein Vice President, Finance and Chief Financial Officer, Treasurer and Secretary	2012	176,849	15,000	10,730	39,904	—	242,483

(1) The amounts reported for 2012 refer to special discretionary bonuses paid in 2013 related to 2012 services.

(2) The dollar amounts in this column represent the aggregate grant date fair value of stock option awards granted in 2012. These amounts have been computed in accordance with FASB ASC Topic 718. Pursuant to SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. For a discussion of valuation assumptions, see the notes to our financial statements included elsewhere in this prospectus.

(3) The amounts reported in the Non-Equity Incentive Plan Compensation column represent the amounts earned and payable under the 2012 Bonus Plan, all of which were paid in 2013.

(4) Amount represents a housing allowance paid to Mr. Huggenberger.

Non-Equity Incentive Plan Compensation & Bonus

2012 Discretionary Bonus Payments

Mr. Huggenberger, Mr. Wilkinson, and Ms. Bauerlein received a discretionary one-time bonus during 2012 of $40,000, $15,000 and $15,000 respectively.

2012 Non-Equity Incentive Plan Payments

For 2012, the target incentive amounts and the aggregate annual payments earned by our named executive officers were the following:

Named Executive Officer	Target Award Opportunity ($)	Actual Award Amount ($)
Raymond Huggenberger	133,600	148,086
Scott Wilkinson	41,000	45,446
Alison Bauerlein	36,000	39,904

Our 2012 incentive compensation plan, or 2012 Bonus Plan, provides our named executive officers with an annual incentive compensation payment, subject to our achievement of our corporate performance goals. For 2012, our corporate-level goals included achieving specified EBITDA targets for the year. For 2012, we achieved our corporate goals at a level of approximately 111%. The actual award amounts were calculated by multiplying the target bonus amounts by approximately 111%.

Executive Employment Arrangements

Raymond Huggenberger

We entered into an amended and restated employment agreement with Raymond Huggenberger, our president and chief executive officer, effective October 1, 2013. Mr. Huggenberger's current base salary is $400,000 and he is eligible to receive an annual performance bonus of up to 50% of his base salary. Immediately following the effective date of this prospectus, Mr. Huggenberger's base salary will increase to $440,000 and his bonus opportunity will increase to 60% of his base salary.

Mr. Huggenberger is entitled under his employment agreement to the following severance and change of control benefits upon certain qualifying terminations.

If Mr. Huggenberger's employment is terminated without "cause" (excluding by reason of death or disability) or he resigns for "good reason" (as such terms are defined in the employment agreement), he will be eligible to receive the following benefits if he timely signs and does not revoke a release of claims:

- (a) if prior to the effective date of the registration statement of which this prospectus forms a part, continued payment of his base salary for a period of 12 months; or (b) if after the effective date of the registration statement of which this prospectus forms a part and outside the Change in Control Period, continued payment of his base salary for a period of 24 months (collectively, the "CEO Severance Payments"); and
- Throughout the period during which he would be able to obtain COBRA coverage, Mr. Huggenberger and his dependents will only be required to pay the portion of the costs of medical benefits as Mr. Huggenberger was required to pay as of the date of his termination, or Mr. Huggenberger will receive taxable monthly payments for the equivalent period in the event the Company determines that the COBRA subsidy could violate applicable law (the "CEO COBRA Benefits").

The Change in Control Period is the period beginning three months before a change in control, as defined in the employment agreement, and ending 12 months after a change in control.

If, following the effective date of this prospectus and during the Change of Control Period, Mr. Huggenberger's employment is terminated without "cause" (excluding by reason of death or disability) or he resigns for "good reason", he will be eligible to receive the CEO Severance Payments and CEO COBRA Benefits, however the CEO Severance Payments will continue for a period of 36 months.

In the event any of the amounts provided for under this employment agreement or otherwise payable to Mr. Huggenberger would constitute "parachute payments" within the meaning of Section 280G of the Internal Revenue Code and could be subject to the related excise tax, Mr. Huggenberger would be entitled to receive either full payment of benefits under this employment agreement or such lesser amount which would result in no portion of the benefits being subject to the excise tax, whichever results in the greater amount of after-tax benefits to Mr. Huggenberger. The employment agreement does not require us to provide any tax gross-up payments.

Scott Wilkinson and Alison Bauerlein

We entered into an amended and restated employment agreement with each of Scott Wilkinson, our vice president, sales and marketing and Alison Bauerlein, our vice president, finance and chief financial officer, treasurer and secretary, effective October 1, 2013. Mr. Wilkinson's current base salary is $240,000 and he is eligible to receive an annual performance bonus of up to 35% of his base salary. Ms. Bauerlein's current base salary is $250,000 and she is eligible to receive an annual performance bonus of up to 35% of her base salary. Immediately following the effective date of this prospectus, Mr. Wilkinson's base salary will increase to $258,000 and his bonus opportunity shall increase to 40% of his base salary, and Ms. Bauerlein's base salary will increase to $270,000 and her bonus opportunity will increase to 40% of her base salary.

Each of Mr. Wilkinson and Ms. Bauerlein is entitled under their respective employment agreements to the following severance and change of control benefits upon certain qualifying terminations.

If the named executive officer's employment is terminated without "cause" (excluding by reason of death or disability) or the named executive officer resigns for "good reason" (as such terms are defined in the employment agreement), such named executive officer will be eligible to receive the following benefits if he or she timely signs and does not revoke a release of claims:

- (a) if prior to the effective date of the registration statement of which this prospectus forms a part, continued payment of his or her base salary for a period of six months or (b) if after the effective date of the registration statement of which this prospectus forms a part, and outside the Change in Control Period continued payment of his or her base salary for a period of 12 months (the "NEO Severance Payments"); and

- Throughout the period during which he would be able to obtain COBRA coverage, the named executive and his or her eligible dependents will only be required to pay the portion of the costs of medical benefits as he or she was required to pay as of the date of his termination, or he or she will receive taxable monthly payments for the equivalent period in the event the Company determines that the COBRA subsidy could violate applicable law, (the "NEO COBRA Benefits").

If, following the effective date of this prospectus and during the Change of Control Period, the named executive officer's employment is terminated without cause (excluding by reason of death or disability) or he or she resigns for good reason, he or she will be eligible to receive the NEO Severance Payments and NEO COBRA Benefits, however the NEO Severance Payments will continue for a period of 24 months.

In the event any of the amounts provided for under an employment agreement or otherwise payable to the named executive officer would constitute "parachute payments" within the meaning of Section 280G of the Internal Revenue Code and could be subject to the related excise tax, the named executive officer would be entitled to receive either full payment of benefits under the employment agreement or such lesser amount which would result in no portion of the benefits being subject to the excise tax, whichever results in the greater amount of after-tax benefits to the named executive officer. Neither employment agreement requires us to provide any tax gross-up payments.

Outstanding Equity Awards at 2012 Fiscal Year-End

The following table presents information concerning equity awards held by our named executive officers as of December 31, 2012.

		Option Awards			
	Vesting Commencement	Number of Securities Underlying Unexercised Options (#)		Option Exercise	Option
Name	Date	Exercisable	Unexercisable	Price ($)	Expiration Date
Raymond Huggenberger	1/2/08	119,675(1)	0	0.80	1/17/2018
	1/2/08	385,525(1)	0	0.80	1/17/2018
	2/10/09	168,400(2)	0	0.20	2/9/2019
	2/24/10	811,348(3)	0	0.20	2/23/2020
	2/24/10	12,902(3)	0	0.20	2/23/2020
	4/1/12	36,804(4)	184,023	0.27	3/27/2022
Scott Wilkinson	11/21/05	20,000(5)	0	2.90	11/20/2015
	1/1/08	75,000(6)	0	0.80	3/26/2018
	2/10/09	76,666(7)	3,334	0.20	2/9/2019
	2/24/10	214,113(8)	0	0.20	2/23/2020
	2/24/10	32,503(9)	13,384	0.20	2/23/2020
	8/1/11	17,677(10)	35,355	0.25	10/10/2021
	4/1/12	11,992(4)	59,961	0.27	3/27/2022
Alison Bauerlein	1/1/08	98,397(6)	0	0.80	3/26/2018
	2/10/09	57,500(7)	2,500	0.20	2/9/2019
	2/24/10	279,443(8)	0	0.20	2/23/2020
	2/24/10	21,644(9)	8,913	0.20	2/23/2020
	8/1/11	10,105(10)	20,210	0.25	10/10/2021
	4/1/12	13,973(4)	69,865	0.27	3/27/2022

(1) The option fully vested on January 2, 2012.

(2) The option fully vested on February 10, 2009.

(3) The option fully vested on January 24, 2012.

(4) 1/48th of the shares subject to the option vest monthly from April 1, 2012 subject to continued service through each vesting date.

(5) The option fully vested on November 21, 2009.

(6) The option fully vested on January 1, 2012.

(7) The option fully vested on February 10, 2013.

(8) The option fully vested on August 24, 2012.

(9) The option vested with respect to 25% of the shares subject to the option on February 24, 2011, and 1/36 th of the remaining shares subject to the option vest monthly thereafter subject to continued service through each vesting date.

(10) 1/48th of the shares subject to the option vest monthly from August 1, 2011 subject to continued service through each vesting date.

Employee Benefit and Stock Plans

2014 Equity Incentive Plan

Prior to the effectiveness of the registration statement, of which this prospectus forms a part, our board of directors intends to adopt a 2014 Equity Incentive Plan, or the 2014 Plan, and we expect that our stockholders will approve it prior to the completion of this offering. The 2014 Plan will become effective immediately prior to the effectiveness of this prospectus. Our 2014 Plan will provide for the grant of incentive stock options, within the meaning of Section 422 of the Internal Revenue Code, to our employees and any parent and subsidiary corporations' employees, and for the grant of nonstatutory stock options, restricted stock, restricted stock units, stock appreciation rights, performance units and performance shares to our employees, directors and consultants and our parent and subsidiary corporations' employees and consultants.

Authorized Shares

We expect to reserve a total of shares of our common stock for issuance pursuant to the 2014 Plan, of which no awards are issued and outstanding. In addition, the shares to be reserved for issuance under our 2014 Plan will also include shares returned to the 2012 Plan and 2002 Plan as the result of expiration or termination of awards (provided that the maximum number of shares that may be added to the 2014 Plan pursuant to such previously granted awards under the 2012 Plan and 2002 Plan is shares). The number of shares available for issuance under the 2014 Plan will also include an annual increase on the first day of each fiscal year beginning in 2015, equal to the least of:

- shares;
- 4% of the outstanding shares of common stock as of the last day of our immediately preceding fiscal year; or
- such other amount as our board of directors may determine.

Plan Administration

Our board of directors or one or more committees appointed by our board of directors will administer the 2014 Plan. We anticipate that our compensation, nominating and governance committee of our board of directors will administer our 2014 Plan. In the case of awards intended to qualify as "performance-based compensation" within the meaning of Section 162(m) of the Internal Revenue Code, the committee will consist of two or more "outside directors" within the meaning of Section 162(m). In addition, if we determine it is desirable to qualify transactions under the 2014 Plan as exempt under Rule 16b-3 of the Exchange Act, or Rule 16b-3, such transactions will be structured to satisfy the requirements for exemption under Rule 16b-3. Subject to the provisions of our 2014 Plan, the administrator has the power to administer the plan, including but not limited to, the power to interpret the terms of the 2014 Plan and awards granted under it, to create, amend and rescind rules and regulations relating to the 2014 Plan, including rules and regulations relating to sub-plans, and to determine the terms of the awards, including the exercise price, the number of shares subject to each such award, the exercisability of the awards, and the form of consideration, if any, payable upon exercise. The administrator also has the authority to amend existing awards to reduce or increase their exercise price, to allow participants the opportunity to transfer outstanding awards to a financial institution or other person or entity selected by the administrator, and to institute an exchange program by which outstanding awards may be surrendered in exchange for awards of the same type which may have a higher or lower exercise price or different terms, awards of a different type and/or cash.

Stock Options

We may grant stock options under the 2014 Plan. The exercise price of options granted under our 2014 Plan will at least be equal to 100% of the fair market value of our common stock on the date of grant. The term of an incentive stock option may not exceed seven years, except that with respect to any participant who owns more than 10% of the voting power of all classes of our outstanding stock, the term must not exceed five years and the exercise price must equal at least 110% of the fair market value on the grant date. The administrator will determine the methods of payment of the exercise price of an option, which may include cash, shares or other property acceptable to the administrator, as well as other types of consideration permitted by applicable law. After the termination of service of an employee, director or consultant, he or she may exercise his or her option, to the extent vested as of the termination date, for the period of time stated in his or her option agreement. Generally, if termination is due to death or disability, the option will remain exercisable for 12 months. In all other cases, the option will generally remain exercisable for three months following the termination of service. However, in no event may an option be exercised later than the expiration of its term. Subject to the provisions of our 2014 Plan, the administrator determines the other terms of options.

Stock Appreciation Rights

We may grant stock appreciation rights under our 2014 Plan. Stock appreciation rights allow the recipient to receive the appreciation in the fair market value of our common stock between the exercise date and the date of grant. Stock appreciation rights may not have a term exceeding seven years. After the termination of service of an employee, director or consultant, he or she may exercise his or her stock appreciation right for the period of time stated in his or her option agreement. However, in no event may a stock appreciation right be exercised later than the expiration of its term. Subject to the provisions of our 2014 Plan, the administrator determines the other terms of stock appreciation rights, including when such rights become exercisable and whether to pay any increased appreciation in cash or with shares of our common stock, or a combination thereof, except that the per share exercise price for the shares to be issued pursuant to the exercise of a stock appreciation right will be no less than 100% of the fair market value per share on the date of grant.

Restricted Stock

We may grant restricted stock under our 2014 Plan. Restricted stock awards are grants of shares of our common stock that vest in accordance with terms and conditions established by the administrator. The administrator will determine the number of shares of restricted stock granted to any employee, director or consultant and, subject to the provisions of our 2014 Plan, will determine the terms and conditions of such awards. The administrator may impose whatever conditions to vesting it determines to be appropriate (for example, the administrator may set restrictions based on the achievement of specific performance goals or continued service to us); provided, however, that the administrator, in its sole discretion, may accelerate the time at which any restrictions will lapse or be removed. Recipients of restricted stock awards generally will have voting and dividend rights with respect to such shares upon grant without regard to vesting, unless the administrator provides otherwise. Shares of restricted stock that do not vest are subject to our right of repurchase or forfeiture. Notwithstanding the foregoing, the administrator, in its sole discretion, may accelerate the time at which any restrictions will lapse or be removed.

Restricted Stock Units

We may grant restricted stock units under our 2014 Plan. Restricted stock units are bookkeeping entries representing an amount equal to the fair market value of one share of our common stock. Subject to the provisions of our 2014 Plan, the administrator determines the terms and conditions of restricted stock units, including the vesting criteria (which may include accomplishing specified performance criteria or continued service to us) and the form and timing of payment. Notwithstanding the foregoing, the administrator, in its sole discretion, may reduce or waive any vesting criteria that must be met to receive a payout.

Performance Units and Performance Shares

We may grant performance units and performance shares under our 2014 Plan. Performance units and performance shares are awards that will result in a payment to a participant only if performance goals established by the administrator are achieved or the awards otherwise vest. The administrator will establish organizational or individual performance goals or other vesting criteria in its discretion, which, depending on the extent to which they are met, will determine the number and/or the value of performance units and performance shares to be paid out to participants. After the grant of a performance unit or performance share, the administrator, in its sole discretion, may reduce or waive any performance criteria or other vesting provisions for such performance units or performance shares. Performance units shall have an initial dollar value established by the administrator prior to the grant date. Performance shares shall have an initial value equal to the fair market value of our common stock on the grant date. The administrator, in its sole discretion, may pay earned performance units or performance shares in the form of cash, in shares or in some combination thereof.

Outside Directors

Our 2014 Plan will provide that all outside directors will be eligible to receive all types of awards (except for incentive stock options) under the 2014 Plan. In connection with this offering, we intend to implement a formal policy pursuant to which our non-employee directors will be eligible to receive equity awards under the 2014 Plan. Our 2014 Plan provides that in any given fiscal year, an outside director will not receive awards covering more than shares (increasing to shares for the initial year of service as an outside director).

Non-Transferability of Awards

Unless the administrator provides otherwise, our 2014 Plan generally will not allow for the transfer of awards and only the recipient of an award may exercise an award during his or her lifetime.

Certain Adjustments

In the event of certain changes in our capitalization, to prevent diminution or enlargement of the benefits or potential benefits available under the 2014 Plan, the administrator will adjust the number and class of shares that may be delivered under the 2014 Plan and/or the number, class, and price of shares covered by each outstanding award, and the numerical share limits set forth in the 2014 Plan. In the event of our proposed liquidation or dissolution, the administrator will notify participants as soon as practicable and all awards will terminate immediately prior to the consummation of such proposed transaction.

Merger or Change in Control

Our 2014 Plan will provide that in the event of a merger or change in control, as defined under the 2014 Plan, each outstanding award will be treated as the administrator determines, except that if a successor corporation or its parent or subsidiary does not assume or substitute an equivalent award for any outstanding award, then such award will fully vest, all restrictions on such award will lapse, all performance goals or other vesting criteria applicable to such award will be deemed achieved at 100% of target levels and such award will become fully exercisable, if applicable, for a specified period prior to the transaction. The award will

then terminate upon the expiration of the specified period of time. If the service of an award holder is terminated on or within the 12 months following a change in control, as a result of an involuntary termination as defined in the 2014 Plan, his or her options, restricted stock units and stock appreciation rights, if any, will vest fully and become immediately exercisable, all restrictions on his or her restricted stock will lapse, and all performance goals or other vesting requirements for his or her performance shares and units will be deemed achieved at 100% of target levels, and all other terms and conditions met.

In addition, in the event of a change in control, options, stock appreciation rights, restricted stock, and restricted stock units held by our outside directors, if any, will vest fully and become immediately exercisable, all restrictions on his or her restricted stock will lapse, and all performance goals or other vesting for his or her performance shares and units will be deemed achieved at one hundred percent (100%) of target levels, and all other terms and conditions met.

Amendment, Suspension or Termination

The administrator will have the authority to amend, suspend or terminate the 2014 Plan provided such action does not impair the existing rights of any participant. Our 2014 Plan will automatically terminate in 2024, unless the administrator terminates it sooner.

2012 Equity Incentive Plan

Our board of directors adopted, and our stockholders approved, our 2012 Equity Incentive Plan, or the 2012 Plan, in March 2012 and the 2012 Plan was amended and restated in October 2013. Our 2012 Plan will be terminated in connection with this offering and, accordingly, no shares are available for issuance under this plan. The 2012 Plan will continue to govern outstanding awards granted thereunder.

Authorized Shares

An aggregate of 3,582,234 shares of our common stock was reserved for issuance under the 2012 Plan. In addition, the shares reserved for issuance under our 2012 Plan also included shares returned to the 2002 Plan as the result of expiration or termination of awards (provided that the maximum number of shares that could be added to the 2012 Plan was 4,273,940 shares). The 2012 Plan provided for the grant of incentive stock options, within the meaning of Section 422 of the Internal Revenue Code, to our employees and any parent and subsidiary corporations' employees, and for the grant of nonstatutory stock options, restricted stock, restricted stock units, and stock appreciation rights to our employees, directors and consultants. As of September 1, 2013, options to purchase 2,065,801 shares of our common stock remained outstanding under the 2012 Plan.

Plan Administration

Our board of directors or one or more committees appointed by our board of directors administers the 2012 Plan. Following this offering, we anticipate that our compensation, nominating and governance committee will administer the 2012 Plan. Subject to the provisions of our 2012 Plan, the administrator has the power to administer the plan, including but not limited to, the power to: (1) determine the fair market value of our common stock; (2) determine when an option may be settled in cash; (3) implement an exchange program; (4) adjust the vesting of an option; (5) construe and interpret the 2012 Plan; and (6) modify terms of grants to non-U.S. recipients in accordance with applicable laws. The administrator may also make all other determinations deemed necessary or advisable for administering the 2012 Plan.

Options

Under the 2012 Plan, the administrator had the power to grant options. The exercise price per share of options generally had to equal at least 100% of the fair market value per share of our common stock on the date of grant. The term of an option could not exceed ten years. An incentive stock option held by a participant who owns more than 10% of the total combined voting power of all classes of our stock, or any parent or subsidiary corporations, could not have had a term in excess of ten years and must have had an exercise price of at least 110% of the fair market value per share of our common stock on the date of grant.

After the termination of service, a participant may generally exercise his or her option, to the extent vested as of such date of termination, for the period of time stated in his or her option agreement. Generally, if termination is due to disability or death, the option will remain exercisable, to the extent vested as of such date of termination, for 6 months or such longer period of time as is specified in the option agreement. In all other cases, the option generally will remain exercisable for three months following termination of service. However, in no event may an option be exercised later than the expiration of its term.

Transferability of Awards

Our 2012 Plan generally does not allow for the transfer of stock options and a stock option only may be exercised during the stock option recipient's lifetime.

Certain Adjustments

In the event of certain changes in our capitalization without our receipt of consideration, the number of shares of our common stock covered by each outstanding option under the 2012 Plan and the exercise price per share of each outstanding option will be appropriately adjusted. In the event of our proposed liquidation or dissolution, all outstanding awards terminate immediately prior to such event.

Change in Control

Our 2012 Plan provides that in the event of a merger or change in control (as defined in the 2012 Plan), each outstanding option will be treated as the administrator determines, except that if a successor corporation or its parent or subsidiary does not assume or substitute an equivalent award for an outstanding option, then the vesting of such options will be accelerated in full, and the options will be terminated if not exercised prior to such event. If the service of an award holder is terminated on or within the 12 months following a change in control, as a result of an involuntary termination as defined in the 2014 Plan, his or her options, restricted stock units and stock appreciation rights, if any, will vest fully and become immediately exercisable, all restrictions on his or her restricted stock will lapse, and all performance goals or other vesting requirements for his or her performance shares and units will be deemed achieved at 100% of target levels, and all other terms and conditions met.

Amendment, Termination

Our board of directors may amend the 2012 Plan at any time. As noted above, in connection with this offering, the 2012 Plan will be terminated and no further awards will be granted thereunder. All outstanding options will continue to be governed by their existing terms.

2002 Stock Incentive Plan, as most recently amended in February 2010

Our board of directors adopted and approved, and our stockholders approved, our 2002 Stock Incentive Plan, or the 2002 Plan, in May 2002. Our 2002 Plan was terminated in March 2012 in connection with the adoption of our 2012 Plan and, accordingly, no shares were available for issuance under this plan after that time. The 2002 Plan continues to govern outstanding stock options granted thereunder. An aggregate of 5,949,280 shares of our common stock was reserved for issuance under the 2002 Plan. The 2002 Plan provided for the grant of incentive stock options and nonqualified stock options. As of September 1, 2013, options to purchase 4,173,453 shares of our common stock remained outstanding under the 2002 Plan.

Plan Administration

Our board of directors or one or more committees appointed by our board of directors administers the 2002 Plan. Following this offering, we anticipate that our compensation, nominating and governance committee will administer the 2002 Plan. Subject to the provisions of our 2002 Plan, the administrator has the power to administer the plan. Any action, decision, interpretation, or determination made in good faith by the administrator will be final and binding on us and all 2002 Plan participants.

Options

Under the 2002 Plan, the administrator had the power to grant options. The exercise price per share of options generally had to equal at least 100% of the fair market value per share of our common stock on the date of grant. The term of an option could not exceed 10 years. An incentive stock option held by a participant who owns more than 10% of the total combined voting power of all classes of our stock, or any parent or subsidiary corporations, could not have had a term in excess of 5 years and must have had an exercise price of at least 110% of the fair market value per share of our common stock on the date of grant.

After the termination of service, a participant may generally exercise his or her option, to the extent vested as of such date of termination, for the period of time stated in his or her option agreement. Generally, if termination is due to disability or death, the option will remain exercisable, to the extent vested as of such date of termination, for at least 6 months. If the termination is for a reason other than death, disability, or cause (as defined in the 2002 Plan), the option will remain exercisable, to the extent vested as of such date of termination, for at least 30 days.

Transferability of Options

Our 2012 Plan generally does not allow for the transfer of stock options and a stock option only may be exercised during the stock option recipient's lifetime.

Certain Adjustments

In the event of certain changes in our capitalization without our receipt of consideration, the number of shares of our common stock covered by each outstanding option under the 2002 Plan and the exercise price per share of each outstanding option will be appropriately adjusted.

Change in Control

Our 2002 Plan provides that in the event of a change in control (as defined in the 2002 Plan), each outstanding option will accelerate automatically, effective as of immediately prior to the change in control unless the options are to be assumed by the acquiring or successor entity (or parent thereof) or new options are to be issued in exchange thereof.

Amendment, Termination

Our board of directors may amend the 2002 Plan at any time, provided that such amendment generally may not affect or impair the rights of any holder of outstanding options without the option holder's consent. As noted above, in connection with this offering, the 2002 Plan will be terminated and no further awards will be granted thereunder. All outstanding awards will continue to be governed by their existing terms.

2014 Employee Stock Purchase Plan

Prior to the effectiveness of this offering, our board of directors intends to adopt a 2014 Employee Stock Purchase Plan, or the ESPP, and we expect our stockholders will approve it prior to the completion of this offer. The ESPP will become effective immediately prior to the effectiveness of this prospectus.

Authorized Shares

We expect to make a total of shares of our common stock available for sale under the ESPP. In addition, our ESPP provides for annual increases in the number of shares available for issuance under the ESPP on the first day of each fiscal year beginning in 2015, equal to the least of:

- shares;
- 1.5% of the outstanding shares of our common stock on the last day of our immediately preceding fiscal year; or
- such other amount as may be determined by the administrator.

Plan Administration

Our board of directors or a committee appointed by our board of directors will administer the ESPP. We anticipate that our compensation, nominating and governance committee of our board of directors will administer the ESPP. The administrator will have authority to administer the plan, including but not limited to, full and exclusive authority to interpret the terms of the ESPP, determine eligibility to participate subject to the conditions of our ESPP as described below, and to establish procedures for plan administration necessary for the administration of the ESPP, including adopting sub-plans.

Eligibility

Generally, all of our employees will be eligible to participate if they are employed by us, or any participating subsidiary, for at least 20 hours per week and more than five months in any calendar year. However, an employee may not be granted an option to purchase stock under the ESPP if such employee:

- immediately after the grant would own stock possessing 5% or more of the total combined voting power or value of all classes of our capital stock; or
- holds rights to purchase stock under all of our employee stock purchase plans that accrue at a rate that exceeds $25,000 worth of stock for each calendar year in which the option is outstanding.

Offering Periods

Our ESPP is intended to qualify under Section 423 of the Code, and provides for six-month offering periods. The offering periods generally start on the first trading day on or after and of each year. The administrator may, in its discretion, modify the terms of future offering periods.

Payroll Deductions

Our ESPP will permit participants to purchase common stock through payroll deductions of up to 15%% of their eligible compensation, which includes a participant's base straight time gross earnings, incentive compensation, bonuses, overtime and shift premium, but exclusive of payments for equity compensation and other similar compensation. A participant may purchase a maximum of shares during a purchase period.

Exercise of Option

Amounts deducted and accumulated by the participant are used to purchase shares of our common stock at the end of each six-month offering period. The purchase price of the shares will be 85% of the lower of the fair market value of our common stock on the first trading day of each offering period or on the exercise date. Participants may end their participation at any time during an offering period, and will be paid their accrued payroll deductions that have not yet been used to purchase shares of common stock. Participation ends automatically upon termination of employment with us.

Non-Transferability of Options

A participant may not transfer rights granted under the ESPP other than by will, the laws of descent and distribution, or as otherwise provided under the ESPP.

Merger or Change in Control

In the event of our merger or change in control, as defined under the ESPP, a successor corporation may assume or substitute for each outstanding option. If the successor corporation refuses to assume or substitute for the option, the offering period then in progress will be shortened, and a new exercise date will be set. The administrator will notify each participant that the exercise date has been changed and that the participant's option will be exercised automatically on the new exercise date unless prior to such date the participant has withdrawn from the offering period.

Amendment, Termination

Our ESPP will automatically terminate in 2034, unless we terminate it sooner. The administrator has the authority to amend, suspend or terminate our ESPP, except that, subject to certain exceptions described in the ESPP, no such action may adversely affect any outstanding rights to purchase stock under our ESPP.

Executive Incentive Compensation Plan

Prior to the effectiveness of this offering, our board of directors intends to adopt an Executive Incentive Compensation Plan, or the Bonus Plan. The Bonus Plan will allow our compensation, nominating and governance committee to provide cash incentive awards to selected employees, including our named executive officers, based upon performance goals established by our compensation, nominating and governance committee.

Under the Bonus Plan, our compensation, nominating and governance committee will determine the performance goals applicable to any award, which goals may include, without limitation: enrollments, business divestitures and acquisitions, cash flow, cash position, customer satisfaction, earnings (which may include earnings before interest and taxes, earnings before taxes and net earnings), earnings per share, adherence to budget, expenses, gross margin, growth in stockholder value relative to the moving average of

the S&P 500 Index or another index, innovation, internal rate of return, net income, net profit, net sales, new product development, new product invention or innovation, number of customers, operating cash flow, operating expenses, operating income, operating margin, overhead or other expense reduction, productivity, profit, reduce cost per enrollment, return on assets, return on capital, return on equity, return on investment, return on sales, revenue, revenue growth, sales results, sales growth, stock price, time to market, total stockholder return, working capital, and individual objectives such as peer reviews or other subjective or objective criteria and individual objectives such as peer reviews or other subjective or objective criteria. Performance goals that include the Company's financial results may be determined in accordance with U.S. generally accepted accounting principles, or GAAP, or such financial results may consist of non-GAAP financial measures and any actual results may be adjusted by our compensation, nominating and governance committee for one-time items or unbudgeted or unexpected items when determining whether the performance goals have been met. The goals may be on the basis of any factors our compensation, nominating and governance committee determines relevant, and may be adjusted on an individual, divisional, business unit or company-wide basis. The performance goals may differ from participant to participant and from award to award.

Our compensation, nominating and governance committee may, in its sole discretion and at any time, increase, reduce or eliminate a participant's actual award, and/or increase, reduce or eliminate the amount allocated to the bonus pool for a particular performance period. The actual award may be below, at or above a participant's target award, in our compensation, nominating and governance committee's discretion. Our compensation, nominating and governance committee may determine the amount of any reduction on the basis of such factors as it deems relevant, and it is not be required to establish any allocation or weighting with respect to the factors it considers.

Actual awards are paid in cash only after they are earned, which usually requires continued employment through the date a bonus is paid. Payment of bonuses occurs as soon as administratively practicable after they are earned, but no later than the dates set forth in the Bonus Plan.

Our board of directors has the authority to amend, alter, suspend or terminate the Bonus Plan provided such action does not impair the existing rights of any participant with respect to any earned bonus.

401(k) Plan

We maintain a tax-qualified retirement plan that provides eligible employees with an opportunity to save for retirement on a tax advantaged basis. All participants' interests in their deferrals are 100% vested when contributed. In 2012, we made no matching contributions into the 401(k) plan. Pre-tax contributions are allocated to each participant's individual account and are then invested in selected investment alternatives according to the participants' directions. The 401(k) plan is intended to qualify under Sections 401(a) and 501(a) of the Internal Revenue Code. As a tax-qualified retirement plan, contributions to the 401(k) plan and earnings on those contributions are not taxable to the employees until distributed from the 401(k) plan, and all contributions are deductible by us when made.

Certain relationships and related party transactions

The following is a summary of transactions since January 1, 2010 to which we have been a party in which the amount involved exceeded $120,000 and in which any of our executive officers, directors, promoters or beneficial holders of more than 5% of our capital stock had or will have a direct or indirect material interest, other than compensation arrangements which are described under the section of this prospectus captioned “Management—Director Compensation” and “Executive Compensation.”

Related Person Transaction Policy

We have adopted a written Related Person Transactions Policy that sets forth our policies and procedures regarding the identification, review, consideration, approval and oversight of “related person transactions” and that will be effective upon the completion of this offering. For purposes of our policy only, a “related person transaction” is a past, present or future transaction, arrangement or relationship (or any series of similar transactions, arrangements or relationships) in which we and any “related person” are participants, the amount involved exceeds $120,000 and a related person has a direct or indirect material interest. Transactions involving compensation for services provided to us as an employee, director, consultant or similar capacity by a related person are not covered by this policy. A “related person,” as determined since the beginning of our last fiscal year, is any executive officer, director or nominee to become director, a holder of more than 5% of our common stock, including any immediate family members of such persons. Any related person transaction may only be consummated if approved or ratified by our audit committee in accordance with the policy guidelines set forth below.

Under the policy, where a transaction has been identified as a related person transaction, management must present information regarding the proposed related person transaction to our audit committee for review and approval. In considering related person transactions, our audit committee takes into account the relevant available facts and circumstances including, but not limited to whether the terms of such transaction are no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances and the extent of the related person’s interest in the transaction. In the event a director has an interest in the proposed transaction, the director must recuse himself from the deliberations and approval process.

Private Placements

Series F Convertible Preferred Stock

In February 2010, we issued and sold an aggregate of 3,800,839 shares of series F convertible preferred stock at $1.19 per share, for aggregate proceeds of approximately $4,522,998, to a total of seven accredited investors, including Novo A/S, and entities affiliated with Arboretum Ventures, each of which hold 5% or more of our capital stock and is represented on our board of directors. In June 2010, we issued and sold an aggregate of 4,305,040 shares of series F convertible preferred stock at $1.19 per share, for aggregate proceeds of approximately $5,122,998, to a total of eight accredited investors, including Novo A/S, and entities affiliated with Arboretum Ventures, each of which hold 5% or more of our capital stock and is represented on our board of directors.

Name of Stockholder	Inogen Director	Number of Series F Shares	Total Purchase Price
Novo A/S (1)	Heath Lukatch, Ph.D.	3,781,512	$ 4,499,999
Funds affiliated with Arboretum Ventures (2)(3)	Timothy Petersen	3,781,512	$ 4,499,999

(1) Consists of: (a) 1,890,756 shares of series F convertible preferred stock issued to Novo A/S in February 2010, at a price of $1.19 per share in exchange for an aggregate cash purchase price of approximately $2,250,000; and (b) 1,890,756 shares of series F convertible preferred stock issued to Novo A/S in June 2010, at a price of $1.19 per share in exchange for an aggregate cash purchase price of approximately $2,250,000.

(2) Arboretum Ventures affiliates holding our securities whose shares are aggregated for purposes of reporting share ownership information include Arboretum Ventures II, L.P., Arboretum Ventures IIa, L.P., Arboretum Ventures 1, LLC, and Arboretum Ventures 1-A, LLC.

(3) Consists of: (a) 1,890,756 shares of series F convertible preferred stock issued to Arboretum Ventures affiliates in February 2010, at a price of $1.19 per share in exchange for an aggregate cash purchase price of approximately $2,250,000; and (b) 1,890,756 shares of series F convertible preferred stock issued to Arboretum Ventures affiliates in June 2010, at a price of $1.19 per share in exchange for an aggregate cash purchase price of approximately $2,250,000.

Series G Convertible Preferred Stock

In March 2012, we issued 8,520,791 shares of our series G convertible preferred stock at an issuance price of $2.3472 per share for aggregate monetary consideration of approximately $20,000,001, to a total of eight accredited investors, including Novo A/S, and entities affiliated with Arboretum Ventures, each of which hold 5% or more of our capital stock and is represented on our board of directors. The following table summarizes purchases of series G convertible preferred stock by such investors:

Name of Stockholder	Inogen Director	Number of Series G Shares	Total Purchase Price
Novo A/S (1)	Heath Lukatch, Ph.D.	7,130,843	$ 16,737,515
Funds affiliated with Arboretum Ventures (2)(3)	Timothy Petersen	1,278,119	$ 3,000,001

(1) Consists of 7,130,843 shares of series G convertible preferred stock issued to Novo A/S in March 2012, at a price of $2.3472 per share in exchange for an aggregate cash purchase price of approximately $16,737,515.

(2) Arboretum Ventures affiliates holding our securities whose shares are aggregated for purposes of reporting share ownership information in this table include Arboretum Ventures II, L.P., and Arboretum Ventures IIa, L.P.

(3) Consists of 1,278,119 shares of series G convertible preferred stock issued to Arboretum Ventures affiliates in March 2012, at a price of $2.3472 per share in exchange for an aggregate cash purchase price of approximately $3,000,001.

Investors' Rights Agreement

We entered into an amended and restated investors' rights agreement with the holders of our preferred stock, including Novo A/S, entities affiliated with Arboretum Ventures, entities affiliated with Versant Ventures, Avalon Ventures VII, L.P and AMV Partners I, L.P, which each hold 5% or more of our capital stock and of which certain of our directors are affiliates, and entities affiliated with Stephen E. Cooper, a member of our board of directors. Such agreement provides, among other things, that the holders of our preferred stock are entitled to rights with respect to the registration of their shares. For a description of these registration rights, see the section of this prospectus captioned "Description of Capital Stock—Registration Rights."

Voting Agreement

The election of the members of our board of directors is governed by a voting agreement with certain of the holders of our outstanding common stock, convertible preferred stock and warrants to purchase our capital stock, including Novo A/S, entities affiliated with Arboretum Ventures, entities affiliated with Versant Ventures, Avalon Ventures VII, L.P, AMV Partners I, L.P., entities affiliated with Stephen E. Cooper, a member of our board of directors, and Alison Bauerlein, our Vice President, Finance and Chief Financial Officer. The parties to the voting agreement have agreed, subject to certain

conditions, to vote their shares so as to elect as directors (1) one nominee designated by Stephen E. Cooper, currently Stephen E. Cooper; (2) one nominee designated by Versant Venture Capital II, L.P. and its affiliates, currently William J. Link, Ph.D.; (3) one nominee designated by the AMV Partners I, L.P. and its affiliates, currently Charles E. Larsen; (4) one nominee designated by Novo A/S and its affiliates, currently Heath Lukatch, Ph.D.; and (5) one nominee designated by the Arboretum Ventures 1, LLC and its affiliates, currently Timothy Petersen. In addition, so long as Mr. Huggenberger is employed as our chief executive officer, the parties to the voting agreement have agreed to vote their shares so as to elect Mr. Huggenberger to our board of directors. Upon the consummation of this offering, the obligations of the parties to the voting agreement to vote their shares so as to elect as these nominees will terminate and none of our stockholders will have any special rights regarding the nomination, election or designation of members of our board of directors. Our existing certificate of incorporation contains provisions that correspond to the voting agreement; however, such provisions will be removed in the amended and restated certificate of incorporation that will be effective at the closing of the offering.

Other Transactions

We have entered into separate indemnification agreements with each of our directors and certain of our officers. For a description of these agreements, see the section of this prospectus captioned “Management—Limitation of Liability and Indemnification.”

We have entered into employment agreements with certain of our executive officers that, among other things, provide for certain severance and change of control benefits. For a description of employment agreements with our named executive officers, see the section of this prospectus captioned “Executive Compensation—Executive Employment Agreements.”

We have granted stock options to our named executive officers, other executive officers and certain of our directors. See the section of this prospectus captioned “Executive Compensation—Executive Employment Arrangements.”

Principal and selling stockholders

The following table sets forth certain information with respect to the beneficial ownership of our common stock at September 1, 2013, as adjusted to reflect the sale of common stock offered by us in this offering, for:

- each person who we know beneficially owns more than 5% of our common stock;
- each of our directors;
- each of our named executive officers;
- all of our directors and executive officers as a group; and
- each selling stockholder.

The percentage of beneficial ownership prior to the offering shown in the table is based upon 43,432,248 shares outstanding as of September 1, 2013. The percentage of beneficial ownership after this offering shown in the table is based on shares of common stock outstanding after the closing of this offering, assuming no exercise of the underwriters' over-allotment option.

Information with respect to beneficial ownership has been furnished by each director, officer or beneficial owner of more than 5% of our common stock. We have determined beneficial ownership in accordance with the rules of the SEC. 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 take into account shares of common stock issuable pursuant to the exercise of stock options or warrants that are either immediately exercisable or exercisable within 60 days of September 1, 2013. These shares are deemed to be outstanding and beneficially owned by the person holding those options or warrants 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, subject to applicable community property laws.

Except as otherwise noted below, the address for each person or entity listed in the table is c/o Inogen, Inc., 326 Bollay Drive, Goleta, California 93117.

Name of Beneficial Owner	Beneficial Ownership Prior to the Offering Shares	%	Shares being Offered Shares	Beneficial Ownership After the Offering Shares	%
5% Stockholders:					
Novo A/S(1)	18,499,064	42.21%			
Entities affiliated with Versant Ventures(2)	11,397,051	26.12%			
Entities affiliated with Arboretum Ventures(3)	6,556,831	15.10%			
Avalon Ventures VII, L.P.(4)	2,893,293	6.64%			
AMV Partners I, L.P(5)	2,593,327	5.96%			
Directors and Named Executive Officers:					
Raymond Huggenberger(6)	1,580,660	3.51%			
Scott Wilkinson(7)	486,883	1.11%			
Alison Bauerlein(8)	583,709	1.33%			
Heath Lukatch, Ph.D.	—	*			
Stephen E. Cooper(9)	444,406	1.02%			
William J. Link, Ph.D.(10)	11,397,051	26.12%			
Charles E. Larsen(11)	2,593,327	5.96%			
Timothy Petersen(12)	6,556,831	15.10%			
Benjamin Anderson-Ray	—	*			
Loren McFarland	—	*			
All directors and executive officers as a group (13 persons)(13)	25,214,061	52.85%			
Other Selling Stockholders:					
	—	—			
	—	—			
	—	—			
	—	—			
	—	—			
	—	—			
	—	—			
	—	—			
All other selling stockholders (persons)	—	—			

(*) Less than one percent.

(1) Consists of 18,109,433 shares held and 389,631 shares that may be acquired pursuant to the exercise of warrants held by Novo A/S. Novo A/S is a Danish limited liability company. The board of directors of Novo A/S has sole voting and investment control over the shares owned by Novo A/S. The board of directors of Novo A/S, which consists of Sten Scheibye, Göran Ando, Jørgen Boe, Jeppe Christiansen, Steen Risgaard and Per Wold Olsen, has sole voting and investment power with respect to the shares held by Novo A/S. None of the members of the board of directors of Novo A/S has individual voting or investment power with respect to such shares and each disclaims beneficial ownership of such shares except to the extent of any pecuniary interest therein. Dr. Lukatch, a member of our board of directors, is employed as a Partner of Novo Ventures (US) Inc. Dr. Lukatch disclaims beneficial ownership of shares held by Novo A/S, except to the extent of his pecuniary interest arising as a result of his employment with Novo Ventures (US) Inc. The address of each entity affiliated with Novo A/S is Tuborg Havnevej 19, 2900 Hellerup, Denmark.

(2) Consists of (i) 206,823 shares held and 3,600 shares that may be acquired pursuant to the exercise of warrants held of record by Versant Affiliates Fund II-A, L.P., a Delaware limited partnership ("VAF II-A"), (ii) 97,411 shares held and 1,697 shares that may be acquired pursuant to the exercise of warrants held of record by Versant Side Fund II, L.P., a Delaware limited partnership ("VSF II"), and (iii) 10,898,007 shares held and 189,513 shares that may be acquired pursuant to the exercise of warrants held of record by Versant Venture Capital II, L.P., a Delaware limited partnership ("VVC II"). Versant Ventures II, LLC, a Delaware limited liability company ("VV II") serves as the sole general partner of VAF II-A, VSF II and VVC II own no shares directly. Brian G. Atwood, Samuel D. Colella, Ross A. Jaffe, William J. Link, Ph.D., Donald B. Milder, Rebecca B. Robertson, Bradley J. Bolzon, Charles M. Warden, and Barbara N. Lubash are directors and/or members of VV II and

share voting and dispositive power over the shares held by VAF II-A, VSF II and VVC II; however, they disclaim beneficial ownership of the shares held by VAF II-A, VSF II and VVC II except to the extent of their pecuniary interests therein. The address for such entities and persons is c/o Versant Ventures, 3000 Sand Hill Road, Building 4, Suite 210, Menlo Park, California 94025. William J. Link, Ph.D., is a member of our board of directors.

(3) Consists of (i) 4,093,414 shares of common stock held of record by Arboretum Ventures II, L.P., (ii) 959,067 shares of common stock held of record by Arboretum Ventures IIa, L.P., (iii) 902,609 shares of common stock held of record by Arboretum Ventures 1, LLC, all of which are pledged as security for an outstanding credit facility, and (iv) 601,741 shares of common stock held of record by Arboretum Ventures 1-A, LLC, all of which are pledged as security for an outstanding credit facility. Arboretum Investment Manager II, LLC ("AIM II") serves as the general partner of Arboretum Ventures II, L.P. and serves as the sole manager of Arboretum Investment Manager IIa, LLC, which serves as the general partner of Arboretum Ventures IIA, L.P. Jan Garfinkle and Timothy Petersen are the managing members of AIM II and share the power to vote or dispose of these shares and therefore each of the foregoing managing members may be deemed to have voting and investment power with respect to such shares. Arboretum Investment Manager, LLC ("AIM") serves as the managing member of Arboretum Ventures 1, LLC and Arboretum Ventures 1-A, LLC. Jan Garfinkle and Timothy Petersen are the managing members of AIM and share the power to vote or dispose of these shares and therefore each of the foregoing managing members may be deemed to have voting and investment power with respect to such shares. The address for such entities and persons is c/o Arboretum Ventures, 303 Detroit Street, Suite 301, Ann Arbor, Michigan 48104. Timothy Petersen is a member of our board of directors.

(4) Represents 2,780,295 shares held and 112,998 shares that may be acquired pursuant to the exercise of warrants held of record by Avalon Ventures VII, L.P. Kevin J. Kinsella and Stephen L. Tomlin are the managing members of Avalon Ventures VII GP, LLC, which acts as the general partner of Avalon Ventures VII, L.P. As a result, Kevin J. Kinsella and Stephen L. Tomlin may be deemed to be the beneficial owners of the shares held by Avalon Ventures VII, L.P. However, Kevin J. Kinsella and Stephen L. Tomlin disclaim beneficial ownership of the reported securities except to the extent of their pecuniary interest therein. The address for such entities and persons is c/o Avalon Ventures, 1134 Kline Street, La Jolla, CA 92037.

(5) Represents 2,518,378 shares held and 74,949 shares that may be acquired pursuant to the exercise of warrants held of record by AMV Partners I, L.P. ("AMV"). AMV has sole voting and dispositive power over the shares, except that (i) Accuitive Medical Ventures, LLC ("AMV LLC"), the general partner of AMV, may be deemed to have shared power to vote and dispose of these shares and (ii) Thomas Weldon, a managing member of AMV LLC, may be deemed to have shared power to vote and dispose of these shares and Charles E. Larsen, a managing member of AMV LLC, may be deemed to have shared power to vote and dispose of these shares. Each of Mr. Weldon and Mr. Larsen disclaims beneficial ownership of these shares, except to the extent of their pecuniary interest in such shares. AMV's address is Accuitive Medical Ventures LLC, 2905 Premiere Parkway, Suite 150, Duluth, GA 30097. Charles E. Larsen is a member of our board of directors.

(6) Includes 12,902 shares held and options to purchase 1,567,758 shares of common stock that are exercisable within 60 days of September 1, 2013.

(7) Consists of options to purchase 486,883 shares of common stock that are exercisable within 60 days of September 1, 2013.

(8) Includes 70,000 shares held and options to purchase 513,709 shares of common stock that are exercisable within 60 days of September 1, 2013.

(9) Consists of (i) 353,979 shares held and 11,409 shares that may be acquired pursuant to the exercise of warrants held of record by Stephen E. Cooper and Susan D. Cooper, as trustees of the Cooper Revocable Trust dated July 26, 1996, and (ii) 79,018 shares held by the Stephen E. Cooper Family Partnership in which Mr. Cooper is the General Partner and has voting and dispositive power over such shares.

(10) Consists of the shares described in Note (2) above. Dr. Link disclaims beneficial ownership of the shares held by VAF II-A, VSFII, and VVCII as described in Note (2) above, except to the extent of his pecuniary interest therein. The address for Dr. Link is c/o Versant Ventures, 3000 Sand Hill Road, Building 4, Suite 210, Menlo Park, California 94025.

(11) Consists of the shares described in Note (5) above. Mr. Larsen disclaims beneficial ownership of the shares held by AMV, as described in Note (5) above, except to the extent of his pecuniary interest therein.

(12) Consists of the shares described in Note (3) above.

(13) Includes 20,933,349 shares held, 281,168 shares that may be acquired pursuant to the exercise of warrants held of record and options to purchase 3,999,544 shares of common stock that are exercisable within 60 days of September 1, 2013.

Description of capital stock

General

The following is a summary of the rights of our common stock and preferred stock and of certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws, as they will be in effect upon the completion of this offering. This summary is not complete. For more detailed information, please see the amended and restated certificate of incorporation and amended and restated bylaws which are filed as exhibits to the registration statement of which this prospectus is a part.

Immediately upon completion of this offering, our authorized capital stock will consist of shares, all with a par value of $0.001 per share, of which:

- 200,000,000 shares are designated as common stock; and
- 10,000,000 shares are designated as preferred stock.

Upon the closing of this offering, all the outstanding shares of our convertible preferred stock will automatically convert into an aggregate of 42,489,888 shares of our common stock. Additionally, warrants to purchase an aggregate of 112,389 shares of common stock (upon conversion of the convertible preferred stock) at a weighted average exercise price of $3.5578 will expire if they are not exercised prior to the closing of the offering. Additionally, upon the closing of this offering and after giving effect to the conversion of our convertible preferred stock into common stock, warrants to purchase an aggregate of 1,013,933 shares of common stock will remain outstanding if they are not exercised prior to closing of this offering at a weighted average exercise price of $1.1775.

Common Stock

Based on 829,971 shares of common stock outstanding as of June 30, 2013, the conversion of convertible preferred stock outstanding as of June 30, 2013 into 42,489,888 shares of common stock upon the completion of this offering, the issuance of shares of common stock in this offering, and no exercise of options or warrants, there will be shares of common stock outstanding upon the closing of this offering. As of June 30, 2013, assuming the conversion of all outstanding convertible preferred stock into common stock upon the closing of this offering, we had approximately 71 record holders of our common stock.

As of June 30, 2013, there were 1,013,933 shares of common stock subject to outstanding warrants, assuming the cash exercise of warrants to purchase an aggregate of 112,389 shares of common stock on or prior to the closing of this offering at a weighted average exercise price of $3.5578 per share, after conversion of the convertible preferred stock upon the closing of this offering. There were also 6,239,692 shares of common stock subject to outstanding options.

The holders of our common stock are entitled to one vote per share on all matters to be voted on by our stockholders. Subject to preferences that may be applicable to any outstanding shares of preferred stock, holders of common stock are entitled to receive ratably such dividends as may be declared by our board of directors out of funds legally available for that purpose. In the event of our liquidation, dissolution or winding up, the holders of common stock are entitled to share ratably in all assets remaining after the payment of liabilities, subject to the prior distribution rights of preferred stock then outstanding. Holders of common stock have no preemptive, conversion or subscription rights. There are no redemption or sinking fund provisions applicable to the common stock.

Preferred Stock

Though we currently have no plans to issue any shares of preferred stock, upon the closing of this offering and the filing of our amended and restated certificate of incorporation, our board of directors will have the authority, without further action by our stockholders, to designate and issue up to 10,000,000 shares of preferred stock in one or more series. Our board of directors may also designate the rights, preferences and privileges of each such series of preferred stock, any or all of which may be greater than or senior to those of the common stock. Though the actual effect of any such issuance on the rights of the holders of common stock will not be known until our board of directors determines the specific rights of the holders of preferred stock, the potential effects of such an issuance include:

- diluting the voting power of the holders of common stock;
- reducing the likelihood that holders of common stock will receive dividend payments;
- reducing the likelihood that holders of common stock will receive payments in the event of our liquidation, dissolution, or winding up; and
- delaying, deterring or preventing a change-in-control or other corporate takeover.

Dividends

Subject to preferences that may be applicable to any then outstanding preferred stock, holders of common stock are entitled to receive dividends, if any, as may be declared from time to time by our board of directors out of legally available funds. For more information, see the section of this prospectus captioned “Dividend Policy.”

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 then outstanding shares of preferred stock.

Rights and Preferences

Holders of common stock have no preemptive, conversion, subscription or other 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, and the shares of common stock to be issued pursuant to this offering, when paid for, will be fully paid and nonassessable.

Warrants

As of June 30, 2013, we had the following warrants outstanding:

- warrants exercisable for an aggregate of 700,928 shares of our common stock at an exercise price of $0.10 per share issued in connection with our 2007 convertible note financing and 2009 series E convertible preferred stock financing. These warrants have various expiration dates through February 26, 2019, but expire earlier upon a change in control of our company;
- warrants exercisable for an aggregate of 42,666 shares of our series C convertible preferred stock at an exercise price of $5.86 per share issued in connection with a 2005 financing. These warrants will expire upon the earliest of (1) May 31, 2015, (2) a change in control of our company, and (3) the offering contemplated by this prospectus;
- warrants exercisable for an aggregate of 134,661 shares of our series D convertible preferred stock at an exercise price of $7.30 per share issued to various purchasers in connection with our 2006 note and warrant financings. These warrants expire on various dates through November 8, 2013 unless (i) with respect to warrants to purchase 114,136 of such shares, a change in control of our company occurs prior to such expiration dates; or, (ii) with respect to warrants to purchase 20,525 of such shares, (x) a change in control of our company occurs prior to such expiration dates, or (y) the offering contemplated by this prospectus occurs prior to such expiration dates;
- a warrant exercisable for 34,247 shares of our series D convertible preferred stock at an exercise price of $7.30 per share issued to Venture Lending and Leasing IV, LLC in 2006. This warrant will expire in February, 2014; and
- warrants exercisable for an aggregate of 12,675 shares of our series E convertible preferred stock at an exercise price of $3.204 per share issued to Square One Bank. These warrants will expire on various dates between July 10, 2015 and July 23, 2016; provided, however, that if the offering contemplated by this prospectus occurs within the three-year period immediately prior to the expiration date of any one of these warrants, the expiration date shall automatically be extended to third anniversary of our initial public offering.

These warrants have a net exercise provision under which their holders may, in lieu of payment of the exercise price in cash, surrender the warrant and receive a net amount of shares based on the fair market value of our stock at the time of exercise of the warrants after deduction of the aggregate exercise price. These warrants contain provisions for adjustment of the exercise price and number of shares issuable upon the exercise of warrants in the event of certain stock dividends, stock splits, reorganizations, reclassifications and consolidations.

Registration Rights

Under our investors' rights agreement, following the closing of this offering, the holders of approximately shares of common stock (including the shares underlying the warrants described in "Shares Eligible for Future Sale—Warrants") or their transferees, have the right to require us to register the offer and sale of their shares, or to include their shares in any registration statement we file, in each case as described below.

Demand Registration Rights

At any time after February 16, 2014, or six months after the effective date of the offering contemplated under this prospectus, the holders of at least 50% of the shares having registration rights have the right to demand that we use best efforts to file a registration statement for the registration of the offer and sale of shares having registration rights that are requested to be registered. We are only obligated to file up to two registration statements in connection with the exercise of demand registration rights. These registration rights are subject to specified conditions and limitations, including the right of the underwriters to limit the number of shares included in any such registration under certain circumstances and our ability to defer the filing of a registration statement with respect to an exercise of such demand registration rights for up to 90 days under certain circumstances.

Form S-3 Registration Rights

At any time after we are qualified to file a registration statement on Form S-3, a stockholder with registration rights will have the right to demand that we file a registration statement on Form S-3 so long as the aggregate amount of shares to be offered and sold under such registration statement on Form S-3 is at least $1.0 million (net of any underwriters' discounts or commissions). We are only obligated to file up to two registration statements on Form S-3 within a 12 month period. These registration rights are subject to specified conditions and limitations, including our ability to defer the filing of a registration statement with respect to an exercise of such Form S-3 registration rights for up to 90 days under certain circumstances.

Piggyback Registration Rights

At any time after the closing of this offering, if we propose to register the offer and sale of any of our securities under the Securities Act either for our own account or for the account of other stockholders, a stockholder with registration rights will have the right, subject to certain exceptions, to include their shares of common stock in the registration statement. These registration rights are subject to specified conditions and limitations, including the right of the underwriters to limit the number of shares included in any such registration statement under certain circumstances, but not below 25% of the total number of shares covered by the registration statement.

Expenses of Registration

We will pay all expenses relating to any demand registrations, Form S-3 registrations and piggyback registrations, other than underwriting discounts and selling commissions.

Termination

The registration rights terminate upon the earliest of (1) the date that is five years after the closing of this offering, and (2) as to a given holder of registration rights, when such holder of registration rights can sell all of such holder's registrable securities in a 90-day period pursuant to Rule 144 promulgated under the Securities Act.

Voting Rights

Under the provisions of our amended and restated certificate of incorporation to become effective upon completion of this offering, holders of our common stock are entitled to one vote for each share of common stock held by such holder on any matter submitted to a vote at a meeting of stockholders. In addition, our amended and restated certificate of incorporation provides that certain corporate actions require the approval of our stockholders. These actions, and the vote required, are as follows:

- the removal of a director requires the vote of a majority of the voting power of our issued and outstanding capital stock entitled to vote in the election of directors; and

- the amendment of provisions of our amended and restated certificate of incorporation relating to blank check preferred stock, the classification of our directors, the removal of directors, the filling of vacancies on our board of directors, cumulative voting, and annual and special meetings of our stockholders require the vote of 66 2/3% of our then outstanding voting securities.

Anti-Takeover Effects of Delaware Law and Amended and Restated Our Certificate of Incorporation and Amended and Restated Bylaws

Delaware Law

Certain provisions of Delaware law and our restated certificate of incorporation and bylaws that will become effective upon completion of this offering contain provisions that could have the effect of delaying, deferring or discouraging another party from acquiring control of us. These provisions, which are summarized below, are expected to discourage certain types of coercive takeover practices and inadequate takeover bids. These provisions are also designed in part to encourage anyone seeking to acquire control of us to negotiate with our board of directors. We believe that the advantages gained by protecting our ability to negotiate with any unsolicited and potentially unfriendly acquirer outweigh the disadvantages of discouraging such proposals, including those priced above the then-current market value of our common stock, because, among other reasons, the negotiation of such proposals could improve their terms.

Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws

Our amended and restated certificate of incorporation and amended and restated bylaws to become effective in connection with this offering include provisions that:

- authorize our board of directors to issue, without further action by our stockholders, up to 10,000,000 shares of undesignated preferred stock;
- require that any action to be taken by our stockholders be effected at a duly called annual or special meeting and not by written consent;
- specify that special meetings of our stockholders can be called only by our board of directors, the chairman of our board of directors, the chief executive officer or the president;
- establish an advance notice procedure for stockholder approvals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to our board of directors;
- provide that directors may be removed only for cause;
- provide that vacancies on our board of directors may be filled only by a majority of directors then in office, even though less than a quorum;
- establish that our board of directors is divided into three classes, Class I, Class II and Class III, with each class serving staggered terms;
- specify that no stockholder is permitted to cumulate votes at any election of our board of directors; and
- require a super majority of votes to amend certain of the above-mentioned provisions.

Exclusive Jurisdiction

Under the provisions of our amended and restated certificate of incorporation to become effective upon the completion of this offering, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of us; (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or other employees or agents to us or our stockholders; (iii) any action asserting a claim against us arising pursuant to any provision of the Delaware General Corporation Law or our amended and restated certificate of incorporation or amended and restated bylaws; or (iv) any action asserting a claim against us governed by the internal affairs doctrine. The enforceability of similar choice of forum provisions in other companies' certificates of incorporation has been challenged in legal proceedings, and it is possible that, in connection with any action, a court could find the choice of forum provisions contained in our amended and restated certificate of incorporation to be inapplicable or unenforceable in such action.

Delaware Anti-Takeover Statute

We are subject to the provisions of Section 203 of the Delaware General Corporation Law regulating corporate takeovers. In general, Section 203 prohibits a publicly-held Delaware corporation from engaging, under certain circumstances, in a business combination with an interested stockholder for a period of three years following the date the person became an interested stockholder unless:

- prior to the date of the transaction, our board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- upon completion of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, but not for determining the outstanding voting stock owned by the interested stockholder, (1) shares owned by persons who are directors and also officers, and (2) shares owned by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- at or subsequent to the date of the transaction, the business combination is approved by our board of directors of the corporation and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock which is not owned by the interested stockholder.

Generally, a business combination includes a merger, asset or stock sale, or other transaction resulting in a financial benefit to the interested stockholder. An interested stockholder is a person who, together with affiliates and associates, owns or, within three years prior to the determination of interested stockholder status, did own 15% or more of a corporation's outstanding voting stock. We expect the existence of this provision to have an anti-takeover effect with respect to transactions our board of directors does not approve in advance. We also anticipate that Section 203 may discourage business combinations or other attempts that might result in the payment of a premium over the market price for the shares of common stock held by our stockholders.

The provisions of Delaware law and our restated certificate of incorporation and amended and restated bylaws to become effective upon completion of this offering could have the effect of discouraging others from attempting hostile takeovers and, as a consequence, they may also inhibit temporary fluctuations in the market price of our

common stock that often result from actual or rumored takeover attempts. These provisions may also have the effect of preventing changes in our management. It is possible that these provisions could make it more difficult to accomplish transactions that stockholders may otherwise deem to be in their best interests.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Computershare. The transfer agent and registrar's address is P.O. Box 43006, Providence, RI 02940-3006. The transfer agent's telephone number is (888) 667-7671.

Listing

We intend to apply to have our common stock approved for listing on the NASDAQ Global Market under the symbol "INGN."

Shares eligible for future sale

Prior to this offering, there has been no public market for our common stock, and although we expect that our common stock will be approved for listing on the NASDAQ Global Market, we cannot assure you that there will be an active public market for our common stock following this offering. We cannot predict what effect, if any, sales of our shares in the public market or the availability of shares for sale will have on the market price of our common stock. Future sales of substantial amounts of common stock in the public market, including shares issued upon exercise of outstanding options, or the perception that such sales may occur, however, could adversely affect the market price of our common stock and also could adversely affect our future ability to raise capital through the sale of our common stock or other equity-related securities at times and prices we believe appropriate.

Upon completion of this offering, based on our shares outstanding as of June 30, 2013 and after giving effect to (1) the automatic conversion of our outstanding convertible preferred stock into an aggregate of 42,489,888 shares of common stock immediately prior to the completion of this offering and (2) the cash exercise of warrants to purchase an aggregate of 112,389 shares of our common stock on or prior to the closing of this offering, shares of our common stock will be outstanding, or shares of common stock if the underwriters exercise their over-allotment option in full. All of the shares of common stock expected to be sold in this offering will be freely tradable without restriction or further registration under the Securities Act unless held by our "affiliates," as that term is defined in Rule 144 under the Securities Act. The remaining outstanding shares of our common stock will be deemed "restricted securities" as that term is defined under Rule 144. Restricted securities may be sold in the public market only if their offer and sale is registered under the Securities Act or if the offer and sale of those securities qualify for an exemption from registration, including exemptions provided by Rules 144 and 701 under the Securities Act, which are summarized below.

As a result of the lock-up agreements and market stand-off provisions described below and the provisions of Rules 144 or 701, the shares of our common stock that will be deemed "restricted securities" will be available for sale in the public market following the completion of this offering as follows:

- no shares will be eligible for sale on the date of this prospectus; and
- shares will be eligible for sale upon expiration of the lock-up agreements and market stand-off provisions described below, beginning more than 180 days after the date of this prospectus, subject in some cases to applicable volume limitations under Rule 144.

We may issue shares of our common stock from time to time for a variety of corporate purposes, including in capital-raising activities through future public offerings or private placements, in connection with exercise of stock options, vesting of restricted stock units and other issuances relating to our employee benefit plans and as consideration for future acquisitions, investments or other purposes. The number of shares of our common stock that we may issue may be significant, depending on the events surrounding such issuances. In some cases, the shares we issue may be freely tradable without restriction or further registration under the Securities Act; in other cases, we may grant registration rights covering the shares issued in connection with these issuances, in which case the holders of the common stock will have the right, under certain circumstances, to cause us to register any resale of such shares to the public.

Lock-up Agreements

We, the selling stockholders, our directors and officers and substantially all of the holders of our equity securities have agreed, subject to certain exceptions, not to offer, sell or transfer any common stock or securities convertible into or exchangeable or exercisable for common stock, for 180 days after the date of this prospectus without first obtaining the written consent of J.P. Morgan Securities LLC on behalf of the underwriters. These agreements are described in the section of this prospectus captioned “Underwriting.”

J.P. Morgan Securities LLC has advised us that they have no present intent or arrangement to release any shares subject to a lock-up, and will consider the release of any lock-up on a case-by-case basis. Upon a request to release any shares subject to a lock-up, J.P. Morgan Securities LLC would consider the particular circumstances surrounding the request, including, but not limited to, the length of time before the lock-up expires, the number of shares requested to be released, reasons for the request, the possible impact on the market of our common stock and whether the holder of our shares requesting the release is an officer, director or other affiliate of ours.

Rule 144

In general, under Rule 144, beginning 90 days after the date of this prospectus, a person who is not our affiliate and has not been our affiliate for purposes of the Securities Act at any time during the preceding three months will be entitled to sell any shares of our common stock that such person has beneficially owned for at least six months, including the holding period of any prior owner other than one of our affiliates, subject only to the availability of current public information about us. Sales of our common stock by any such person would be subject to the availability of current public information about us if the shares to be sold were beneficially owned by such person for less than one year.

In addition, under Rule 144, a person may sell shares of our common stock acquired from us immediately upon the completion of this offering, without regard to the registration requirements of the Securities Act or the availability of public information about us, if:

- the person is not our affiliate and has not been our affiliate at any time during the preceding three months; and
- the person has beneficially owned the shares to be sold for at least one year, including the holding period of any prior owner other than one of our affiliates.

Beginning 90 days after the date of this prospectus, our affiliates who have beneficially owned shares of our common stock for at least six months, including the holding period of any prior owner other than one of our affiliates, would be entitled to sell within any three-month period a number of shares that does not exceed the greater of:

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

Sales under Rule 144 by our affiliates are also subject to manner of sale provisions and notice requirements and to the availability of current public information about us. To the extent that shares were acquired from one of our affiliates, a person’s holding period for the purpose of effecting a sale under Rule 144 would commence on the date of transfer from the affiliate.

Rule 701

In general, under Rule 701, an employee, director, officer, consultant or advisor of the Company who purchased shares of our common stock pursuant to a written compensatory plan or contract and who is not deemed to have been one of our affiliates during the immediately preceding 90 days may sell these shares in reliance upon Rule 144, but without being required to comply with the notice, manner of sale or public information requirements or volume limitation provisions of Rule 144. Rule 701 also permits affiliates to sell their Rule 701 shares under Rule 144 without complying with the holding period requirements of Rule 144. All holders of Rule 701 shares, however, are required to wait until 90 days after the date of this prospectus before selling such shares pursuant to Rule 701.

As of June 30, 2013, 723,294 shares of our outstanding common stock had been issued in reliance on Rule 701 as a result of exercises of stock options. All of these shares, however, are subject to lock-up agreements or market stand-off provisions as discussed above, and, as a result, these shares will only become eligible for sale at the earlier of the expiration of the lock-up period or upon obtaining the consent of J.P. Morgan Securities LLC on behalf of the underwriters to release all or any portion of these shares from the lock-up agreements.

Stock Options

As of June 30, 2013, options to purchase an aggregate 6,239,692 shares of our common stock were outstanding. We intend to file one or more registration statements on Form S-8 under the Securities Act to register the offer and sale of all shares of our common stock subject to outstanding stock options and all shares issuable under our stock plans. We expect to file the registration statement covering these shares after the date of this prospectus, which will permit the resale of such shares by persons who are non-affiliates of ours in the public market without restriction under the Securities Act, subject, with respect to certain of the shares, to the provisions of the lock-up agreements and market stand-off provisions described above.

Warrants

Upon completion of this offering, warrants entitling holders to purchase an aggregate of 1,013,933 shares of our common stock at a weighted average exercise price of $1.1775 per share, after conversion of the convertible preferred stock, will remain outstanding. See “Description of Capital Stock—Warrants” for additional information. Such shares issued upon exercise of the warrants may be able to be sold after the expiration of the lock-up period described above subject to the requirements of Rule 144 described above.

Registration Rights

Upon completion of this offering, the holders of approximately shares of our common stock (including the shares underlying the warrants described in “Description of Capital Stock—Warrants” above), will be eligible to exercise certain rights to cause us to register their shares for resale under the Securities Act, subject to various conditions and limitations. These registration rights are described under the caption “Description of Capital Stock—Registration Rights.” Upon the effectiveness of a registration statement covering these shares, the shares would become freely tradable, and a large number of shares may be sold into the public market. If that occurs, the market price of our common stock could be adversely affected.

Material U.S. federal income tax consequences to non-U.S. holders of common stock

The following is a summary of the material U.S. federal income tax consequences to non-U.S. holders (as defined below) of the ownership and disposition of our common stock, but does not purport to be a complete analysis of all the potential tax considerations relating thereto. This summary is based upon the provisions of the Internal Revenue Code of 1986, as amended, or the Code, Treasury regulations promulgated thereunder, administrative rulings and judicial decisions, all as of the date hereof, all of which are subject to change, possibly with retroactive effect, which could result in U.S. federal income consequences different than those summarized below. We have not sought a ruling from the Internal Revenue Service, or the IRS, with respect to the statements made and the conclusions reached in the following summary, and there can be no assurance that the IRS will agree with such statements and conclusions.

This summary does not address the tax considerations arising under the laws of any state, local, non-U.S. or other jurisdiction or under U.S. federal estate and gift tax laws, except to the limited extent set forth below, and is limited to investors who will hold our common stock as a capital asset for tax purposes. This summary does not address the potential application of the Medicare contribution tax or any tax considerations applicable to an investor's particular circumstances or to investors that may be subject to special rules, such as:

- banks, insurance companies or other financial institutions;
- persons subject to the alternative minimum tax;
- tax-exempt organizations;
- controlled foreign corporations, passive foreign investment companies and corporations that accumulate earnings to avoid U.S. federal income tax;
- dealers in securities or currencies;
- traders in securities that elect to use a mark-to-market method of accounting for their securities holdings;
- persons that own, or are deemed to own, more than 5% of our capital stock (except to the extent specifically set forth below);
- certain former citizens or long-term residents of the United States;
- persons who hold our common stock as a position in a hedging transaction, "straddle," "conversion transaction" or other risk reduction transaction; or
- persons deemed to sell our common stock under the constructive sale provisions of the Code.

In addition, if a partnership (including any entity classified as a partnership for U.S. federal income tax purposes) holds our common stock, the tax treatment of a partner generally will depend on the status of the partner and upon the activities of the partnership. Accordingly, partnerships that hold our common stock, and partners in such partnerships, should consult their tax advisors.

You are urged to consult your tax advisor with respect to the application of the U.S. federal income tax laws to your particular situation, as well as any tax consequences of the purchase, ownership and disposition of our common stock arising under other U.S. federal tax rules or under the laws of any state, local, non-U.S. or other taxing jurisdiction or under any applicable tax treaty.

Non-U.S. Holder Defined

For purposes of this discussion, you are a non-U.S. holder if you are a holder other than a partnership (or other entity treated as a partnership for U.S. federal income tax purposes) and not a (1) U.S. citizen or U.S. resident alien, (2) a corporation or other entity taxable as a corporation for U.S. federal income tax purposes that was created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (3) an estate whose income is subject to U.S. federal income taxation regardless of its source, or (4) a trust that either is subject to the supervision of a court within the United States and has one or more U.S. persons with authority to control all of its substantial decisions, or has a valid election in effect under applicable Treasury regulations to be treated as a U.S. person.

Distributions on Common Stock

We have not made any distributions on our common stock. However, if we make distributions on our common stock, these distributions generally will constitute dividends for U.S. tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. To the extent these distributions exceed both our current and our accumulated earnings and profits, they will constitute a return of capital and will first reduce your basis in our common stock, but not below zero, and then will be treated as gain from the sale of stock as described below.

Subject to the discussion below regarding backup withholding and recent legislation relating to foreign accounts, any dividend paid to you generally will be subject to U.S. withholding either at a rate of 30% of the gross amount of the dividend or such lower rate as may be specified by an applicable income tax treaty. In order to receive a reduced treaty rate, you must provide the applicable withholding agent with an IRS Form W-8BEN or other appropriate version of IRS Form W-8 certifying qualification for the reduced rate. If you are eligible for a reduced rate of withholding pursuant to an income tax treaty, you may obtain a refund of any excess amounts withheld by filing an appropriate claim for refund with the IRS. If you hold our common stock through a financial institution or other agent acting on your behalf, you will be required to provide appropriate documentation to the agent, which then will be required to provide certification to the applicable withholding agent, either directly or through other intermediaries.

Dividends received by you that are effectively connected with your conduct of a U.S. trade or business (and, if an income tax treaty applies, attributable to a permanent establishment maintained by you in the United States) are exempt from such withholding tax. In order to claim this exemption, you must provide the applicable withholding agent with an IRS Form W-8ECI or other applicable IRS Form W-8 properly certifying such exemption. Such effectively connected dividends, although not subject to withholding tax, are taxed at the same graduated U.S. federal income tax rates applicable to U.S. persons, net of certain deductions and credits. In addition, if you are a corporate non-U.S. holder, dividends you receive that are effectively connected with your conduct of a U.S. trade or business may also be subject to a branch profits tax at a rate of 30% or such lower rate as may be specified by an applicable income tax treaty.

Gain on Disposition of Common Stock

Subject to the discussion below regarding backup withholding and recent legislation relating to foreign accounts, you generally will not be subject to U.S. federal income tax on any gain realized upon the sale or other disposition of our common stock unless:

- the gain is effectively connected with your conduct of a U.S. trade or business (and, if an income tax treaty applies, the gain is attributable to a permanent establishment maintained by you in the United States);
- you are an individual who is present in the United States for a period or periods aggregating 183 days or more during the calendar year in which the sale or disposition occurs and certain other conditions are met; or
- our common stock constitutes a U.S. real property interest by reason of our status as a "United States real property holding corporation," or USRPHC, for U.S. federal income tax purposes at any time within the shorter of the five-year period preceding your disposition of our common stock and your holding period for our common stock.

If you are a non-U.S. holder described in the first bullet above, you will be required to pay tax on the net gain derived from the sale at regular graduated U.S. federal income tax rates applicable to U.S. persons (net of certain deductions and credits), and if you are a corporate non-U.S. holder, you may also be subject to branch profits tax at a rate of 30% or such lower rate as may be specified by an applicable income tax treaty. If you are a non-U.S. holder described in the second bullet above, you will be required to pay a flat 30% tax on the gain derived from the sale, which tax may be offset by U.S. source capital losses (even though you are not considered a resident of the United States).

We believe that we are not currently and will not become a USRPHC. However, because the determination of whether we are a USRPHC depends on the fair market value of our U.S. real property relative to the fair market value of our other business assets, there can be no assurance that we will not become a USRPHC in the future. Even if we become a USRPHC, however, as long as our common stock is regularly traded on an established securities market, our common stock will be treated as a U.S. real property interest only if you actually or constructively hold more than 5% of such regularly traded common stock at any time during the shorter of the five-year period preceding your disposition of our common stock or your holding period for our common stock.

Federal Estate Tax

Our common stock beneficially owned by an individual who is not a citizen or resident of the United States (as defined for U.S. federal estate tax purposes) at the time of death generally will be includable in the decedent's gross estate for U.S. federal estate tax purposes, unless an applicable estate tax treaty provides otherwise.

Backup Withholding and Information Reporting

Generally, we must report annually to the IRS the amount of dividends paid to you, your name and address, and the amount of tax withheld, if any. A similar report will be sent to you. Pursuant to applicable income tax treaties or other agreements, the IRS may make these reports available to tax authorities in your country of residence.

Payments of dividends on, or the gross proceeds of a disposition of, our common stock may be subject to additional information reporting and backup withholding at a current rate of 28% unless you establish an exemption, for example by properly certifying your non-U.S. status on an IRS Form W-8BEN or another appropriate version of IRS Form W-8. Notwithstanding the foregoing, backup withholding and information reporting may apply if either we or our paying agent has actual knowledge, or reason to know, that you are a U.S. person.

Backup withholding is not an additional tax. Any amounts withheld from a payment to you under the backup withholding rules will be allowed as a credit against your U.S. federal income tax liability and may entitle you to a refund, provided that the required information or returns are furnished to the IRS in a timely manner.

Recent Legislation Relating to Foreign Accounts

Legislation enacted in 2010 generally will impose a U.S. federal withholding tax of 30% on dividends on, and the gross proceeds of a disposition of, our common stock paid to a “foreign financial institution” (as specifically defined for this purpose) unless such institution enters into an agreement with the U.S. government to withhold on certain payments and to collect and provide to the U.S. tax authorities substantial information regarding U.S. account holders of such institution (which may include certain equity and debt holders of such institution, as well as certain account holders that are foreign entities with U.S. owners) or otherwise establishes an exemption. The legislation also will generally impose a U.S. federal withholding tax of 30% on dividends and the gross proceeds of a disposition of our common stock to a non-financial foreign entity unless such entity provides the withholding agent with a certification identifying certain substantial direct and indirect U.S. owners of the entity, certifies that there are none or otherwise establishes an exemption. This withholding obligation under this legislation with respect to dividends on our common stock will not begin until July 1, 2014 and with respect to the gross proceeds of a sale or other disposition of our common stock will not begin until January 1, 2017. Under certain circumstances, a non-U.S. holder might be eligible for refunds or credits of such taxes. An intergovernmental agreement between the United States and an applicable foreign country may modify the requirements described in this paragraph. Prospective investors are encouraged to consult with their tax advisors regarding the possible implications of this legislation on their investment in our common stock.

Each prospective investor should consult its tax advisor regarding the particular U.S. federal, state and local and non-U.S. tax consequences of purchasing, holding and disposing of our common stock, including the consequences of any proposed change in applicable laws.

Underwriting

We and the selling stockholders are offering the shares of common stock described in this prospectus through a number of underwriters. J.P. Morgan Securities LLC is acting as book-running manager of the offering and as representative of the underwriters. We and the selling stockholders have entered into an underwriting agreement with the underwriters. Subject to the terms and conditions of the underwriting agreement, we and the selling stockholders have severally agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, the number of shares of common stock listed next to its name in the following table:

Underwriter	Number of Shares
J.P. Morgan Securities LLC	
Leerink Swann LLC	
William Blair & Company, L.L.C.	
Stifel, Nicolaus & Company, Incorporated	
Total	

The underwriters are committed to purchase all the common shares offered by us and the selling stockholders if they purchase any shares. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose to offer the common shares directly to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of $ per share. After the initial public offering of the shares, the offering price and other selling terms may be changed by the underwriters. Sales of shares made outside of the United States may be made by affiliates of the underwriters. The representatives have advised us that the underwriters do not intend to confirm discretionary sales in excess of 5% of the common shares offered in this offering.

The underwriters have an option to buy up to additional shares of common stock from us and additional shares of common stock from the selling stockholders to cover sales of shares by the underwriters which exceed the number of shares specified in the table above. The underwriters have 30 days from the date of this prospectus to exercise this option to purchase additional shares. If any shares are purchased with this option, the underwriters will purchase shares in approximately the same proportion as shown in the table above. If any additional shares of common stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares are being offered.

The underwriting fee is equal to the public offering price per share of common stock less the amount paid by the underwriters to us and the selling stockholders per share of common stock. The underwriting fee is $ per share. The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

	Without over-allotment exercise	With full over-allotment exercise
Per Share	$	$
Total	$	$

We estimate that the total expenses of this offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be approximately $.

A prospectus in electronic format may be made available on the web sites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make Internet distributions on the same basis as other allocations.

We, all of our directors and executive officers and holders of substantially all of our common stock and securities exercisable for or convertible into our common stock outstanding immediately prior to this offering have agreed not to (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, or file with the SEC a registration statement under the Securities Act relating to, any shares of our common stock or securities convertible into or exchangeable or exercisable for any shares of our common stock (including, without limitation, common stock or such other securities which may be deemed to be beneficially owned by such directors, executive officers and security holders in accordance with the rules and regulations of the SEC and securities which may be issued upon exercise of a stock option or warrant), or publicly disclose the intention to make any offer, sale, pledge, disposition or filing, (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of any shares of our common stock or any such other securities (whether any such transactions described in clause (1) or (2) above is to be settled by the delivery of shares of common stock or such other securities, in cash or otherwise) or (3) in the case of our directors, executive officers and holders of common stock and securities exercisable for or convertible into our common stock outstanding immediately prior to this offering, make any demand for or exercise any right with respect to the registration of any shares of our common stock or any security convertible into or exercisable or exchangeable for our common stock, in each case without the prior written consent of J.P. Morgan Securities LLC for a period of 180 days after the date of this prospectus.

In our case, such restrictions shall not apply to:

- the shares of our common stock to be sold in this offering;
- any shares of our common stock issued upon the exercise of options or warrants or the conversion of a security outstanding on the date of the underwriting agreement and described in this prospectus;
- the grant of options or the issuance of shares of common stock by us to our employees, officers, directors, advisors or consultants pursuant to employee benefit plans in effect on the date of the underwriting agreement and as described in this prospectus;
- the filing by us of a registration statement with the Commission on Form S-8 in respect of any shares issued under or the grant of any award pursuant to an employee benefit plan described herein; or

- the sale or issuance of or entry into an agreement to sell or issue shares of our common stock or securities convertible into or exercisable or exchangeable for our common stock in connection with any (1) mergers, (2) acquisition of securities, businesses, property or other assets, (3) joint ventures, (4) strategic alliances, (5) partnerships with experts or other talent to develop or provide content, (6) equipment leasing arrangements or (7) debt financing, provided that the aggregate number of shares of our common stock or securities convertible into or exercisable for common stock (on an as-converted or as-exercised basis, as the case may be) that we may sell or issue or agree to sell or issue as described in this bullet point shall not exceed 5% of the total number of shares of our common stock issued and outstanding immediately following the completion of this offering, and provided, further, that each recipient of shares of our common stock or securities convertible into or exercisable for our common stock pursuant to this bullet point shall execute and deliver to J.P. Morgan Securities LLC a lock-up agreement.

In the case of our directors, executive officers and holders of our common stock, and subject to certain conditions, such restrictions shall not apply to:

- the sale of shares of our common stock to the underwriters;
- sales of shares of our common stock or other securities acquired in open market transactions after the completion of this offering, provided, that no filing under Section 16 of the Exchange Act or other public announcement is required or voluntarily made in connection with subsequent sales of the acquired securities;
- transfers of shares of our common stock or any securities convertible into or exercisable or exchangeable for common stock (1) by bona fide gift, will or intestacy, (2) to the spouse, domestic partner, parent, child or grandchild of the director, executive officer or security holder, or to a trust for the benefit of such spouse, domestic partner, parent, child or grandchild, (3) if the director, executive officer or security holder is a corporation, partnership or other business entity (a) to another corporation, partnership or other business entity that controls, is controlled by or is under common control with it or (b) as part of a disposition, transfer or distribution without consideration by such director, executive officer or security holder to its equity holders, or (4) if the director, executive officer or security holder is a trust, to a trustee or beneficiary of the trust, provided that, in each case, the transferee agrees to be bound by the terms of the lock-up agreement and no filing under Section 16 of the Exchange Act reporting a reduction in beneficial ownership or other public announcement is required or voluntarily made;
- transfers of shares of our common stock or any security convertible into common stock to us upon a vesting event of our securities or upon the exercise of options or warrants to purchase our securities, in each case on a “cashless” or “net exercise” basis or to cover tax withholding obligations of the director, executive officer or security holder in connection with such vesting or exercise, but only to the extent that such right expires during the lock up period;
- the establishment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of our common stock; provided that such plan does not provide for the transfer of common stock during the lock-up period and no public announcement or filing under the Exchange Act is required or made voluntarily by the director, executive officer, security holder or us; or
- transfers of shares of our common stock or any security convertible into or exercisable or exchangeable for our common stock pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction made to all holders of our common stock involving a change of control of our company.

We and the selling stockholders have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act of 1933.

We will apply to have our common stock approved for listing on the NASDAQ Global Market under the symbol “INGN.”

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling shares of common stock in the open market for the purpose of preventing or retarding a decline in the market price of the common stock while this offering is in progress. These stabilizing transactions may include making short sales of the common stock, which involves the sale by the underwriters of a greater number of shares of common stock than they are required to purchase in this offering, and purchasing shares of common stock on the open market to cover positions created by short sales. Short sales may be “covered” shorts, which are short positions in an amount not greater than the underwriters’ over-allotment option referred to above, or may be “naked” shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their over-allotment option, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market compared to the price at which the underwriters may purchase shares through the over-allotment option. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market that could adversely affect investors who purchase in this offering. To the extent that the underwriters create a naked short position, they will purchase shares in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act of 1933, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the common stock, including the imposition of penalty bids. This means that if the representatives of the underwriters purchase common stock in the open market in stabilizing transactions or to cover short sales, the representatives can require the underwriters that sold those shares as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of the common stock or preventing or retarding a decline in the market price of the common stock, and, as a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on the NASDAQ Global Market, in the over-the-counter market or otherwise.

Prior to this offering, there has been no public market for our common stock. The initial public offering price will be determined by negotiations between us and the representatives of the underwriters. In determining the initial public offering price, we and the representatives of the underwriters expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to the representatives;
- our prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our prospects for future earnings;
- the general condition of the securities markets at the time of this offering;

- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

Neither we, the selling stockholders, nor the underwriters can assure investors that an active trading market will develop for our common shares, or that the shares will trade in the public market at or above the initial public offering price.

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The shares of common stock offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

This document is only being distributed to and is only directed at (i) persons who are outside the United Kingdom or (ii) to investment professionals falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, referred to as the Order, or (iii) high net worth entities, and other persons to whom it may lawfully be communicated, falling with Article 49(2)(a) to (d) of the Order, all such persons together being referred to as relevant persons. The shares of common stock are only available to, and any invitation, offer or agreement to subscribe, purchase or otherwise acquire such securities will be engaged in only with, relevant persons. Any person who is not a relevant person should not act or rely on this document or any of its contents.

Notice to Prospective Investors in the European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive, each referred to as a Relevant Member State, from and including the date, or Relevant Implementation Date, on which the European Union Prospectus Directive, or EU Prospectus Directive, was implemented in that Relevant Member State, an offer of shares of common stock described in this prospectus may not be made to the public in that Relevant Member State prior to the publication of a prospectus in relation to the shares which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the EU Prospectus Directive, except that, with effect from and including the Relevant Implementation Date, an offer of securities described in this prospectus may be made to the public in that Relevant Member State at any time:

- to any legal entity which is a qualified investor as defined under the EU Prospectus Directive;
- to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150 natural or legal persons (other than qualified investors as defined in the EU Prospectus Directive), as permitted under the EU Prospectus Directive, subject to obtaining the prior consent of J.P. Morgan Securities LLC for any such offer; or

- in any other circumstances falling within Article 3(2) of the EU Prospectus Directive, provided that no such offer of securities described in this prospectus shall result in a requirement for the publication by us of a prospectus pursuant to Article 3 of the EU Prospectus Directive.

For the purposes of this provision, the expression an “offer of securities to the public” in relation to any securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the shares of common stock to be offered so as to enable an investor to decide to purchase or subscribe for the shares, as the same may be varied in that Member State by any measure implementing the EU Prospectus Directive in that Member State. The expression “EU Prospectus Directive” means Directive 2003/71/EC (and any amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State) and includes any relevant implementing measure in each Relevant Member State, and the expression “2010 PD Amending Directive” means Directive 2010/73/EU.

Notice to Prospective Investors in the United Kingdom

Each underwriter has represented and agreed that:

(a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of the shares in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer; and

(b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the shares in, from or otherwise involving the United Kingdom.

Notice to Prospective Investors in Switzerland

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange, or the SIX, or on any other stock exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this prospectus nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland. Neither this prospectus nor any other offering or marketing material relating to the offering, the Company, the shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA, and the offer of shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes, or the CISA. The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of shares.

Notice to Prospective Investors in Hong Kong

The shares may not be offered or sold by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), or (ii) to “professional investors” within the meaning of the Securities and Futures Ordinance (Cap.571, Laws of Hong Kong) and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a “prospectus” within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), and no advertisement, invitation or document relating to the shares may be issued or may be

in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" within the meaning of the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made thereunder.

Notice to Prospective Investors in Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore, or the SFA, (ii) to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares are subscribed or purchased under Section 275 by a relevant person which is: (a) a corporation (which is not an accredited investor) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an accredited investor, shares, debentures and units of shares and debentures of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for 6 months after that corporation or that trust has acquired the shares under Section 275 except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA; (2) where no consideration is given for the transfer; or (3) by operation of law.

Notice to Prospective Investors in Japan

The securities have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (the Financial Instruments and Exchange Law) and each underwriter has agreed that it will not offer or sell any securities, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Law and any other applicable laws, regulations and ministerial guidelines of Japan.

The underwriters and their respective affiliates are full-service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing, and brokerage activities. Certain of the underwriters and their affiliates have provided in the past to us and our affiliates and may provide from time to time in the future certain commercial banking, financial advisory, investment banking and other services for us and such affiliates in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. In addition, from time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and may do so in the future.

Legal matters

The validity of the shares of common stock offered hereby will be passed upon for us by Wilson Sonsini Goodrich & Rosati, Professional Corporation, Los Angeles, California. Latham & Watkins LLP, Costa Mesa, California is representing the underwriters.

Experts

The financial statements as of and for the year ended December 31, 2012 included in this Registration Statement have been so included in reliance on the report of BDO USA, LLP, an independent registered public accounting firm, appearing elsewhere herein, given on the authority of said firm as experts in auditing and accounting. The financial statements as of and for the year ended December 31, 2011 included in this Registration Statement have been so included in reliance on the report of Macias Gini & O'Connell LLP, an independent registered public accounting firm, appearing elsewhere herein, given on the authority of said firm as experts in auditing and accounting.

Change in independent registered public accounting firm

Our audit committee previously engaged BDO USA, LLP to audit our financial statements for the year ended December 31, 2011 and 2012. In July 2013, our audit committee engaged Macias Gini & O'Connell LLP, (MGO), solely to audit our financial statements for the year ended December 31, 2011 due to the fact that BDO USA, LLP was not independent with regard to our financial statements for the year ended December 31, 2011. MGO's report for our financial statements for the year ended December 31, 2011 did not contain an adverse opinion or disclaimer of opinion and was not qualified or modified as to uncertainty, audit scope or accounting principles.

During the period in which MGO served as our independent accountant, there were no disagreements between MGO and us on any matter of accounting principles or practices, financial statements disclosure or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of MGO, would have caused MGO to make reference to such disagreements in the firm's reports on our financial statements for such periods. In addition, no reportable events, as defined in Item 304 (a)(1)(v) of Regulation S-K, occurred during our two most recent fiscal years or the interim period preceding MGO's resignation as our independent auditor.

We have provided MGO with a copy of the foregoing disclosure and have requested that MGO furnish us with a letter addressed to the SEC stating whether or not MGO agrees with the above statements and, if not, stating the respects in which it does not agree. A copy of the letter from MGO, in which MGO agrees with the above statements, is filed as an exhibit to the registration statement of which this prospectus is a part.

Where you can find additional information

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of our common stock offered by this prospectus. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement, some items of which are contained in exhibits and schedules to the registration statement as permitted by the rules and regulations of the SEC. For further information with respect to us and our common stock, we refer you to the registration statement, including the exhibits and schedules filed as a part of the registration statement. Statements contained in this prospectus concerning the contents of any contract or document referred to are not necessarily complete. If a contract or document has been filed as an exhibit to the registration statement, please see the copy of the contract or document that has been filed. Each statement in this prospectus relating to a contract or document filed as an exhibit is qualified in all respects by the filed exhibit.

You may read and copy the registration statement, including the exhibits and schedules thereto, at the Public Reference Room of the SEC, 100 F Street, N.E., Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC also maintains an Internet website that contains reports, proxy statements and other information about issuers, like us, that file electronically with the SEC. The address of that website is *www.sec.gov*. We also maintain a website at *www.inogen.net*, at which you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on our website is not a part of this prospectus and the inclusion of our website address in this prospectus is an inactive textual reference only.

Upon completion of this offering, we will become subject to the information and reporting requirements of the Exchange Act and, in accordance with this law, will file periodic reports, proxy statements and other information with the SEC. These periodic reports, proxy statements and other information will be available for inspection and copying at the SEC's public reference facilities and the website of the SEC referred to above.

Index to financial statements

Inogen, Inc.

Contents
Financial Statements
As of and for the Years Ended
December 31, 2012 and 2011

Report of Independent Registered Public Accounting Firm

Board of Directors and Stockholders
Inogen, Inc.
Goleta, California

We have audited the accompanying balance sheet of Inogen, Inc. ("the Company") as of December 31, 2012 and the related statements of operations, redeemable convertible preferred stock and stockholders' deficit, and cash flows for the year then ended. 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 audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). 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 audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Inogen, Inc. at December 31, 2012, and the results of its operations and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 10 to the financial statements, the financial statements as of and for the year ended December 31, 2012 have been restated to correct misstatements related to accounting for rental revenue and related expenses as well as the valuation of warrants.

/s/ BDO USA, LLP

Los Angeles, California
October 15, 2013

Report of Independent Registered Public Accounting Firm

Board of Directors and Stockholders
Inogen, Inc.
Goleta, California

We have audited the accompanying balance sheet of Inogen, Inc. (Company) as of December 31, 2011 and the related statements of operations, redeemable convertible preferred stock, stockholders' deficit, and cash flows for the year then ended. The Company's management is responsible for these financial statements. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). 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 audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 10 the Company has restated its previously issued financial statements for the year ended December 31, 2011.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Company at December 31, 2011, and the results of its operations and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

/s/ Macias Gini & O'Connell LLP

Los Angeles, California

October 15, 2013

Inogen, Inc.
Balance Sheets
(amounts in thousands)

	As of December 31, 2012 (restated)	As of December 31, 2011 (restated)
Assets		
Current assets		
Cash and cash equivalents	$ 15,112	$ 3,906
Accounts receivable, net of allowances of $2,061 and $1,882 at December 31, 2012 and 2011, respectively	7,031	4,369
Inventories	4,059	1,665
Deferred cost of rental revenue	159	70
Prepaid expenses and other current assets	309	433
Total current assets	26,670	10,443
Property and equipment		
Rental equipment	24,939	15,015
Manufacturing equipment and tooling	2,682	1,598
Computer equipment and software	2,290	1,280
Furniture and equipment	462	261
Leasehold improvements	499	408
Construction in process	46	421
Total property and equipment	30,918	18,983
Less accumulated depreciation and amortization	(10,639)	(6,140)
Property and equipment, net	20,279	12,843
Intangible assets, net	558	793
Other assets	79	52
Total assets	$ 47,586	$ 24,131

See accompanying notes to financial statements.

Inogen, Inc.
Balance Sheets (Continued)
(amounts in thousands, except share and per share amounts)

	As of December 31, 2012 (restated)	As of December 31, 2011 (restated)
Liabilities, Redeemable Convertible Preferred Stock and Stockholders' Deficit		
Current liabilities		
Accounts payable and accrued expenses	$ 8,335	$ 5,737
Current portion of long-term debt	3,879	2,532
Warranty reserve	447	250
Deferred revenue	1,094	594
Income tax payable	25	21
Deferred income taxes, net	10	7
Total current liabilities	13,790	9,141
Long-term liabilities		
Preferred stock warrant liability	164	337
Long-term debt, net of current portion	5,057	7,097
Total liabilities	19,011	16,575
Commitments and Contingencies (Note 6)		
Redeemable convertible preferred stock		
Preferred stock, $0.001 par value per share; 28,819,351 and 20,308,972 shares authorized; 28,367,436 and 19,773,173 shares issued and outstanding; liquidation preference of $134,780 and $94,363 at December 31, 2012 and 2011, respectively	109,345	83,122
Stockholders' deficit		
Preferred stock, $0.001 par value per share; 200,000 shares authorized; 200,000 shares issued and outstanding; liquidation preference of $250 at both December 31, 2012 and 2011	247	247
Common stock, $0.001 par value per share; 55,000,000 shares authorized; 816,403 and 751,408 shares issued and outstanding at December 31, 2012 and 2011, respectively	1	1
Accumulated deficit	(81,018)	(75,814)
Total stockholders' deficit	(80,770)	(75,566)
Total liabilities, redeemable convertible preferred stock and stockholders' deficit	$ 47,586	$ 24,131

See accompanying notes to financial statements.

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Inogen, Inc.
Statements of Operations
(amounts in thousands, except share and per share amounts)

	Year Ended December 31,	
	2012 (restated)	**2011 (restated)**
Revenue		
Sales revenue	$ 28,077	$ 19,076
Rental revenue	19,872	10,977
Sales of used rental equipment	95	46
Other revenue	532	535
Total revenue	48,576	30,634
Cost of revenue		
Cost of sales revenue	17,359	12,127
Cost of rental revenue, including depreciation of $4,056 and $2,418, respectively	7,243	3,783
Cost of used rental equipment sales	25	20
Total cost of revenue	24,627	15,930
Gross profit	23,949	14,704
Operating expenses		
Research and development	2,262	1,789
Sales and marketing	12,569	9,014
General and administrative	8,289	5,623
Total operating expenses	23,120	16,426
Income (loss) from operations	829	(1,722)
Other (expense) income		
Interest expense	(493)	(261)
Interest income	88	113
Decrease (increase) in fair value of preferred stock warrant liability	148	(119)
Other income	10	—
Total other (expense) income	(247)	(267)
Income (loss) before provision for income taxes	582	(1,989)
Provision for income taxes	18	13
Net income (loss)	$ 564	$ (2,002)
Less deemed dividend on redeemable convertible preferred stock	(5,781)	(3,027)
Net loss attributable to common stockholders	$ (5,217)	$ (5,029)
Basic and diluted net loss per share attributable to common stockholders	$ (6.66)	(6.72)
Weighted average number of shares used in calculating loss per share attributable to common stockholders—basic and diluted	783,906	748,638
	(unaudited)	
Pro forma net income per share attributable to common stockholders		
Basic	$ 0.01	
Diluted	$ 0.01	
Shares used in computing pro forma net income per share		
Basic	38,496,117	
Diluted	39,825,871	

See accompanying notes to financial statements.

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Inogen, Inc.
Statements of Redeemable Convertible Preferred Stock
(amounts in thousands, except share amounts)

	Series B Redeemable Convertible Preferred Stock		Series C Redeemable Convertible Preferred Stock		Series D Redeemable Convertible Preferred Stock		Series E Redeemable Convertible Preferred Stock		Series F Redeemable Convertible Preferred Stock		Series G Redeemable Convertible Preferred Stock		Total Redeemable Convertible Preferred Stock
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	
Balance, December 31, 2010	1,269,295	$ 5,026	1,023,896	$ 6,000	4,461,748	$32,571	4,904,675	$25,573	8,105,879	$10,877	—	$ —	$ 80,047
Warrants exercised	—	—	7,680	48	—	—	—	—	—	—	—	—	48
Deemed dividend on redeemable convertible preferred stock	—	—	—	—	—	—	—	1,352	—	1,675	—	—	3,027
Balance, December 31, 2011	1,269,295	5,026	1,031,576	6,048	4,461,748	32,571	4,904,675	26,925	8,105,879	12,552	—	—	83,122
Series G financing	—	—	—	—	—	—	—	—	—	—	8,520,791	19,945	19,945
Accretion of Series G financing costs												55	55
Warrants exercised	7,287	30	66,185	412	—	—	—	—	—	—	—	—	442
Deemed dividend on redeemable convertible preferred stock	—	—	—	—	—	—	—	1,119	—	1,503	—	3,159	5,781
Balance, December 31, 2012	1,276,582	$ 5,056	1,097,761	$ 6,460	4,461,748	$32,571	4,904,675	$28,044	8,105,879	$14,055	8,520,791	$23,159	$ 109,345

See accompanying notes to financial statements.

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Inogen, Inc.
Statements of Stockholders' Deficit
(amounts in thousands, except share amounts)

	Series A Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount	(restated)	(restated)	(restated)
Balance, December 31, 2010 (restated)	200,000	$ 247	745,868	$ 1	$ —	$ (70,930)	$ (70,682)
Stock-based compensation	—	—	—	—	144	—	144
Stock options exercised	—	—	5,540	—	1	—	1
Deemed dividend on redeemable convertible preferred stock	—	—	—	—	(145)	(2,882)	(3,027)
Net loss	—	—	—	—	—	(2,002)	(2,002)
Balance, December 31, 2011 (restated)	200,000	$ 247	751,408	$ 1	—	$ (75,814)	$ (75,566)
Stock-based compensation	—	—	—	—	60	—	60
Stock options exercised	—	—	12,812	—	3	—	3
Warrants exercised - common	—	—	52,183	—	5	—	5
Accretion of Series G financing costs	—	—	—	—	—	(55)	(55)
Deemed dividend on redeemable convertible preferred stock	—	—	—	—	(68)	(5,713)	(5,781)
Net income	—	—	—	—	—	564	564
Balance, December 31, 2012 (restated)	200,000	$ 247	816,403	$ 1	$ —	$ (81,018)	$ (80,770)

See accompanying notes to financial statements.

Inogen, Inc.
Statements of Cash Flows
(amounts in thousands)

	Year ended December 31,	
	2012 (restated)	2011 (restated)
Cash flows from operating activities		
Net income (loss)	$ 564	$(2,002)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation and amortization	4,984	3,198
Loss of rental units	263	83
Provision for sales returns	31	(10)
Provision for doubtful accounts and adjustments	1,071	1,016
Provision for inventory obsolescence	50	63
Stock-based compensation expense	60	144
(Decrease) Increase in fair value of preferred stock warrant liability	(148)	119
Changes in operating assets and liabilities:		
Accounts receivable	(3,764)	(1,565)
Inventories	(2,444)	65
Deferred costs of rental revenue expenses	(89)	(10)
Prepaid expenses and other current assets	124	(181)
Accounts payable and accrued expenses	2,598	673
Warranty reserve	197	—
Deferred revenue	500	253
Income tax payable	4	11
Deferred income taxes	3	2
Net cash provided by operating activities	4,004	1,859
Cash flows from investing activities		
Investment in intangible assets	(63)	(161)
Production of rental equipment	(10,361)	(7,890)
Purchases of property and equipment	(2,024)	(909)
(Refund) reimbursement of deposit	(27)	42
Net cash used in investing activities	(12,475)	(8,918)

See accompanying notes to financial statements.

Inogen, Inc.
Statements of Cash Flows (Continued)
(amounts in thousands)

	Year Ended December 31,	
	2012 (restated)	2011 (restated)
Cash flows from financing activities		
Net proceeds from issuance of Series G redeemable convertible preferred stock	19,945	—
Proceeds from redeemable convertible preferred stock warrants exercised	417	46
Proceeds from common stock warrants exercised	5	—
Proceeds from stock options exercised	3	1
Repayment of debt from investment in intangible assets	(213)	(213)
Proceeds from borrowings	6,000	6,000
Repayment of borrowings	(6,480)	(658)
Net cash provided by financing activities	19,677	5,176
Net increase (decrease) in cash and cash equivalents	11,206	(1,883)
Cash and cash equivalents, beginning of year	3,906	5,789
Cash and cash equivalents, end of year	$15,112	$ 3,906
Supplemental disclosures of cash flow information		
Cash paid during the year for interest	$ 462	$ 258
Cash paid during the year for income taxes	37	16
Non-cash transactions:		
Deemed dividend on redeemable convertible preferred stock	5,781	3,027
Acquisition of intangible asset with note payable	—	650

See accompanying notes to financial statements.

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

1. Nature of Business

Inogen, Inc. (the “Company” or “Inogen”) was incorporated in Delaware on November 27, 2001. The Company is a medical technology company that develops, manufactures and markets innovative portable oxygen concentrators, or POCs, used for supplemental long-term oxygen therapy, or LTOT, by patients with chronic obstructive pulmonary disease, or COPD, and other chronic respiratory conditions. Our proprietary Inogen One systems are designed to address the quality-of-life and other shortcomings of the traditional oxygen therapy model, which we call the delivery model. Traditionally, oxygen therapy patients have relied upon stationary oxygen concentrator systems in the home in conjunction with regular deliveries of oxygen tanks or cylinders for ambulatory, or mobile, use, limiting their mobility and requiring them to plan activities outside of their homes around delivery schedules and a finite oxygen supply. Our Inogen One systems concentrate the air around them to offer a single source of supplemental oxygen anytime, anywhere in devices weighing approximately five to seven pounds. Our products eliminate the need for oxygen deliveries, as well as regular use of a stationary concentrator, thereby improving patient quality-of-life and fostering patient mobility.

2. Summary of Significant Accounting Policies

Basis of Presentation

The financial statements of the Company have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP). As stated in Note 10, the Company has restated its previously issued financial statements as of and for the years ended December 31, 2012 and 2011.

Accounting Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Significant estimates used in preparing these financial statements include accounts receivable reserves, inventory reserves, warranty reserves, warrant liability, stock-based compensation expense and income tax provision. Actual results could differ from those estimates and such differences could be material to the financial position and results of operations.

Revenue Recognition

The Company generates revenue primarily from sales and rentals of its products. The Company’s products consist of its proprietary line of oxygen concentrators and related accessories. Other revenue comes from extended service contracts and freight revenue for product shipments.

Revenue from product sales is recognized when all of the following criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the price to the customer is fixed or determinable; and (4) collectability is reasonably assured. Revenue from product sales is generally recognized upon shipment of the product. Provisions for estimated returns and discounts are made at the time of shipment. Provisions for standard warranty obligations, which are included in cost of sales revenue, are also provided for at the time of shipment.

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

Revenue Recognition (continued)

Accruals for estimated standard warranty expenses are made at the time that the associated revenue is recognized. The provisions for estimated returns, discounts and warranty obligations are made based on known claims and discount commitments and estimates of additional returns and warranty obligations based on historical data and future expectations. The Company has accrued $447 and $250 to provide for future warranty costs at December 31, 2012 and 2011, respectively.

The Company recognizes equipment rental revenue over the non-cancelable rental period, which is typically one month, less estimated adjustments. Revenue is recognized on the date products are shipped to patients and are recorded at amounts estimated to be received under reimbursement arrangements with third-party payors, including Medicare, private payors, and Medicaid. Due to the nature of the industry and the reimbursement environment in which the Company operates, certain estimates are required to record net revenue and accounts receivable at their net realizable values. Inherent in these estimates is the risk that they will have to be revised or updated as additional information becomes available. Specifically, the complexity of many third-party billing arrangements and the uncertainty of reimbursement amounts for certain services from certain payors may result in adjustments to amounts originally recorded. Such adjustments are typically identified and recorded at the point of cash application, claim denial or account review. Accounts receivable are reduced by an allowance for doubtful accounts which provides for those accounts from which payment is not expected to be received, although product was delivered and revenue was earned. Upon determination that an account is uncollectible, it is written-off and charged to the allowance. Amounts billed but not earned due to the timing of the billing cycle are deferred and recognized in income on a straight-line basis over the monthly billing period.

Revenue from the sales of used rental equipment is recognized upon delivery and when collectability is reasonably assured and other revenue recognition criteria are met. When a rental unit is sold, the related cost and accumulated depreciation are removed from their respective accounts, and any gains or losses are included in gross profit.

Revenue from the sales of the Company’s services is recognized when no significant obligations remain undelivered and collection of the receivables is reasonably assured. The Company offers extended service contracts on its Inogen One concentrator line for periods ranging from 12 to 24 months after the end of the standard warranty period. The Company also offers a lifetime warranty for direct-to-consumer (DTC) sales. Revenue from extended service contracts and lifetime warranty is deferred and recognized in income over the contract period.

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

Shipping and Handling

Shipping and handling costs for sold products and rental assets, shipped to the Company's customers are included on the statements of operations as part of cost of sales revenue and cost of rental revenue, respectively. The Company's shipping and handling costs relating to sales revenue and rental revenue were $639 and $1,922, respectively, for the year ended December 31, 2012. The Company's shipping and handling costs relating to sales revenue and rental revenue were $388 and $978, respectively, for the year ended December 31, 2011. Income from shipping and handling fees charged to its customers is included in other revenue on the statements of operations. The Company earned $214 and $164 from shipping and handling fees for the years ended December 31, 2012 and 2011, respectively.

Fair Value of Financial Instruments

The Company's financial instruments consist of cash and cash equivalents, accounts receivable, accounts payable and accrued expenses, debt and warrants. The carrying values of cash and cash equivalents, accounts receivable and accounts payable and accrued expenses approximate fair values based on the short-term nature of these financial instruments.

The fair value of the Company's debt approximates carrying value based on the Company's current incremental borrowing rate for similar types of borrowing arrangements. Imputed interest associated with the Company's non-interest bearing debt is insignificant.

The fair value of the Company's preferred stock warrant liability is estimated using a Monte Carlo valuation model.

Fair Value Accounting

Accounting Standards Codification (ASC) 820, Fair Value Measurements and Disclosures, creates a single definition of fair value, establishes a framework for measuring fair value in GAAP and expands disclosures about fair value measurements. ASC 820 emphasizes that fair value is a market-based measurement, not an entity-specific measurement, and states that a fair value measurement should be determined based on assumptions that market participants would use in pricing the asset or liability. Assets and liabilities adjusted to fair value in the balance sheet are categorized based upon the level of judgment associated with the inputs used to measure their fair value.

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

Fair Value Accounting (continued)

Level inputs, as defined by ASC 820, are as follows:

Level Input	Input Definition
Level 1	Inputs are unadjusted, quoted prices for identical assets or liabilities in active markets at the measurement date.
Level 2	Inputs, other than quoted prices included in Level 1, that are observable for the asset or liability through corroboration with market data at the measurement date.
Level 3	Unobservable inputs that reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date.

The following table summarizes fair value measurements by level at December 31, 2012 for the liabilities measured at fair value on a recurring basis:

	Level 1	Level 2	Level 3	Total
Preferred stock warrant liability	$ —	$ —	$ 164	$ 164
Total liabilities	$ —	$ —	$ 164	$ 164

The following table summarizes fair value measurements by level at December 31, 2011 for the liabilities measured at fair value on a recurring basis:

	Level 1	Level 2	Level 3	Total
Preferred stock warrant liability	$ —	$ —	$ 337	$ 337
Total liabilities	$ —	$ —	$ 337	$ 337

The following table summarizes the fair value measurements using significant Level 3 inputs, and changes therein, for the year ended December 31, 2012 and 2011:

	Warrant Liability
Balance as of December 31, 2010	$ 220
Fair value of preferred stock warrants exercised	(2)
Change in fair value	119
Balance as of December 31, 2011	337
Fair value of preferred stock warrants exercised	(25)
Change in fair value	(148)
Balance as of December 31, 2012	$ 164

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

Fair Value Accounting (continued)

The preferred stock warrant liability is marked to market each reporting date until the warrants are settled. The fair value of the preferred stock warrant liability is estimated using a Monte Carlo valuation model, which takes into consideration the market values of comparable public companies, considering among other factors, the use of multiples of earnings, and adjusted to reflect the restrictions on the ability of the Company's shares to trade in an active market.

Cash and Cash Equivalents

Cash equivalents are recorded at cost, which approximates market value. The Company considers all highly liquid investments with original maturities of 90 days or less at the time of purchase to be cash equivalents.

Accounts Receivable and Allowance for Bad Debts, Returns, and Adjustments

Accounts receivable are customer obligations due under normal sale terms. The Company performs continuing credit evaluations of the customers' financial condition and generally does not require collateral. The allowance for bad debts is maintained at a level that, in management's opinion, is adequate to absorb potential losses related to account receivables. The allowance for bad debts is based upon management's continuous evaluation of the collectability of outstanding receivables. Management's evaluation takes into consideration such factors as past bad debt experience, economic conditions and information about specific receivables. The allowance is based on estimates and ultimate losses may vary from current estimates. As adjustments to these estimates become necessary, they are reported in earnings in the periods that they become known. The allowance is increased by bad debt provisions charged to operating expense and reduced by direct write-offs, net of recoveries.

For direct to patient sales and rentals, the Company has two additional allowances: allowance for sales returns associated with direct to patient cash sales and allowance for Medicare associated with Medicare rentals. The allowance for sales returns is based on historical return rates under the Company's 30-day trial program and the allowance for Medicare rentals is based on management's evaluation of collection risks.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentration of credit risk consist principally of cash and cash equivalents and accounts receivable. At times, cash account balances may be in excess of the amounts insured by the Federal Deposit Insurance Corporation (FDIC). However, management believes the risk of loss to be minimal. The Company performs periodic evaluations of the relative credit standing of these institutions and has not experienced any losses on its cash and cash equivalents and short-term investments to date.

Concentration of Customers and Vendors

The Company sells its products to home medical equipment (HME) providers in the United States and in foreign countries on a credit basis, which resulted in a customer concentration of a major customer that accounted for 12% of net revenue in 2012. This major customer is an international distributor of the Company's products. The accounts receivable balance from the major customer was $265 or 4% of total accounts receivable at December 31, 2012.

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

Concentration of Customers and Vendors (continued)

The same customer accounted for 7% of total revenue in 2011, along with another international customer that also accounted for 7% of net revenue in 2011. Accounts receivable balances were $436 or 10% of total accounts receivable for one of these customers and immaterial for the other as of December 31, 2011.

The Company also rents products directly to patients, which resulted in a customer concentration relating to Medicare's service reimbursement programs. Medicare's service reimbursement programs (net of patient co-insurance obligations) accounted for 66% and 72% of rental revenue in 2012 and 2011, respectively. Account receivable balances relating to Medicare's service reimbursement programs amounted to $2,644 or 38% of total accounts receivable at December 31, 2012, and $1,539 or 35% of total accounts receivable at December 31, 2011.

The Company currently purchases raw materials from a limited number of vendors, which resulted in a concentration of three major vendors that accounted for 19%, 14%, and 8%, respectively, of total raw material purchases in 2012. The three major vendors supply the Company with raw materials used to manufacture the Company's products. Accounts payable balances for the three major vendors were $598, $509, and $618, respectively, or 15%, 12%, and 15%, respectively, of total accounts payable at December 31, 2012.

For 2011, the Company's three major vendors accounted for 17%, 15%, and 12%, respectively, of total raw material purchases in 2011. Accounts payable balances for the three major vendors were $487, $84, and $550, respectively, or 15%, 3%, and 17%, respectively, of total accounts payable at December 31, 2011.

A portion of revenue is earned from sales outside the United States. Non-U.S. revenue is denominated in U.S. dollars. A breakdown of the Company's revenue from U.S. and non-U.S. sources for the years ended December 31, 2012 and 2011 is as follows (in thousands):

	2012	2011
U.S. Revenue	$35,180	$22,843
Non-U.S. Revenue	13,396	7,791
	$48,576	$30,634

Inventories

Inventories are stated at the lower of cost or market. Cost is determined using a standard cost method, including material, labor and manufacturing overhead, whereby the standard costs are updated periodically to reflect current costs and market represents the lower of replacement cost or estimated net realizable value. The Company records adjustments to inventory for potentially excess, obsolete, slow-moving or impaired items. Inventories consist of the following:

	December 31,	
	2012	2011
Raw materials and work-in progress	$3,744	$1,436
Finished goods	413	337
Less: reserves	(98)	(108)
	$4,059	$1,665

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

Property and Equipment

Property and equipment are stated at cost. Depreciation and amortization are calculated using the straight-line method over the assets estimated useful lives as follows:

Rental equipment	1.5-5 years
Manufacturing equipment and tooling	5 years
Computer equipment and software	3 years
Furniture and equipment	3-5 years
Leasehold improvements	Shorter of 3-7 years or life of underlying lease

Expenditures for repairs and maintenance are charged to operations as incurred. Expenditures for additions, improvements and replacements are capitalized.

Rental equipment is recorded at cost and depreciated over the estimated useful life of the equipment using the straight-line method. The range of estimated useful lives for rental equipment is eighteen months to five years. Rental equipment is depreciated to a salvage value of zero. Repair and maintenance costs are included in cost of revenues in the statements of operations. Repair and maintenance expense, including both labor and parts, for the rental equipment was $392 and $239 for the years ended December 31, 2012 and 2011, respectively.

Depreciation and amortization expense related to property and equipment was $4,686 and $2,918 for the years ended December 31, 2012 and 2011, respectively.

Long-Lived Assets

The Company accounts for the impairment and disposition of long-lived assets in accordance with ASC 360, Property, Plant, and Equipment. In accordance with ASC 360, long-lived assets to be held are reviewed for events or changes in circumstances that indicate that their carrying value may not be recoverable. The Company periodically reviews the carrying value of long-lived assets to determine whether or not impairment to such value has occurred. No impairments were recorded during the years ended December 31, 2012 and 2011.

Deferred Rent

The Company's operating leases for its office facilities in California and Texas include a rent abatement period and scheduled rent increases. The Company has accounted for the leases to provide straight-line charges to operations over the life of the leases.

Research and Development

Research and development costs are expensed as incurred.

Advertising Costs

Advertising costs, which approximated $2,503 and $1,800 during the years ended December 31, 2012 and 2011, respectively, are expensed as incurred, excluding the production costs of direct response commercials. Advertising costs are included in sales and marketing expense in the accompanying statements of operations.

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

Income Taxes

The Company accounts for income taxes in accordance with ASC 740,*Income Taxes*. Under ASC 740, income taxes are recognized for the amount of taxes payable or refundable for the current year and deferred tax liabilities and assets are recognized for the future tax consequences of transactions that have been recognized in the Company's financial statements or tax returns. A valuation allowance is provided when it is more likely than not that some portion, or all, of the deferred tax asset will not be realized.

The Company accounts for uncertainties in income tax in accordance with ASC 740-10,*Accounting for Uncertainty in Income Taxes*. ASC 740-10 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. This Accounting Standard also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition.

The Company recognizes interest and penalties on taxes, if any, within operations as income tax expense. No significant interest or penalties were recognized during the periods presented.

The Company operates in multiple states. The statute of limitations has expired for all tax years prior to 2009 for federal and 2008 to 2009 for various state tax purposes. However, the net operating loss generated on the federal and state tax returns in prior years may be subject to adjustments by the federal and state tax authorities.

Accounting for Stock-Based Compensation

The Company accounts for its stock-based compensation in accordance with ASC 718,*Compensation—Stock Compensation*, which establishes accounting for share-based awards exchanged for employee services and requires companies to expense the estimated fair value of these awards over the requisite employee service period. Share–based compensation cost is determined at the grant date using the Black-Scholes option pricing model. The value of the award that is ultimately expected to vest is recognized as expense on a straight line basis over the employee's requisite service period.

As part of the provisions of ASC 718, the Company is required to estimate potential forfeitures of stock grants and adjust compensation cost recorded accordingly. The estimate of forfeitures will be adjusted over the requisite service period to the extent that actual forfeitures differ, or are expected to differ, from such estimates. Changes in estimated forfeitures will be recognized through a cumulative catch-up adjustment in the period of change and will also impact the amount of stock compensation expense to be recognized in future periods.

Business Segments

The Company operates in only one business segment-manufacturing and marketing of oxygen concentrators.

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

Earnings Per Share

Earnings per share, or EPS, is computed in accordance with ASC 260,*Earnings per Share*, and is calculated using the weighted average number of common shares outstanding during each period. Diluted EPS assumes the conversion, exercise or issuance of all potential common stock equivalents unless the effect is to reduce a loss or increase the income per share. For purposes of this calculation, common stock subject to repurchase by the Company, options and warrants are considered to be common stock equivalents and are only included in the calculation of diluted earnings per share when their effect is dilutive.

The shares used to compute basic and diluted net income per share represent the weighted-average common shares outstanding, reduced by the weighted-average unvested common shares subject to repurchase. Further, as the Company's preferred stockholders have the right to participate in any dividend declared on the Company's common stock, basic and diluted EPS are potentially subject to computation using the two-class method, under which the Company's undistributed earnings are allocated amongst the common and preferred shareholders. However, as the company recorded a net loss attributable to common stockholders for the years ended December 31, 2012 and 2011, presentation of EPS using the two class method was not necessary.

The computation of EPS is as follows (amounts in thousands, except share and per share data):

Years Ended December 31,	2012	2011
Numerator—basic and diluted:		
Net income (loss)	$ 564	$ (2,002)
Less deemed dividend on redeemable preferred stock	(5,781)	(3,027)
Net loss attributable to common stockholders	$ (5,217)	$ (5,029)
Denominator:		
Weighted-average common shares	783,906	748,638
Net loss per share—basic	$ (6.66)	$ (6.72)
Net loss per share—diluted	$ (6.66)	$ (6.72)
	(unaudited)	
Proforma net income per share—basic	$ 0.01	
Proforma net income per share—diluted	$ 0.01	

The proforma EPS calculations gives effect to: (1) the automatic conversion of the outstanding convertible preferred stock into a weighted average of 37,436,642 shares of common stock, (2) the cash exercise of warrants to purchase an aggregate of 275,570 shares of common stock, which we expect will occur prior to closing of this offering as the warrants will otherwise expire at that time and (3) the reclassification of our preferred stock warrant liability to additional paid-in-capital upon the closing of this offering.

The computations of diluted net income applicable to common shareholders exclude redeemable convertible preferred stock, warrants and common stock options which were anti-dilutive. Shares excluded from the computations of diluted net loss applicable to common shareholders amounted to 34,518,355 on December 31, 2012.

Recently Issued Accounting Guidance

In May 2011, the FASB issued ASU 2011-04, *Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS*, which generally represents clarifications of Topic 820,*Fair Value Measurements*, but also includes certain instances where a

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

Recently Issued Accounting Guidance (continued)

particular principle or requirement for measuring fair value or disclosing information about fair value measurements has changed. This ASU results in common principles and requirements for measuring fair value and for disclosing information about fair value measurements in accordance with U.S. GAAP and International Financial Reporting Standards (IFRS). The ASU was effective prospectively for interim and annual periods beginning after December 15, 2011 with earlier application not permitted. The adoption of this guidance did not have a material effect on the results of operations, financial position or cash flows of the Company.

3. Intangible Assets

During the year ended December 31, 2008, the Company acquired Comfort Life Medical, LLC (Comfort Life). The acquisition resulted in recording an intangible asset in the amount of $92 related to the Medicare license held by the acquired company. The Company amortizes this intangible asset over its estimated useful life of ten years. As of December 31, 2012 and 2011, there were no impairments recorded related to this intangible asset.

On April 1, 2009, Comfort Life Medical, LLC merged with Inogen, Inc., and was simultaneously dissolved.

During the year ended December 31, 2009, the Company was assigned four patents previously held as an exclusive license from Air Products & Chemicals (APC) in exchange for an increase in a long term liability due to APC of $250. The acquisition of these patents resulted in an intangible asset of $250. During the year ended December 31, 2011, the Company purchased additional patents from APC for a total value of $650. The Company amortizes these intangible assets over an estimated useful life of five years. As of December 31, 2012 and 2011, there were no impairments recorded related to these intangible assets.

During the year ended December 31, 2011, the Company acquired Breathe Oxygen Services, LLC. The acquisition resulted in recording an intangible asset in the amount of $66 related to the Medicare license held by the acquired company that allowed them to operate in the state of Tennessee as well as assets of the company. The Company amortizes this intangible asset over its estimated useful life of ten years. As of December 31, 2012 and 2011, there were no impairments recorded related to this intangible asset.

On August 29, 2011, Breathe Oxygen Services, LLC merged with Inogen, Inc., and was simultaneously dissolved.

The Company also capitalizes costs incurred for the production of direct response advertising commercials and amortizes these intangible assets over a useful life of two years. During the year ended December 31, 2011, the Company paid $95 for its G2 commercial and during the year ended December 31, 2012, the Company paid $63 for its G3 commercial.

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3. Intangible Assets (continued)

Amortization expense for intangible assets for the years ended December 31, 2012 and 2011 was $298 and $280, respectively.

December 31, 2012	Average Estimated Useful Lives (in years)	Gross Carrying Amount	Accumulated Amortization	Net Amount
Licenses	10.0	$ 158	$ 46	$ 112
Patents	5.0	900	509	391
Commercial	2.0	63	8	55
Total		$ 1,121	$ 563	$ 558

December 31, 2011	Average Estimated Useful Lives (in years)	Gross Carrying Amount	Accumulated Amortization	Net Amount
Licenses	10.0	$ 158	$ 30	$ 128
Patents	5.0	900	286	614
Commercial	2.0	95	44	51
Total		$ 1,153	$ 360	$ 793

Annual estimated amortization expense for each of the succeeding fiscal years is as follows:

Years ending December 31,	Intangible Amortization
2013	$ 270
2014	207
2015	16
2016	16
2017	16
Thereafter	33
	$ 558

Inogen, Inc.
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4. Long-Term Debt

Revolving Credit and Term Loan Agreement

On May 19, 2011 the Company entered into an revolving credit and term loan agreement with its current lender and one additional lender whereby the existing balance of the revolving credit and term loan agreement with the predecessor lender outstanding at the time was split evenly in balance between the current lender and the new lender and the payback terms were not changed. This transaction did not result in any debt extinguishment losses or gains. The Company did not incur or defer any financing cost directly related to the amended loan and security agreement.

On October 12, 2012, the Company entered into an amended and restated revolving credit and term loan agreement with its current lenders whereby the existing balances and the payback terms were not changed. This transaction did not result in any debt extinguishment losses or gains. The Company did not incur or defer any financing cost directly related to the credit and term loan agreement. In the event that the Company enters into an acquisition or initial public offering (IPO) during the term of this Facility, Lenders shall receive a fee equal to 1.00% of the Facility Amount, or approximately $120.

The amended and restated revolving credit and term loan agreement with the Company's current lenders provides for new borrowings of up to $12,000, secured by substantially all of the Company's assets. The amended and restated revolving credit and term loan agreement provides for the existing term loan facility for rental assets amounting to up to $3,000 (Term Loan A), a term loan facility for rental assets amounting to up to $8,000 (Term Loan B), a new term loan facility for rental assets amounting to up to $12,000 (Term Loan C), and an accounts receivable revolving line of credit amounting to up to $1,000 based on 80% of eligible accounts receivable, as defined (AR Revolver).

Payments of interest for all the Term Loans are generally payable monthly. Payment of principal is payable monthly. Each term loan bears interest at the Base Rate, which is a rate equal to the applicable margin plus the greater of (i) the prime rate, (ii) the federal funds effective rate, as defined in the agreement, plus 1% and (iii) the daily adjusting LIBOR rate, plus 1%. The applicable margins for Term Loans A, B, and C are 1.25%, 2.5% and 2.25%, respectively.

The Term Loan A facility of $3,000 is presented net of principal payments that began in May 2011. The net balances of this term loan facility were $1,417 and $2,319 as of December 31, 2012 and 2011, respectively. The Term Loan B facility for $8,000 is presented net of principal payments that began in May 2012. The net balances of this term loan facility were $6,444 and $6,022 as of December 31, 2012 and 2011, respectively.

There were no borrowings under the Term Loan C facility in 2012. Payment of principal is payable monthly over a period of 36 months starting October 2013 for Term Loan C.

There were no borrowings under the AR Revolver during 2012; future draws will bear variable interest at the Base Rate, as defined, plus 1.00%. Payments of interest for the AR revolver are generally payable monthly. The maturity date of the AR Revolver is October 13, 2013.

The total balances owed were $7,861 and $8,341 as of December 31, 2012 and 2011, respectively. The interest rates were 4.5% for Term Loan A and 5.75% for Term Loan B at December 31, 2012 and 2011.

As of December 31, 2012 and 2011, the Company was in compliance with all covenants of the amended and restated credit and term loan agreement.

Contractual Obligation

During 2007, the Company entered into a licensing agreement to acquire a portfolio of patents relating to a continuous flow portable oxygen concentrator by issuing 3.4 million shares of Series D redeemable convertible preferred stock. Also as part of the licensing agreement the Company has accrued a one-time non-exclusive licensing fee of $850, which was originally payable January 1, 2011.

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On March 22, 2011, the Company entered into an amendment of the licensing agreement whereby the Company was assigned the entire right, title and interest in the portfolio of patents in exchange for a non-interest bearing note for $650, in addition to the $850 existing obligation, for a total of $1,500, due to the original licensor in installments starting May 22, 2011, and ending October 31, 2016. As of December 31, 2012, the Company included $212 as current portion of long-term debt and $863 in long-term debt in the accompanying balance sheets. As of December 31, 2011, the Company included $213 as current portion of long-term debt and $1,075 in long-term debt in the accompanying balance sheets.

Long-term debt consists of the following:

	As of December 31,	
	2012	**2011**
Term loan, bearing interest at Base Rate, monthly payments of $83 beginning May 2011 through April 2014	$ 1,417	$ 2,319
Term loan, bearing interest at Base Rate, monthly payments of $222 beginning May 2012 through April 2015	6,444	6,022
Contractual obligation, non-interest, quarterly payments of $53 beginning May 2011 through October 2014 and quarterly payments of $81 beginning January 2015 through October 2016	1,075	1,288
Subtotal	8,936	9,629
Less: current maturities	(3,879)	(2,532)
Long-term debt, net of current portion	$ 5,057	$ 7,097

As of December 31, 2012, the minimum aggregate payments due under non-cancelable debt are summarized as follows:

Years ending December 31,	
2013	$3,879
2014	3,296
2015	1,436
2016	325
Total	$8,936

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5. Income Taxes

The provision for income taxes consists of the following:

	As of December 31,	
	2012	2011
Current tax expense		
Federal	$ —	$ —
State	(15)	(11)
Total current tax expense	(15)	(11)
Deferred tax benefit		
Federal	523	676
State	88	132
Total deferred tax benefit	611	808
Less: valuation allowance	(614)	(810)
Total deferred tax expense, net	(3)	(2)
Income tax expense	$ (18)	$ (13)

The components of deferred tax assets and liabilities consist of the following:

	As of December 31,	
	2012	2011
Deferred tax assets (liabilities)		
Net operating losses	$ 27,100	$ 26,345
Other	(79)	579
Total deferred tax assets	27,021	26,924
Valuation allowance	(27,031)	(26,931)
Net deferred tax liabilities	$ (10)	$ (7)

As of December 31, 2012 and 2011, the Company has recorded a full valuation allowance against its net deferred tax assets. The allowance reduces the Company's deferred tax assets to that amount which management believes to be more likely than not that the Company will ultimately realize.

The Company is a C-Corporation for both Federal and State income tax purposes.

As of December 31, 2012, the Company had $62,020 and $92,523 of federal and state net operating loss carryforwards, respectively, that begin to expire in 2022 and 2013 for federal and state purposes, respectively, if not utilized.

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5. Income Taxes (continued)

As of December 31, 2011, the Company had $59,568 and $120,423 of federal and state net operating loss carryforwards, respectively, that begin to expire in 2022 and 2012 for federal and state purposes, respectively, if not utilized.

6. Commitments and Contingencies

Leases

The Company leases its offices and certain equipment under operating leases that expire through December 2019. At December 31, 2012, the minimum aggregate payments due under non-cancelable leases are summarized as follows:

	Year ending December 31,
2013	$ 788
2014	815
2015	718
2016	331
2017	329
Thereafter	624
Total	$ 3,605

Rent expense of $806 and $628 was included in the accompanying statements of operations for the years ended December 31, 2012 and 2011, respectively.

Legislation and HIPAA

The healthcare industry is subject to numerous laws and regulations of federal, state and local governments. These laws and regulations include, but are not necessarily limited to, matters such as licensure, accreditation, government healthcare program participation requirements, reimbursement for patient services, and Medicare and Medicaid fraud and abuse. Government activity has continued with respect to investigations and allegations concerning possible violations of fraud and abuse statutes and regulations by healthcare providers. Violations of these laws and regulations could result in expulsion from government healthcare programs together with the imposition of significant fines and penalties, as well as significant repayments for patient services previously billed.

The Company believes that it is in compliance with fraud and abuse regulations as well as other applicable government laws and regulations. Compliance with such laws and regulations can be subject to future government review and interpretation as well as regulatory actions unknown or unasserted at this time.

The Health Insurance Portability and Accountability Act (“HIPAA”) assures health insurance portability, reduces healthcare fraud and abuse, guarantees security and privacy of health information, and enforces standards for health information. The Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) imposes notification requirements of certain security breaches relating to protected health information. The Company may be subject to significant fines and penalties if found not to be compliant with the provisions outlined in the regulations.

Employment Agreements

On January 2, 2008, the Company entered into an Employment Agreement with the Chief Executive Officer (CEO) including considerations for salary, bonus awards, stock options, and severance. The CEO is also entitled to a Liquidation Fee, as defined in the agreement, upon the occurrence of a deemed liquidation event, also as defined in the agreement.

The Company has entered into employment agreements with certain key employees providing for the payment of cash compensation and/or continuation of salary for a range of three to six months upon termination without cause. There are no guaranteed amounts due under those agreements as of December 31, 2012 and 2011, respectively.

The Company also has a bonus plan for all employees based on the Company’s overall performance, the employees’ performance, and level of responsibility. In addition, the Company has a management carve-out plan for a potential liquidation event based on the sales price per share.

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Legal Proceedings

On November 4, 2011, we filed a lawsuit in the United States District Court for the Central District of California against Inova Labs Inc., or Defendant, for infringement of two of our patents. The case, Inogen Inc. v. Inova Labs Inc., Case No. 8:11-cv-01692-JST-AN, or the Lawsuit, involves U.S. Patent Nos. 7,841,343, entitled "Systems and Methods For Delivering Therapeutic Gas to Patients", or the '343 patent, and 6,605,136 entitled "Pressure Swing Adsorption Process Operation And Optimization", or the '136 patent. We alleged in the Lawsuit that certain of Defendant's oxygen concentrators infringe various claims of the '343 and '136 patents. The Lawsuit seeks damages, injunctive relief, costs and attorney fees.

The Defendant has answered the complaint, denying infringement and asserting various sets of defenses including non-infringement, invalidity and unenforceability, patent misuse, unclean hands, laches and estoppel. The Defendant also filed counterclaims against us alleging patent invalidity, non-infringement and inequitable conduct. We denied the allegations in the Defendant's counterclaims. We have filed a motion to dismiss Defendant's inequitable conduct counterclaim.

The Defendant filed a request with the U.S. Patent and Trademark Office seeking an inter partes reexamination of the '343 and '136 patents. The Defendant also filed a motion to stay the Lawsuit pending outcome of the reexamination. On March 20, 2012, the Court granted the Defendant's motion to stay the Lawsuit pending outcome of the reexamination and also granted our motion to dismiss the Defendant's inequitable conduct counterclaim.

The Company is party to various other legal proceedings arising in the normal course of business. The Company carries insurance, subject to deductibles under the specified policies, to protect against losses from certain types of legal claims. The Company does not anticipate that any of these proceedings will have a material impact on the Company.

7. Convertible Preferred Stock

A summary of the terms of the various types of redeemable convertible preferred stock at December 31, 2012 is as follows:

Series	B	C	D	E	F	G	Total
Shares authorized	1,276,582	1,140,427	4,858,322	4,917,350	8,105,879	8,520,791	28,819,351
Shares issued	1,276,582	1,097,761	4,461,748	4,904,675	8,105,879	8,520,791	28,367,436
Par value	$ 0.001	$ 0.001	$ 0.001	$ 0.001	$ 0.001	$ 0.001	
Conversion rate	1.45108	1.73014	1.87951	2.69244	1.0000	1.0000	
Liquidation preference per share	3.960	5.860	7.300	6.408	2.380	4.694	
Dividend rate	5%	8%	8%	8%	8%	8%	
Issue date	July 2003	June 2004	July 2005 to July 2007	October 2007 to February 2009	February 2010 to June 2010	March 2012	
Redemption date	January 1, 2016	January 1, 2016	January 1, 2016	January 1, 2016	January 1, 2016	January 1, 2016	

A summary of the terms of non-redeemable convertible preferred stock at December 31, 2012 is as follows:

Series	A
Shares authorized	200,000
Shares issued	200,000
Par value	$ 0.001
Conversion rate	1.01709
Liquidation preference per share	1.250
Dividend rate	5%
Issue date	May 2002

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Dividends

Series G preferred stockholders are entitled to receive dividends prior and in preference to any declaration or payment of any dividend on all existing series of preferred stock and common stock at the rate of 8% of its original issue price. Subject to the prior rights of the holders of Series G preferred stock, Series F preferred stockholders are entitled to receive dividends prior and in preference to any declaration or payment of any dividend on all existing series of preferred stock and common stock at the rate of 8% of its original issue price.

Subject to the prior rights of the holders of Series G and F preferred stock, the Series E preferred stockholders are entitled to receive dividends prior and in preference to any declaration or payment of any dividend on Series A, B, C, and D preferred stock and common stock at the rate of 8% of its original issue price.

Subject to the prior rights of the holders of Series G, F, and E preferred stock, the Series D preferred stockholders are entitled to receive dividends prior and in preference to any declaration or payment of any dividend on Series A, B and C preferred stock and common stock at the rate of 8% of its original issue price.

Subject to the prior rights of the holders of Series G, F, E and D preferred stocks, the Series C preferred stockholders are entitled to receive dividends prior and in preference to any declaration or payment of any dividend on Series A and B preferred stock and common stock at the rate of 8% of its original issue price. Subject to the prior rights of the holders of Series G, F, E, D and C preferred stocks, the Series A and B preferred stockholders are entitled to receive dividends prior and in preference to any declaration or payment of any dividend on common stock at the rate of 5% of its original issue price. Dividends are only payable when, as and if declared and are not cumulative for all series. There were no dividends declared during the years ended December 31, 2012 and 2011.

Liquidation Preferences

In the event of any liquidation, including deemed liquidation (as defined in the Company's Certificate of Incorporation), dissolution or winding up of the Company, the holders of Series G, F and E preferred stock are entitled to be paid out an amount per share of Series G, F and E preferred stock equal to two times the original Series G, F and E issue price, respectively, plus any declared but unpaid dividends before any amounts are paid to both holders of common stock and any other series of preferred stock. All other series of preferred stock are redeemed at their original issue price plus any declared, but unpaid dividends.

After preferential liquidation proceeds are paid or set aside for payment to all Series of preferred stock, the remaining assets and funds of the Company available for distribution to stockholders are distributable ratably among the holders of common and preferred stock on an as-converted to common stock basis.

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Conversion

All series of preferred stock may be converted at any time after issuance, at the option of the holder, into shares of common stock as is determined by dividing the applicable issue price by the applicable conversion price of each as defined in the Company's Certificate of Incorporation. The conversion rate for all series will initially be one for one, subject to anti-dilution and other customary adjustments (see "Anti-Dilution" below).

Each share of preferred stock will automatically convert into common stock, at the then applicable conversion rate, upon (i) the election of the holders of a majority of the then-outstanding Series F Preferred Stock and Series G Preferred Stock, voting together as a single class provided, however, that there is also the approval of 60% of the outstanding shares of Series D preferred stockholders, or (ii) the closing of an underwritten initial public offering of the Company's Common Stock pursuant to a Registration Statement under the Securities Act of 1933, as amended with aggregate proceeds of at least $40 million at an offering price of at least $5.95 per share (as adjusted for stock splits, stock dividends, recapitalizations, etc.). If the Series G Preferred shares are converted to common stock in connection with an initial public offering in which shares are sold to the public at a price that is less than $4.694 per share (as adjusted for stock splits, stock dividends, recapitalizations, etc.), then immediately prior to such conversion, the applicable conversion rate of the Series G Preferred Stock shall be increased to the extent necessary to make the Series G Preferred holders whole as if the initial public offering price to the public had been equal to $4.694 (as adjusted for stock splits, stock dividends, recapitalizations, etc.).

Anti-Dilution

Upon each issuance by the Company of any Additional Shares, as defined in the Company's Certificate of Incorporation, without consideration or for consideration less than the Series A to G conversion price in effect immediately prior to the issuance of such additional stock, then the Series A to G conversion price is reduced based on a defined formula.

The Series A to D and Series E to G preferred stock will be subject to adjustment on a partial ratchet basis and on a full ratchet basis, respectively, if the Company issues additional stock at a price per share less than the then Applicable Conversion Price, except for customary exceptions already set forth in the Company's Certificate of Incorporation.

On March 12, 2012, the Company issued and sold an aggregate of 8,520,791 shares of Series G Preferred Stock for $20,000, at a price of $2.3472 per share (the "March Issuance").

Immediately prior to such Issuance, the Series A Conversion Price was $1.229, the Series B Conversion Price was $2.812, the Series C Conversion Price was $3.612, the Series D Conversion Price was $4.217, the Series E Conversion Price was $1.19, and the Series F Conversion Price was $1.19.

According to the formula defined in the Certificate of Incorporation and simultaneous with the March Issuance, the Series A Conversion Price was not adjusted and remained at $1.229 per share, the Series B Conversion Price was adjusted to $2.729 per share, the Series C Conversion Price was adjusted to $3.387 per share, the Series D Conversion Price was adjusted to $3.884 per share, the Series E Conversion Price was not adjusted and remained at $1.190 per share, and the Series F Conversion Price was not adjusted and remained at $1.19 per share.

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Voting Rights

The holder of any share of preferred stock will have the right to a number of votes equal to the number of shares of common stock issuable upon conversion of each such share of preferred stock and has full voting rights and powers of the holders of common stock. The preferred stockholders will be entitled to vote with the holders of common stock on all matters except as specifically provided in the Certificate of Incorporation or as otherwise prohibited by law.

Protective Provisions

The holders of at least 66 2/3% of preferred stock on an as converted to common stock basis are required to approve certain specified actions as outlined in the Company's Certificate of Incorporation.

Redemption

From and after January 1, 2016, each holder of the Series B, C, D, E, F, and G preferred stock, upon written approval of the holders of at least a majority of the related series shares then outstanding, may, at its option, at any time (and from time to time), require the Company to redeem all or part of the series held by such holder by delivery of a written notice requesting such redemption and the number of shares to be redeemed. The redemption price is equivalent to the liquidation preference for each series of preferred stock.

The redemption provisions of the Series B, C, D, E, F, and G preferred stock are not solely within the control of the Company. Therefore, the Company has presented these series of preferred stock as a component of redeemable convertible preferred stock and not stockholders' deficit. The Company initially recorded these series of preferred stock at their fair value. As the Series E and F preferred stock have redemption amounts greater than their initial fair value, the Company accretes the carrying value to the redemption value using the interest method. The accretion is treated in the same manner as dividends on nonredeemable stock and are recorded by charges against additional paid-in capital or accumulated deficit.

8. Stock Incentive Plan

The Company has a 2012 Stock Incentive Plan (the 2012 Plan) under which the Company has reserved 3,582,234 shares of common stock, to be issued in connection with stock options and other equity awards issued under the 2012 Plan. The 2012 Plan provides for option grants at exercise prices not less than 100% of the fair value of common stock on the date of grant.

Previously, the Company had a 2002 Stock Incentive Plan (the 2002 Plan), as amended. As of March 12, 2012, the 2002 Plan was terminated and the 2012 Plan was created in its place. On termination, the 2002 Plan had 4,273,620 shares of common stock outstanding. Any shares returned to the 2002 Plan as a result of expiration or termination of equity awards (up to 4,273,940 shares) are added to the 2012 Plan Share reserve.

Options typically expire ten years from the date of grant and vest over one to four year terms. Options have been granted to employees and consultants of the Company at the deemed fair market value, as determined by the Board of Directors, of the shares underlying the options at the date of grant.

The activity for stock options under the Plan is as follows:

	Options	Price per Share	Weighted Average Exercise Price	Weighted Average Contractual Terms (in years)	Average Intrinsic Value
Outstanding at December 31, 2010	3,913,933	$0.20 - $2.90	0.3905		
Granted	476,580	$0.25 - $0.25	0.2500		
Exercised	(5,540)	$0.20 - $0.70	0.2903		
Forfeited	(21,793)	$0.20 - $0.25	0.2046		
Expired	(86,105)	$0.20 - $2.90	0.8036		
Outstanding at December 31, 2011	4,277,075	$0.20 - $2.90	0.3676		
Granted	745,801	$0.27 - $0.27	0.2700		
Exercised	(12,812)	$0.25 - $0.25	0.2500		
Forfeited	(59,359)	$0.20 - $0.25	0.2459		
Expired	(11,860)	$0.20 - $0.80	0.2556		
Outstanding at December 31, 2012	4,938,845	$0.20 - $0.80	0.3549	7.0616	$ 174
Exercisable at December 31, 2012	3,955,853	$0.20 - $2.90	0.3786	6.5786	$ 45

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8. Stock Incentive Plan (continued)

The number of equity awards available for grant under the Plan as of December 31, 2012 and 2011 was 2,902,647 and 1,064,669, respectively.

The following table summarizes information about stock options outstanding at December 31, 2012:

	Outstanding			Exercisable	
Exercise Price Per Share	Shares	Weighted Average Life (Years)	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price
$0.20	2,784,162	6.9637	$ 0.20	2,708,726	$ 0.20
$0.25	401,621	8.7582	$ 0.25	138,321	$ 0.25
$0.27	745,801	9.3212	$ 0.27	101,545	$ 0.27
$0.70	200	1.0904	$ 0.70	200	$ 0.70
$0.80	948,281	5.1366	$ 0.80	948,281	$ 0.80
$1.20	14,600	1.2986	$ 1.20	14,600	$ 1.20
$1.50	2,900	1.7561	$ 1.50	2,900	$ 1.50
$2.00	6,900	2.0797	$ 2.00	6,900	$ 2.00
$2.90	34,380	3.1808	$ 2.90	34,380	$ 2.90
	4,938,845			3,955,853	

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8. Stock Incentive Plan (continued)

The following table summarizes information about stock options outstanding at December 31, 2011:

	Outstanding			Exercisable	
Exercise Price Per Share	Shares	Weighted Average Life (Years)	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price
$0.20	2,794,604	7.9679	$ 0.20	2,407,885	$ 0.20
$0.25	474,580	9.7586	$ 0.25	28,135	$ 0.25
$0.70	200	2.0931	$ 0.70	200	$ 0.70
$0.80	948,911	6.1397	$ 0.80	928,996	$ 0.80
$1.20	14,600	2.3013	$ 1.20	14,600	$ 1.20
$1.50	2,900	2.7589	$ 1.50	2,900	$ 1.50
$2.00	6,900	3.0824	$ 2.00	6,900	$ 2.00
$2.90	34,380	4.1835	$ 2.90	34,380	$ 2.90
	4,277,075			3,423,996	

Employee stock-based compensation expense recognized in 2012 and 2011 was calculated based on awards ultimately expected to vest and has been reduced for estimated forfeitures at a rate of 5.7%, based on the Company's historical option cancellations. ASC 718 requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates.

For the years ended December 31, 2012 and 2011, stock-based compensation expense recognized under ASC 718, included in cost of sales, sales and marketing expense, general and administrative expense, and research and development expense, totaled $60 and $144, respectively.

Valuation Assumptions

The employee stock-based compensation expense recognized under ASC 718 was determined using the Black-Scholes method for the year ended December 31, 2012.

Option valuation models require the input of subjective assumptions and these assumptions can vary over time. The risk-free interest rate is the implied yield currently available on U.S. Treasury zero-coupon issues with a remaining term equal to the expected term. The expected term of the options was based on the simplified method outlined in ASC 718. The volatility factors were based on five peer companies selected from Dow Jones Industry Classification Benchmark (ICB) codes 4535 and 4537. These codes include companies which are the same market categories as the Company, which is the Medical Equipment and Supplies line of business. The peer companies were selected based on similarity of market capitalization, size and certain operating characteristics. The calculated volatility value was established by taking the historical daily closing values prior to grant date, over a period equal to the expected term, for each of the peer companies.

When the period of data available was less than the expected term, closing values for the longest period of time available were used. The calculated historical volatility of each of these companies was then averaged to determine the calculated value used by the Company.

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Valuation Assumptions (continued)

The value of employee options was estimated on the date of grant using the Black-Scholes option pricing model with the following assumptions used:

	2012	2011
Expected term (years)	5.51 - 6.07	5.91 - 6.08
Risk free interest rate	0.73 - 1.33%	1.18 - 2.71%
Expected dividend yield	None	None
Volatility	48.95 - 50.52%	47.76 - 48.55%

Under these assumptions, the total fair value of the stock option grants during the years ended December 31, 2012 and 2011 was $85 and $38, respectively.

As of December 31, 2012 and 2011, there was $99 and $64, respectively, of total unrecognized compensation expense related to non-vested share-based compensation granted under the Plan.

Non-Employee Option Grants

In accordance with ASC 505 and ASC 718, compensation expense related to non-employee option grants is recognized over the related vesting period as this method approximates the recognition of compensation expense over the service period. The Company had no compensation expense related to non-employee option grants for the years ended December 31, 2012 and 2011, as no non-employee options were granted and all previous grants were fully vested prior to 2011.

9. Warrants

In connection with certain of its redeemable convertible preferred stock issuances, convertible debt financings, and other financing arrangements the Company has issued warrants for shares of its common stock and various issues of its redeemable convertible preferred stock. Such warrants related to its redeemable convertible preferred stock have been recorded as liabilities as a result of non-standard anti-dilution rights and are carried at their estimated fair value using the Monte Carlo valuation model.

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

9. Warrants (continued)

A summary of outstanding warrants at December 31, 2012 is as follows:

Security	Number of Warrants	Exercise Price/Share	Expiration Date
Series C preferred	42,666	$ 5.860	2015
Series D preferred	396,574	7.300	2013-2014
Series E preferred	9,366	3.204	2015
Series E preferred	3,309	3.204	2016
Common stock	700,928	0.100	2017-2019
	1,152,843		

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

9. Warrants (continued)

A summary of outstanding warrants at December 31, 2011 is as follows:

Security	Number of Warrants	Exercise Price/Share	Expiration Date
Series B preferred	7,287	$ 3.960	2012
Series C preferred	66,185	5.860	2012
Series C preferred	42,666	5.860	2015
Series D preferred	396,574	7.300	2013-2014
Series E preferred	9,366	3.204	2015
Series E preferred	3,309	3.204	2016
Common stock	635,553	0.100	2017
Common stock	117,558	0.100	2019
	1,278,498		

A rollforward of warrant activity from January 1, 2011 to December 31, 2012 is as follows:

	Issued and Outstanding Warrants as of January 1, 2011	Warrants Exercised	Warrants Expired	Issued and Outstanding Warrants as of December 31, 2011
Series B preferred	7,287	—	—	7,287
Series C preferred	126,942	7,680	10,411	108,851
Series D preferred	396,574	—	—	396,574
Series E preferred	12,675	—	—	12,675
Common stock	753,111	—	—	753,111
	1,296,589	7,680	10,411	1,278,498

	Issued and Outstanding Warrants as of January 1, 2012	Warrants Exercised	Warrants Expired	Issued and Outstanding Warrants as of December 31, 2012
Series B preferred	7,287	7,287	—	—
Series C preferred	108,851	66,185	—	42,666
Series D preferred	396,574	—	—	396,574
Series E preferred	12,675	—	—	12,675
Common stock	753,111	52,183	—	700,928
	1,278,498	125,655		1,152,843

The fair value of the preferred warrant liability was $164 and $337 at December 31, 2012 and 2011, respectively. During the years ended December 31, 2012 and 2011, the Company recorded a gain/(loss) of $148 and $(119,) respectively, on the change in fair value of the preferred warrants.

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

10. Restatement of Financial Statements

The Company restated certain balances as of January 1, 2011 and for the years ended December 31, 2011 and 2012 to give effect to the following: (1) to record deferred revenue and related expense on a portion of our rental revenue billings that were previously recognized at the beginning of the month of the dates of service, (2) to recognize a portion of our earned but unbilled rental revenue that was previously not fully reported, (3) to record an allowance for various billing errors as a reduction to earned revenue.

The Company also restated the preferred stock warrant liability as of January 1, 2011 and December 31, 2011 and 2012 using the Monte Carlo valuation model whereas previously, the liability was valued using the Black Scholes method.

The effect of the adjustments described above is presented in the following table.

December 31, 2012	As Previously Reported	Adjustments	Restated
Balance Sheet Data:			
Accounts receivable	$ 7,103	$ (72)	$ 7,031
Deferred cost of rental revenue	—	159	159
Accumulated depreciation and amortization	10,851	(212)	10,639
Deferred revenue	4	1,090	1,094
Preferred stock warrant liability	190	(26)	164
Accumulated deficit	(80,253)	(765)	(81,018)
Income Statement Data:			
Revenue	48,968	(392)	48,576
Cost of rental revenue	24,798	(171)	24,627
Change in fair value of warrant liability	46	(194)	(148)
Net income	$ 591	$ (27)	$ 564

December 31, 2011	As Previously Reported	Adjustments	Restated
Balance Sheet Data:			
Accounts receivable	$ 4,552	$ (183)	$ 4,369
Deferred cost of rental revenue	—	70	70
Accumulated depreciation and amortization	6,270	(130)	6,140
Deferred revenue	8	586	594
Preferred stock warrant liability	168	169	337
Accumulated deficit	(75,076)	(738)	(75,814)
Income Statement Data:			
Revenue	31,171	(537)	30,634
Cost of rental revenue	16,022	(92)	15,930
Change in fair value of warrant liability	11	108	119
Net loss	$ (1,449)	$ (553)	$ (2,002)

Inogen, Inc.
Notes to Financial Statements
(amounts in thousands, except share and per share amounts)

11. Subsequent Events (after December 31, 2012)

In January 2013, the Company received notification from the Center for Medicare & Medicaid Services (CMS) about pricing for the Competitive Bidding program that was expanded to 100 additional Metropolitan Statistical Areas (MSAs). Pricing decreased on average approximately 45% from current Medicare allowable rates for oxygen products. The new payment rates went into effect July 1, 2013. The Company received notification that CMS was offering Inogen 89 non-exclusive contracts to continue to operate in these markets.

From February 2013 through June 2013, the Company issued 168,510 shares of Series D preferred stock for warrants that were exercised by existing shareholders at a purchase price of $7.30 per share, raising $1,186 in capital.

In February 2013, the Company granted a total of 1,130,000 common stock options at an exercise price of $0.39 per share, all of which vest over four years.

In May 2013, the Company granted a total of 190,080 common stock options at an exercise price of $0.39 per share, all of which vest over four years.

From July 2013 through September 2013, the Company issued 88,115 shares of Series D preferred stock for warrants that were exercised by existing shareholders at a purchase price of $7.30 per share, raising $644 in capital.

In October 2013, the Company granted a total of 829,030 common stock options at an exercise price of $2.79 per share, of which 11,250 vest over twelve months and the remainder vest over four years.

In October 2013, the Board approved revised employment agreements for the executive team including the CEO, CFO, EVP, Sales & Marketing, VP, Engineering, and the VP, Operations which included revised compensation arrangements including severance.

In October 2013, the Company received notification from CMS about pricing for the Competitive Bidding program that was re-bid in 9 MSAs as contracts would expire 12/31/2013. Inogen currently has contracts in 6 of these MSAs. Pricing decreased on average approximately 45% from current Medicare allowable rates for respiratory products. The new payment rates would go into effect January 1, 2014. The Company received notification that CMS was offering Inogen3 non-exclusive contracts to continue to operate in these markets.

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Inogen, Inc.

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Financial Statements
As of and for the Six Months Ended
June 30, 2013 and 2012
(Unaudited)

Financial Statements

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Inogen, Inc.
Balance Sheets
(Unaudited)
(amounts in thousands)

	As of June 30,	
	2013	**2012**
Assets		
Current assets		
Cash and cash equivalents	$ 14,174	$21,774
Accounts receivable, net of allowances of $3,424 and $2,182 at June 30, 2013 and 2012, respectively	10,178	6,607
Inventories	4,167	2,067
Deferred costs of rental revenue	196	104
Prepaid expenses and other current assets	828	512
Total current assets	29,543	31,064
Property and equipment		
Rental equipment	32,497	19,438
Manufacturing equipment and tooling	2,478	1,677
Computer equipment and software	2,512	1,466
Furniture and equipment	595	448
Leasehold improvements	873	412
Construction in process	94	888
Total property and equipment	39,049	24,329
Less accumulated depreciation and amortization	(13,349)	(8,107)
Property and equipment, net	25,700	16,222
Intangible assets, net	423	648
Other assets	79	79
Total assets	$ 55,745	$48,013

See accompanying notes to financial statements.

Inogen, Inc.
Balance Sheets (Continued)
(Unaudited)
(amounts in thousands, except share and per share amounts)

	As of June 30, 2013	As of June 30, 2012
Liabilities, Redeemable Convertible Preferred Stock and Stockholders' Deficit		
Current liabilities		
Accounts payable and accrued expenses	$ 11,132	$ 8,234
Current portion of long-term debt	4,296	3,865
Warranty reserve	726	364
Deferred revenue	1,448	718
Income tax payable	117	21
Deferred income taxes, net	10	7
Total current liabilities	17,729	13,209
Long-term liabilities		
Preferred stock warrant liability	362	121
Deferred revenue non-current	361	—
Long-term debt, net of current portion	4,701	6,720
Total liabilities	23,153	20,050
Commitments and Contingencies (Note 5)		
Redeemable convertible preferred stock		
Preferred stock, $0.001 par value per share; 28,819,351 shares authorized; 28,535,946 and 28,326,478 shares issued and outstanding; liquidation preference of $136,007 and $134,536 at June 30, 2013 and 2012, respectively	114,129	105,827
Stockholders' deficit		
Preferred stock, $0.001 par value per share; 200,000 shares authorized, issued and outstanding at both June 30, 2013 and 2012; liquidation preference of $250 at both June 30, 2013 and 2012	247	247
Common stock, $0.001 par value per share; 55,000,000 shares authorized; 829,971 and 803,591 shares issued and outstanding at June 30, 2013 and 2012, respectively	1	1
Accumulated deficit	(81,785)	(78,112)
Total stockholders' deficit	(81,537)	(77,864)
Total liabilities, redeemable convertible preferred stock and stockholders' deficit	$ 55,745	$ 48,013

See accompanying notes to financial statements.

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Inogen, Inc.
Statements of Operations
(Unaudited)
(amounts in thousands, except share and per share amounts)

	Six Months Ended June 30,	
	2013	**2012**
Revenue		
Sales revenue	$ 21,126	$ 13,033
Rental revenue	14,258	8,259
Sales of used rental equipment	145	39
Other revenue	375	253
Total revenue	35,904	21,584
Cost of revenue		
Cost of sales revenue	11,582	7,956
Cost of rental revenue, including depreciation of $2,966 and $1,809, respectively	5,075	3,196
Cost of used rental equipment sales	73	14
Total cost of revenue	16,730	11,166
Gross profit	19,174	10,418
Operating expenses		
Research and development	1,143	1,173
Sales and marketing	8,742	5,378
General and administrative	6,264	3,647
Total operating expenses	16,149	10,198
Income from operations	3,025	220
Other (expense) income		
Interest expense	(199)	(256)
Interest income	6	67
(Increase) decrease in fair value of preferred stock warrant liability	(243)	203
Other income	209	—
Total other (expense) income	(227)	14
Income before provision for income taxes	2,798	234
Provision for income taxes	108	—
Net income	$ 2,690	$ 234
Less deemed dividend on redeemable convertible preferred stock	(3,508)	(2,515)
Net loss attributable to common stockholders	$ (818)	$ (2,281)
Basic and diluted net loss per share attributable to common stockholders	$ (0.99)	(2.93)
Weighted average number of shares used in calculating loss per share attributable to common stockholders—basic and diluted	823,187	777,500
Pro forma net income per share attributable to common stockholders		
Basic	$ 0.06	
Diluted	$ 0.06	
Shares used in computing pro forma net income per share		
Basic	43,465,544	
Diluted	45,186,754	

See accompanying notes to financial statements.

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Inogen, Inc.
Statements of Redeemable Convertible Preferred Stock
(Unaudited)
(amounts in thousands, except share amounts)

	Redeemable Series B Convertible Preferred Stock		Redeemable Series C Convertible Preferred Stock		Redeemable Series D Convertible Preferred Stock		Redeemable Series E Convertible Preferred Stock		Redeemable Series F Convertible Preferred Stock		Redeemable Series G Convertible Preferred Stock		Total Redeemable Convertible Preferred Stock
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	
Balance, December 31, 2011	1,269,295	$ 5,026	1,031,576	$ 6,048	4,461,748	$32,571	4,904,675	$26,925	8,105,879	$12,552	—	$ —	$ 83,122
Warrants exercised	7,287	30	25,227	160		—		—		—		—	190
Series G financing, net of issuance costs		—		—		—		—		—	8,520,791	19,945	19,945
Accretion of Series G financing costs												55	55
Deemed dividend on redeemable convertible preferred stock		—		—		—		591		781		1,143	2,515
Balance, June 30, 2012	1,276,582	5,056	1,056,803	6,208	4,461,748	32,571	4,904,675	27,516	8,105,879	13,333	8,520,791	21,143	105,827
Warrants exercised		—	40,958	252		—		—		—		—	252
Deemed dividend on redeemable convertible preferred stock		—		—		—		528		722		2,016	3,266
Balance, December 31, 2012	1,276,582	5,056	1,097,761	6,460	4,461,748	32,571	4,904,675	28,044	8,105,879	14,055	8,520,791	23,159	109,345
Warrants exercised		—		—	168,510	1,276		—		—		—	1,276
Deemed dividend on redeemable convertible preferred stock		—		—		—		538		762		2,208	3,508
Balance, June 30, 2013	1,276,582	$ 5,056	1,097,761	$ 6,460	4,630,258	$33,847	4,904,675	$28,582	8,105,879	$14,817	8,520,791	$25,367	$ 114,129

See accompanying notes to financial statements

Inogen, Inc.
Statements of Stockholders' Deficit
(Unaudited)
(amounts in thousands, except share amounts)

	Series A Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount			
Balance, December 31, 2011	200,000	$ 247	751,408	$ 1	$ —	$ (75,814)	$ (75,566)
Stock-based compensation	—	—	—	—	33	—	33
Warrants exercised – common	—	—	52,183	—	5	—	5
Accretion of series G financing costs	—	—	—	—	—	(55)	(55)
Deemed dividend on redeemable convertible preferred stock	—	—	—	—	(38)	(2,477)	(2,515)
Net income	—	—	—	—	—	234	234
Balance, June 30, 2012	200,000	247	803,591	1	—	(78,112)	(77,864)
Stock-based compensation	—	—	—	—	27	—	27
Stock options exercised	—	—	12,812	—	3	—	3
Deemed dividend on redeemable convertible preferred stock	—	—	—	—	(30)	(3,236)	(3,266)
Net income	—	—	—	—	—	330	330
Balance, December 31, 2012	200,000	247	816,403	1	—	(81,018)	(80,770)
Stock-based compensation	—	—	—	—	51	—	51
Stock options exercised	—	—	13,568	—	—	—	—
Deemed dividend on redeemable convertible preferred stock	—	—	—	—	(51)	(3,457)	(3,508)
Net income	—	—	—	—	—	2,690	2,690
Balance, June 30, 2013	200,000	$ 247	829,971	$ 1	$ —	$ (81,785)	$ (81,537)

See accompanying notes to financial statements.

Inogen, Inc.
Statements of Cash Flows
(Unaudited)
(amounts in thousands)

	Six Months ended June 30,	
	2013	2012
Cash flows from operating activities		
Net income	$ 2,690	$ 234
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	3,653	2,205
Loss of rental units	156	70
Loss on disposal of other fixed assets	12	—
Provision for sales returns	28	8
Provision for doubtful accounts and adjustments	969	449
Provision for inventory obsolescence	63	5
Stock-based compensation expense	51	33
Increase (decrease) in fair value of preferred stock warrant liability	243	(203)
Changes in operating assets and liabilities:		
Accounts receivable	(4,144)	(2,695)
Inventories	(171)	(407)
Deferred cost of rental revenue expenses	(37)	(34)
Prepaid expenses and other current assets	(519)	(79)
Accounts payable and accrued expenses	2,797	2,497
Warranty reserve	279	114
Deferred revenue	715	123
Income tax payable	92	—
Net cash provided by operating activities	6,877	2,320
Cash flows from investing activities		
Production of rental equipment	(7,746)	(4,586)
Purchases of property and equipment	(1,361)	(923)
Refund of deposit	—	(26)
Net cash used in investing activities	(9,107)	(5,535)

See accompanying notes to financial statements.

Inogen, Inc.
Statements of Cash Flows (Continued)
(Unaudited)
(amounts in thousands)

	Six Months ended June 30,	
	2013	**2012**
Cash flows from financing activities		
Net proceeds from issuance of Series G redeemable convertible preferred stock	—	19,945
Proceeds from redeemable convertible preferred stock warrants exercised	1,231	177
Proceeds from common stock warrants exercised	—	5
Repayment of debt from investment in intangible assets	(106)	(107)
Proceeds from borrowings	2,000	2,000
Repayment of borrowings	(1,833)	(937)
Net cash provided by financing activities	1,292	21,083
Net (decrease) increase in cash and cash equivalents	(938)	17,868
Cash and cash equivalents, beginning of period	15,112	3,906
Cash and cash equivalents, end of period	$14,174	$21,774
Supplemental disclosures of cash flow information		
Cash paid during the period for interest	$ 212	$ 234
Cash paid during the period for income taxes	60	9
Non-cash transactions:		
Deemed dividend on redeemable convertible preferred stock	3,508	2,515
Fair value of warrants exercised-preferred		

See accompanying notes to financial statements.

Inogen, Inc.
Notes to Financial Statements
(Unaudited)
(amounts in thousands, except share and per share amounts)

1. Nature of Business

Inogen, Inc. (the “Company” or “Inogen”) was incorporated in Delaware on November 27, 2001. The Company is a medical technology company that develops, manufactures and markets innovative portable oxygen concentrators, or POCs, used for supplemental long-term oxygen therapy, or LTOT, by patients with chronic obstructive pulmonary disease, or COPD, and other chronic respiratory conditions. Our proprietary Inogen One systems are designed to address the quality-of-life and other shortcomings of the traditional oxygen therapy model, which we call the delivery model. Traditionally, oxygen therapy patients have relied upon stationary oxygen concentrator systems in the home in conjunction with regular deliveries of oxygen tanks or cylinders for ambulatory, or mobile, use, limiting their mobility and requiring them to plan activities outside of their homes around delivery schedules and a finite oxygen supply. Our Inogen One systems concentrate the air around them to offer a single source of supplemental oxygen anytime, anywhere in devices weighing approximately five to seven pounds. Our products eliminate the need for oxygen deliveries, as well as regular use of a stationary concentrator, thereby improving patient quality-of-life and fostering patient mobility.

2. Summary of Significant Accounting Policies

Basis of Presentation

The financial statements of the Company have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP). The accompanying balance sheets as of June 30, 2013 and 2012, and the statements of operations and cash flows for the six months ended June 30, 2013 and 2012 and statements of redeemable preferred stock and stockholders’ deficit are unaudited. The unaudited interim financial statements have been prepared on the same basis as the annual financial statements and, in the opinion of management, reflect all adjustments which include only normal reoccurring adjustments, necessary to present fairly our financial position as of June 30, 2013 and 2012, and the statements of operations and cash flows for the six months ended June 30, 2012 and 2013 and statements of redeemable preferred stock and stockholders’ deficit. The financial data and other information disclosed in these notes to the financial statements related to the six-month periods are unaudited. The results for the six months ended June 30, 2013 are not necessarily indicative of the results to be expected for the year ended December 31, 2013 or for any other interim period or for any other future year. These financial statements should be read in conjunction with our audited financial statements included elsewhere in this registration statement.

Accounting Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Significant estimates used in preparing these financial statements include accounts receivable reserves, inventory reserves, warranty reserves, warrant liability, stock-based compensation expense and income tax provision. Actual results could differ from those estimates and such differences could be material to the financial position and results of operations.

Revenue Recognition

The Company generates revenue primarily from sales and rentals of its products. The Company’s products consist of its proprietary line of oxygen concentrators and related accessories. Other revenue comes from extended service contracts and freight revenue for product shipments.

Revenue from product sales is recognized when all of the following criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the price to the customer is fixed or determinable; and (4) collectability is reasonably assured.

Revenue from product sales is generally recognized upon shipment of the product. Provisions for estimated returns and discounts are made at the time of shipment. Provisions for standard warranty obligations, which are included in cost of sales revenue, are also provided for at the time of shipment.

Inogen, Inc.
Notes to Financial Statements
(Unaudited)
(amounts in thousands, except share and per share amounts)

Revenue Recognition (continued)

Accruals for estimated standard warranty expenses are made at the time that the associated revenue is recognized. The provisions for estimated returns, discounts and warranty obligations are made based on known claims and discount commitments and estimates of additional returns and warranty obligations based on historical data and future expectations. The Company has accrued $726 and $364 to provide for future warranty costs at June 30, 2013 and 2012, respectively.

The Company recognizes equipment rental revenue over the rental period, which is typically one month, less estimated adjustments. Revenue is recognized on the date products are shipped to patients and are recorded at amounts estimated to be received under reimbursement arrangements with third-party payors, including Medicare, private payors, and Medicaid. Due to the nature of the industry and the reimbursement environment in which the Company operates, certain estimates are required to record net revenue and accounts receivable at their net realizable values. Inherent in these estimates is the risk that they will have to be revised or updated as additional information becomes available. Specifically, the complexity of many third-party billing arrangements and the uncertainty of reimbursement amounts for certain services from certain payors may result in adjustments to amounts originally recorded. Such adjustments are typically identified and recorded at the point of cash application, claim denial or account review. Accounts receivable are reduced by an allowance for doubtful accounts which provides for those accounts from which payment is not expected to be received, although product was delivered and revenue was earned. Upon determination that an account is uncollectible, it is written-off and charged to the allowance. Amounts billed but not earned due to the timing of the billing cycle are deferred and recognized in income on a straight-line basis over the monthly billing period.

Revenue from the sales of used rental equipment is recognized upon delivery and when collectability is reasonably assured and other revenue recognition criteria are met. When a rental unit is sold, the related cost and accumulated depreciation are removed from their respective accounts, and any gains or losses are included in gross profit.

Revenue from the sales of the Company’s services is recognized when no significant obligations remain undelivered and collection of the receivables is reasonably assured. The Company offers extended service contracts on its Inogen One concentrator line for periods ranging from 12 to 24 months after the end of the standard warranty period. The Company also offers a lifetime warranty for direct-to-consumer (DTC) sales. Revenue from extended service contracts and lifetime warranty is deferred and recognized in income over the contract period.

Inogen, Inc.
Notes to Financial Statements
(Unaudited)
(amounts in thousands, except share and per share amounts)

Shipping and Handling

Shipping and handling costs for sold products and rental assets, shipped to the Company's customers are included on the statements of operations as part of cost of sales revenue and cost of rental revenue, respectively. The Company's shipping and handling costs relating to sales revenue and rental revenue were $386 and $1,325, respectively, for the six months ended June 30, 2013. The Company's shipping and handling costs relating to sales revenue and rental revenue were $307 and $919, respectively, for the six months ended June 30, 2012. Income from shipping and handling fees charged to its customers is included in other revenue on the statements of operations. The Company earned $233 and $110 from shipping and handling fees for the six months ended June 30, 2013 and 2012, respectively.

Fair Value of Financial Instruments

The Company's financial instruments consist of cash and cash equivalents, accounts receivable, accounts payable and accrued expenses, debt and warrants. The carrying values of cash and cash equivalents, accounts receivable and accounts payable and accrued expenses approximate fair values based on the short-term nature of these financial instruments.

The fair value of the Company's debt approximates carrying value based on the Company's current incremental borrowing rate for similar types of borrowing arrangements.

The fair value of the Company's preferred stock warrant liability is estimated using a Monte Carlo valuation model, as described below.

Fair Value Accounting

Accounting Standards Codification (ASC) 820, *Fair Value Measurements and Disclosures*, creates a single definition of fair value, establishes a framework for measuring fair value in GAAP and expands disclosures about fair value measurements. ASC 820 emphasizes that fair value is a market-based measurement, not an entity-specific measurement, and states that a fair value measurement should be determined based on assumptions that market participants would use in pricing the asset or liability. Assets and liabilities adjusted to fair value in the balance sheet are categorized based upon the level of judgment associated with the inputs used to measure their fair value.

Inogen, Inc.
Notes to Financial Statements
(Unaudited)
(amounts in thousands, except share and per share amounts)

Fair Value Accounting (continued)

Level inputs, as defined by ASC 820, are as follows:

Level Input	Input Definition
Level 1	Inputs are unadjusted, quoted prices for identical assets or liabilities in active markets at the measurement date.
Level 2	Inputs, other than quoted prices included in Level 1, that are observable for the asset or liability through corroboration with market data at the measurement date.
Level 3	Unobservable inputs that reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date.

The following table summarizes fair value measurements by level at June 30, 2013 for the liabilities measured at fair value on a recurring basis:

	Level 1	Level 2	Level 3	Total
Preferred stock warrant liability	$ —	$ —	$ 362	$ 362
Total liabilities	$ —	$ —	$ 362	$ 362

The following table summarizes fair value measurements by level at June 30, 2012 for the liabilities measured at fair value on a recurring basis:

	Level 1	Level 2	Level 3	Total
Preferred stock warrant liability	$ —	$ —	$ 121	$ 121
Total liabilities	$ —	$ —	$ 121	$ 121

The following table summarizes the fair value measurements using significant Level 3 inputs, and changes therein, for the six months ended June 30, 2013 and 2012:

	Warrant Liability
Balance as of January 1, 2013	$ 164
Fair value of preferred stock warrants exercised	(45)
Change in fair value	243
Balance as of June 30, 2013	$ 362
Balance as of January 1, 2012	$ 337
Fair value of preferred stock warrants exercised	(13)
Change in fair value	(203)
Balance as of June 30, 2012	$ 121

Inogen, Inc.
Notes to Financial Statements
(Unaudited)
(amounts in thousands, except share and per share amounts)

Fair Value Accounting (continued)

The preferred stock warrant liability is marked to market each reporting date until the warrants are settled. The fair value of the preferred stock warrant liability is estimated using a Monte Carlo option pricing model, which takes into consideration the market values of comparable public companies, considering among other factors, the use of multiples of earnings, and adjusted to reflect the restrictions on the ability of the Company's shares to trade in an active market.

Cash and Cash Equivalents

Cash equivalents are recorded at cost, which approximates market value. The Company considers all highly liquid investments with original maturities of 90 days or less at the time of purchase to be cash equivalents.

Accounts Receivable and Allowance for Bad Debts, Returns, and Adjustments

Accounts receivable are customer obligations due under normal sale terms. The Company performs continuing credit evaluations of the customers' financial condition and generally does not require collateral. The allowance for bad debts is maintained at a level that, in management's opinion, is adequate to absorb potential losses related to account receivables. The allowance for bad debts is based upon management's continuous evaluation of the collectability of outstanding receivables. Management's evaluation takes into consideration such factors as past bad debt experience, economic conditions and information about specific receivables. The allowance is based on estimates and ultimate losses may vary from current estimates. As adjustments to these estimates become necessary, they are reported in earnings in the periods that they become known. The allowance is increased by bad debt provisions charged to operating expense and reduced by direct write-offs, net of recoveries.

For direct to patient sales and rentals, the Company has two additional allowances: allowance for sales returns associated with direct to patient cash sales and allowance for Medicare associated with Medicare rentals. The allowance for sales returns is based on historical return rates under the Company's 30-day trial program and the allowance for Medicare rentals is based on management's evaluation of collection risks.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentration of credit risk consist principally of cash and cash equivalents and accounts receivable. At times, cash account balances may be in excess of the amounts insured by the Federal Deposit Insurance Corporation (FDIC). However, management believes the risk of loss to be minimal. The Company performs periodic evaluations of the relative credit standing of these institutions and has not experienced any losses on its cash and cash equivalents and short-term investments to date.

Concentration of Customers and Vendors

The Company sells its products to home medical equipment (HME) providers in the United States and in foreign countries on a credit basis, which resulted in a customer concentration of a major customer that accounted for 9% of net revenue in the six months ended June 30, 2013. This major customer is an international distributor of the Company's products. The accounts receivable balance from the major customer was $1,020 or 10% of total accounts receivable at June 30, 2013.

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Concentration of Customers and Vendors (continued)

The same customer accounted for 14% of total revenue for the six months ended June 30, 2012. The accounts receivable balance from the major customer was $1,704 or 26% of total accounts receivable at June 30, 2012.

The Company also rents products directly to patients, which resulted in a customer concentration relating to Medicare's service reimbursement programs. Medicare's service reimbursement programs (net of patient coinsurance obligations) accounted for 74% and 84% of rental revenue in the six months ended June 30, 2013 and 2012, respectively. Account receivable balances relating to Medicare's service reimbursement programs amounted to $3,200 or 31% of total accounts receivable at June 30, 2013, and $2,019 or 31% of total accounts receivable at June 30, 2012.

The Company currently purchases raw materials from a limited number of vendors, which resulted in a concentration of three major vendors that accounted for 16%, 11%, and 8%, respectively, of total raw material purchases in the six months ended June 30, 2013. The three major vendors supply the Company with raw materials used to manufacture the Company's products. Accounts payable balances for the three major vendors were $947, $511, and $616, respectively, or 20%, 11%, and 13%, respectively, of total accounts payable at June 30, 2013.

For the six months ended June 30, 2012, the Company's three major vendors accounted for 19%, 15%, and 10%, respectively, of total raw material purchases in the six months ended June 30, 2012. Accounts payable balances for the three major vendors were $812, $656, and $290, respectively, or 18%, 15%, and 7%, respectively, of total accounts payable at June 30, 2012.

Inventories

Inventories are stated at the lower of cost or market. Cost is determined using a standard cost method, including material, labor and manufacturing overhead, whereby the standard costs are updated periodically to reflect current costs and market represents the lower of replacement cost or estimated net realizable value. The Company records adjustments to inventory for potentially excess, obsolete, slow-moving or impaired items. Inventories consist of the following:

	June 30,	
	2013	**2012**
Raw materials and work-in-progress	$3,680	$1,816
Finished goods	645	355
Less: reserves	(158)	(104)
	$4,167	$2,067

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Property and Equipment

Property and equipment are stated at cost. Depreciation and amortization are calculated using the straight-line method over the assets estimated useful lives as follows:

Rental equipment	1.5-5 years
Manufacturing equipment and tooling	5 years
Computer equipment and software	3 years
Furniture and equipment	3-5 years
Leasehold improvements	Shorter of 3-7 years or life of underlying lease

Expenditures for repairs and maintenance are charged to operations as incurred. Expenditures for additions, improvements and replacements are capitalized.

Rental equipment is recorded at cost and depreciated over the estimated useful life of the equipment using the straight-line method. The range of estimated useful lives for rental equipment is eighteen months to five years. Rental equipment is depreciated to a salvage value of zero. Repair and maintenance costs are included in cost of revenues in the statements of operations. Repair and maintenance expense, including both labor and parts, for the rental equipment was $456 and $143 for the six months ended June 30, 2013 and 2012, respectively.

Depreciation and amortization expense related to property and equipment was $3,518 and $2,060 for the six months ended June 30, 2013 and 2012, respectively.

Long-Lived Assets

The Company accounts for the impairment and disposition of long-lived assets in accordance with ASC 360,*Property, Plant, and Equipment*. In accordance with ASC 360, long-lived assets to be held are reviewed for events or changes in circumstances that indicate that their carrying value may not be recoverable. The Company periodically reviews the carrying value of long-lived assets to determine whether or not impairment to such value has occurred. No impairments were recorded during the six months ended June 30, 2013 and 2012.

Deferred Rent

The Company's operating leases for its office facilities in California and Texas include a rent abatement period and scheduled rent increases. The Company has accounted for the leases to provide straight-line charges to operations over the life of the leases. In addition, the landlord for the Texas facility has reimbursed the Company for $358 for tenant improvements which were capitalized during the six months ended June 30, 2013. $555 of deferred rent was included in accounts payable and accrued expenses on the balance sheet.

Research and Development

Research and development costs are expensed as incurred.

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Advertising Costs

Advertising costs, which approximated $1,331 and $1,014 during the six months ended June 30, 2013 and 2012, respectively, are expensed as incurred, excluding the production costs of direct response commercials. Advertising costs are included in sales and marketing expense in the accompanying statements of operations.

Income Taxes

The Company accounts for income taxes in accordance with ASC 740,*Income Taxes*. Under ASC 740, income taxes are recognized for the amount of taxes payable or refundable for the current year and deferred tax liabilities and assets are recognized for the future tax consequences of transactions that have been recognized in the Company's financial statements or tax returns. A valuation allowance is provided when it is more likely than not that some portion, or all, of the deferred tax asset will not be realized.

The Company accounts for uncertainties in income tax in accordance with ASC 740-10,*Accounting for Uncertainty in Income Taxes*. ASC 740-10 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. This Accounting Standard also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition.

The Company recognizes interest and penalties on taxes, if any, within operations as income tax expense. No significant interest or penalties were recognized during the periods presented.

The Company operates in multiple states. The statute of limitations has expired for all tax years prior to 2009 for federal and 2008 to 2009 for various state tax purposes. However, the net operating loss generated on the federal and state tax returns in prior years may be subject to adjustments by the federal and state tax authorities.

Accounting for Stock-Based Compensation

The Company accounts for its stock-based compensation in accordance with ASC 718,*Compensation – Stock Compensation*, which establishes accounting for share-based awards exchanged for employee services and requires companies to expense the estimated fair value of these awards over the requisite employee service period. Share–based compensation cost is determined at the grant date using the Black-Scholes option pricing model. The value of the award that is ultimately expected to vest is recognized as expense on a straight line basis over the employee's requisite service period.

As part of the provisions of ASC 718, the Company is required to estimate potential forfeitures of stock grants and adjust compensation cost recorded accordingly. The estimate of forfeitures will be adjusted over the requisite service period to the extent that actual forfeitures differ, or are expected to differ, from such estimates. Changes in estimated forfeitures will be recognized through a cumulative catch-up adjustment in the period of change and will also impact the amount of stock compensation expense to be recognized in future periods.

Inogen, Inc.
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Business Segments

The Company operates in only one business segment—manufacturing and marketing of oxygen concentrators.

Earnings Per Share

Earnings per share, or EPS, is computed in accordance with ASC 260,*Earnings per Share*, and is calculated using the weighted average number of common shares outstanding during each period. Diluted EPS assumes the conversion, exercise or issuance of all potential common stock equivalents unless the effect is to reduce a loss or increase the income per share. For purposes of this calculation, common stock subject to repurchase by the Company, options and warrants are considered to be common stock equivalents and are only included in the calculation of diluted earnings per share when their effect is dilutive.

The shares used to compute basic and diluted net income per share represent the weighted-average common shares outstanding, reduced by the weighted-average unvested common shares subject to repurchase. Further, as the Company's preferred stockholders have the right to participate in any dividend declared on the Company's common stock, basic and diluted EPS are potentially subject to computation using the two-class method, under which the Company's undistributed earnings are allocated amongst the common and preferred shareholders. However, as the Company recorded a net loss attributable to common stockholders for the periods ended June 30, 2013 and 2012, presentation of EPS using the two class method was not necessary.

The computation of EPS is as follows (amounts in thousands, except share and per share data):

Six Months Ended June 30,	**2013**	**2012**
Numerator—basic and diluted:		
Net income	$ 2,690	$ 234
Less deemed dividend on redeemable preferred stock	(3,508)	(2,515)
Net loss attributable to common stockholders	$ (818)	$ (2,281)
Denominator:		
Weighted-average common shares—basic and diluted	823,187	777,500
Net loss per share—basic and diluted	$ (0.99)	$ (2.93)
Proforma net income per share—basic and diluted	$ 0.06	

The proforma EPS calculations gives effect to: (1) the automatic conversion of the outstanding convertible preferred stock into an aggregate of 42,489,888 shares of common stock immediately prior to the completion of this offering, (2) the cash exercise of warrants to purchase an aggregate of 112,389 shares of common stock, which we expect will occur prior to closing of this offering as the warrants will otherwise expire at that time and (3) the reclassification of our preferred stock warrant liability to additional paid-in-capital upon the closing of this offering.

The computations of diluted net loss applicable to common shareholders exclude convertible preferred stock, warrants and common stock options which were anti-dilutive. Shares excluded from the computations of diluted net loss applicable to common shareholders amounted to 44,415,621 and 33,896,661 for the six months ended June 30, 2013 and 2012, respectively.

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Recently Issued Accounting Guidance

In May 2011, the FASB issued ASU 2011-04, *Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS*, which generally represents clarifications of Topic 820, *Fair Value Measurements*, but also includes certain instances where a particular principle or requirement for measuring fair value or disclosing information about fair value measurements has changed. This ASU results in common principles and requirements for measuring fair value and for disclosing information about fair value measurements in accordance with U.S. GAAP and International Financial Reporting Standards (IFRS). The ASU was effective prospectively for interim and annual periods beginning after December 15, 2011 with earlier application not permitted. The adoption of this guidance did not have a material effect on the results of operations, financial position or cash flow of the Company.

3. Intangible Assets

Amortization expense for intangible assets for the six months ended June 30, 2013 and 2012 was $135 and $145, respectively.

The Company's intangible assets are summarized as follows:

June 30, 2013	Average Estimated Useful Lives (in years)	Gross Carrying Amount	Accumulated Amortization	Net Amount
Licenses	10.0	$ 158	$ 53	$ 105
Patents	5.0	900	621	279
Commercial	2.0	63	24	39
Total		$ 1,121	$ 698	$ 423

June 30, 2012	Average Estimated Useful Lives (in years)	Gross Carrying Amount	Accumulated Amortization	Net Amount
Licenses	10.0	$ 158	$ 38	$ 120
Patents	5.0	900	397	503
Commercial	2.0	95	70	25
Total		$ 1,153	$ 505	$ 648

Annual estimated amortization expense for each of the succeeding fiscal years is as follows:

Years ending December 31,	Intangible Amortization
Remainder of 2013	$ 135
2014	207
2015	16
2016	16
2017	16
Thereafter	33
	$ 423

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4. Long-Term Debt

Amended and Restated Credit and Term Loan Agreement

As of June 30, 2012, the Company had a credit and term loan facility that provided borrowings of up to $12,000, secured by substantially all of the Company's assets. This is comprised of a term loan facility for rental assets amounting up to $3,000 (Term Loan), an additional term loan facility for rental assets amounting up to $8,000 (New Term Loan) and an accounts receivable revolving line of credit amounting up to $1,000 based on 80% of eligible accounts receivable, as defined (AR Revolver).

On October 12, 2012, the Company entered into an amended and restated credit and term loan agreement with its current lenders whereby the existing balances and the payback terms were not changed. This transaction did not result in any debt extinguishment losses or gains. The Company did not incur or defer any financing cost directly related to the credit and term loan agreement. In the event that the Company enters into an acquisition or initial public offering (IPO) during the term of this facility, lenders shall receive a fee equal to 1% of the facility amount, or approximately $120.

The amended and restated credit and term loan agreement with the Company's current lenders provides for new borrowings of up to $12,000, secured by substantially all of the Company's assets. The amended and restated credit and term loan agreement provides for the existing term loan facility for rental assets amounting to up to $3,000 (Term Loan A), a term loan facility for rental assets amounting to up to $8,000 (Term Loan B), a new term loan facility for rental assets amounting to up to $12,000 (Term Loan C), and an accounts receivable revolving line of credit amounting to up to $1,000 based on 80% of eligible accounts receivable, as defined (AR Revolver).

Payments of interest for all the Term Loans are generally payable monthly. Payment of principal is payable monthly. Each term loan bears interest at the Base Rate, which is a rate equal to the applicable margin plus the greater of (i) the prime rate, (ii) the federal funds effective rate, as define in the agreement, plus 1% and (iii) the daily adjusting LIBOR rate, plus 1% . The applicable margins for Term Loans A, B, and C are 1.25%, 2.5% and 2.25%, respectively.

The Term Loan A facility of $3,000 is presented net of principal payments that began in May 2011. The net balances of this term loan facility were $917 and $1,848 as of June 30, 2013 and 2012, respectively. The Term Loan B facility for $8,000 is presented net of principal payments that began in May 2012. The net balances of this term loan facility were $5,111 and $7,556 as of June 30, 2013 and 2012, respectively.

The Term Loan C facility for $12,000 is presented net of principal payments that begin October 2013. The net balance was $2,000 as of June 30, 2013 and $0 as of June 30, 2012. Payment of principal is payable monthly over a period of 36 months starting October 2013 for Term Loan C.

There were no borrowings under the AR Revolver during the six months ended June 30, 2013; future draws will bear variable interest at the Base Rate, as defined, plus 1.00%. Payments of interest for the AR revolver are generally payable monthly. The maturity date of the AR Revolver is October 13, 2013.

The total balances owed were $8,022 and $9,404 as of June 30, 2013 and 2012, respectively. The interest rates were 4.5% for Term Loan A, 5.75% for Term Loan B, and 5.5% for Term Loan C at June 30, 2013 and 2012.

As of June 30, 2013, the Company was in compliance with all covenants of the amended and restated credit and term loan agreement.

Contractual Obligation

During 2007, the Company entered into a licensing agreement to acquire a portfolio of patents relating to a continuous flow portable oxygen concentrator by issuing 3.4 million shares of Series D redeemable convertible preferred stock. Also as part of the licensing agreement the Company has accrued a one-time non-exclusive licensing fee of $850, which was originally payable January 1, 2011.

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Contractual Obligations (continued)

On March 22, 2011, the Company entered into an amendment of the licensing agreement whereby the Company was assigned the entire right, title and interest in the portfolio of patents in exchange for a non-interest bearing note for $650, in addition to the $850 existing obligation, for a total of $1,500, due to the original licensor in installments starting May 22, 2012, and ending October 31, 2016. As of June 30, 2013, the Company included $213 as current portion of long-term debt and $756 in long-term debt in the accompanying balance sheets. As of June 30, 2012, the Company included $212 as current portion of long-term debt and $969 in long-term debt in the accompanying balance sheets.

Long-term debt consists of the following:

	Periods ending June 30,	
	2013	**2012**
Term loan, bearing interest at Base Rate, monthly payments of $83 beginning May 2011 through April 2014	$ 917	$ 1,848
Term loan, bearing interest at Base Rate, monthly payments of $222 beginning May 2012 through April 2015	5,111	7,556
Term loan, bearing interest at Base Rate, monthly payments of $65 beginning July 2013 through June 2015	2,000	—
Contractual obligation, non-interest, quarterly payments of $53 beginning May 2011 through October 2014 and quarterly payments of $81 beginning January 2015 through October 2016	969	1,181
Subtotal	8,997	10,585
Less: current maturities	(4,296)	(3,865)
Long-term debt, net of current portion	$ 4,701	$ 6,720

As of June 30, 2013, the minimum aggregate payments due under non-cancelable debt are summarized as follows:

	Years ending December 31,
2013 (Remainder)	$ 2,106
2014	3,963
2015	2,103
2016	825
Total	$ 8,997

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5. Commitments and Contingencies

Leases

The Company leases its offices and certain equipment under operating leases that expire through December 2019. At June 30, 2013, the minimum aggregate payments due under non-cancelable leases are summarized as follows:

Years ending December 31,	
Remainder of 2013	$ 396
2014	815
2015	718
2016	331
2017	329
Thereafter	624
Total	$3,213

Rent expense of $467 and $351 was included in the accompanying statements of operations for the six months ended June 30, 2013 and 2012, respectively.

Legislation and HIPAA

The healthcare industry is subject to numerous laws and regulations of federal, state and local governments. These laws and regulations include, but are not necessarily limited to, matters such as licensure, accreditation, government healthcare program participation requirements, reimbursement for patient services, and Medicare and Medicaid fraud and abuse. Government activity has continued with respect to investigations and allegations concerning possible violations of fraud and abuse statutes and regulations by healthcare providers. Violations of these laws and regulations could result in expulsion from government healthcare programs together with the imposition of significant fines and penalties, as well as significant repayments for patient services previously billed.

The Company believes that it is in compliance with fraud and abuse regulations as well as other applicable government laws and regulations. Compliance with such laws and regulations can be subject to future government review and interpretation as well as regulatory actions unknown or unasserted at this time.

The Health Insurance Portability and Accountability Act (“HIPAA”) assures health insurance portability, reduces healthcare fraud and abuse, guarantees security and privacy of health information, and enforces standards for health information. The Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) imposes notification requirements of certain security breaches relating to protected health information. The Company may be subject to significant fines and penalties if found not to be compliant with the provisions outlined in the regulations.

Employment Agreements

On January 2, 2008, the Company entered into an Employment Agreement with the Chief Executive Officer (CEO) including considerations for salary, bonus awards, stock options, and severance. The CEO is also entitled to a Liquidation Fee, as defined in the agreement, upon the occurrence of a deemed liquidation event, also as defined in the agreement.

The Company has entered into employment agreements with certain key employees providing for the payment of cash compensation and/or continuation of salary for a range of three to six months upon termination without cause. There are no guaranteed amounts due under those agreements as of June 30, 2013 and 2012, respectively.

The Company also has a bonus plan for all employees based on the Company’s overall performance, the employees’ performance, and level of responsibility. In addition, the Company has a management carve-out plan for a potential liquidation event based on the sales price per share.

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Legal Proceedings

On November 4, 2011, we filed a lawsuit in the United States District Court for the Central District of California against Inova Labs Inc., or Defendant, for infringement of two of our patents. The case, Inogen Inc. v. Inova Labs Inc., Case No. 8:11-cv-01692-JST-AN, or the Lawsuit, involves U.S. Patent Nos. 7,841,343, entitled "Systems and Methods For Delivering Therapeutic Gas to Patients", or the '343 patent, and 6,605,136 entitled "Pressure Swing Adsorption Process Operation And Optimization", or the '136 patent. We alleged in the Lawsuit that certain of Defendant's oxygen concentrators infringe various claims of the '343 and '136 patents. The Lawsuit seeks damages, injunctive relief, costs and attorney fees.

The Defendant has answered the complaint, denying infringement and asserting various sets of defenses including non-infringement, invalidity and unenforceability, patent misuse, unclean hands, laches and estoppel. The Defendant also filed counterclaims against us alleging patent invalidity, non-infringement and inequitable conduct. We denied the allegations in the Defendant's counterclaims. We have filed a motion to dismiss Defendant's inequitable conduct counterclaim.

The Defendant filed a request with the U.S. Patent and Trademark Office seeking an inter partes reexamination of the '343 and '136 patents. The Defendant also filed a motion to stay the Lawsuit pending outcome of the reexamination. On March 20, 2012, the Court granted the Defendant's motion to stay the Lawsuit pending outcome of the reexamination and also granted our motion to dismiss the Defendant's inequitable conduct counterclaim.

The Company is party to various other legal proceedings arising in the normal course of business. The Company carries insurance, subject to deductibles under the specified policies, to protect against losses from certain types of legal claims. The Company does not anticipate that any of these proceedings will have a material impact on the Company.

6. Convertible Preferred Stock

A summary of the terms of the various types of redeemable convertible preferred stock at June 30, 2013 is as follows:

Series	B	C	D	E	F	G	Total
Shares authorized	1,276,582	1,140,427	4,858,322	4,917,350	8,105,879	8,520,791	28,819,351
Shares issued	1,276,582	1,097,761	4,630,258	4,904,675	8,105,879	8,520,791	28,535,946
Par value	$ 0.001	$ 0.001	$ 0.001	$ 0.001	$ 0.001	$ 0.001	
Conversion rate	1.45108	1.73014	1.87951	2.69244	1.0000	1.0000	
Liquidation preference per share	3.960	5.860	7.300	6.408	2.380	4.694	
Dividend rate	5%	8%	8%	8%	8%	8%	
Redemption date	January 1, 2016	January 1, 2016	January 1, 2016	January 1, 2016	January 1, 2016	January 1, 2016	
Issue date	July 2003	June 2004	July 2005 to July 2007	October 2007 to February 2009	February 2010 to June 2010	March 2012	

A summary of the terms of the non-redeemable convertible preferred stock at June 30, 2013 is as follows:

Series	A
Shares authorized	200,000
Shares issued	200,000
Par value	$ 0.001
Conversion rate	1.01709
Liquidation preference per share	1.250
Dividend rate	5%
Issue date	May 2002

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7. Stock Incentive Plan

The Company has a 2012 Stock Incentive Plan (the 2012 Plan) under which the Company has reserved 3,582,234 shares of common stock, as amended, to be issued in connection with stock options and other equity awards issued under the 2012 Plan. The 2012 Plan provides for option grants at exercise prices not less than 100% of the fair value of common stock on the date of grant.

Previously, the Company had a 2002 Stock Incentive Plan (the 2002 Plan), as amended. As of March 12, 2012, the 2002 Plan was terminated and a new 2012 Plan was created in its place. On termination, the 2002 Plan had 4,273,620 shares of common stock outstanding. Any shares returned to the 2002 Plan as a result of expiration or termination of equity awards (up to 4,273,940 shares) are added to the 2012 Plan share reserve.

Options typically expire ten years from the date of grant and vest over one to four year terms. Options have been granted to employees and consultants of the Company at the deemed fair market value, as determined by the Board of Directors, of the shares underlying the options at the date of grant.

The activity for stock options under the Plan is as follows:

	Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (in years)
Outstanding at December 31, 2012	4,938,845	$ 0.3549	
Granted	1,319,680	$ 0.3900	
Exercised	(13,568)	$ 0.2000	
Forfeited	(1,636)	$ 0.2153	
Expired	(3,629)	$ 0.6788	
Outstanding at June 30, 2013	6,239,692	$ 0.3625	7.2201
Exercisable at June 30, 2013	4,247,782	$ 0.3734	6.2722

The number of equity awards available for grant under the Plan as of June 30, 2013 and 2012 was 1,587,282 and 2,963,555, respectively. As of March 12, 2012, the 2002 Stock Plan was terminated and the 2012 Stock Plan was created reserving 3,582,234 shares for issuance.

Employee stock-based compensation expense recognized in 2013 and 2012 was calculated based on awards ultimately expected to vest and has been reduced for estimated forfeitures at a rate of 5.7%, based on the Company's historical option cancellations. ASC 718 requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates.

For the six months ended June 30, 2013 and 2012, stock-based compensation expense recognized under ASC 718, included in cost of sales, sales and marketing expense, general and administrative expense, and research and development expense, totaled $51 and $33, respectively.

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Valuation Assumptions

The employee stock-based compensation expense recognized under ASC 718 was determined using the Black-Scholes method for the year ended June 30, 2013.

Option valuation models require the input of subjective assumptions and these assumptions can vary over time. The risk-free interest rate is the implied yield currently available on U.S. Treasury zero-coupon issues with a remaining term equal to the expected term. The expected term of the options was based on the simplified method outlined in ASC 718. The volatility factors were based on five peer companies selected from Dow Jones Industry Classification Benchmark (ICB) codes 4535 and 4537. These codes include companies which are the same market categories as the Company, which is the Medical Equipment and Supplies line of business. The peer companies were selected based on similarity of market capitalization, size and certain operating characteristics. The calculated volatility value was established by taking the historical daily closing values prior to grant date, over a period equal to the expected term, for each of the peer companies.

When the period of data available was less than the expected term, closing values for the longest period of time available were used. The calculated historical volatility of each of these companies was then averaged to determine the calculated value used by the Company.

The value of employee options was estimated on the date of grant using the Black-Scholes option pricing model with the following assumptions used:

Expected term (years)	5.5071 - 6.0731
Risk free interest rate	0.7325 - 1.3282%
Expected dividend yield	None
Volatility	48.9455 - 50.5238%

Under these assumptions, the total fair value of the stock option grants during the six months ended June 30, 2013 and 2012 was $223 and $75, respectively.

As of June 30, 2013 and 2012, there was $274 and $116, respectively, of total unrecognized compensation expense related to non-vested share-based compensation granted under the Plan.

Non-Employee Option Grants

In accordance with ASC 505 and ASC 718, compensation expense related to non-employee option grants is recognized over the related vesting period as this method approximates the recognition of compensation expense over the service period. The Company had no compensation expense related to non-employee option grants for the six months ended June 30, 2013 and 2012, as no non-employee options were granted and all previous grants were fully vested prior to 2012.

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8. Warrants

From time to time, the Company issues warrants to purchase its common and preferred stock. These warrants have been issued in connection with the issuance of the Company's convertible debt financing as well as the expansion of its credit agreement.

The warrants issued by the Company are subject to the same anti-dilution rights as the underlying preferred stock.

Warrant activity is summarized as follows:

A summary of outstanding warrants at June 30, 2013 is as follows:

Security	Number of Warrants	Exercise Price/Share	Expiration Date
Series C preferred	42,666	$ 5.860	2015
Series D preferred	134,661	7.300	2013
Series D preferred	34,247	7.300	2014
Series E preferred	9,366	3.204	2015
Series E preferred	3,309	3.204	2016
Common stock	700,928	0.100	2017 - 2019
	925,177		

	Shares	Weighted Average Exercise Price	Range of Exercise Prices
Outstanding at December 31, 2012	1,152,843	$ 2.82	$ 0.10-$7.30
Warrants issued	—	—	—
Warrants exercised	(168,510)	$ 7.30	$ 7.30
Warrants expired/forfeited	(59,156)	$ 7.30	$ 7.30
Outstanding at June 30, 2013	925,177	$ 1.72	$0.10 - $7.30
Exercisable at June 30, 2013	925,177	$ 1.72	$0.10 - $7.30

A rollforward of warrant activity from January 1, 2012 to June 30, 2012 is as follows:

	Issued and Outstanding Warrants as of January 1, 2012	Warrants Exercised	Warrants Expired	Issued and Outstanding Warrants as of June 30, 2012
Series B preferred	7,287	7,287	—	—
Series C preferred	108,851	25,227	—	83,624
Series D preferred	396,574	—	—	396,574
Series E preferred	12,675	—	—	12,675
Common stock	753,111	52,183	—	700,928
	1,278,498	84,697	—	1,193,801

A rollforward of warrant activity from January 1, 2013 to June 30, 2013 is as follows:

	Issued and Outstanding Warrants as of January 1, 2013	Warrants Exercised	Warrants Expired	Issued and Outstanding Warrants as of June 30, 2013
Series B preferred	—	—	—	—
Series C preferred	42,666	—	—	42,666
Series D preferred	396,574	168,510	59,156	168,908
Series E preferred	12,675	—	—	12,675
Common stock	700,928	—	—	700,928
	1,152,843	168,510	59,156	925,177

9. Subsequent Events (after June 30, 2013)

In January 2013, the Company received notification from the Center for Medicare & Medicaid Services (CMS) about pricing for the Competitive Bidding program that was expanded to 100 additional Metropolitan Statistical Areas (MSAs). Pricing decreased on average approximately 45% from current Medicare allowable rates for oxygen products. The new payment rates went into effect July 1, 2013. The Company received notification that CMS was offering Inogen 89 non-exclusive contracts to

continue to operate in these markets.

In July 2013 through September 2013, the Company issued 88,115 shares of Series D preferred stock for warrants that were exercised by existing Inogen shareholders at a purchase price of $7.30 per share, raising $644 in capital.

In October 2013, the Company granted a total of 829,030 common stock options at an exercise price of $2.79 per share, of which 11,250 vest over twelve months and the remainder vest over four years.

In October 2013, the Board approved revised employment agreements for the executive team including the CEO, CFO, EVP, Sales & Marketing, VP, Engineering, and the VP, Operations which included revised compensation arrangements including severance.

In October 2013, the Company received notification from CMS about pricing for the Competitive Bidding program that was re-bid in 9 MSAs as contracts would expire 12/31/2013. Inogen currently has contracts in 6 of these MSAs. Pricing decreased on average approximately 45% from current Medicare allowable rates for respiratory products. The new payment rates would go into effect January 1, 20414. The Company received notification that CMS was offering Inogen3 non-exclusive contracts to continue to operate in these markets.

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Inogen One G3 Carry Bag

The Carry Bag provides a protective cover with a handle and adjustable shoulder strap to enable you to carry the Inogen One® G3. No cart required!

AC Power Supply

The Inogen One® AC power supply (BA-301) is used to power the Inogen One® concentrator from an AC power source.

External Battery Charger

The Inogen One G3 External Battery Charger will charge your Inogen One G3 single and double batteries.

Single and Double Lithium Ion Batteries

The batteries will power the Inogen One® G3 without connection to an external power source. Extend mobility time.

Backpack

This full-size backpack features a main compartment for carrying the Inogen One G3 and a lower pocket for extra accessories. Its adjustable straps help provide comfort and proper fit.

DC Power Cable

The DC power cable is specifically designed for use with the Inogen One® G3. The DC power input cable connects directly to the automobile cigarette lighter or auxiliary DC power supply.

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Part II

Information not required in the prospectus

Item 13. Other Expenses of Issuance and Distribution.

Estimated expenses, other than underwriting discounts and commissions, payable by the registrant in connection with the sale of the common stock being registered under this registration statement are as follows:

	Amount to be Paid
SEC registration fee	$ *
FINRA filing fee	*
Exchange listing fee	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Blue Sky fees and expenses (including legal fees)	*
Transfer agent and registrar fees and expenses	*
Miscellaneous	*
Total	$ *

* To be completed by amendment

Item 14. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law, or DGCL, empowers a corporation to indemnify its directors and officers and to purchase insurance with respect to liability arising out of their capacity or status as directors and officers, provided that the person acted in good faith and in a manner the person reasonably believed to be in its best interests, and, with respect to any criminal action, had no reasonable cause to believe the person's actions were unlawful. The DGCL further provides that the indemnification permitted thereunder shall not be deemed exclusive of any other rights to which the directors and officers may be entitled under the corporation's bylaws, any agreement, a vote of stockholders or otherwise. The certificate of incorporation of the registrant to be in effect upon the completion of this offering provides for the indemnification of the registrant's directors and officers to the fullest extent permitted under the DGCL. In addition, the bylaws of the registrant to be in effect upon the completion of this offering require the registrant to fully 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) by reason of the fact that such person is or was a director, or officer of the registrant, or is or was a director or officer of the registrant serving at the registrant's request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, to the fullest extent permitted by applicable law.

Section 102(b)(7) of the DGCL permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except (1) for any breach of the director's duty of loyalty to the corporation or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) for payments of unlawful

dividends or unlawful stock repurchases or redemptions or (4) for any transaction from which the director derived an improper personal benefit. The registrant's certificate of incorporation to be in effect upon the completion of this offering provides that the registrant's directors shall not be personally liable to it or its stockholders for monetary damages for breach of fiduciary duty as a director and that if the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of the registrant's directors shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

Section 174 of the DGCL provides, among other things, that a director who willfully or negligently approves of an unlawful payment of dividends or an unlawful stock purchase or redemption may be held liable for such actions. A director who was either absent when the unlawful actions were approved, or dissented at the time, may avoid liability by causing his or her dissent to such actions to be entered in the books containing minutes of the meetings of our board of directors at the time such action occurred or immediately after such absent director receives notice of the unlawful acts

As permitted by the DGCL, the registrant has entered into separate indemnification agreements with each of the registrant's directors and certain of the registrant's officers which require the registrant, among other things, to indemnify them against certain liabilities which may arise by reason of their status as directors, officers or certain other employees.

The registrant expects to obtain and maintain insurance policies under which its directors and officers are insured, within the limits and subject to the limitations of those policies, against certain expenses in connection with the defense of, and certain liabilities which might be imposed as a result of, actions, suits or proceedings to which they are parties by reason of being or having been directors or officers. The coverage provided by these policies may apply whether or not the registrant would have the power to indemnify such person against such liability under the provisions of the DGCL.

These indemnification provisions and the indemnification agreements entered into between the registrant and the registrant's officers and directors may be sufficiently broad to permit indemnification of the registrant's officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act of 1933, as amended, or Securities Act.

The underwriting agreement between the registrant and the underwriters filed as Exhibit 1.1 to this registration statement provides for the indemnification by the underwriters of the registrant's directors and officers and certain controlling persons against specified liabilities, including liabilities under the Securities Act with respect to information provided by the underwriters specifically for inclusion in the registration statement.

Item 15. Recent Sales of Unregistered Securities.

The following list sets forth information regarding all unregistered securities sold by us since January 1, 2010. No underwriters were involved in the sales and the certificates representing the securities sold and issued contain legends restricting transfer of the securities without registration under the Securities Act or an applicable exemption from registration.

(a) In February 2010, the registrant issued and sold an aggregate of 3,800,839 shares of its series F convertible preferred stock at $1.19 per share, for aggregate proceeds of $4,522,998.41, to a total of seven accredited investors. In June 2010, we issued and sold an aggregate of 4,305,040 shares of its series F convertible preferred stock at $1.19 per share, for aggregate proceeds of $5,122,997.60, to a total of eight accredited investors.

(b) In March 2012, the registrant sold an aggregate of 8,520,791 shares of its series G convertible preferred stock at $2.3472 per share for aggregate proceeds of $20,000,000.64, to a total of eight accredited investors.

(c) From February 24, 2010 through December 7, 2011, the registrant granted to certain of its employees, consultants, directors and other service providers under the registrant's 2002 Stock Incentive Plan options to purchase an aggregate of 2,770,959 shares of its common stock at exercise prices ranging from $0.20 to $0.25 per share.

(d) From March 28, 2012 through October 11, 2013, the registrant granted to certain of its employees, consultants, directors and other service providers under the registrant's 2012 Equity Incentive Plan options to purchase an aggregate of 2,894,831 shares of its common stock at exercise prices ranging from $0.27 to $2.79 per share.

(e) From May 10, 2010 through June 10, 2013, the registrant issued and sold an aggregate of 32,260 shares of its common stock upon the exercise of options issued to certain employees, directors and consultants under the registrant's 2002 Stock Incentive Plan at exercise prices ranging from $0.20 to $0.70, for aggregate consideration of $7,592.60.

(f) On March 4, 2011, the registrant issued 7,680 shares of its series C convertible preferred stock upon exercise of warrants at an exercise price of $5.86 per share for aggregate proceeds of $45,004.80.

(g) On February 28, 2012, the registrant issued 52,183 shares of its common stock upon exercise of warrants at an exercise price of $0.10 per share for aggregate proceeds of $5,218.30

(h) On April 18, 2012, the registrant issued 25,227 shares of its series C convertible preferred stock upon exercise of warrants at an exercise price of $5.86 per share for aggregate proceeds of $147,830.22.

(i) On April 18, 2012, the registrant issued 7,287 shares of its series B convertible preferred stock upon exercise of a warrant at an exercise price of $3.96 per share for aggregate proceeds of $28,856.52.

(j) On December 27, 2012, the registrant issued 40,958 shares of its series C convertible preferred stock upon exercise of warrants at an exercise price of $5.86 per share for aggregate proceeds of $240,013.88.

(k) On February 14, 2013, the registrant issued 59,932 shares of its series D convertible preferred stock upon exercise of warrants at an exercise price of $7.30 per share for aggregate proceeds of $437,503.60.

(l) On February 28, 2013, the registrant issued 58,624 shares of its series D convertible preferred upon exercise of warrants at an exercise price of $7.30 per share for aggregate proceeds of $427,955.20.

(m) On May 20, 2013, the registrant issued 23,974 shares of its series D convertible preferred stock upon exercise of warrants at an exercise price of $7.30 per share for aggregate proceeds of $175,010.20.

(n) On May 23, 2013, the registrant issued 8,855 shares of its series D convertible preferred stock upon exercise of a warrant at an exercise price of $7.30 per share for aggregate proceeds of $64,641.50.

(o) On June 21, 2013, the registrant issued 17,125 shares of its series D convertible preferred stock upon exercise of warrants at an exercise price of $7.30 per share for aggregate proceeds of $125,012.50.

(p) On July 3, 2013, the registrant issued 11,058 shares of its series D convertible preferred stock upon exercise of a warrant at an exercise price of $7.30 per share for aggregate proceeds of $80,723.40.

(q) On August 28, 2013, the registrant issued 68,495 shares of its series D convertible preferred stock upon exercise of warrants at an exercise price of $7.30 per share for aggregate proceeds of $500,013.50.

(r) On September 5, 2013, the registrant issued 8,562 shares of its series D convertible preferred stock upon exercise of a warrant at an exercise price of $7.30 per share for aggregate proceeds of $62,502.60.

The offers, sales and issuances of the securities described in Items 15(a) and (b) and 15(f) through (r) were exempt from registration under the Securities Act under Section 4(2) of the Securities Act and, or Regulation D promulgated thereunder as transactions by an issuer not involving a public offering. The recipients of securities in each of these transactions acquired the securities for investment only and not with a view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the securities issued in these transactions. Each of the recipients of securities in these transactions was an accredited person and had adequate access, through employment, business or other relationships, to information about the registrant. No underwriters were involved in the offers, sales and issuances of the securities described in items 15(a) and (b) and 15(f) through (r).

The offers, sales and issuances of the securities described in Items 15(c), 15(d) and 15(e) were exempt from registration under the Section 4(2) of the Securities Act and/or Rule 701 of the Securities Act.

Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits.

Exhibit Number	Description
1.1*	Form of Underwriting Agreement.
3.1	Twelfth Amended Restated Certificate of Incorporation of the Registrant, as currently in effect.
3.2	Form of Thirteenth Amended and Restated Certificate of Incorporation, to be effective upon completion of the offering.
3.3	Form of Amended and Restated Bylaws, to be effective immediately prior to the completion of the offering.
4.1*	Specimen Common Stock Certificate of the Registrant.
4.2	Ninth Amended and Restated Investors' Rights Agreement, dated March 12, 2012, by and among the Registrant and the investors named therein.
4.3	Form of Warrant to Purchase Common Stock issued in connection with the Registrant's 2007 convertible note financing.
4.4	Form of Warrant to Purchase Common Stock issued in connection with the Registrant's Series E Preferred Stock Financing.
4.5	Form of Warrant to Purchase Series C Convertible Preferred Stock.
4.6	Form of Warrant to Purchase Series D Convertible Preferred Stock issued pursuant to the Registrant's Note and Warrant Purchase Agreement dated July 7, 2006.
4.7	Form of Warrant to Purchase Series D Convertible Preferred Stock issued in connection with the Registrant's Note and Warrant Purchase Agreement dated September 1, 2006.
4.8	Warrant to purchase Series D Convertible Preferred Stock, dated September 18, 2006, issued to Venture Lending and Leasing IV, LLC.
4.9	Form of Warrant to Purchase Series E Convertible Preferred Stock.
4.10	Form of Second Warrant to Purchase Series E Convertible Preferred Stock.
5.1*	Opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation.
10.1+	Form of Director and Executive Officer Indemnification Agreement.
10.2+	2002 Stock Plan, as amended.
10.3+	Form of Notice of Stock Option Grant and Stock Option Agreement under the 2002 Stock Plan, as amended.
10.4+	2012 Equity Incentive Plan, as amended.
10.5+	Form of Stock Option Agreement under the 2012 Equity Incentive Plan.
10.6+*	2014 Equity Incentive Plan, to be in effect upon completion of this offering.

Exhibit Number	Description
10.7+*	Form of Stock Option Agreement under the 2014 Equity Incentive Plan.
10.8+*	2014 Employee Stock Purchase Plan.
10.9+	Executive Incentive Compensation Plan.
10.10+*	Employment Agreement, dated October 1, 2013, between the Registrant and Raymond Huggenberger.
10.11+*	Employment Agreement, dated October 1, 2013, between the Registrant and Scott Wilkinson.
10.12+*	Employment Agreement, dated October 1, 2013, between the Registrant and Alison Bauerlein.
10.13+*	Employment Agreement, dated October 1, 2013, between the Registrant and Matt Scribner.
10.14+*	Employment Agreement, dated October 1, 2013, between the Registrant and Brenton Taylor.
10.15	Amended and Restated Revolving Credit and Term Loan Agreement, dated October 12, 2012, between the Registrant and Comerica Bank.
10.16	Security Agreement, dated October 12, 2012, between the Registrant and Comerica Bank.
10.17	Multi-Purpose Commercial Building Lease, dated February 1, 2010, between the Registrant and Rockbridge Investments, L.P., as amended.
10.18	Lease Agreement, dated May 3, 2012, between the Registrant and Bayview (TX) Holding LLC.
10.19	License Agreement, dated July 23, 2007, between Registrant and Air Products and Chemicals, Inc.
10.20	Amendment to License Agreement, dated October 23, 2009, between Registrant and Air Products and Chemicals, Inc.
10.21	Amendment No. 2 to License Agreement, dated October 4, 2010, between Registrant and Air Products and Chemicals, Inc.
10.22	Amendment No. 3 to License Agreement, dated March 22, 2011, between Registrant and Air Products and Chemicals, Inc.
16.1*	Letter from Macias Gini & O'Connell LLP addressed to the Securities and Exchange Commission.
23.1*	Consent of BDO USA, LLP, Independent Registered Public Accounting Firm.
23.2*	Consent of Macias Gini & O'Connell LLP, Independent Registered Public Accounting Firm.
23.3*	Consent of Wilson Sonsini Goodrich & Rosati, Professional Corporation (included in Exhibit 5.1).
24.1*	Powers of Attorney (included in page II-7-8 to the original filing of this registration statement).

* To be filed by amendment.
\+ Indicates a management contract or compensatory plan.

(b) Financial statement schedules.

Schedules have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

Item 17. Undertakings.

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

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned hereby undertakes that:

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

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Goleta, State of California, on , 2013.

INOGEN, INC.

By: _____
Raymond Huggenberger
President and Chief Executive Officer

Power of attorney

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Raymond Huggenberger and Alison Bauerlein as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities (including his capacity as a director and/or officer of Inogen, Inc.) to sign any or all amendments (including post-effective amendments) to this registration statement and any and all additional registration statements pursuant to Rule 462(b) of the Securities Act of 1933, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as they, he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agents or any of them, or their, his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

Signature	Title	Date
Raymond Huggenberger	President, Chief Executive Officer and Director (Principal Executive Officer)	, 2013
Alison Bauerlein	Chief Financial Officer (Principal Accounting and Financial Officer)	, 2013
Heath Lukatch, Ph.D.	Chairman of the Board	, 2013
Benjamin Anderson-Ray	Director	, 2013
Stephen E. Cooper	Director	, 2013

Signature	Title	Date
William J. Link, Ph.D.	Director	, 2013
Charles E. Larsen	Director	, 2013
Loren McFarland	Director	, 2013
Timothy Petersen	Director	, 2013

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23.3*	Consent of Wilson Sonsini Goodrich & Rosati, Professional Corporation (included in Exhibit 5.1).

24.1*	Powers of Attorney (included in page II-7-8 to the original filing of this registration statement).

* To be filed by amendment.
\+ Indicates a management contract or compensatory plan.

Exhibit 3.1

TWELFTH AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
INOGEN, INC.

(Pursuant to Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware)

The undersigned, Raymond Huggenberger, does hereby certify that:

FIRST: He is the Chief Executive Officer of Inogen, Inc. (the "Corporation").

SECOND: The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on November 27, 2001 under the name "Inogen, Inc."

THIRD: This Twelfth Amended and Restated Certificate of Incorporation (the "Restated Certificate") restates and amends the Eleventh Amended and Restated Certificate of Incorporation, as amended.

FOURTH: The Eleventh Amended and Restated Certificate of Incorporation of this Corporation is hereby amended and restated in its entirety as follows:

* * * *

ARTICLE I

NAME

The name of this Corporation is Inogen, Inc.

ARTICLE II

REGISTERED OFFICE AND AGENT

The address of the registered office of the Corporation in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, County of New Castle. The name of the Corporation's registered agent at that address is the Corporation Service Company.

ARTICLE III

PURPOSE

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, as amended from time to time.

ARTICLE IV

AUTHORIZED SHARES

4.1. Classes of Stock. This Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Corporation is authorized to issue is 84,019,351 shares. 55,000,000 shares shall be Common Stock, $0.001 par value per share, and 29,019,351 shares shall be Preferred Stock, $0.001 par value per share.

4.2. Rights, Preferences and Restrictions of Preferred Stock. The initial seven series of Preferred Stock shall be designated "Series A Preferred Stock," consisting of 200,000 shares, "Series B Preferred Stock," consisting of 1,276,582 shares, "Series C Preferred Stock," consisting of 1,140,427 shares, "Series D Preferred Stock," consisting of 4,858,322 shares, "Series E Preferred Stock," consisting of 4,917,350 shares, "Series F Preferred Stock," consisting of 8,105,879 shares, and "Series G Preferred Stock" consisting of 8,520,791 shares. The rights, preferences and restrictions granted to and imposed on the Preferred Stock are set forth below in this Section 4.2.

4.2.1 Dividends.

(a) The holders of shares of Series G Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this Corporation) on the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, or Common Stock of this Corporation, at the annual rate of eight percent (8%) of the Original Series G Issue Price (as defined in Section 4.2.2 below). Dividends shall only be payable when, as and if declared by the Board of Directors and shall not be cumulative. If the assets legally available for payment of dividends shall be insufficient to satisfy the Company's payment obligations to the holders of Series G Preferred Stock under this Section 4.2.1(a), then the dividends to be paid shall be distributed among the holders of the Series G Preferred Stock ratably in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series G Preferred Stock.

(b) Subject to the prior rights of the holders of Series G Preferred Stock set forth in subsection (a) above, the holders of shares of Series F Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this Corporation) on the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, or Common Stock of this Corporation, at the annual rate of eight percent (8%) of the Original Series F Issue Price (as defined in Section 4.2.2 below). Dividends shall only be payable when, as and if declared by the Board of Directors and shall not be cumulative. If the assets legally available for payment of dividends shall be insufficient to satisfy the Corporation's payment obligations to the holders of Series F Preferred Stock under this Section 4.2.1(b), then the dividends to be paid shall be distributed among the holders of the Series F Preferred Stock ratably in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series F Preferred Stock.

(c) Subject to the prior rights of the holders of Series G Preferred Stock and Series F Preferred Stock set forth in subsections (a) and (b) above, the holders of shares of Series E Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this Corporation) on the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock or Common Stock of this Corporation, at the annual rate of eight percent (8%) of the Original Series E Issue Price (as defined in Section 4.2.2 below). Dividends shall only be payable when, as and if declared by the Board of Directors and shall not be cumulative. If the assets legally available for payment of dividends shall be insufficient to satisfy the Corporation's payment obligations to the holders of Series E Preferred Stock under this Section 4.2.1(c), then the dividends to be paid shall be distributed among the holders of the Series E Preferred Stock ratably in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series E Preferred Stock.

(d) Subject to the prior rights of the holders of Series G Preferred Stock, Series F Preferred Stock and Series E Preferred Stock set forth in subsections (a), (b), and (c) above, the holders of shares of Series D Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this Corporation) on the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Common Stock of this Corporation, at the annual rate of eight percent (8%) of the Original Series D Issue Price (as defined in Section 4.2.2 below). Dividends shall only be payable when, as and if declared by the Board of Directors and shall not be cumulative. If the assets legally available for payment of dividends shall be insufficient to satisfy the Corporation's payment obligations to the holders of Series D Preferred Stock under this Section 4.2.1(d), then the dividends to be paid shall be distributed among the holders of the Series D Preferred Stock ratably in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series D Preferred Stock.

(e) Subject to the prior rights of the holders of Series G Preferred Stock, Series F Preferred Stock, Series E Preferred Stock and Series D Preferred Stock set forth in subsections (a), (b), (c) and (d) above, the holders of shares of Series C Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this Corporation) on the Series A Preferred Stock, Series B Preferred Stock or Common Stock of this Corporation, at the annual rate of eight percent (8%) of the Original Series C Issue Price (as such terms are defined in Section 4.2.2 below). Dividends shall only be payable when, as and if declared by the Board of Directors and shall not be cumulative. If the assets legally available for payment of dividends shall be insufficient to satisfy the Corporation's payment obligations to the holders of Series C Preferred Stock under this Section 4.2.1(e), then the dividends to be paid shall be distributed among the holders of the Series C Preferred Stock ratably in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series C Preferred Stock.

(f) Subject to the prior rights of the holders of Series G Preferred Stock, Series F Preferred Stock, Series E Preferred Stock, Series D Preferred Stock and Series C Preferred Stock set forth in subsections (a), (b), (c), (d) and (e) above, respectively, the holders of shares of Series A Preferred Stock and Series B Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this Corporation) on the Common Stock of this Corporation, at the annual rate of Five Percent (5%) of the Original Series A Issue Price or Original Series B Issue Price, respectively (as such terms are defined in Section 4.2.2 below). Dividends shall only be payable when, as and if declared by the Board of Directors. If after payment of the dividends required by subsection (a), (b), (c) and (d) above, the assets legally available for payment of dividends shall be insufficient to satisfy the Corporation's payment obligations to the holders of Series A Preferred Stock, and Series B Preferred Stock under this Section 4.2.1(f), then the dividends to be paid shall be distributed among the holders of Series A Preferred Stock and Series B Preferred Stock ratably in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series A Preferred Stock and Series B Preferred Stock.

(g) So long as any shares of the Preferred Stock shall be outstanding, no dividend shall be paid or declared, nor shall any other distribution be made, on any shares of Common Stock until all dividends (set forth in Sections 4.2.1(a), 4.2.1(b), 4.2.1(c), 4.2.1(d), 4.2.1(e), and 4.2.1(f) above) on the Preferred Stock shall have been paid or declared and set apart. Subject to the foregoing sentence, in the event dividends are paid on any share of Common Stock, then such dividends shall be declared equally on the Preferred Stock and Common Stock, treating each share of the Preferred Stock as being equal to the number of shares of Common Stock (including fractions of a share) into which such share is then convertible.

4.2.2 Liquidation, Dissolution or Winding Up.

(a) Preference of Series G Preferred Stock. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, holders of each share of Series G Preferred Stock shall be entitled to be paid out of the assets or funds of the Corporation available for distribution to holders of the Corporation's capital stock, whether such assets are capital, surplus or earnings, an amount per outstanding share of Series G Preferred Stock equal to two (2) times the Original Series G Issue Price (as defined below) plus any declared but unpaid dividends (the "Series G Liquidation Preference") before any sums shall be paid or any assets distributed among the holders of shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, or Series F Preferred Stock. The "Original Series G Issue Price" shall mean $2.3472 per share, as adjusted for any stock dividends, combinations or stock splits following the effectiveness of this Restated Certificate with respect to the Series G Preferred Stock. If the assets and funds of the Corporation shall be insufficient to permit the payment in full to the holders of the Series G Preferred Stock of the amount thus distributable, then the entire assets and funds of the Corporation available for such distribution shall be distributed ratably among the holders of the Series G Preferred Stock in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series G Preferred Stock.

(b) Preference of Series F Preferred Stock. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, and after such payments shall have been made in full pursuant to subsection 4.2.2(a) above, holders of each share of Series F Preferred Stock shall be entitled to be paid out of the assets or funds of the Corporation available for distribution to holders of the Corporation's capital stock, whether such assets are capital, surplus or earnings, an amount per outstanding share of Series F Preferred Stock equal to two (2) times the Original Series F Issue Price (as defined below) plus any declared but unpaid dividends (the "Series F Liquidation Preference") before any sums shall be paid or any assets distributed among the holders of shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock or Series E Preferred Stock. The "Original Series F Issue Price" shall mean $1.19 per share, as adjusted for any stock dividends, combinations or stock splits following the effectiveness of this Restated Certificate with respect to the Series F Preferred Stock. If the assets and funds of the Corporation shall be insufficient to permit the payment in full to the holders of the Series F Preferred Stock of the amount thus distributable, then, subject to the liquidation preference of the Series G Preferred Stock, the entire assets and funds of the Corporation available for such distribution shall be distributed ratably among the holders of the Series F Preferred Stock in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series F Preferred Stock.

(c) Preference of Series E Preferred Stock. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, and after such payments shall have been made in full pursuant to subsections 4.2.2(a) and (b) above, holders of each share of Series E Preferred Stock shall be entitled to be paid out of the assets or funds of the Corporation available for distribution to holders of the Corporation's capital stock, whether such assets are capital, surplus or earnings, an amount per outstanding share of Series E Preferred Stock equal to two (2) times the Original Series E Issue Price (as defined below) plus any declared but unpaid dividends (the "Series E Liquidation Preference") before any sums shall be paid or any assets distributed among the holders of shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock. The "Original Series E Issue Price" shall mean $3.204 per share, as adjusted for any stock dividends, combinations or stock splits following the effectiveness of this Restated Certificate with respect to the Series E Preferred Stock. If the assets and funds of the Corporation shall be insufficient to permit the payment in full to the holders of the Series E Preferred Stock of the amount thus distributable, then, subject to the liquidation preference of the Series G Preferred Stock and Series F Preferred Stock, the entire assets and funds of the Corporation available for such distribution shall be distributed ratably among the holders of the Series E Preferred Stock in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series E Preferred Stock.

(d) Preference of Series D Preferred Stock. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, and after such payments shall have been made in full pursuant to subsections 4.2.2(a), (b), and (c) above, holders of each share of Series D Preferred Stock shall be entitled to be paid out of the assets or funds of the Corporation available for distribution to holders of the Corporation's capital stock, whether such assets are capital, surplus or earnings, an amount equal to $7.30 per outstanding share of Series D Preferred Stock (as adjusted for any stock dividends, combinations or stock splits following the effectiveness of this Restated Certificate with respect to such shares) (the "Original Series D Issue Price") plus any declared but unpaid dividends (the "Series D Liquidation Preference") before any sums shall be paid or any assets distributed among the holders of shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock. If

the assets and funds of the Corporation shall be insufficient to permit the payment in full to the holders of the Series D Preferred Stock of the amount thus distributable, then, subject to the liquidation preferences of the Series G Preferred Stock, Series F Preferred Stock, and Series E Preferred Stock, the entire assets and funds of the Corporation available for such distribution shall be distributed ratably among the holders of the Series D Preferred Stock in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series D Preferred Stock.

(e) Preference of Series C Preferred Stock. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, and after such payments shall have been made in full pursuant to subsections 4.2.2(a), (b), (c) and (d) above, holders of each share of Series C Preferred Stock shall be entitled to be paid out of the assets or funds of the Corporation available for distribution to holders of the Corporation's capital stock, whether such assets are capital, surplus or earnings, an amount equal to $5.86 per outstanding share of Series C Preferred Stock (as adjusted for any stock dividends, combinations or stock splits following the effectiveness of this Restated Certificate with respect to such shares) (the "Original Series C Issue Price") plus any declared but unpaid dividends (the "Series C Liquidation Preference") before any sums shall be paid or any assets distributed among the holders of shares of Common Stock, Series A Preferred Stock or Series B Preferred Stock. If the assets and funds of the Corporation shall be insufficient to permit the payment in full to the holders of the Series C Preferred Stock of the amount thus distributable, then, subject to the liquidation preferences of the Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, and Series G Preferred Stock, the entire assets and funds of the Corporation available for such distribution shall be distributed ratably among the holders of the Series C Preferred Stock in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series C Preferred Stock.

(f) Preference of Series B Preferred Stock. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, and after such payments shall have been made in full pursuant to subsections 4.2.2(a), (b), (c), (d) and (e) above, holders of each share of Series B Preferred Stock shall be entitled to be paid out of the assets or funds of the Corporation available for distribution to holders of the Corporation's capital stock, whether such assets are capital, surplus or earnings, an amount equal to $3.96 per outstanding share of Series B Preferred Stock (as adjusted for any stock dividends, combinations or stock splits following the effectiveness of this Restated Certificate with respect to such shares) (the "Original Series B Issue Price") plus any declared but unpaid dividends (the "Series B Liquidation Preference") before any sums shall be paid or any assets distributed among the holders of shares of Common Stock or Series A Preferred Stock. If the assets and funds of the Corporation shall be insufficient to permit the payment in full to the holders of the Series B Preferred Stock of the amount thus distributable, then, subject to the liquidation preferences of the Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, and Series G Preferred Stock, the entire assets and funds of the Corporation available for such distribution shall be distributed ratably among the holders of the Series B Preferred Stock in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series B Preferred Stock.

(g) Preference of Series A Preferred Stock. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, and after such payments shall have been made in full pursuant to subsections 4.2.2(a), (b), (c), (d), (e) and (f) above, holders of each share of Series A Preferred Stock shall be entitled to be paid out of the assets

and funds of the Corporation available for distribution to holders of the Corporation's capital stock, whether such assets are capital, surplus or earnings, an amount equal to $1.25 per outstanding share of Series A Preferred Stock (as adjusted for any stock dividends, combinations or stock splits following the effectiveness of this Restated Certificate with respect to such shares) (the "Original Series A Issue Price" and issue price applicable for a given series of Preferred Stock shall be referred to as the "Applicable Issue Price.") plus any declared but unpaid dividends (the "Series A Liquidation Preference") before any sums shall be paid or any assets distributed among the holders of shares of Common Stock. If the assets and funds of the Corporation shall be insufficient to permit the payment in full to the holders of the Series A Preferred Stock of the amount thus distributable, then, subject to the liquidation preferences of the Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, and Series G Preferred Stock, the entire assets and funds of the Corporation available for such distribution shall be distributed ratably among the holders of the Series A Preferred Stock in proportion to the full amounts to which they otherwise would be entitled in regards to each such holder's holdings of Series A Preferred Stock.

(h) After the payments shall have been made in full pursuant to subsections 4.2.2(a), (b), (c), (d), (e), (f), and (g) above, the remaining assets and funds of the Corporation available for distribution to stockholders shall be distributed ratably among the holders of Common Stock, the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, and Series F Preferred Stock in proportion to the shares of Common Stock then held by them (calculated assuming full conversion of the shares of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, and Series F Preferred Stock into Common Stock).

(i) Deemed Liquidation. For purposes of Section 4.2.2, the following shall be regarded as liquidation, dissolution or winding up of the affairs of the Corporation: (i) the closing of the sale, transfer, exclusive license or other disposition of all or substantially all of the Corporation's assets; (ii) the consummation of the merger or consolidation of the Corporation or a subsidiary of the Corporation with or into another entity (except one in which the holders of capital stock of the Corporation as constituted immediately prior to such merger or consolidation continue to hold at least 50% of the voting power of the capital stock of the Corporation or the surviving or acquiring entity in substantially the same relative proportions); (iii) the closing of the acquisition, in one transaction or a series of related transactions, by a person or group of affiliated persons of 50% or more of the outstanding voting stock of the Corporation; *provided, however*, that a transaction shall not constitute a liquidation, dissolution or winding up of the affairs of the Corporation pursuant to this clause (iii) if its sole purpose is to change the domicile of the Corporation; and (iv) a liquidation, dissolution or winding up of the Corporation.

(j) Distributions Other Than Cash. Whenever the distribution provided for herein shall be paid in property other than cash, the value of such distribution shall be the fair market value of such property as determined in good faith by the Board of Directors and the holders of a majority of the outstanding shares of the Preferred Stock, voting together as a single class on an as-converted to Common Stock basis; provided however that in the event the holders of Series E Preferred Stock are to be distributed property that is different in nature than is distributed to holders of other series of Preferred Stock, then a determination of the fair market value of the property to be distributed shall require the approval of the holders of a majority of the Series E Preferred Stock, voting as a separate class.

(k) The Corporation shall give each holder of record of Preferred Stock written notice of any impending transaction which would be deemed a liquidation, dissolution or winding up of the affairs of the Corporation pursuant to subsection 4.2.2(i) not later than the earliest of (A) twenty (20) days prior to the stockholders' meeting called to approve such transaction, (B) twenty (20) days prior to the closing of such transaction, or (C) the date by which notice is required under applicable laws. The first of such notices shall describe the material terms and conditions of the impending transaction, and the Corporation shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than twenty (20) days after the Corporation has given the first notice provided for herein or sooner than ten (10) days after the Corporation has given notice of any material changes provided for herein; provided, however, that such periods may be shortened or waived upon the written consent of the holders of Preferred Stock that are entitled to such notice rights or similar notice rights and that represent at least a majority of the voting power of all then outstanding shares of such Preferred Stock, voting together as a single class on an as-converted to Common Stock basis.

4.2.3 No Reissuance of the Preferred Stock. No share or shares of the Preferred Stock acquired by the Corporation by reason of purchase, conversion or otherwise shall be reissued. The Corporation may from time to time take such appropriate corporate action as may be necessary to reduce the authorized number of shares of the Preferred Stock accordingly.

4.2.4 Conversion. The holders of the Preferred Stock shall have conversion rights as follows:

(a) Right to Convert. Each share of the 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 this Corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Applicable Issue Price by the Applicable Conversion Price as each is hereinafter defined. The initial conversion price per share for the Series A Preferred Stock (the "Series A Conversion Price") shall be $1.229; *provided, however* that the Series A Conversion Price shall be subject to adjustment as set forth in subsection 4.2.4(d). The initial conversion price per share for the Series B Preferred Stock (the "Series B Conversion Price") shall be $2.812; *provided, however* that the Series B Conversion Price shall be subject to adjustment as set forth in subsection 4.2.4(d). The initial conversion price per share for the Series C Preferred Stock (the "Series C Conversion Price") shall be $3.612; *provided, however* that the Series C Conversion Price shall be subject to adjustment as set forth in subsection 4.2.4(d). The initial conversion price per share for the Series D Preferred Stock (the "Series D Conversion Price") shall be $4.217; *provided, however* that the Series D Conversion Price shall be subject to adjustment as set forth in subsection 4.2.4(d). The initial conversion price per share for the Series E Preferred Stock (the "Series E Conversion Price") shall be $1.19; *provided, however* that the Series E Conversion Price shall be subject to adjustment as set forth in subsection 4.2.4(d). The initial conversion price per share for the Series F Preferred Stock (the "Series F Conversion Price") shall be $1.19; *provided, however* that the Series F Conversion Price shall be subject to adjustment as set forth in subsection 4.2.4(d). The initial conversion price per share for the Series G Preferred Stock (the "Series G Conversion Price") shall be $2.3472; *provided, however* that the Series G Conversion Price shall be subject to adjustment as set forth in subsections 4.2.4(b) and (d). The Conversion Price applicable for a given series of Preferred Stock shall be referred to as the "Applicable Conversion Price." The Conversion Prices set forth herein reflect all adjustments made pursuant to this Section 4.2.4 prior to the filing date of this Restated Certificate. No further antidilution adjustments will be made under subsection 4.2.2(d) for any issuance of Additional Stock that occurred prior to the filing date hereof.

(b) Automatic Conversion to Common Stock. Each share of Preferred Stock shall automatically be converted into shares of Common Stock at the Applicable Conversion Price upon (i) the closing of a firm commitment underwritten initial public offering by the Corporation of shares of its Common Stock pursuant to an effective registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, as amended, in an offering with aggregate gross cash proceeds to the Corporation of not less than $40,000,000 (before deduction of underwriters' commissions and expenses) at a public offering price per share of not less than $5.95 per share, as adjusted from time to time (a "Qualified Public Offering"), or (ii) upon the vote or written consent of holders of at least a majority of the then-outstanding shares of Series F Preferred Stock and Series G Preferred Stock, voting together as a single class on an as-converted Common Stock basis. Notwithstanding the foregoing, in the event of the automatic conversion of the Series G Preferred Stock pursuant to subsection 4.2.4(b)(ii) in connection with the closing of a firm commitment underwritten initial public offering by the Corporation of shares of its Common Stock pursuant to an effective registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, as amended, at a public offering price per share of less than two times the Original Series G Issue Price (as adjusted for stock splits, stock dividends, recapitalizations, and similar events) (a "Non-Qualified IPO"), the holders entitled to receive the Common Stock issuable upon such conversion of Series G Preferred Stock shall not be deemed to have automatically converted such Series G Preferred Stock until immediately prior to the closing of the Non-Qualified IPO. In the event of such an automatic conversion of the Series G Preferred Stock immediately prior to the closing of the Non-Qualified IPO, the Applicable Conversion Price of the Series G Preferred Stock shall equal to the quotient of (A) the product of (i) the price per share to the public of the Common Stock sold in such Non-Qualified IPO times (ii) the Applicable Conversion Price of the Series G Preferred immediately prior to the adjustment set forth in this sentence of subsection 4.2.4(b) divided by (B) two times the Original Series G Issue Price(as adjusted for stock splits, stock dividends, recapitalizations, and similar events). Notwithstanding the foregoing, in the event the price per share to the public of the Common Stock sold in such Non-Qualified IPO equals or exceeds such number as is equal to two times the Original Series G Issue Price (as adjusted for stock splits, stock dividends, recapitalizations, and similar events), the Applicable Conversion Price for the Series G Preferred Stock shall not be adjusted pursuant to this subsection 4.2.4(b).

(c) Mechanics of Conversion.

(i) Voluntary Conversion to Common Stock. Before any holder of Preferred Stock shall be entitled to convert the same into shares of Common Stock pursuant to subsection 4.2.4(a), such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of this Corporation or of any appointed transfer agent, and give written notice to this Corporation at its principal corporate office of such holder's election to convert the same, and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. This Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid and shall promptly pay in cash or, to the extent sufficient funds are not then legally available therefor, in Common Stock (at the Common Stock's fair market value determined by the Board of Directors as of the date of such conversion), any declared and unpaid dividends on the shares of Preferred Stock being converted. Such conversion shall be deemed to have been made

immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date.

(ii) Automatic Conversion to Common Stock. In the event of an automatic conversion pursuant to subsection 4.2.4(b), the outstanding shares of Preferred Stock shall be converted automatically without 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 that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such automatic conversion unless the certificates evidencing such shares of Preferred Stock are delivered to the Corporation or its transfer agent or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. Upon the occurrence of the automatic conversion of the Preferred Stock, the holders of Preferred Stock shall surrender the certificates representing such shares at the office of the Corporation or any appointed transfer agent. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the shares of Preferred Stock surrendered were convertible on the date on which such automatic conversion occurred, and any declared and unpaid dividends shall be paid in accordance with the provisions above. If the conversion is in connection with a Qualified Public Offering or a Non-Qualified IPO, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person or persons entitled to receive the Common Stock upon conversion of Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

(d) Conversion Price Adjustments of Preferred Stock for Certain Dilutive Issuances, Splits and Combinations. In addition to any adjustment to the Series G Conversion Price pursuant to subsection 4.2.4(b), the Series A Conversion Price, the Series B Conversion Price, the Series C Conversion Price, the Series D Conversion Price, Series E Conversion Price, Series F Conversion Price, or Series G Conversion Price shall be subject to adjustment from time to time as follows:

(i) Adjustment for Certain Dilutive Issuances.

(A) Upon each issuance by this Corporation of any Additional Stock after the filing hereof (as defined below) for a consideration per share less than the Series A Conversion Price, Series B Conversion Price, Series C Conversion Price, Series D Conversion Price, or Series G Conversion Price, as applicable, in effect immediately prior to the issuance of such Additional Stock, then the Series A Conversion Price, Series B Conversion Price, Series C Conversion Price, Series D Conversion Price, or Series G Conversion Price, as applicable, in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this subsection 4.2.4(d)(i)(A)) be reduced but not increased to a price determined by multiplying the Applicable Conversion Price by a fraction, (x) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to the issuance of such Additional Stock plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of shares of Additional Stock so issued would purchase at the Conversion Price

in effect for such series immediately prior to such issuance, and (y) the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance of Additional Stock plus the number of shares of such Additional Stock so issued. Upon each issuance by this Corporation of any Additional Stock for a consideration per share less than the Series E Conversion Price, the Series E Conversion Price shall be reduced concurrently with such issuance to a price equal to the per share price of the Additional Stock. Upon each issuance by this Corporation of any Additional Stock for a consideration per share less than the Series F Conversion Price, the Series F Conversion Price shall be reduced concurrently with such issuance to a price equal to the per share price of the Additional Stock. For the purpose of the above calculation, the number of shares of Common Stock outstanding immediately prior to such issuance of Additional Stock shall be calculated as if all outstanding shares of all series of Preferred Stock had been fully converted into shares of Common Stock immediately prior to such issuance, and any outstanding options, warrants or other rights for the purchase of shares of stock or convertible securities shall be treated in the manner set forth in subsection 4.2.4(d)(i)(E).

(B) No adjustment of the Applicable Conversion Price shall be made in an amount less than One Cent ($0.01) per share, provided that any adjustments that are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three (3) years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three (3) years from the date of the event giving rise to the adjustment being carried forward, and upon such adjustment the Applicable Conversion Price shall be rounded up or down to the nearest cent. Except to the limited extent provided for in subsections 4.2.4(d)(i)(E)(3) and (4), no adjustment of the Series A Conversion Price, Series B Conversion Price, Series C Conversion Price, Series D Conversion Price, Series E Conversion Price, Series F Conversion Price, or Series G Conversion Price pursuant to this subsection 4.2.4(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

(C) In the case of the issuance of Additional Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor after deducting any reasonable discounts or commissions, but before deducting any other expenses allowed, paid or incurred by this Corporation for any underwriting or otherwise in connection with the issuance and sale thereof.

(D) In the case of the issuance of Additional Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair market value thereof as determined in good faith by the Board of Directors and the holders of a majority of the then outstanding shares of Preferred Stock, voting together as a single class on an as-converted to Common Stock basis.

(E) In the case of the issuance of options to purchase or rights to subscribe for Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions shall apply for all purposes of this subsections 4.2.4(d)(i) and (ii):

(1) The aggregate maximum number of shares of Common Stock deliverable upon exercise (whether or not then exercisable) of such options to purchase or rights to subscribe for Common Stock shall be deemed to have been issued at the time such options or rights were issued and for a consideration equal to the consideration (determined in

the manner provided in subsections 4.2.4(d)(i)(C) and (D)), if any, received by the Corporation upon the issuance of such options or rights plus the minimum exercise price provided in such options or rights for the Common Stock covered thereby.

(2) The aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange (whether or not then convertible or exchangeable) for any such convertible or exchangeable securities or upon the exercise of options to purchase or rights to subscribe for such convertible or exchangeable securities and subsequent conversion or exchange thereof shall be deemed to have been issued at the time such securities were issued or such options or rights were issued and for a consideration equal to the consideration, if any, received by the Corporation for any such securities and related options or rights (excluding any cash received on account of interest or dividends), plus the minimum additional consideration, if any, to be received by the Corporation upon the conversion or exchange of such securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in subsections 4.2.4(d)(i)(C) and (D)).

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this Corporation upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Applicable Conversion Price, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

(4) Upon the expiration of any such options or rights, the termination of any such rights to convert or exchange or the expiration of any options or rights related to such convertible or exchangeable securities, the Applicable Conversion Price, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and convertible or exchangeable securities that remain in effect) actually issued upon the exercise of such options or rights, upon the conversion or exchange of such securities or upon the exercise of the options or rights related to such securities.

(5) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to subsections (i)(E)(1) and (2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either subsection 4.2.4(d)(i)(E)(3) or (4).

(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4.2.4(d)(i)(E)) by this Corporation other than the following:

(A) Common Stock issued pursuant to a transaction described in subsection 4.2.4(d)(iii) hereof;

(B) Shares of Common Stock reserved for issuances to directors, officers, employees and consultants of the Corporation pursuant to arrangements, contracts or plans approved by the Board of Directors;

(C) Common Stock issued or issuable upon conversion of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, or Series F Preferred Stock outstanding as of the date hereof;

(D) Common Stock issued or issuable in a public offering;

(E) Common Stock issued or issuable to financial institutions or lessors in connection with commercial credit arrangements, equipment financings, real property leasing transactions or similar transactions, as approved by the Board of Directors, including the vote of the directors elected by the holders of Series C Preferred Stock voting together as a separate class, and the holders of Series D Preferred Stock, voting together as a separate class;

(F) Common Stock issued or issuable pursuant to options, warrants, notes, or other rights to acquire securities of the Corporation outstanding as of the effectiveness of this Restated Certificate; or

(G) Any shares that the holders of a majority of the then outstanding shares of Preferred Stock for which the issuance of Additional Stock would otherwise result in an adjustment to the conversion price thereof, voting together as a single class on an as-converted to Common Stock basis, agree that such shares shall not constitute Additional Stock.

(iii) Adjustment for Splits and Dividends. In the event the Corporation should at any time or from time to time following the effectiveness of this Restated Certificate fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (hereinafter referred to as "Common Stock Equivalents") without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Applicable Conversion Price shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of Preferred Stock shall be increased in proportion to such increase of the aggregate of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents.

(iv) Adjustment for Combinations. If the number of shares of Common Stock outstanding at any time following the effectiveness of this Restated Certificate is decreased by a combination of the outstanding shares of Common Stock (without a corresponding proportional decrease in the number of shares of the Preferred Stock) then, following the record date of such combination, the Applicable Conversion Price shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of Preferred Stock shall be decreased in proportion to such decrease in outstanding shares.

(e) Other Distributions. In the event this Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by this Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in subsection 4.2.4(d)(iii), then, in each such case, the holders of Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of the Corporation into which their shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

(f) Recapitalizations. If at any time or from time to time the Common Stock issuable upon the conversion of the Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification, reorganization or otherwise (other than a subdivision, combination or merger, reorganization or sale of assets transaction provided for elsewhere in this Section 4.2.4 or Section 4.2.2 of this Article IV), provision shall be made so that the holders of Preferred Stock shall thereafter be entitled to receive upon conversion of such Preferred Stock the number of shares of stock or other securities or property of the Corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4.2.4 with respect to the rights of the holders of Preferred Stock after the recapitalization to the end that the provisions of this Section 4.2.4 (including adjustment of the Applicable Conversion Price then in effect and the number of shares purchasable upon conversion of Preferred Stock) shall be applicable after that event as nearly equivalent as is practicable.

(g) No Impairment. This Corporation will not, by amendment of its Certificate of Incorporation (except in accordance with Section 4.2.6 hereof and applicable law) or through any reorganization, recapitalization, 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 this Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4.2.4 and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights of the holders of Preferred Stock against dilution or other impairment.

(h) No Fractional Shares and Certificate as to Adjustments.

(i) No fractional shares shall be issued upon the conversion of any share or shares of Preferred Stock. In lieu of issuing any fractional shares to which such stockholder is entitled, the Corporation shall pay cash equal to the product of such fraction multiplied by the fair market value of the Common Stock (as determined in good faith by the Board) on the date of conversion. Whether or not fractional shares would have been issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock, the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

(ii) Upon the occurrence of each adjustment or readjustment of the Applicable Conversion Price pursuant to this Section 4.2.4, this Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based

including a statement of (A) such adjustment and readjustment, (B) the consideration received or deemed to be received by the Corporation for any Additional Stock issued or sold or deemed to have been issued or sold, (C) the Applicable Conversion Price for each series of Preferred Stock at the time in effect, and (D) 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 a share of Preferred Stock.

(iii) Reservation of Stock Issuable Upon Conversion. This Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of Preferred Stock such number of shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, this Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Restated Certificate.

(iv) Notices. Any notice required by the provisions of Sections 4.2.2 and 4.2.4 to be given to the holders of shares of Preferred Stock shall be deemed given (A) upon personal delivery to the party to be notified, (B) when sent by confirmed facsimile if sent during normal business hours of the recipient (if not, then on the next business day), (C) if sent and delivered within the United States, (1) five (5) days after deposit in the United States mail, by registered or certified mail, postage prepaid, return receipt requested or (2) the day after delivery to an overnight delivery service of national reputation, or (D) if sent or delivered outside the United States, three (3) days after deposit with a recognized international courier service. All such notices shall be delivered and addressed to each holder of record at his address appearing on the books of this Corporation.

4.2.5 Voting Rights.

(a) The holder of any share of Preferred Stock shall have the right to one vote for each share of Common Stock into which such share of Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any stockholders' meeting in accordance with the Bylaws of this Corporation, and shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote as a single class, unless otherwise prohibited by law; *provided, however*, that, notwithstanding anything to the contrary in this subsection 4.2.5(a), the rights of holders of Preferred Stock to vote for directors shall be as set forth in subsection 4.2.5(b). Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted), shall be disregarded.

(b) Until the closing of the Corporation's Qualified Public Offering, (i) one (1) of the members of the Board of Directors shall be elected, removed or replaced solely by the vote or written consent of the holders of the Series A Preferred Stock (approval by the vote or written consent of the holders of a majority of the shares of Series A Preferred Stock then outstanding shall

constitute an action by the holders of Series A Preferred Stock pursuant to this subsection 4.2.5(b)), (ii) one (1) of the members of the Board of Directors shall be elected, removed or replaced solely by the vote or written consent of the holders of the Series B Preferred Stock (approval by the vote or written consent of the holders of a majority of the shares of Series B Preferred Stock then outstanding shall constitute an action by the holders of Series B Preferred Stock pursuant to this subsection 4.2.5(b)), (iii) one (1) of the members of the Board of Directors shall be elected, removed or replaced solely by the vote or written consent of the holders of the Series C Preferred Stock, voting together as a single class (approval by the vote or written consent of the holders of a majority of the shares of Series C Preferred Stock then outstanding shall constitute an action by the holders of Series C Preferred Stock pursuant to this subsection 4.2.5(b)), (iv) one (1) of the members of the Board of Directors shall be elected, removed or replaced solely by the vote or written consent of the holders of the Series D Preferred Stock (approval by the vote or written consent of the holders of a majority of the shares of Series D Preferred Stock then outstanding shall constitute an action by the holders of Series D Preferred Stock pursuant to this subsection 4.2.5(b)), (v) one (1) of the members of the Board of Directors shall be elected, removed or replaced solely by the vote or written consent of the holders of the Series F Preferred Stock (approval by the vote or written consent of the holders of a majority of the shares of Series F Preferred Stock then outstanding shall constitute an action by the holders of Series F Preferred Stock pursuant to this subsection 4.2.5(b)), and (vi) all remaining members of the Board of Directors will be elected, removed or replaced by a vote or written consent of the outstanding shares of Common Stock, Preferred Stock, voting together as a single class, with each share of Preferred Stock being entitled to a number of votes equal to the number of shares of Common Stock into which such shares are then convertible, as provided for under subsection 4.2.5(a).

4.2.6 Protective Provisions of Preferred Stock.

(a) So long as any shares of Preferred Stock remain outstanding, this Corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least 66 2/3% of the then outstanding shares of the Preferred Stock (voting together as a single class on an as-converted to Common Stock basis), take any action, whether by merger, consolidation or otherwise, that:

(i) effects a sale, transfer, exclusive license or other distribution of all or substantially all of the Corporation's assets or which results in a merger, consolidation, other corporate reorganization, sale of control or other transaction or series of transactions where the stockholders of the Corporation before such transaction or transactions will hold following such transaction or transactions less than 50% of the voting power of the capital stock of the Corporation or the surviving or acquiring entity in substantially the same relative proportions) or liquidate, dissolve or wind up the Corporation;

(ii) creates (by new authorization, merger, reclassification, recapitalization or otherwise) or results in the issuance of any new class or series of shares or any other securities convertible into equity securities of this Corporation having rights, preferences or privileges senior to or on a parity with the Preferred Stock, as applicable;

(iii) increases or decreases (other than by conversion) the total number of authorized shares of Common Stock or Preferred Stock (whether by merger, amendment to the Certificate of Incorporation or Bylaws or otherwise);

(iv) results in the redemption, retirement, purchase or acquisition of any shares of Common Stock or Preferred Stock of the Corporation (other than (A) shares of Common Stock purchased from consultants, advisors, employees or directors pursuant to agreements under which the Corporation has the option to repurchase shares of its Common Stock, provided that (1) the purchase price for unvested shares is equal to the lower of the purchase price paid or the then current fair market value and (2) the total amount applied to the repurchase of shares of Common Stock shall not exceed $25,000 during any twelve (12) month period, or (B) pursuant to Section 4.2.7 below);

(v) results in the payment or declaration of any dividend or distribution on any shares of Common Stock;

(vi) permits, or results in, a subsidiary of the Corporation to sell, or results in such subsidiary selling, securities to a third party; or

(vii) increases or decreases the authorized number of directors of the Corporation.

(b) The Corporation shall not amend its Certificate of Incorporation or Bylaws, whether by merger, consolidation or otherwise, without the approval, by vote or written consent, by the holders of 66 2/3% of a series of Preferred Stock if such amendment would change any of the rights, preferences or privileges provided for herein or in the Bylaws, as applicable, for the benefit of any shares of that series of Preferred Stock.

(c) So long as any shares of Series D Preferred Stock remain outstanding, this Corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least 60% of the then outstanding shares of the Series D Preferred Stock (voting as a separate class on an as-converted to Common Stock basis) take any action, whether by merger, consolidation or otherwise, that:

(i) amends, alters, waives or repeals any provision of the Certificate of Incorporation or Bylaws of the Corporation if such action would alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series D Preferred Stock in a manner that is different from the impact of such action on the other series of Preferred Stock;

(ii) creates (by new authorization, merger, reclassification, recapitalization or otherwise) or results in the issuance of any new class or series of shares or any other securities convertible into equity securities of this Corporation having rights, preferences or privileges senior to or on a parity with the Series D Preferred Stock;

(iii) increases or decreases (other than by conversion) the total number of authorized shares of Series D Preferred Stock (whether by merger, amendment to the Certificate of Incorporation or Bylaws or otherwise).

(d) So long as any shares of Series G Preferred Stock remain outstanding, this Corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of the Series G Preferred Stock (voting as a separate class on an as-converted to Common Stock basis) take any action, whether by merger, consolidation or otherwise, that:

(i) amends, alters, waives or repeals any provision of the Certificate of Incorporation or Bylaws of the Corporation if such action would alter the rights, preferences, privileges or powers of, or restrictions provided for the benefit of the Series G Preferred Stock in a manner that is different from the impact of such action on the other series of Preferred Stock; or

(ii) increases or decreases (other than by conversion) the total number of authorized shares of Series G Preferred Stock (whether by merger, amendment to the Certificate of Incorporation or Bylaws or otherwise).

4.2.7 Redemption.

(a) Redemption of Series G Preferred Stock. From and after January 1, 2016, each holder of Series G Preferred Stock, upon the written approval of the holders of at least a majority of the shares of Series G Preferred Stock then outstanding, may, at its option, at any time (and from time to time), require the Corporation to redeem all or a part of the Series G Preferred Stock held by such holder by delivery of a written notice requesting such redemption and the number of shares to be redeemed (the "Series G Redemption Notice"). Within five (5) days after the date of receipt of a Series G Redemption Notice (the "Series G Date of Receipt"), the Corporation shall deliver written notice to all other holders of Preferred Stock informing each such holder of (1) the receipt of such Series G Redemption Notice, (2) the Series G Date of Receipt, (3) the number of shares of Series G Preferred Stock requested to be redeemed in the Series G Redemption Notice, and (4) the total number of shares of Series G Preferred Stock outstanding as of the Series G Date of Receipt. Any such holder desiring to have any of its Series G Preferred Stock redeemed by the Corporation in accordance with the schedule below shall have until thirty (30) days after the Series G Date of Receipt (such 30 day period, the "Series G Exercise Period") in which to notify the Corporation of the number of shares of Series G Preferred Stock which such holder desires the Corporation to redeem. The total number of shares of Series G Preferred Stock which are so requested to be redeemed by all holders of Series G Preferred Stock are referred to herein as the "Series G Redemption Shares". The Corporation shall redeem such shares in three equal redemptions according to the following schedule: (i) one-third of the Series G Redemption Shares within thirty (30) days of the end of the Series G Exercise Period, (ii) one-third of the Series G Redemption Shares on the first anniversary of the Series G Redemption Notice; and (iii) one-third of the Series G Redemption Shares on the second anniversary of the Series G Redemption Notice (the "Series G Redemption Dates"). Subject to subsection 4.2.7(h), the Corporation shall redeem the Series G Redemption Shares at a price equal to the Series G Liquidation Preference for each such share as of the applicable Series G Redemption Date (the "Series G Redemption Price"). The Corporation shall pay for shares redeemed hereunder by delivery of cash in the amount of the Series G Redemption Price for the shares to be so redeemed on the respective Series G Redemption Dates.

(b) Redemption of Series F Preferred Stock. From and after January 1, 2016, each holder of Series F Preferred Stock, upon the written approval of the holders of at least a majority of the shares of Series F Preferred Stock then outstanding, may, at its option, at any time (and from time to time), require the Corporation to redeem all or a part of the Series F Preferred Stock held by such holder by delivery of a written notice requesting such redemption and the number of shares to be redeemed (the "Series F Redemption Notice"). Within five (5) days after the date of

receipt of a Series F Redemption Notice (the "Series F Date of Receipt"), the Corporation shall deliver written notice to all other holders of Preferred Stock informing each such holder of (1) the receipt of such Series F Redemption Notice, (2) the Series F Date of Receipt, (3) the number of shares of Series F Preferred Stock requested to be redeemed in the Series F Redemption Notice, and (4) the total number of shares of Series F Preferred Stock outstanding as of the Series F Date of Receipt. Any such holder desiring to have any of its Series F Preferred Stock redeemed by the Corporation in accordance with the schedule below shall have until thirty (30) days after the Series F Date of Receipt (such 30 day period, the "Series F Exercise Period") in which to notify the Corporation of the number of shares of Series F Preferred Stock which such holder desires the Corporation to redeem. The total number of shares of Series F Preferred Stock which are so requested to be redeemed by all holders of Series F Preferred are referred to herein as the "Series F Redemption Shares". The Corporation shall redeem such shares in three equal redemptions according to the following schedule: (i) one-third of the Series F Redemption Shares within thirty (30) days of the end of the Series F Exercise Period, (ii) one-third of the Series F Redemption Shares on the first anniversary of the Series F Redemption Notice; and (iii) one-third of the Series F Redemption Shares on the second anniversary of the Series F Redemption Notice (the "Series F Redemption Dates"). Subject to subsection 4.2.7(h), the Corporation shall redeem the Series F Redemption Shares at a price equal to the Series F Liquidation Preference for each such share as of the applicable Series F Redemption Date (the "Series F Redemption Price"). The Corporation shall pay for shares redeemed hereunder by delivery of cash in the amount of the Series F Redemption Price for the shares to be so redeemed on the respective Series F Redemption Dates.

(c) Redemption of Series E Preferred Stock. From and after January 1, 2016, each holder of Series E Preferred Stock, upon the written approval of the holders of at least a majority of the shares of Series E Preferred Stock then outstanding, may, at its option, at any time (and from time to time), require the Corporation to redeem all or a part of the Series E Preferred Stock held by such holder by delivery of a written notice requesting such redemption and the number of shares to be redeemed (the "Series E Redemption Notice"). Within five (5) days after the date of receipt of a Series E Redemption Notice (the "Series E Date of Receipt"), the Corporation shall deliver written notice to all other holders of Preferred Stock informing each such holder of (1) the receipt of such Series E Redemption Notice, (2) the Series E Date of Receipt, (3) the number of shares of Series E Preferred Stock requested to be redeemed in the Series E Redemption Notice, and (4) the total number of shares of Series E Preferred Stock outstanding as of the Series E Date of Receipt. Any such holder desiring to have any of its Series E Preferred Stock redeemed by the Corporation in accordance with the schedule below shall have until thirty (30) days after the Series E Date of Receipt (such 30 day period, the "Series E Exercise Period") in which to notify the Corporation of the number of shares of Series E Preferred Stock which such holder desires the Corporation to redeem. The total number of shares of Series E Preferred Stock which are so requested to be redeemed by all holders of Series E Preferred are referred to herein as the "Series E Redemption Shares". The Corporation shall redeem such shares in three equal redemptions according to the following schedule: (i) one-third of the Series E Redemption Shares within thirty (30) days of the end of the Series E Exercise Period, (ii) one-third of the Series E Redemption Shares on the first anniversary of the Series E Redemption Notice; and (iii) one-third of the Series E Redemption Shares on the second anniversary of the Series E Redemption Notice (the "Series E Redemption Dates"). Subject to subsection 4.2.7(h), the Corporation shall redeem the Series E Redemption Shares at a price equal to the Series E Liquidation Preference for each such share as of the applicable Series E Redemption Date (the "Series E Redemption Price"). The Corporation shall pay for shares redeemed hereunder by delivery of cash in the amount of the Series E Redemption Price for the shares to be so redeemed on the respective Series E Redemption Dates.

(d) Redemption of Series D Preferred Stock Preferred Stock. From and after January 1, 2016, each holder of Series D Preferred Stock, upon the written approval of the holders of at least a majority of the shares of Series D Preferred Stock then outstanding, may, at its option, at any time (and from time to time), require the Corporation to redeem all or a part of the Series D Preferred Stock held by such holder by delivery of a written notice requesting such redemption and the number of shares to be redeemed (the "Series D Redemption Notice"). Within five (5) days after the date of receipt of a Series D Redemption Notice (the "Series D Date of Receipt"), the Corporation shall deliver written notice to all other holders of Preferred Stock informing each such holder of (1) the receipt of such Series D Redemption Notice, (2) the Series D Date of Receipt, (3) the number of shares of Series D Preferred Stock requested to be redeemed in the Series D Redemption Notice, and (4) the total number of shares of Series D Preferred Stock outstanding as of the Series D Date of Receipt. Any such holder desiring to have any of its Series D Preferred Stock redeemed by the Corporation in accordance with the schedule below shall have until thirty (30) days after the Series D Date of Receipt (such 30 day period, the "Series D Exercise Period") in which to notify the Corporation of the number of shares of Series D Preferred Stock which such holder desires the Corporation to redeem. The total number of shares of Series D Preferred Stock which are so requested to be redeemed by all holders of Series D Preferred Stock are referred to herein as the "Series D Redemption Shares". The Corporation shall redeem such shares in three equal redemptions according to the following schedule: (i) one-third of the Series D Redemption Shares within thirty (30) days of the end of the Series D Exercise Period, (ii) one-third of the Series D Redemption Shares on the first anniversary of the Series D Redemption Notice; and (iii) one-third of the Series D Redemption Shares on the second anniversary of the Series D Redemption Notice (the "Series D Redemption Dates"). Subject to subsection 4.2.7(h), the Corporation shall redeem the Series D Redemption Shares at a price equal to the Series D Liquidation Preference for each such share as of the applicable Series D Redemption Date (the "Series D Redemption Price"). The Corporation shall pay for shares redeemed hereunder by delivery of cash in the amount of the Series D Redemption Price for the shares to be so redeemed on the respective Series D Redemption Dates.

(e) Redemption of Series C Preferred Stock. From and after January 1, 2016, each holder of Series C Preferred Stock, upon the written approval of the holders of at least a majority of the shares of Series C Preferred Stock then outstanding, may, at its option, at any time (and from time to time), require the Corporation to redeem all or a part of the Series C Preferred Stock held by such holder by delivery of a written notice requesting such redemption and the number of shares to be redeemed (the "Series C Redemption Notice"). Within five (5) days after the date of receipt of a Series C Redemption Notice (the "Series C Date of Receipt"), the Corporation shall deliver written notice to all other holders of Preferred Stock informing each such holder of (1) the receipt of such Series C Redemption Notice, (2) the Series C Date of Receipt, (3) the number of shares of Series C Preferred Stock requested to be redeemed in the Series C Redemption Notice, and (4) the total number of shares of Series C Preferred Stock outstanding as of the Series C Date of Receipt. Any such holder desiring to have any of its Series C Preferred Stock redeemed by the Corporation in accordance with the schedule below shall have until thirty (30) days after the Series C Date of Receipt (such 30 day period, the "Series C Exercise Period") in which to notify the Corporation of the number of shares of Series C Preferred Stock which such holder desires the Corporation to redeem. The total number of shares of Series C Preferred Stock which are so requested to be redeemed by all holders of Series C Preferred Stock are referred to herein as the "Series C Redemption Shares". The Corporation shall redeem such shares in three equal redemptions according to the following schedule: (i) one-third of the Series C Redemption Shares within thirty (30) days of the end of the Series C Exercise Period, (ii) one-third of the Series C

Redemption Shares on the first anniversary of the Series C Redemption Notice; and (iii) one-third of the Series C Redemption Shares on the second anniversary of the Series C Redemption Notice (the "Series C Redemption Dates"). Subject to subsection 4.2.7(h), the Corporation shall redeem the Series C Redemption Shares at a price equal to the Series C Liquidation Preference for each such share as of the applicable Series C Redemption Date (the "Series C Redemption Price"). The Corporation shall pay for shares redeemed hereunder by delivery of cash in the amount of the Series C Redemption Price for the shares to be so redeemed on the respective Series C Redemption Dates.

(f) Redemption of Series B Preferred Stock. From and after January 1, 2016, each holder of Series B Preferred Stock, upon the written approval of the holders of at least a majority of the shares of Series B Preferred Stock then outstanding, may, at its option, at any time (and from time to time), require the Corporation to redeem all or a part of the Series B Preferred Stock held by such holder by delivery of a written notice requesting such redemption and the number of shares to be redeemed (the "Series B Redemption Notice"). Within five (5) days after the date of receipt of a Series B Redemption Notice (the "Series B Date of Receipt"), the Corporation shall deliver written notice to all other holders of Preferred Stock informing each such holder of (1) the receipt of such Series B Redemption Notice, (2) the Series B Date of Receipt, (3) the number of shares of Series B Preferred Stock requested to be redeemed in the Series B Redemption Notice, and (4) the total number of shares of Series B Preferred Stock outstanding as of the Series B Date of Receipt. Any such holder desiring to have any of its Series B Preferred Stock redeemed by the Corporation in accordance with the schedule below shall have until thirty (30) days after the Series B Date of Receipt (such 30 day period, the "Series B Exercise Period") in which to notify the Corporation of the number of shares of Series B Preferred Stock which such holder desires the Corporation to redeem. The total number of shares of Series B Preferred Stock which are so requested to be redeemed by all holders of Series B Preferred Stock are referred to herein as the "Series B Redemption Shares". The Corporation shall redeem such shares in three equal redemptions according to the following schedule: (i) one-third of the Series B Redemption Shares within thirty (30) days of the end of the Series B Exercise Period, (ii) one-third of the Series B Redemption Shares on the first anniversary of the Series B Redemption Notice; and (iii) one-third of the Series B Redemption Shares on the second anniversary of the Series B Redemption Notice (the "Series B Redemption Dates"). Subject to subsection 4.2.7(h), the Corporation shall redeem the Series B Redemption Shares at a price equal to the Series B Liquidation Preference for each such share as of the applicable Series B Redemption Date (the "Series B Redemption Price"). The Corporation shall pay for shares redeemed hereunder by delivery of cash in the amount of the Series B Redemption Price for the shares to be so redeemed on the respective Series B Redemption Dates.

(g) Surrender of Stock. On or before each applicable Redemption Date, each holder of shares of Preferred Stock to be redeemed, shall surrender the certificate or certificates representing such shares to the Corporation, and thereupon the applicable Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof, and each surrendered certificate shall be cancelled and retired. In the event less than all of the shares represented by such certificate are redeemed, a new certificate representing the unredeemed shares shall be issued to the holder of such shares.

(h) Partial Redemption. From and after each applicable Redemption Date, unless there shall have been a default in payment of the applicable Redemption Price, all rights of the holders as to the shares of Preferred Stock to be redeemed (except the right to receive the applicable Redemption Price without interest upon surrender of their certificate or certificates) shall cease with respect to such redeemed shares, and such shares shall not thereafter be transferred on the

books of the Corporation or be deemed to be outstanding for any purpose whatsoever. If the funds of the Corporation legally available for redemption of shares of Preferred Stock on any applicable Redemption Date are insufficient to redeem the total number of such shares to be redeemed on such date, those funds which are legally available will be used to redeem (i) first, all shares of Series G Preferred Stock to be redeemed on such Redemption Date, (ii) second, all shares of Series F Preferred Stock to be redeemed on such Redemption Date, (iii) third, all shares of Series E Preferred Stock to be redeemed on such Redemption Date, (iv) fourth, all shares of Series D Preferred Stock to be redeemed on such Redemption Date, and (v) fifth, after paying or setting aside for payment the maximum possible number of shares of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock, proportionately among the holders of such shares to be redeemed based upon the aggregate applicable Redemption Price of their holdings of Preferred Stock as of the applicable Redemption Date. The shares of Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. Subject to the rights of any series of Preferred Stock that may from time to time come into existence, at any time thereafter when additional funds of the Corporation are legally available for the redemption of shares of Preferred Stock such funds will immediately be used to redeem the balance of the shares which the Corporation has become obliged to redeem on any applicable Redemption Date but which it has not redeemed in accordance with the foregoing provisions.

(i) Deposit of Redemption Price. On or prior to each applicable Redemption Date, the Corporation shall deposit the applicable Redemption Price of all shares designated for redemption and not yet redeemed with a bank or trust company having aggregate capital and surplus in excess of $100,000,000 as a trust fund for the benefit of the respective holders of the shares designated for redemption and not yet redeemed, with irrevocable instructions and authority to the bank or trust company to pay the applicable Redemption Price for such shares to their respective holders on or after the applicable Redemption Date upon receipt of notification from the Corporation that such holder has surrendered its share certificate to the Corporation. Such instructions shall also provide that any moneys deposited by the Corporation for the redemption of shares thereafter converted into shares of the Corporation's Common Stock prior to the applicable Redemption Date shall be returned to the Corporation forthwith upon such conversion. The balance of any moneys deposited by the remaining unclaimed at the expiration of three (3) years following the applicable Redemption Date shall thereafter be returned to the Corporation upon its request expressed in a resolution of its Board of Directors.

4.3. Common Stock.

4.3.1 Dividend Rights. Subject to the prior rights of holders of Preferred Stock and subject to subsection 4.2.1(f), the holders of the Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of any assets of the Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors.

4.3.2 Liquidation Rights. Upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation shall be distributed as provided in Section 4.2.2 of this Article IV.

4.3.3 Voting Rights. The holder of each share of Common Stock shall have the right to one vote, and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of this Corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law, *provided, however*, that, notwithstanding anything to the contrary in this

Section 4.3.3, the rights of holders of Common Stock to vote for directors shall be as set forth in subsection 4.2.5(b) above. Subject to compliance with subsection 4.2.6, the number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of Common Stock then outstanding) by an affirmative vote of the holders of a majority of the Common Stock and Preferred Stock voting together as a single class on an as-if converted to Common Stock basis.

ARTICLE V

BOARD OF DIRECTORS AND MEETINGS OF STOCKHOLDERS

5.1. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors and elections of directors need not be by written ballot unless otherwise provided in the Bylaws.

5.2. Meetings of the stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the Delaware Statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or by the Bylaws of the Corporation.

ARTICLE VI

LIMITATION OF DIRECTORS' LIABILITY

A director of this Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that this provision shall not eliminate or limit the liability of a director (i) for any breach of his duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, (iii) under Section 174 of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derives an improper personal benefit. If the General Corporation Law of the State of Delaware is hereafter amended to authorize corporate action further limiting or eliminating the personal liability of directors, then the liability of the directors of the Corporation shall be limited or eliminated to the fullest extent permitted by the General Corporation Law of the State of Delaware, as so amended from time to time. Any repeal or modification of this Article VI by the stockholders of the Corporation shall be prospective only, and shall not adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such repeal or modification.

ARTICLE VII

INDEMNIFICATION

To the fullest extent permitted by applicable law, the Corporation hereby indemnifies (and agrees to advance expenses to) directors of the Corporation (and may agree to do the same for any other persons to which General Corporation Law permits the Corporation to provide indemnification through bylaw provisions, agreements with such agents or other persons, vote of stockholders or otherwise), in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law, subject only to limits created by applicable General Corporation Law (statutory or non-statutory), with respect to actions for breach of duty to the Corporation, its stockholders, and others.

Any amendment, repeal or modification of the foregoing provisions of this Article VII shall not adversely affect any right or protection of a director, officer, agent, or other person existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director, officer or agent occurring prior to, such amendment, repeal or modification.

ARTICLE VIII

AMENDMENT OF BYLAWS

Subject to subsection 4.2.6 above, the Board of Directors of the Corporation shall have the power to make, alter, amend, change, add to or repeal the Bylaws of the Corporation, subject to the right of stockholders entitled to vote with respect to such making, alteration, amendment change, addition or repeal.

ARTICLE IX

RENUNCIATION OF CERTAIN OPPORTUNITIES

In the event that a member of the Board of Directors of the Corporation who is also a partner or employee of an entity that is a holder of Preferred Stock and that is in the business of investing and reinvesting in other entities, or an employee of an entity that manages such an entity (each, a "Fund") acquires knowledge of a potential transaction or other matter in such individual's capacity as a partner or employee of the Fund or the manager or general partner of the Fund (and other than directly in connection with such individual's service as a member of the Board of Directors of the Corporation) and that may be an opportunity of interest for both the Corporation and such Fund (a "Corporate Opportunity"), then the Corporation (i) renounces any expectancy that such director or Fund offer an opportunity to participate in such Corporate Opportunity to the Corporation and (ii) to the fullest extent permitted by law, waives any claim that such opportunity constitute a Corporate Opportunity that should have been presented by such director or fund to the Corporation or any of its affiliates, *provided, however*, that such director acts in good faith. Neither any amendment nor repeal of this ARTICLE IX, nor the adoption of any provision of this Corporation's Certificate of Incorporation inconsistent with this ARTICLE IX, shall eliminate or reduce the effect of this ARTICLE IX, in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this ARTICLE IX, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

ARTICLE X

AMENDMENT OF CERTIFICATE OF INCORPORATION

Subject to subsection 4.2.6 above, the Corporation reserves the right to amend, alter, change or repeal any provision contained in this Restated Certificate, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

* * * *

FIFTH: The foregoing Restated Certificate has been approved by the Board of Directors by written consent in accordance with Section 141(f) of the General Corporation Law of the State of Delaware.

SIXTH: The foregoing Restated Certificate has been approved by the stockholders of the Corporation by written consent in accordance with Section 228 of the General Corporation Law of the State of Delaware.

SEVENTH: The foregoing Restated Certificate has been duly adopted in accordance with the applicable provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the undersigned has executed this certificate and does affirm the foregoing as true under penalty of perjury this 12th day of March, 2012.

/s/ Raymond Huggenberger

Raymond Huggenberger
Chief Executive Officer

Exhibit 3.2

THIRTEENTH AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION OF

INOGEN, INC.

Inogen, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), certifies that:

A. The name of the Corporation is Inogen, Inc. The Corporation was originally incorporated under the same name, and its original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on November 27, 2001.

B. This Thirteenth Amended and Restated Certificate of Incorporation (this "Amended and Restated Certificate of Incorporation") was duly adopted in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware, and has been duly approved by the written consent of the stockholders of the Corporation in accordance with Section 228 of the General Corporation Law of the State of Delaware.

C. The text of the Twelfth Amended and Restated Certificate of Incorporation is amended and restated to read as set forth in Exhibit A attached hereto.

IN WITNESS WHEREOF, Inogen, Inc. has caused this Amended and Restated Certificate of Incorporation to be signed by Raymond Huggenberger, a duly authorized officer of the Corporation, on , 2014.

Raymond Huggenberger
President and Chief Executive Officer

EXHIBIT A

ARTICLE I

The name of the corporation is Inogen, Inc. (the "Corporation").

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at such address is the Corporation Service Company.

ARTICLE III

The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law ("DGCL").

ARTICLE IV

Section 1. This Corporation is authorized to issue two classes of stock, to be designated, respectively, Common Stock and Preferred Stock. The total number of shares of stock that the Corporation shall have authority to issue is two hundred ten million (210,000,000) shares, of which two hundred million (200,000,000) shares are Common Stock, $0.001 par value, and ten million (10,000,000) shares are Preferred Stock, $0.001 par value.

Section 2. Each share of Common Stock shall entitle the holder thereof to one (1) vote on any matter submitted to a vote at a meeting of stockholders.

Section 3. The Preferred Stock may be issued from time to time in one or more series pursuant to a resolution or resolutions providing for such issue duly adopted by the Board of Directors (authority to do so being hereby expressly vested in the Board of Directors). The Board of Directors is further authorized, subject to limitations prescribed by law, to fix by resolution or resolutions the designations, powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of any wholly unissued series of Preferred Stock, including, without limitation, authority to fix by resolution or resolutions the dividend rights, dividend rate, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), redemption price or prices, and liquidation preferences of any such series, and the number of shares constituting any such series and the designation thereof, or any of the foregoing. The Board of Directors is further authorized to increase (but not above the total number of authorized shares of the class) or decrease (but not below the number of shares of any such series then outstanding) the number of shares of any series, the number of which was fixed by it, subsequent to the issuance of shares of such series then outstanding, subject to the powers, preferences and rights, and the qualifications, limitations and restrictions thereof stated in this Amended and Restated Certificate of Incorporation or the resolution of the Board of Directors originally fixing the number of shares of such series. If the number of shares of any series is so decreased, then the Corporation shall take all such steps as are necessary to cause the shares constituting such decrease to resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

Section 4. Except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Amended and Restated Certificate of Incorporation (including any certificate of designation filed with respect to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon by law or pursuant to this Amended and Restated Certificate of Incorporation (including any certificate of designation filed with respect to any series of Preferred Stock).

ARTICLE V

Section 1. The number of directors that constitutes the entire Board of Directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation. At each annual meeting of stockholders, directors of the Corporation shall be elected to hold office until the expiration of the term for which they are elected and until their successors have been duly elected and qualified or until their earlier resignation or removal; except that if any such meeting shall not be so held, such election shall take place at a stockholders' meeting called and held in accordance with the DGCL.

Section 2. From and after the effectiveness of this Amended and Restated Certificate of Incorporation, the directors of the Corporation (other than any who may be elected by holders of Preferred Stock under specified circumstances) shall be divided into three classes as nearly equal in size as is practicable, hereby designated Class I, Class II and Class III. Directors already in office shall be assigned to each class at the time such classification becomes effective in accordance with a resolution or resolutions adopted by the Board of Directors. At the first annual meeting of stockholders following the date hereof, the term of office of the Class I directors shall expire and Class I directors shall be elected for a full term of three years. At the second annual meeting of stockholders following the date hereof, the term of office of the Class II directors shall expire and Class II directors shall be elected for a full term of three years. At the third annual meeting of stockholders following the date hereof, the term of office of the Class III directors shall expire and Class III directors shall be elected for a full term of three years. At each succeeding annual meeting of stockholders, directors shall be elected for a full term of three years to succeed the directors of the class whose terms expire at such annual meeting. If the number of directors is changed, any newly created directorships or decrease in directorships shall be so apportioned hereafter among the classes as to make all classes as nearly equal in number as is practicable, *provided that* no decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

ARTICLE VI

Section 1. Any director or the entire Board of Directors may be removed from office at any time, but only for cause, and only by the affirmative vote of the holders of at least a majority of the voting power of the issued and outstanding capital stock of the Corporation entitled to vote in the election of directors.

Section 2. Except as otherwise provided for or fixed by or pursuant to the provisions of Article IV hereof in relation to the rights of the holders of Preferred Stock to elect directors under specified circumstances, newly created directorships resulting from any increase in the number of directors, created in accordance with the Bylaws of the Corporation, and any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other cause shall be filled only by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director, and not by the stockholders. A person so elected by the Board of Directors to fill a vacancy or newly created directorship shall hold office until the next election of the class for which such director shall have been chosen until his or her successor shall have been duly elected and qualified, or until such director's earlier death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

ARTICLE VII

Section 1. The Corporation is to have perpetual existence.

Section 2. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

Section 3. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to adopt, alter, amend or repeal the Bylaws of the Corporation. The affirmative vote of at least a majority of the Board of Directors then in office shall be required in order for the Board of Directors to adopt, amend, alter or repeal the Corporation's Bylaws. The Corporation's Bylaws may also be adopted, amended, altered or repealed by the stockholders of the Corporation. Notwithstanding the above or any other provision of this Amended and Restated Certificate of Incorporation, the Bylaws of the Corporation may not be amended, altered or repealed except in accordance with Article XI of the Bylaws. No Bylaw hereafter legally adopted, amended, altered or repealed shall invalidate any prior act of the directors or officers of the Corporation that would have been valid if such Bylaw had not been adopted, amended, altered or repealed.

Section 4. The election of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

Section 5. No stockholder will be permitted to cumulate votes at any election of directors.

ARTICLE VIII

Section 1. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

Section 2. Special meetings of stockholders of the Corporation may be called only by the Chairperson of the Board of Directors, the Chief Executive Officer, the President or the Board of Directors acting pursuant to a resolution adopted by a majority of the Board of Directors, and any power of stockholders to call a special meeting of stockholders is specifically denied. Only such business shall be considered at a special meeting of stockholders as shall have been stated in the notice for such meeting.

Section 3. Advance notice of stockholder nominations for the election of directors and of business to be brought by stockholders before any meeting of the stockholders of the Corporation shall be given in the manner and to the extent provided in the Bylaws of the Corporation.

ARTICLE IX

Section 1. To the fullest extent permitted by the DGCL as the same exists or as may hereafter be amended from time to time, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Section 2. The Corporation shall indemnify, to the fullest extent permitted by applicable law, any director or officer of the Corporation who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding") by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding. The Corporation shall be required to indemnify a person in connection with a Proceeding initiated by such person only if the Proceeding was authorized by the Board of Directors.

Section 3. The Corporation shall have the power to indemnify, to the extent permitted by applicable law, any employee or agent of the Corporation who was or is a party or is threatened to be made a party to any Proceeding by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding.

Section 4. Neither any amendment nor repeal of any Section of this Article IX, nor the adoption of any provision of this Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation inconsistent with this Article IX, shall eliminate or reduce the effect of this Article IX in respect of any matter occurring, or any cause of action, suit, claim or proceeding accruing or arising or that, but for this Article IX, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

ARTICLE X

Meetings of stockholders may be held within or outside of the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside of the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

ARTICLE XI

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (A) any derivative action or proceeding brought on behalf of the Corporation, (B) any action or proceeding asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (C) any action or proceeding asserting a claim arising pursuant to any provision of the DGCL or the Corporation's Certificate of Incorporation or Bylaws, or (D) any action or proceeding asserting a claim governed by the internal affairs doctrine.

ARTICLE XII

The Corporation reserves the right to amend or repeal any provision contained in this Amended and Restated Certificate of Incorporation in the manner prescribed by the laws of the State of Delaware and all rights conferred upon stockholders are granted subject to this reservation; *provided*, *however*, that notwithstanding any other provision of this Amended and Restated Certificate of Incorporation or any provision of law that might otherwise permit a lesser vote or no vote, the Board of Directors acting pursuant to a resolution adopted by a majority of the Board of Directors and the affirmative vote of sixty-six and two-thirds percent (66 2/3%) of the then outstanding voting securities of the Corporation, voting together as a single class, shall be required for the amendment, repeal or modification of the provisions of Section 3 of Article IV, Section 2 of Article V, Article VI, Section 5 of Article VII, Article VIII, Article XI or Article XII of this Amended and Restated Certificate of Incorporation.

***

Exhibit 3.3

AMENDED AND RESTATED BYLAWS OF

INOGEN, INC.

(as amended and restated on , and effective immediately prior to the closing of the corporation's initial public offering)

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AMENDED AND RESTATED BYLAWS OF INOGEN, INC.

ARTICLE I — CORPORATE OFFICES

1.1 REGISTERED OFFICE

The registered office of Inogen, Inc. shall be fixed in the corporation's certificate of incorporation. References in these bylaws to the certificate of incorporation shall mean the certificate of incorporation of the corporation, as amended from time to time, including the terms of any certificate of designations of any series of Preferred Stock.

1.2 OTHER OFFICES

The corporation's board of directors may at any time establish other offices at any place or places where the corporation is qualified to do business.

ARTICLE II — MEETINGS OF STOCKHOLDERS

2.1 PLACE OF MEETINGS

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

2.2 ANNUAL MEETING

The annual meeting of stockholders shall be held on such date, at such time, and at such place (if any) within or without the State of Delaware as shall be designated from time to time by the board of directors and stated in the corporation's notice of the meeting. At the annual meeting, directors shall be elected and any other proper business may be transacted.

2.3 SPECIAL MEETING

(i) A special meeting of the stockholders, other than those required by statute, may be called at any time only by (A) the board of directors, (B) the chairperson of the board of directors, (C) the chief executive officer or (D) the president (in the absence of a chief executive officer). A special meeting of the stockholders may not be called by any other person or persons. The board of directors may cancel, postpone or reschedule any previously scheduled special meeting at any time, before or after the notice for such meeting has been sent to the stockholders.

(ii) The notice of a special meeting shall include the purpose for which the meeting is called. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting by or at the direction of the board of directors, the chairperson of the board of directors, the chief executive officer or the president (in the absence of a chief executive officer). Nothing contained in this Section 2.3(ii) shall be construed as limiting, fixing or affecting the time when a meeting of stockholders called by action of the board of directors may be held.

2.4 ADVANCE NOTICE PROCEDURES

(i) *Advance Notice of Stockholder Business.* At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be brought: (A) pursuant to the corporation's proxy materials with respect to such meeting, (B) by or at the direction of the board of directors, or (C) by a stockholder of the corporation who (1) is a stockholder of record at the time of the giving of the notice required by this Section 2.4(i) and on the record date for the determination of stockholders entitled to vote at the annual meeting and (2) has timely complied in proper written form with the notice procedures set forth in this Section 2.4(i). In addition, for business to be properly brought before an annual meeting by a stockholder, such business must be a proper matter for stockholder action pursuant to these bylaws and applicable law. Except for proposals properly made in accordance with Rule 14a-8 under the Securities and Exchange Act of 1934, and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations), and included in the notice of meeting given by or at the direction of the board of directors, for the avoidance of doubt, clause (C) above shall be the exclusive means for a stockholder to bring business before an annual meeting of stockholders.

(a) To comply with clause (C) of Section 2.4(i) above, a stockholder's notice must set forth all information required under this Section 2.4(i) and must be timely received by the secretary of the corporation. To be timely, a stockholder's notice must be received by the secretary at the principal executive offices of the corporation not later than the 45th day nor earlier than the 75th day before the one-year anniversary of the date on which the corporation first mailed its proxy materials or a notice of availability of proxy materials (whichever is earlier) for the preceding year's annual meeting; *provided*, *however*, that in the event that no annual meeting was held in the previous year or if the date of the annual meeting is advanced by more than 30 days prior to or delayed by more than 60 days after the one-year anniversary of the date of the previous year's annual meeting, then, for notice by the stockholder to be timely, it must be so received by the secretary not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of (i) the 90th day prior to such annual meeting, or (ii) the tenth day following the day on which Public Announcement (as defined below) of the date of such annual meeting is first made. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described in this Section 2.4(i)(a). "Public Announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or a comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or any successor thereto (the "1934 Act").

(b) To be in proper written form, a stockholder's notice to the secretary must set forth as to each matter of business the stockholder intends to bring before the annual meeting: (1) a brief description of the business intended to be brought before the annual meeting and the reasons for conducting

such business at the annual meeting, (2) the name and address, as they appear on the corporation's books, of the stockholder proposing such business and any Stockholder Associated Person (as defined below), (3) the class and number of shares of the corporation that are held of record or are beneficially owned by the stockholder or any Stockholder Associated Person and any derivative positions held or beneficially held by the stockholder or any Stockholder Associated Person, (4) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of such stockholder or any Stockholder Associated Person with respect to any securities of the corporation, and a description of any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares), the effect or intent of which is to mitigate loss to, or to manage the risk or benefit from share price changes for, or to increase or decrease the voting power of, such stockholder or any Stockholder Associated Person with respect to any securities of the corporation, (5) any material interest of the stockholder or a Stockholder Associated Person in such business, and (6) a statement whether either such stockholder or any Stockholder Associated Person will deliver a proxy statement and form of proxy to holders of at least the percentage of the corporation's voting shares required under applicable law to carry the proposal (such information provided and statements made as required by clauses (1) through (6), a "Business Solicitation Statement"). In addition, to be in proper written form, a stockholder's notice to the secretary must be supplemented not later than ten days following the record date for notice of the meeting to disclose the information contained in clauses (3) and (4) above as of the record date for notice of the meeting. For purposes of this Section 2.4, a "Stockholder Associated Person" of any stockholder shall mean (i) any person controlling, directly or indirectly, or acting in concert with, such stockholder, (ii) any beneficial owner of shares of stock of the corporation owned of record or beneficially by such stockholder and on whose behalf the proposal or nomination, as the case may be, is being made, or (iii) any person controlling, controlled by or under common control with such person referred to in the preceding clauses (i) and (ii).

(c) Without exception, no business shall be conducted at any annual meeting except in accordance with the provisions set forth in this Section 2.4(i) and, if applicable, Section 2.4(ii). In addition, business proposed to be brought by a stockholder may not be brought before the annual meeting if such stockholder or a Stockholder Associated Person, as applicable, takes action contrary to the representations made in the Business Solicitation Statement applicable to such business or if the Business Solicitation Statement applicable to such business contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading. The chairperson of the annual meeting shall, if the facts warrant, determine and declare at the annual meeting that business was not properly brought before the annual meeting and in accordance with the provisions of this Section 2.4(i), and, if the chairperson should so determine, he or she shall so declare at the annual meeting that any such business not properly brought before the annual meeting shall not be conducted.

(ii) *Advance Notice of Director Nominations at Annual Meetings.* Notwithstanding anything in these bylaws to the contrary, only persons who are nominated in accordance with the procedures set forth in this Section 2.4(ii) shall be eligible for election or re-election as directors at an annual meeting of stockholders. Nominations of persons for election or re-election to the board of directors of the corporation shall be made at an annual meeting of stockholders only (A) by or at the direction of the board of directors or (B) by a stockholder of the corporation who (1) was a stockholder of record at the time of the giving of the notice required by this Section 2.4(ii) and on the record date for the determination of stockholders entitled to vote at the annual meeting and (2) has complied with the notice procedures set forth in this Section 2.4(ii). In addition to any other applicable requirements, for a nomination to be made by a stockholder, the stockholder must have given timely notice thereof in proper written form to the secretary of the corporation.

(a) To comply with clause (B) of Section 2.4(ii) above, a nomination to be made by a stockholder must set forth all information required under this Section 2.4(ii) and must be received by the secretary of the corporation at the principal executive offices of the corporation at the time set forth in, and in accordance with, the final three sentences of Section 2.4(i)(a) above.

(b) To be in proper written form, such stockholder's notice to the secretary must set forth:

(1) as to each person (a "nominee") whom the stockholder proposes to nominate for election or re-election as a director: (A) the name, age, business address and residence address of the nominee, (B) the principal occupation or employment of the nominee, (C) the class and number of shares of the corporation that are held of record or are beneficially owned by the nominee and any derivative positions held or beneficially held by the nominee, (D) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of the nominee with respect to any securities of the corporation, and a description of any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares), the effect or intent of which is to mitigate loss to, or to manage the risk or benefit of share price changes for, or to increase or decrease the voting power of the nominee, (E) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nominations are to be made by the stockholder, (F) a written statement executed by the nominee acknowledging that as a director of the corporation, the nominee will owe a fiduciary duty under Delaware law with respect to the corporation and its stockholders, and (G) any other information relating to the nominee that would be required to be disclosed about such nominee if proxies were being solicited for the election or re-election of the nominee as a director, or that is otherwise required, in each case pursuant to Regulation 14A under the 1934 Act (including without limitation the nominee's written consent to being named in the proxy statement, if any, as a nominee and to serving as a director if elected or re-elected, as the case may be); and

(2) as to such stockholder giving notice, (A) the information required to be provided pursuant to clauses (2) through (5) of Section 2.4(i)(b) above, and the supplement referenced in the second sentence of Section 2.4(i)(b) above (except that the references to "business" in such clauses shall instead refer to nominations of directors for purposes of this paragraph), and (B) a statement whether either such stockholder or Stockholder Associated Person will deliver a proxy statement and form of proxy to holders of a number of the corporation's voting shares reasonably believed by such stockholder or Stockholder Associated Person to be necessary to elect or re-elect such nominee(s) (such information provided and statements made as required by clauses (A) and (B) above, a "Nominee Solicitation Statement").

(c) At the request of the board of directors, any person nominated by a stockholder for election or re-election as a director must furnish to the secretary of the corporation (1) that information required to be set forth in the stockholder's notice of nomination of such person as a director as of a date subsequent to the date on which the notice of such person's nomination was given and (2) such other information as may reasonably be required by the corporation to determine the eligibility of such proposed nominee to serve as an independent director or audit committee financial expert of the corporation under applicable law, securities exchange rule or regulation, or any publicly-disclosed corporate governance guideline or committee charter of the corporation and (3) that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee; in the absence of the furnishing of such information if requested, such stockholder's nomination shall not be considered in proper form pursuant to this Section 2.4(ii).

(d) Without exception, no person shall be eligible for election or re-election as a director of the corporation at an annual meeting of stockholders unless nominated in accordance with the provisions set forth in this Section 2.4(ii). In addition, a nominee shall not be eligible for election or re-election if a stockholder or Stockholder Associated Person, as applicable, takes action contrary to the representations made in the Nominee Solicitation Statement applicable to such nominee or if the Nominee Solicitation Statement applicable to such nominee contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading. The chairperson of the annual meeting shall, if the facts warrant, determine and declare at the annual meeting that a nomination was not made in accordance with the provisions prescribed by these bylaws, and if the chairperson should so determine, he or she shall so declare at the annual meeting, and the defective nomination shall be disregarded.

(iii) Advance Notice of Director Nominations for Special Meetings.

(a) For a special meeting of stockholders at which directors are to be elected or re-elected, nominations of persons for election or re-election to the board of directors shall be made only (1) by or at the direction of the board of directors or (2) by any stockholder of the corporation who (A) is a stockholder of record at the time of the giving of the notice required by this Section 2.4(iii) and on the record date for the determination of stockholders entitled to vote at the special meeting and (B) delivers a timely written notice of the nomination to the secretary of the corporation that includes the information set forth in Sections 2.4(ii)(b) and (ii)(c) above. To be timely, such notice must be received by the secretary at the principal executive offices of the corporation not later than the close of business on the later of the 90th day prior to such special meeting or the tenth day following the day on which Public Announcement is first made of the date of the special meeting and of the nominees proposed by the board of directors to be elected or re-elected at such meeting. A person shall not be eligible for election or re-election as a director at a special meeting unless the person is nominated (i) by or at the direction of the board of directors or (ii) by a stockholder in accordance with the notice procedures set forth in this Section 2.4(iii). In addition, a nominee shall not be eligible for election or re-election if a stockholder or Stockholder Associated Person, as applicable, takes action contrary to the representations made in the Nominee Solicitation Statement applicable to such nominee or if the Nominee Solicitation Statement applicable to such nominee contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading.

(b) The chairperson of the special meeting shall, if the facts warrant, determine and declare at the meeting that a nomination or business was not made in accordance with the procedures prescribed by these bylaws, and if the chairperson should so determine, he or she shall so declare at the meeting, and the defective nomination or business shall be disregarded.

(iv) Other Requirements and Rights. In addition to the foregoing provisions of this Section 2.4, a stockholder must also comply with all applicable requirements of state law and of the 1934 Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.4. Nothing in this Section 2.4 shall be deemed to affect any rights of:

(a) a stockholder to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 (or any successor provision) under the 1934 Act; or

(b) the corporation to omit a proposal from the corporation's proxy statement pursuant to Rule 14a-8 (or any successor provision) under the 1934 Act.

2.5 NOTICE OF STOCKHOLDERS' MEETINGS

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

2.6 QUORUM

The holders of a majority of the stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders. Where a separate vote by a class or series or classes or series is required, a majority of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter, except as otherwise provided by law, the certificate of incorporation or these bylaws

If a quorum is not present or represented at any meeting of the stockholders, then either (i) the chairperson of the meeting, or (ii) the stockholders entitled to vote at the meeting, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

2.7 ADJOURNED MEETING; NOTICE

When a meeting is adjourned to another time or place, unless these bylaws otherwise require, notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the board of directors shall fix a new record date for notice of such adjourned meeting in accordance with Section 213(a) of the DGCL and Section 2.11of these bylaws, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

2.8 CONDUCT OF BUSINESS

The chairperson of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of business. The chairperson of any meeting of stockholders shall be designated by the board of directors; in the absence of such designation, the chairperson of the board, if any, the chief executive officer (in the absence of the chairperson) or the president (in the absence of the chairperson of the board and the chief executive officer), or in their absence any other executive officer of the corporation, shall serve as chairperson of the stockholder meeting.

2.9 VOTING

The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of Section 2.11 of these bylaws, subject to Section 217 (relating to voting rights of fiduciaries, pledgors and joint owners of stock) and Section 218 (relating to voting trusts and other voting agreements) of the DGCL.

Except as may be otherwise provided in the certificate of incorporation or these bylaws, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder.

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

2.10 STOCKHOLDER ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Subject to the rights of the holders of the shares of any series of Preferred Stock or any other class of stock or series thereof that have been expressly granted the right to take action by written consent, any action required or permitted to be taken by the stockholders of the corporation must be effected at a duly called annual or special meeting of stockholders of the corporation and may not be effected by any consent in writing by such stockholders.

2.11 RECORD DATES

In order that the corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the board of directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the board of directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination.

If no record date is fixed by the board of directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

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 determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the provisions of Section 213 of the DGCL and this Section 2.11 at the adjourned meeting.

In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders 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 a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the board of directors adopts the resolution relating thereto.

2.12 PROXIES

Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL. A written proxy may be in the form of a telegram, cablegram, or other means of electronic transmission which sets forth or is submitted with information from which it can be determined that the telegram, cablegram, or other means of electronic transmission was authorized by the person.

2.13 LIST OF STOCKHOLDERS ENTITLED TO VOTE

The officer who has charge of the stock ledger of the corporation shall prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting; *provided, however,* if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date. The stockholder list shall be arranged in alphabetical order and show the address of each stockholder and the number of shares registered in the name of each stockholder. The corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list

shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least 10 days prior to the meeting (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the corporation's principal place of business. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Such list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

2.14 INSPECTORS OF ELECTION

Before any meeting of stockholders, the board of directors shall appoint an inspector or inspectors of election to act at the meeting or its adjournment. The number of inspectors shall be either one (1) or three (3). If any person appointed as inspector fails to appear or fails or refuses to act, then the chairperson of the meeting may, and upon the request of any stockholder or a stockholder's proxy shall, appoint a person to fill that vacancy.

Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed and designated shall (i) ascertain the number of shares of capital stock of the corporation outstanding and the voting power of each share, (ii) determine the shares of capital stock of the corporation represented at the meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares of capital stock of the corporation represented at the meeting and such inspector or inspectors' count of all votes and ballots.

In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the corporation, the inspector or inspectors may consider such information as is permitted by applicable law. If there are three (3) inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all.

ARTICLE III — DIRECTORS

3.1 POWERS

The business and affairs of the corporation shall be managed by or under the direction of the board of directors, except as may be otherwise provided in the DGCL or the certificate of incorporation.

3.2 NUMBER OF DIRECTORS

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

3.3 ELECTION, QUALIFICATION AND TERM OF OFFICE OF DIRECTORS

Except as provided in Section 3.4 of these bylaws, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until such director's successor is elected and qualified or until such director's earlier death, resignation or removal. Directors need not be stockholders unless so required by the certificate of incorporation or these bylaws. The certificate of incorporation or these bylaws may prescribe other qualifications for directors.

3.4 RESIGNATION AND VACANCIES

Any director may resign at any time upon notice given in writing or by electronic transmission to the corporation; *provided, however*, that if such notice is given by electronic transmission, such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the director. A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. Acceptance of such resignation shall not be necessary to make it effective. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. Unless otherwise provided in the certificate of incorporation or these bylaws, when one or more directors resign from the board of directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective.

Unless otherwise provided in the certificate of incorporation or these bylaws, vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class shall be filled only by a majority of the directors then in office, although less than a quorum, or by a sole remaining director. If the directors are divided into classes, a person so elected by the directors then in office to fill a vacancy or newly created directorship shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified.

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

3.5 PLACE OF MEETINGS; MEETINGS BY TELEPHONE

The board of directors may hold meetings, both regular and special, either within or outside the State of Delaware.

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

3.6 REGULAR MEETINGS

Regular meetings of the board of directors may be held without notice at such time and at such place as shall from time to time be determined by the board of directors.

3.7 SPECIAL MEETINGS; NOTICE

Special meetings of the board of directors for any purpose or purposes may be called at any time by the chairperson of the board of directors, the chief executive officer, the president, the secretary or a majority of the authorized number of directors, at such times and places as he or she or they shall designate.

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

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

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

(iii) sent by facsimile; or

(iv) sent by electronic mail,

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

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

3.8 QUORUM; VOTING

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

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

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

3.9 BOARD ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Unless otherwise restricted by the certificate of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the board of directors, or of 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 or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board of directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.10 FEES AND COMPENSATION OF DIRECTORS

Unless otherwise restricted by the certificate of incorporation or these bylaws, the board of directors shall have the authority to fix the compensation of directors.

3.11 REMOVAL OF DIRECTORS

A director may be removed from office by the stockholders of the corporation only for cause.

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

ARTICLE IV — COMMITTEES

4.1 COMMITTEES OF DIRECTORS

The board of directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The board of directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting

in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the board of directors or in these bylaws, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaw of the corporation.

4.2 COMMITTEE MINUTES

Each committee shall keep regular minutes of its meetings and report the same to the board of directors when required.

4.3 MEETINGS AND ACTION OF COMMITTEES

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

(i) Section 3.5 (place of meetings and meetings by telephone);

(ii) Section 3.6 (regular meetings);

(iii) Section 3.7 (special meetings; notice);

(iv) Section 3.8 (quorum; voting);

(v) Section 3.9 (action without a meeting); and

(vi) Section 7.5 (waiver of notice)

with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the board of directors and its members. *However*:

(i) the time of regular meetings of committees may be determined by resolution of the committee;

(ii) special meetings of committees may also be called by resolution of the committee; and

(iii) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The board of directors may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

Any provision in the certificate of incorporation providing that one or more directors shall have more or less than one vote per director on any matter shall apply to voting in any committee or subcommittee, unless otherwise provided in the certificate of incorporation or these bylaws.

4.4 SUBCOMMITTEES

Unless otherwise provided in the certificate of incorporation, these bylaws or the resolutions of the board of directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

ARTICLE V — OFFICERS

5.1 OFFICERS

The officers of the corporation shall be a president and a secretary. The corporation may also have, at the discretion of the board of directors, a chairperson of the board of directors, a vice chairperson of the board of directors, a chief executive officer, a chief financial officer or treasurer, one or more vice presidents, one or more assistant vice presidents, one or more assistant treasurers, one or more assistant secretaries, and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person.

5.2 APPOINTMENT OF OFFICERS

The board of directors shall appoint the officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 5.3 of these bylaws, subject to the rights, if any, of an officer under any contract of employment. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in this Section 5 for the regular election to such office.

5.3 SUBORDINATE OFFICERS

The board of directors may appoint, or empower the chief executive officer or, in the absence of a chief executive officer, the president, to appoint, such other officers and agents as the business of the corporation may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the board of directors may from time to time determine.

5.4 REMOVAL AND RESIGNATION OF OFFICERS

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the board of directors at any regular or special meeting of the board of directors or, except in the case of an officer chosen by the board of directors, by any officer upon whom such power of removal may be conferred by the board of directors.

Any officer may resign at any time by giving written or electronic notice to the corporation; *provided, however*, that if such notice is given by electronic transmission, such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the officer. Any resignation shall take effect at the date of the receipt of that notice or at any

later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

5.5 VACANCIES IN OFFICES

Any vacancy occurring in any office of the corporation shall be filled by the board of directors or as provided in Section 5.3.

5.6 REPRESENTATION OF SHARES OF OTHER CORPORATIONS

The chairperson of the board of directors, the president, any vice president, the treasurer, the secretary or assistant secretary of this corporation, or any other person authorized by the board of directors or the president or a vice president, is authorized to vote, represent, and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

5.7 AUTHORITY AND DUTIES OF OFFICERS

All officers of the corporation shall respectively have such authority and perform such duties in the management of the business of the corporation as may be designated from time to time by the board of directors and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the board of directors.

5.8 THE CHAIRPERSON OF THE BOARD

The chairperson of the board shall have the powers and duties customarily and usually associated with the office of the chairperson of the board. The chairperson of the board shall preside at meetings of the stockholders and of the board of directors.

5.9 THE VICE CHAIRPERSON OF THE BOARD

The vice chairperson of the board shall have the powers and duties customarily and usually associated with the office of the vice chairperson of the board. In the case of absence or disability of the chairperson of the board, the vice chairperson of the board shall perform the duties and exercise the powers of the chairperson of the board.

5.10 THE CHIEF EXECUTIVE OFFICER

The chief executive officer shall have, subject to the supervision, direction and control of the board of directors, ultimate authority for decisions relating to the supervision, direction and management of the affairs and the business of the corporation customarily and usually associated with the position of chief executive officer, including, without limitation, all powers necessary to direct and control the organizational and reporting relationships within the corporation. If at any time the office of the chairperson and vice chairperson of the board shall not be filled, or in the event of the temporary absence or disability of the chairperson of the board and the vice chairperson of the board, the chief executive officer shall perform the duties and exercise the powers of the chairperson of the board unless otherwise determined by the board of directors.

5.11 THE PRESIDENT

The president shall have, subject to the supervision, direction and control of the board of directors, the general powers and duties of supervision, direction and management of the affairs and business of the corporation customarily and usually associated with the position of president. The president shall have such powers and perform such duties as may from time to time be assigned to him or her by the board of directors, the chairperson of the board or the chief executive officer. In the event of the absence or disability of the chief executive officer, the president shall perform the duties and exercise the powers of the chief executive officer unless otherwise determined by the board of directors.

5.12 THE VICE PRESIDENTS AND ASSISTANT VICE PRESIDENTS

Each vice president and assistant vice president shall have such powers and perform such duties as may from time to time be assigned to him or her by the board of directors, the chairperson of the board, the chief executive officer or the president.

5.13 THE SECRETARY AND ASSISTANT SECRETARIES

(i) The secretary shall attend meetings of the board of directors and meetings of the stockholders and record all votes and minutes of all such proceedings in a book or books kept for such purpose. The secretary shall have all such further powers and duties as are customarily and usually associated with the position of secretary or as may from time to time be assigned to him or her by the board of directors, the chairperson of the board, the chief executive officer or the president.

(ii) Each assistant secretary shall have such powers and perform such duties as may from time to time be assigned to him or her by the board of directors, the chairperson of the board, the chief executive officer, the president or the secretary. In the event of the absence, inability or refusal to act of the secretary, the assistant secretary (or if there shall be more than one, the assistant secretaries in the order determined by the board of directors) shall perform the duties and exercise the powers of the secretary.

5.14 THE CHIEF FINANCIAL OFFICER AND ASSISTANT TREASURERS

(i) The chief financial officer shall be the treasurer of the corporation. The chief financial officer shall have custody of the corporation’s funds and securities, shall be responsible for maintaining the corporation’s accounting records and statements, shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall deposit or cause to be deposited moneys or other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the board of directors. The chief financial officer shall also maintain adequate records of all assets, liabilities and transactions of the corporation and shall assure that adequate audits thereof are currently and regularly made. The chief financial officer shall have all such further powers and duties as are customarily and usually associated with the position of chief financial officer, or as may from time to time be assigned to him or her by the board of directors, the chairperson, the chief executive officer or the president.

(ii) Each assistant treasurer shall have such powers and perform such duties as may from time to time be assigned to him or her by the board of directors, the chief executive officer, the president or the chief financial officer. In the event of the absence, inability or refusal to act of the chief financial officer, the assistant treasurer (or if there shall be more than one, the assistant treasurers in the order determined by the board of directors) shall perform the duties and exercise the powers of the chief financial officer.

ARTICLE VI — STOCK

6.1 STOCK CERTIFICATES; PARTLY PAID SHARES

The shares of the corporation shall be represented by certificates, provided that the board of directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the corporation by the chairperson of the board of directors or vice-chairperson of the board of directors, or the president or a vice-president, and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary of the corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The corporation shall not have power to issue a certificate in bearer form.

The corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly-paid shares, or upon the books and records of the corporation in the case of uncertificated partly-paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully-paid shares, the corporation shall declare a dividend upon partly-paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

6.2 SPECIAL DESIGNATION ON CERTIFICATES

If the corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the corporation shall issue to represent such class or series of stock; *provided, however*, that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the corporation shall issue to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this

section 6.2 or Sections 156, 202(a) or 218(a) of the DGCL or with respect to this section 6.2 a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

6.3 LOST, STOLEN OR DESTROYED CERTIFICATES

Except as provided in this Section 6.3, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation and cancelled at the same time. The corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

6.4 DIVIDENDS

The board of directors, subject to any restrictions contained in the certificate of incorporation or applicable law, may declare and pay dividends upon the shares of the corporation's capital stock. Dividends may be paid in cash, in property, or in shares of the corporation's capital stock, subject to the provisions of the certificate of incorporation.

The board of directors may set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the corporation, and meeting contingencies.

6.5 TRANSFER OF STOCK

Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by an attorney duly authorized, and, if such stock is certificated, upon the surrender of a certificate or certificates for a like number of shares, properly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer; *provided, however,* that such succession, assignment or authority to transfer is not prohibited by the certificate of incorporation, these bylaws, applicable law or contract.

6.6 STOCK TRANSFER AGREEMENTS

The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

6.7 REGISTERED STOCKHOLDERS

The corporation:

(i) shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner;

(ii) shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares; and

(iii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE VII — MANNER OF GIVING NOTICE AND WAIVER

7.1 NOTICE OF STOCKHOLDERS' MEETINGS

Notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the corporation's records. An affidavit of the secretary or an assistant secretary of the corporation or of the transfer agent or other agent of the corporation that the notice has been given shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

7.2 NOTICE BY ELECTRONIC TRANSMISSION

Without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the certificate of incorporation or these bylaws, any notice to stockholders given by the corporation under any provision of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any such consent shall be deemed revoked if:

(i) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent; and

(ii) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice.

However, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

Any notice given pursuant to the preceding paragraph shall be deemed given:

(i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;

(ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;

(iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and

(iv) if by any other form of electronic transmission, when directed to the stockholder.

An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

An "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

7.3 NOTICE TO STOCKHOLDERS SHARING AN ADDRESS

Except as otherwise prohibited under the DGCL, without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under the provisions of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any stockholder who fails to object in writing to the corporation, within 60 days of having been given written notice by the corporation of its intention to send the single notice, shall be deemed to have consented to receiving such single written notice.

7.4 NOTICE TO PERSON WITH WHOM COMMUNICATION IS UNLAWFUL

Whenever notice is required to be given, under the DGCL, the certificate of incorporation or these bylaws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

7.5 WAIVER OF NOTICE

Whenever notice is required to be given to stockholders, directors or other persons under any provision of the DGCL, the certificate of incorporation or these bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders or the board of directors, as the case may be, need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the certificate of incorporation or these bylaws.

ARTICLE VIII — INDEMNIFICATION

8.1 INDEMNIFICATION OF DIRECTORS AND OFFICERS IN THIRD PARTY PROCEEDINGS

Subject to the other provisions of this Article VIII, the corporation shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding") (other than an action by or in the right of the corporation) by reason of the fact that such person is or was a director of the corporation or an officer of the corporation, or while a director of the corporation or officer of the corporation is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

8.2 INDEMNIFICATION OF DIRECTORS AND OFFICERS IN ACTIONS BY OR IN THE RIGHT OF THE CORPORATION

Subject to the other provisions of this Article VIII, the corporation shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the corporation, or while a director or officer of the corporation is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such

person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the 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 for such expenses which the Court of Chancery or such other court shall deem proper.

8.3 SUCCESSFUL DEFENSE

To the extent that a present or former director or officer of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding described in Section 8.1 or Section 8.2, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

8.4 INDEMNIFICATION OF OTHERS

Subject to the other provisions of this Article VIII, the corporation shall have power to indemnify its employees and its agents to the extent not prohibited by the DGCL or other applicable law. The board of directors shall have the power to delegate the determination of whether employees or agents shall be indemnified to such person or persons as the board of determines.

8.5 ADVANCED PAYMENT OF EXPENSES

Expenses (including attorneys' fees) incurred by an officer or director of the corporation in defending any Proceeding shall be paid by the corporation in advance of the final disposition of such Proceeding upon receipt of a written request therefor (together with documentation reasonably evidencing such expenses) and an undertaking by or on behalf of the person to repay such amounts if it shall ultimately be determined that the person is not entitled to be indemnified under this Article VIII or the DGCL. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the corporation deems reasonably appropriate and shall be subject to the corporation's expense guidelines. The right to advancement of expenses shall not apply to any claim for which indemnity is excluded pursuant to these bylaws, but shall apply to any Proceeding referenced in Section 8.6(ii) or 8.6(iii) prior to a determination that the person is not entitled to be indemnified by the corporation.

8.6 LIMITATION ON INDEMNIFICATION

Subject to the requirements in Section 8.3 and the DGCL, the corporation shall not be obligated to indemnify any person pursuant to this Article VIII in connection with any Proceeding (or any part of any Proceeding):

(i) for which payment has actually been made to or on behalf of such person under any statute, insurance policy, indemnity provision, vote or otherwise, except with respect to any excess beyond the amount paid;

(ii) for an accounting or disgorgement of profits pursuant to Section 16(b) of the 1934 Act, or similar provisions of federal, state or local statutory law or common law, if such person is held liable therefor (including pursuant to any settlement arrangements);

(iii) for any reimbursement of the corporation by such person of any bonus or other incentive-based or equity-based compensation or of any profits realized by such person from the sale of securities of the corporation, as required in each case under the 1934 Act (including any such reimbursements that arise from an accounting restatement of the corporation pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), or the payment to the corporation of profits arising from the purchase and sale by such person of securities in violation of Section 306 of the Sarbanes-Oxley Act), if such person is held liable therefor (including pursuant to any settlement arrangements);

(iv) initiated by such person against the corporation or its directors, officers, employees, agents or other indemnitees, unless (a) the board of directors authorized the Proceeding (or the relevant part of the Proceeding) prior to its initiation, (b) the corporation provides the indemnification, in its sole discretion, pursuant to the powers vested in the corporation under applicable law, (c) otherwise required to be made under Section 8.7 or (d) otherwise required by applicable law; or

(v) if prohibited by applicable law; *provided, however*, that if any provision or provisions of this Article VIII shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the remaining provisions of this Article VIII (including, without limitation, each portion of any paragraph or clause containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this Article VIII (including, without limitation, each such portion of any paragraph or clause containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforcebable.

8.7 DETERMINATION; CLAIM

If a claim for indemnification or advancement of expenses under this Article VIII is not paid in full within 90 days after receipt by the corporation of the written request therefor, the claimant shall be entitled to an adjudication by a court of competent jurisdiction of his or her entitlement to such indemnification or advancement of expenses. The corporation shall indemnify such person against any and all expenses that are incurred by such person in connection with any action for indemnification or advancement of expenses from the corporation under this Article VIII, to the extent such person is successful in such action, and to the extent not prohibited by law. In any such suit, the corporation shall, to the fullest extent not prohibited by law, have the burden of proving that the claimant is not entitled to the requested indemnification or advancement of expenses.

8.8 NON-EXCLUSIVITY OF RIGHTS

The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the certificate of incorporation or any statute, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's

official capacity and as to action in another capacity while holding such office. The corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advancement of expenses, to the fullest extent not prohibited by the DGCL or other applicable law.

8.9 INSURANCE

The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of the DGCL.

8.10 SURVIVAL

The rights to indemnification and advancement of expenses conferred by this Article VIII 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.

8.11 EFFECT OF REPEAL OR MODIFICATION

Any amendment, alteration or repeal of this Article VIII shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to such amendment, alteration or repeal.

8.12 CERTAIN DEFINITIONS

For purposes of this Article VIII, references to the "corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article VIII with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this Article VIII, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan (excluding any "parachute payments" within the meanings of Sections 280G and 4999 of the Internal Revenue Code of 1986, as amended); and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this Article VIII.

ARTICLE IX — GENERAL MATTERS

9.1 EXECUTION OF CORPORATE CONTRACTS AND INSTRUMENTS

Except as otherwise provided by law, the certificate of incorporation or these bylaws, the board of directors may authorize any officer or officers, or agent or agents, to enter into any contract or execute any document or instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the board of directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

9.2 FISCAL YEAR

The fiscal year of the corporation shall be fixed by resolution of the board of directors and may be changed by the board of directors.

9.3 SEAL

The corporation may adopt a corporate seal, which shall be adopted and which may be altered by the board of directors. The corporation may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

9.4 CONSTRUCTION; DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both an entity and a natural person.

ARTICLE X — AMENDMENTS

These bylaws may be adopted, amended or repealed by the stockholders entitled to vote; *provided, however*, that the affirmative vote of the holders of at least 66 2/3% of the total voting power of outstanding voting securities, voting together as a single class, shall be required for the stockholders of the corporation to alter, amend or repeal, or adopt any bylaw inconsistent with, the following provisions of these bylaws: Article II, Sections 3.1, 3.2, 3.4 and 3.11 of Article III, Article VIII and this Article X (including, without limitation, any such Article or Section as renumbered as a result of any amendment, alteration, change, repeal, or adoption of any other Bylaw). The board of directors shall also have the power to adopt, amend or repeal bylaws; *provided, however*, that a bylaw amendment adopted by stockholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the board of directors.

INOGEN, INC.

CERTIFICATE OF AMENDMENT OF BYLAWS

The undersigned hereby certifies that he or she is the duly elected, qualified, and acting Secretary or Assistant Secretary of Inogen, Inc., a Delaware corporation and that the foregoing bylaws, comprising twenty-six (26) pages, were amended and restated on , 20 by the corporation's Board of Directors.

IN WITNESS WHEREOF, the undersigned has hereunto set his or her hand this day of , 20 .

Alison Bauerlein
Secretary

Exhibit 4.2

NINTH AMENDED AND RESTATED
INVESTORS' RIGHTS AGREEMENT

THIS NINTH AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT (the "Agreement") is made as of March 12, 2012 by and among Inogen, Inc., a Delaware corporation (the "Company"), and the investors listed on Schedule A hereto (each, an "Investor" and collectively the "Investors").

RECITALS:

WHEREAS, the Company and certain of the Investors have entered into that certain Series G Preferred Stock Purchase Agreement of even date herewith (the "Purchase Agreement"), by and among the Company and the Investors listed on Schedule A thereto, which provides for, among other things, the purchase by such Investors of shares of Series G Preferred Stock of the Company;

WHEREAS, the Company and certain of the Investors are parties to that certain Eighth Amended and Restated Investors' Rights Agreement, dated February 16, 2010, (the "Prior Agreement"); and

WHEREAS, in order to induce certain of the Investors to enter into the Purchase Agreement and purchase shares of Series G Preferred Stock thereunder, the Company and certain of the Investors have agreed to enter into this Agreement, which amends and restates the Prior Agreement in its entirety.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree that the Rights Agreement shall be superseded and replaced in its entirety by this Agreement, and the parties hereto further agree as follows:

1. Registration Rights. The Company covenants and agrees as follows:

1.1 Definitions. For purposes of this Section 1:

(a) The term "1934 Act" means the Securities Exchange Act of 1934, as amended.

(b) The term "Act" means the Securities Act of 1933, as amended.

(c) The term "Form S-3" means such form under the Act as in effect on the date hereof or any registration form under the Act subsequently adopted by the SEC that permits inclusion or incorporation of substantial information by reference to other documents filed by the Company with the SEC.

(d) The term "Holder" means any person owning of record, or having the right to acquire, Registrable Securities that have not been sold to the public, or any assignee of record of such Registrable Securities in accordance with Section 1.12 hereof.

(e) The term "Initial Offering" means the Company's first firm commitment underwritten public offering of its Common Stock under the Act, with aggregate proceeds of at least forty million dollars ($40,000,000) (before deduction of underwriters commissions and expenses) at a public offering price of at least $5.95 (as adjusted for stock splits, stock dividends, combinations and the like after the date hereof).

(f) The terms "register," "registered," and "registration" refer to a registration effected by preparing and filing a registration statement or similar document in compliance with the Act, and the declaration or ordering of effectiveness of such registration statement or document.

(g) The term "Registrable Securities" means (i) the Series A Registrable Securities (as defined below), (ii) the Series B Registrable Securities (as defined below), (iii) the Series C Registrable Securities (as defined below), (iv) the Series D Registrable Securities (as defined below), (v) the Series E Registrable Securities (as defined below), (vi) the Series F Registrable Securities (as defined below), (vii) the Series G Registrable Securities (as defined below), (viii) any Common Stock issued on exercise of warrants to purchase shares of Common Stock issued pursuant to the Series D Preferred Stock Convertible Promissory Note and Warrant Purchase Agreement dated April 20, 2007, (ix) any Common Stock issued upon the exercise of warrants to purchase shares of Common Stock issued pursuant to the Series Preferred Stock and Common Stock Warrant Purchase Agreement dated February 27, 2009, and (x) any Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange for, or in replacement of, the shares referenced in (i), (ii), (iii), (iv), (v), (vi), and (vii) above, excluding in all cases, however, any Registrable Securities sold by a person in a transaction in which his rights under this Section 1 are not assigned or that have been sold by a person pursuant to a registration statement under the Act covering such Registrable Securities that has been declared effective by the SEC or in an open market transaction under Rule 144. The number of shares of Registrable Securities outstanding shall be determined by the number of shares of Common Stock outstanding that are, and the number of shares of Common Stock issuable pursuant to then-exercisable or convertible securities that are, Registrable Securities.

(h) The term "Rule 144" means Rule 144 under the Act.

(i) The term "SEC" means the Securities and Exchange Commission.

(j) The term "Series A Registrable Securities" means the Common Stock issuable or issued upon conversion of the Series A Preferred Stock.

(k) The term "Series B Registrable Securities" means the Common Stock issuable or issued upon conversion of the Series B Preferred Stock.

(l) The term "Series C Registrable Securities" means the Common Stock issuable or issued upon conversion of the Series C Preferred Stock.

(m) The term "Series D Registrable Securities" means the Common Stock issuable or issued upon conversion of the Series D Preferred Stock.

(n) The term "Series E Registrable Securities" means the Common Stock issuable or issued upon conversion of the Series E Preferred Stock.

(o) The term "Series F Registrable Securities" means the Common Stock issuable or issued upon conversion of the Series F Preferred Stock.

(p) The term "Series G Registrable Securities" means the Common Stock issuable or issued upon conversion of the Series G Preferred Stock.

1.2 Restrictions on Transfer.

(a) Each Holder agrees not to make any disposition of all or any portion of the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, Series F Preferred Stock, and the Series G Preferred Stock (collectively, the "Preferred Stock") or Registrable Securities unless and until:

(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) (A) The transferee has agreed in writing to be bound by the terms of this Agreement to the same extent as if such transferee were the original Holder hereunder, (B) such Holder shall have notified the Company of the proposed disposition and shall have furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition, and (C) if reasonably requested by the Company, such Holder shall have furnished the Company with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration of such shares under the Securities Act. It is agreed that the Company will not require opinions of counsel for transactions made pursuant to Rule 144, except in unusual circumstances.

(b) Notwithstanding the provisions of subsection (a) above, no such restriction shall apply to a transfer by a Holder that is (A) a partnership transferring to its partners or former partners in accordance with partnership interests, (B) a corporation transferring to a wholly-owned subsidiary or a parent corporation that owns all of the capital stock of the Holder, or to any corporation or entity that is, within the meaning of the Act, controlling, controlled by or under common control with, any such Holder, (C) a limited liability company transferring to its members, former members or equity holders in accordance with their interest in the limited liability company, (D) a venture capital fund that is transferring to an affiliated venture capital fund or (E) an individual transferring to the Holder's family member or trust for the benefit of an individual Holder; provided that in each case the transferee will agree in writing to be subject to the terms of this Agreement to the same extent as if he were an original Holder hereunder.

1.3 Request for Registration.

(a) Subject to the conditions of this Section 1.3, if the Company shall receive at any time after the earlier of (i) February 16, 2014, or (ii) six (6) months after the effective date of the Initial Offering, a written request from the Holders of fifty percent (50%) or more of the Registrable Securities then outstanding (for purposes of this Section 1.3, the "Initiating Holders") that the Company file a registration statement under the Act covering the registration of Registrable Securities, then the Company shall, within ten (10) days of the receipt thereof, give written notice of such request to all Holders, and subject to the limitations of this Section 1.3, use its best efforts to file, as soon as practicable, and in any event within ninety (90) days of the receipt of such request, a

registration statement under the Act covering all Registrable Securities that the Holders request to be registered in a written request received by the Company within twenty (20) days of the mailing of the Company's notice pursuant to this Section 1.3(a).

(b) If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to this Section 1.3 and the Company shall include such information in the written notice referred to in Section 1.3(a). In such event, the right of any Holder to include its Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting (unless otherwise mutually agreed by two-thirds in interest of the Initiating Holders and such Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting. Notwithstanding any other provision of this Section 1.3, if the underwriter advises the Company that marketing factors require a limitation of the number of securities underwritten (including Registrable Securities), then the Company shall so advise all Holders of Registrable Securities that would otherwise be underwritten pursuant hereto, and the number of shares that may be included in the underwriting shall be allocated as follows: first, to the Holders of Registrable Securities on a pro rata basis based on the number of Registrable Securities held by all such Holders (including the Initiating Holders) and second, to the other securities to be included in such registration. In no event shall any Registrable Securities be excluded from such underwriting unless all other securities are first excluded. Any Registrable Securities excluded or withdrawn from such underwriting shall be withdrawn from the registration.

(c) The Company shall not be required to effect a registration pursuant to this Section 1.3:

(i) in any particular jurisdiction in which the Company would be required to execute a general consent to service of process in effecting such registration, unless the Company is already subject to service in such jurisdiction and except as may be required under the Act;

(ii) after the Company has effected two (2) registrations pursuant to this Section 1.3, and such registrations have been declared or ordered effective;

(iii) during the period starting with the date ninety (90) days prior to the Company's good faith estimate of the date of the filing of, and ending on a date ninety (90) days after the effective date of, a registration subject to Section 1.4 hereof, unless such offering is the Initial Offering, in which case, ending on a date one hundred eighty (180) days after the effective date of such registration subject to Section 1.4, provided that the Company is actively employing in good faith all commercially reasonable efforts to cause such registration statement to become effective and provided, in the case of a public offering other than the Initial Offering, that the Initiating Holders were permitted to register such shares as requested to be registered pursuant to Section 1.4 hereof without reduction by the underwriter thereof;

(iv) if the Initiating Holders propose to dispose of Registrable Securities that may be immediately registered on Form S-3 pursuant to Section 1.5 hereof; or

(v) if the Company shall furnish to Holders within thirty (30) days after requesting a registration statement pursuant to this Section 1.3, a certificate signed by the Company's Chief Executive Officer or Chairman of the Board stating that in the good faith judgment of the Board of Directors of the Company, it would be seriously detrimental to the Company and its stockholders for such registration statement to be effected at such time, in which event the Company shall have the right to defer such filing for a period of not more than ninety (90) days after receipt of the request of the Initiating Holders, provided that such right shall be exercised by the Company not more than once in any twelve (12) month period.

1.4 Company Registration.

(a) If (but without any obligation to do so) the Company proposes to register (including for this purpose a registration effected by the Company for stockholders other than the Holders) any of its stock or other securities under the Act in connection with the public offering of such securities (other than a registration relating solely to the sale of securities of participants in a Company stock plan, a registration relating to a transaction under Rule 145 of the Act, a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities, or a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered), the Company shall, at such time, promptly give each Holder written notice of such registration. Upon the written request of each Holder given within twenty (20) days after mailing of such notice by the Company in accordance with Section 3.4, the Company shall, subject to the provisions of Section 1.4(c), cause to be registered under the Act all of the Registrable Securities that each such Holder has requested to be registered. If a Holder decides not to include all of its Registrable Securities in any registration statement thereafter filed by the Company, such Holder shall nevertheless continue to have the right to include any Registrable Securities in any subsequent registration statement or registration statements as may be filed by the Company with respect to offerings of its securities, all upon the terms and conditions set forth herein.

(b) Right to Terminate Registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 1.4 prior to the effectiveness of such registration whether or not any Holder has elected to include securities in such registration. The expenses of such withdrawn registration shall be borne by the Company in accordance with Section 1.8 hereof.

(c) Underwriting Requirements. In connection with any offering involving an underwriting of shares of the Company's capital stock, the Company shall not be required under this Section 1.4 to include any of the Holders' securities in such underwriting unless they accept the terms of the underwriting as agreed upon between the Company and the underwriters selected by it (or by other persons entitled to select the underwriters) and enter into an underwriting agreement in customary form with such underwriters, and then only in such quantity as the underwriters determine in their sole discretion will not jeopardize the success of the offering by the Company. If the total amount of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the amount of securities sold other than by the Company that the underwriters determine in their sole discretion is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, that the underwriters determine in their sole discretion will not jeopardize the success of the offering. If the Holders are so limited by the underwriters' determination, the number of shares that may be included in the underwriting shall be allocated, first, to the Company; second, to the

Holders on a pro rata basis based on the total number of Registrable Securities held by the Holders; and third, to any stockholder of the Company (other than a Holder) on a pro rata basis. In the event that the underwriters determine that less than all of the Registrable Securities requested to be registered can be included in such offering, then the Registrable Securities that are included in such offering shall be apportioned pro rata among the selling Holders based on the number of Registrable Securities held by all selling Holders or in such other proportions as shall mutually be agreed to by all such selling Holders. Notwithstanding the foregoing, in no event shall the amount of Registrable Securities of the selling Holders included in the offering be reduced below twenty-five percent (25%) of the total amount of securities included in such offering, unless such offering is the Initial Offering, in which case the selling Holders may be excluded if the underwriters make the determination described above and no other stockholder's securities are included. If any Holder disapproves of the terms of any such underwriting, such Holder may elect to withdraw therefrom by written notice to the Company and the underwriter, delivered at least ten (10) business days prior to the effective date of the registration statement. Any Registrable Securities excluded or withdrawn from such underwriting shall be excluded and withdrawn from the registration. For purposes of the preceding sentences concerning apportionment, for any selling stockholder that is a Holder of Registrable Securities and that is a venture capital fund, partnership, limited liability company, or corporation, the affiliated venture capital funds, partners, retired partners, members and stockholders of such Holder, or the estates and family members of any such partners and retired partners, members and any trusts for the benefit of any of the foregoing persons shall be deemed to be a single "selling Holder," and any pro rata reduction with respect to such "selling Holder" shall be based upon the aggregate amount of Registrable Securities owned by all such related entities and individuals.

1.5 Form S-3 Registration. In case the Company shall receive from the Holders of Registrable Securities (for purposes of this Section 1.5, the "Initiating Holders") a written request or requests that the Company effect a registration on Form S-3 and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Holder or Holders, the Company shall:

(a) promptly give written notice of the proposed registration, and any related qualification or compliance, to all other Holders; and

(b) as soon as practicable, effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Holders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holders joining in such request as are specified in a written request given within fifteen (15) days after receipt of such written notice from the Company, *provided, however*, that the Company shall not be obligated to effect any such registration, qualification or compliance, pursuant to this Section 1.5:

(i) if Form S-3 is not available for such offering by the Holders;

(ii) if the Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) at an aggregate price to the public (net of any underwriters' discounts or commissions) of less than $1,000,000;

(iii) if the Company shall furnish to Holders requesting a registration statement pursuant to this Section 1.5, a certificate signed by the Company's Chief

Executive Officer or Chairman of the Board stating that in the good faith judgment of the Board of Directors of the Company, it would be seriously detrimental to the Company and its stockholders for such registration statement to be effected at such time, in which event the Company shall have the right to defer such filing for a period of not more than ninety (90) days after receipt of the request of the Initiating Holders, provided that such right shall be exercised by the Company not more than once in any twelve (12) month period;

(iv) if the Company has, within the twelve (12) month period preceding the date of such request, already effected two (2) registrations on Form S-3 pursuant to this Section 1.5; or

(v) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance.

(c) If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to this Section 1.5 and the Company shall include such information in the written notice referred to in Section 1.5(a). The provisions of Section 1.3(b) shall be applicable to such request (with the substitution of Section 1.5 for references to Section 1.3).

(d) Subject to the foregoing, the Company shall use its best efforts to file a registration statement covering the Registrable Securities and other securities so requested to be registered as soon as practicable after receipt of the request or requests of the Initiating Holders. Registrations effected pursuant to this Section 1.5 shall not be counted as requests for registration effected pursuant to Section 1.3.

1.6 Obligations of the Company. Whenever required under this Section 1 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) prepare and file with the SEC a registration statement with respect to such Registrable Securities and use all commercially reasonable efforts to cause such registration statement to become effective, and, keep such registration statement effective for a period of up to one hundred eighty (180) days or, if earlier, until the distribution contemplated in the Registration Statement has been completed;

(b) 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 comply with the provisions of the Act with respect to the disposition of all securities covered by such registration statement;

(c) furnish to the Holders such numbers of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them;

(d) use all commercially reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such

jurisdictions as shall be reasonably requested by the Holders, provided that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions;

(e) in the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement;

(f) notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing;

(g) cause all such Registrable Securities registered pursuant to this Section 1 to be listed on a national exchange or trading system and on each securities exchange and trading system on which similar securities issued by the Company are then listed;

(h) provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration; and

(i) use its best efforts to furnish, at the request of any Holder requesting registration of Registrable Securities pursuant to this Section 1, on the date that such Registrable Securities are delivered to the underwriters for sale in connection with a registration pursuant to this Section 1, if such securities are being sold through underwriters, or if such securities are not being sold through underwriters, on the date that the registration statement with respect to such securities becomes effective, (i) an opinion, dated such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters, if any, and to the Holders requesting registration of Registrable Securities and (ii) a letter dated such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the underwriters, if any, and to the Holders requesting registration of Registrable Securities.

Notwithstanding the provisions of this Section 1, the Company shall upon written notice to the participating Holders be entitled to postpone or suspend, for a reasonable period of time (but in no event exceeding sixty (60) days from such notice) (the "Suspension Period"), the filing, effectiveness or use of, or trading under, any registration statement if the Company shall determine that any such filing or the sale of any securities pursuant to such registration statement would:

(i) in the good faith judgment of the Board of Directors of the Company, materially impede, delay or interfere with any material pending or proposed financing, acquisition, corporate reorganization or other similar transaction involving the Company for which the Board of Directors of the Company has authorized negotiations;

(ii) in the good faith judgment of the Board of Directors of the Company, materially adversely impair the consummation of any pending or proposed material offering or sale of any class of securities by the Company; or

(iii) in the good faith judgment of the Board of Directors of the Company, require disclosure of material nonpublic information that, if disclosed at such time, would be materially harmful to the interests of the Company and its stockholders; provided, however, that during any such period all executive officers and directors of the Company are also prohibited from selling securities of the Company (or any security of any of the Company's subsidiaries or affiliates).

In the event of the suspension of effectiveness of any registration statement pursuant to this Section 1.6, the applicable time period during which such registration statement is to remain effective shall be extended by that number of days equal to the duration of the Suspension Period. No more than one (1) such Suspension Period shall occur in any twelve (12) month period and, with respect to the filing of any registration statement, such Suspension Period may only be in lieu of any delay provided for in Section 1.3(c)(v) or Section 1.5(b)(iii), as applicable.

1.7 Information from Holder. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 1 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as shall be reasonably required to effect the registration of such Holder's Registrable Securities.

1.8 Expenses of Registration. All expenses other than underwriting discounts and commissions incurred in connection with registrations, filings or qualifications pursuant to Sections 1.3, 1.4 and 1.5, including (without limitation) all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements of one special counsel for the selling Holders shall be borne by the Company. Notwithstanding the foregoing, the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 1.3 or Section 1.5 if the registration request is subsequently withdrawn at the request of the Holders of two-thirds of the Registrable Securities to be registered (in which case all participating Holders shall bear such expenses pro rata based upon the number of Registrable Securities that were to be included in the withdrawn registration), unless, in the case of a registration requested under Section 1.3 or Section 1.5, the Holders of two-thirds of the Registrable Securities agree to forfeit their right to one (1) demand registration pursuant to Section 1.3 and *provided, however*, that if at the time of such withdrawal, the Holders have learned of a material adverse change in the condition, business, or prospects of the Company from that known to the Holders at the time of their request and have withdrawn the request with reasonable promptness following disclosure by the Company of such material adverse change, then the Holders shall not be required to pay any of such expenses and shall retain their rights pursuant to Section 1.3.

1.9 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any such registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 1.

1.10 Indemnification. In the event any Registrable Securities are included in a registration statement under this Section 1:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, the partners, members, officers, directors and stockholders of each Holder, legal counsel and accountants for each Holder, any underwriter (as defined in the Act) for such Holder and each person, if any, who controls such Holder or underwriter within the meaning of the Act or the 1934 Act, against any losses, claims, damages or liabilities (joint or several) to which they may become subject under the Act, the 1934 Act, any state securities laws, any rule or regulation promulgated under the Act, the 1934 Act or any state securities laws or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (collectively a "Violation"): (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Act, the 1934 Act, any state securities laws or any rule or regulation promulgated under the Act, the 1934 Act or any state securities laws; and the Company will reimburse each such Holder, underwriter, controlling person or other aforementioned person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action as such expenses are incurred; *provided, however*, that the indemnity agreement contained in this subsection l.10(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld), nor shall the Company be liable in any such case for any such loss, claim, damage, liability or action to the extent that it arises out of or is based upon a Violation that occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by any such Holder, underwriter, controlling person or other aforementioned person.

(b) To the extent permitted by law, each selling Holder will indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each person, if any, who controls the Company within the meaning of the Act, legal counsel and accountants for the Company, any underwriter, any other Holder selling securities in such registration statement or any of such other Holder's partners, members, directors or officers or any controlling person of any such underwriter or other Holder, against any losses, claims, damages or liabilities to which any of the foregoing persons may become subject, under the Act, the 1934 Act, any state securities laws, any rule or regulation promulgated under the Act, the 1934 Act or any state securities laws or other federal or state law, insofar as such losses, claims, damages or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Holder expressly for use in connection with such registration; and each such Holder will reimburse any person intended to be indemnified pursuant to this subsection l.10(b) for any legal or other expenses reasonably incurred by such person in connection with investigating or defending any such loss, claim, damage, liability or action as such expenses are incurred; *provided, however*, that the indemnity agreement contained in this subsection l.10(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Holder (which consent shall not be unreasonably withheld), and provided that in no event shall any indemnity under this subsection l.10(b) exceed the net proceeds from the offering received by such Holder. Without limiting the generality of the

foregoing or the generality of the definition of "Violation" contained in subsection 1.10(a), for purposes of this subsection 1.10(b), the term "Violation" shall include the failure by or on behalf of the selling Holder, or any person controlling such Holder, to deliver to any person who purchased shares in the offering from such selling Holder a copy of the most current prospectus, if required by law so to have been delivered at or prior to the written confirmation of the sale of the shares to such person, and if the delivery of the prospectus (as so amended or supplemented) would have cured the defect giving rise to such Violation.

(c) Promptly after receipt by an indemnified party under this Section 1.10 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 1.10, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; *provided, however*, that an indemnified party (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if materially prejudicial to its ability to defend such action, shall relieve such indemnifying party of liability to the indemnified party under this Section 1.10 to the extent of such prejudice, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 1.10.

(d) If the indemnification provided for in this Section 1.10 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage or expense referred to herein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the Violation(s) that resulted in such loss, liability, claim, damage or expense, as well as any other relevant equitable considerations; *provided, however*, that no contribution by any Holder, when combined with any amounts paid by such Holder pursuant to Section 1.10(b), shall exceed the net proceeds from the offering received by such Holder. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(f) The obligations of the Company and Holders under this Section 1.10 shall survive the completion of any offering of Registrable Securities in a registration statement under this Section 1, and otherwise.

1.11 Reports Under the 1934 Act. With a view to making available to the Holders the benefits of Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144, at all times after ninety (90) days after the effective date of the Initial Offering;

(b) file with the SEC in a timely manner all reports and other documents required of the Company under the Act and the 1934 Act; and

(c) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144 (at any time after ninety (90) days after the effective date of the first registration statement filed by the Company), the Act and the 1934 Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration or pursuant to such form.

1.12 Assignment of Registration Rights. The rights to cause the Company to register Registrable Securities pursuant to this Section 1 may be assigned (but only with all related obligations) by a Holder to a transferee or assignee of such securities that (i) is a subsidiary, parent, partner, limited partner, retired partner, member, retired member or stockholder of a Holder, (ii) is a Holder's family member or trust for the benefit of an individual Holder, or (iii) after such assignment or transfer, holds at least 10,000 shares of the original Holder's Registrable Securities, or all of the original Holder's Registrable Securities, if less than 10,000 (subject to appropriate adjustment for stock splits, stock dividends, combinations and other recapitalizations after the date hereof), provided: (a) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned; (b) such transferee or assignee agrees in writing to be bound by and subject to the terms and conditions of this Agreement, including, without limitation, the provisions of Section 1.14 below; and (c) such assignment shall be effective only if immediately following such transfer the further disposition of such securities by the transferee or assignee is restricted under the Act.

1.13 "Market Stand-Off" Agreement. Each Holder hereby agrees that it will not, without the prior written consent of the managing underwriter, during the period commencing on the effective date of the registration statement relating to the Company's Initial Offering and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (l80) days or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (i) the publication or other distribution of

research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto), (i) lend, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock held during such period, or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. The foregoing provisions of this Section 1.13 shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement, and shall only be applicable to the Holders if all officers, directors and one percent (1%) stockholders of the Company enter into similar agreements. The underwriters in connection with the Company's Initial Offering are intended third party beneficiaries of this Section 1.13 and shall have the right, power and authority to enforce the provisions hereof as though they were a party hereto. Each Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in the Company's Initial Offering that are consistent with this Section 1.13 or that are necessary to give further effect thereto.

In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to the Registrable Securities of each Holder (and the shares or securities of every other person subject to the foregoing restriction) until the end of such period.

1.14 Termination of Registration Rights. No Holder shall be entitled to exercise any right provided for in this Section 1 after five (5) years following the consummation of the Initial Offering; provided however that as to any Holder, such Holder shall not be entitled to registration rights during such earlier time at which such Holder can immediately sell all Registrable Securities held by under Rule 144 during any ninety (90)-day period.

1.15 Limitation on Subsequent Registration Rights. After the date of this Agreement, the Company shall not, without the prior written consent of the Holders of at least a majority of the Registrable Securities then outstanding, enter into any agreement with any holder or prospective holder of any securities of the Company that would grant such holder registration rights on a parity with or senior to those granted to the Holders hereunder.

2. Covenants of the Company.

2.1 Delivery of Financial Statements. The Company shall deliver to each Holder (or transferee of a Holder) that holds at least 75,000 shares (as adjusted for stock splits, dividends, combinations and the like with respect to such shares after the date hereof) of Preferred Stock or Registrable Securities (each a "Major Investor"):

(a) as soon as practicable, but in any event within ninety (90) days after the end of each fiscal year of the Company, an income statement for such fiscal year, a balance sheet of the Company and statement of stockholders' equity as of the end of such year, and a statement of cash flows for such year, such year-end financial reports to be in reasonable detail, prepared in accordance with generally accepted accounting principles ("GAAP") and certified by independent public accountants of recognized national standing selected by the Company;

(b) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, an unaudited income statement, statement of cash flows for such fiscal quarter and an unaudited balance sheet as of the end of such fiscal quarter;

(c) with respect to the financial statements called for in subsection (b) of this Section 2.1, an instrument executed by the Chief Financial Officer or President of the Company certifying that such financials were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (with the exception of footnotes that may be required by GAAP) and fairly present the financial condition of the Company and its results of operation for the period specified, subject to year-end audit adjustment; and

(d) annually (and in any event no later than ten (10) days after adoption by the Board of Directors of the Company) the operating plan of the Company, in the form approved by the Board of Directors, which operating plan shall include at least a projection of income and a projected cash flow statement for each fiscal quarter in such fiscal year and a projected balance sheet as of the end of each fiscal quarter in such fiscal year. Any material changes in such operating plan shall be delivered to each Major Investor as promptly as practicable after such changes have been approved by the Board of Directors.

(e) such other information relating to the financial condition, business or corporate affairs of the Company as the Major Investor may from time to time reasonably request, *provided, however*, that the Company shall not be obligated under this subsection (e) or any other subsection of Section 2.1 to provide information that it deems in good faith to be a trade secret or similar confidential information.

2.2 Inspection. The Company shall permit each Major Investor, at such Major Investor's expense, to visit and inspect the Company's properties, to examine its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such reasonable times during normal business hours as may be requested by the Major Investor; *provided, however*, that the Company shall not be obligated pursuant to this Section 2.2 to provide access to any information that it deems in good faith to be a trade secret or similar confidential information.

2.3 Termination of Information and Inspection Covenants. The covenants set forth in Sections 2.1 and 2.2 shall terminate and be of no further force or effect (i) upon the Initial Offering, (ii) when the Company first becomes subject to the periodic reporting requirements of Sections 12(g) or 15(d) of the 1934 Act, or (iii) the Consummation of the merger or consolidation of the Company or a subsidiary of the Company with or into another entity (except one in which the holders of capital stock of the Company as constituted immediately prior to such merger or consolidation continue to hold at least 50% of the voting power of the capital stock of the Company or the surviving or acquiring entity in substantially the same relative proportions), whichever event shall first occur.

2.4 Right of First Offer. Subject to the terms and conditions specified in this Section 2.4, the Company hereby grants to each Major Investor a right of first offer with respect to future sales by the Company of its Shares (as hereinafter defined). Except as otherwise set forth herein, each time the Company proposes to offer any shares of, or securities convertible into or exchangeable or exercisable for any shares of, any class of its capital stock ("Shares"), the Company shall first make an offering of such Shares to each Major Investor in accordance with the following provisions:

(a) The Company shall deliver a notice in accordance with Section 3.4 ("Notice") to the Major Investors stating (i) its bona fide intention to offer such Shares, (ii) the number of such Shares to be offered, and (iii) the price and terms upon which it proposes to offer such Shares.

(b) By written notification received by the Company within fifteen (15) calendar days after receipt of the Notice, each Major Investor may elect to purchase or obtain, at the price and on the terms specified in the Notice, up to that portion of such Shares that equals the proportion that the number of shares of Registrable Securities issued and held by such Major Investor bears to the total number of shares of Common Stock of the Company then outstanding (assuming full conversion and exercise of all convertible and exercisable securities then outstanding) (such Major Investor's "Pro Rata Share"). The Company shall promptly, in writing, inform each Major Investor that elects to purchase all the shares available to it (a "Fully-Exercising Investor") of any other Major Investor's failure to exercise its rights hereunder to purchase its pro rata portion of the Shares. During the ten (10) day period commencing after such information is given, each Fully-Exercising Investor may elect to purchase that portion of the Shares for which Major Investors were entitled to subscribe but which were not subscribed for by the Major Investors that is equal to the proportion that the number of shares of Registrable Securities issued and held by such Fully-Exercising Investor bears to the total number of shares of Common Stock of the Company (assuming full conversion and exercise of all convertible and exercisable securities then outstanding) held by all Fully Exercising Investors.

(c) If all Shares that Major Investors are entitled to obtain pursuant to subsection 2.4(b) are not elected to be obtained as provided in subsection 2.4(b) hereof, the Company may, during the forty-five (45) day period following the expiration of the period provided in subsection 2.4(b) hereof, offer the remaining unsubscribed portion of such Shares to any person or persons at a price not less than that, and upon terms no more favorable to the offeree than those, specified in the Notice. If the Company does not sell the Shares within such period, the right provided hereunder shall be deemed to be revived and such Shares shall not be offered unless first reoffered to the Major Investors in accordance herewith.

(d) The right of first offer in this Section 2.4 shall not be applicable to (i) the shares of Common Stock reserved for issuances to directors, officers, employees and consultants pursuant to such arrangements, contracts or plans recommended by management and approved by the Board of Directors, (ii) the issuance of securities in connection with an acquisition of another business entity by the Company by merger, purchase of substantially all of the assets or other reorganization approved by the Company's Board of Directors whereby the Company will own more than fifty percent (50%) of the voting power of such business entity or business segment of such entity; (iii) the issuance of securities to financial institutions or lessors in connection with commercial credit arrangements, equipment financings or similar transactions approved by the Company's Board of Directors, (iv) the Series G Registrable Securities issued pursuant to the Purchase Agreement, (v) the issuance of securities in a public offering, (vi) the issuance of securities pursuant to currently outstanding options, warrants, notes, or other rights to acquire securities of the Company, (vii) the issuance of securities in connection with corporate partnering transactions on terms approved by the Board of Directors (including at least the director elected by the holders of Series C Registrable Securities and the director elected by the holders of Series D Registrable Securities), or (viii) stock splits, stock dividends or like transactions. In addition to the foregoing, the right of first offer in this Section 2.4 shall not be applicable with respect to any Major Investor and any subsequent offering of Shares if the offer and sale to such Major Investor would cause the Company to be in violation of applicable federal or state securities laws by virtue of such offer or sale without any available exemption therefrom.

(e) The right of first offer under this Section 2.4 may not be assigned or transferred, except that (i) such right is assignable by each Major Investor to any affiliated venture capital fund or any wholly owned subsidiary or parent of, or to any corporation or entity that is, within the meaning of the Act, controlling, controlled by or under common control with, any such Major Investor, and (ii) such right is assignable between and among Major Investors.

(f) The covenants set forth in this Section 2.4 shall terminate and be of no further force or effect upon the earlier to occur of (i) the Initial Offering or (ii) the consummation of the merger or consolidation of the Company or any subsidiary of the Company with or into another entity (except one in which the holders of capital stock of the Company as constituted immediately prior to such merger or consolidation continue to hold at least 50% of the voting power of the capital stock of the Company or the surviving or acquiring entity in substantially the same relative proportions).

2.5 Proprietary Information and Inventions Agreements. The Company will cause each person now or hereafter employed or engaged by it or any subsidiary with access to confidential information to enter into a proprietary information and inventions agreement substantially in the form approved by the Board of Directors.

2.6 Board of Directors. Each committee established by the Board of Directors shall include the director elected by the holders of Series D Registrable Securities, unless such director declines to participate. The Company will reimburse the reasonable out-of-pocket expenses (including travel, food and lodging expenses) of each non-employee member of the Board of Directors actually incurred in connection with such member's attendance of the meetings of the Company's Board of Directors or any committee thereof. The Company shall enter into an indemnification agreement with each of its directors to indemnify such directors to the maximum extent permissible under applicable law in an amount and pursuant to such terms as are approved by the Company's Board of Directors, but in any event with coverage equal to at least $3,000,000.

2.7 Limitation on Drag Along Agreements. Any drag-along or equivalent agreement to which the Company and the Holders may become a party in the future shall provide that in no event will any Holder be required to agree to sell any capital stock of the Company unless the liability for indemnification, if any, of such Holder is several, not joint, is pro rata in accordance with such Holder's relative stock ownership of the Company as of the closing of such sale of the Company, and, except in the case of potential liability for fraud or willful misconduct by such Investor, will not exceed the consideration payable to such Holder, if any, in such sale of the Company.

2.8 Additional Issuances of Capital Stock. The Company will not, without the approval of the Board of Directors (including at least one director elected by the holders of the Series C Registrable Securities and the director elected by the holders of the Series D Registrable Securities), issue any additional shares of Preferred Stock or Common Stock, except for issuances of Common Stock or options to purchase Common Stock under the Company's equity incentive plans that are approved by the Board of Directors (including the director elected by the holders of Series C Registrable Securities and the director elected by the holders of Series D Registrable Securities).

3. Miscellaneous.

3.1 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties (including transferees of any shares of Registrable Securities). Nothing in this Agreement, 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 Agreement, except as expressly provided in this Agreement.

3.2 Governing Law. This Agreement shall be governed by and construed under the laws of the State of California as applied to agreements among California residents entered into and to be performed entirely within California.

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

3.4 Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed effectively given upon the earlier of actual receipt or: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the respective parties at the addresses set forth on the signature pages or schedules attached hereto (or at such other addresses as shall be specified by notice given in accordance with this Section 3.4).

3.5 Expenses. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

3.6 Entire Agreement; Amendments and Waivers. This Agreement (including the schedules or exhibits hereto, if any) and the documents delivered pursuant thereto constitute the full and entire understanding and agreement among the parties with regard to the subjects hereof and thereof and supersedes all other agreements with regard thereto, including the Prior Agreement. This Agreement may be amended or terminated and the observance of any term of this Agreement may be waived with respect to all parties to this Agreement (either generally or in a particular instance and either retroactively or prospectively) with the written consent of the Company and the holders of at least two-thirds of the Registrable Securities. Notwithstanding the foregoing, (x) this Agreement may not be amended or terminated and the observance of any term hereunder may not be waived with respect to any Holder without the written consent of such Holder unless such amendment, termination or waiver applies to all Holders in the same fashion (it being agreed that a waiver of the provisions of Section 2.4 with respect to a particular transaction shall be deemed to apply to all Major Investors in the same fashion, notwithstanding the fact that certain Major Investors may nonetheless, by agreement with the Company, purchase securities in such transaction) and does not treat holders of different series of Preferred Stock differently and (y) Section 2.7 hereof may not be amended without the consent of Novo A/S. Any amendment or waiver effected in accordance with this paragraph shall be binding upon each Holder of any Registrable Securities, each future Holder of all such Registrable Securities, and the Company. Notwithstanding the foregoing, purchasers of the Company's Series G Preferred Stock pursuant to the Purchase Agreement who are not already a parties hereto, shall become parties hereto as "Investors" by delivery to the Company of a signature page hereto without the need for any amendment hereto.

3.7 Severability. If any provision or set of provisions of this Agreement (or any portion thereof) is held by an arbitrator or court of competent jurisdiction to be invalid, illegal or unenforceable for any reason whatever: (a) such provision shall be limited or modified in its application to the minimum extent necessary to avoid the invalidity, illegality or unenforceability of such provision and such modified provision shall be reduced to a writing and signed by the parties hereto; (b) the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby; and (c) to the fullest extent possible, the provisions of this Agreement shall be construed so as to give effect to the intent manifested by the provision (or portion thereof) held invalid, illegal or unenforceable.

3.8 Aggregation of Stock. All shares of Registrable Securities held or acquired by affiliated entities (including affiliated venture capital funds) or persons or partners or former partners or members of a Major Investor shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

3.9 Facsimile and Counterparts. A facsimile, telecopy or other reproduction of this Agreement may be executed by one or more parties hereto, and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and an executed copy of this Agreement may be delivered by one or more parties hereto by facsimile or similar electronic transmission device pursuant to which the signature of or on behalf of such party can be seen, and such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party hereto, all parties hereto agree to execute an original of this Agreement as well as any facsimile, telecopy or other reproduction hereof.

3.10 Delays or Omissions. It is agreed that no delay or omission to exercise any right, power, or remedy accruing to any party, upon any breach, default or noncompliance by another party under this Agreement shall impair any such right, power, or remedy, nor shall it be construed to be a waiver of any such breach, default or noncompliance, or any acquiescence therein, or of any similar breach, default or noncompliance thereafter occurring. It is further agreed that any waiver, permit, consent, or approval of any kind or character on any party's part of any breach, default or noncompliance under the Agreement or any waiver on such party's part 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, by law, or otherwise afforded to any party, shall be cumulative and not alternative

3.11 Further Assurances. Each party hereto agrees to execute and deliver, by the proper exercise of its corporate, limited liability company, partnership or other powers, all such other and additional instruments and documents and do all such other acts and things as may be necessary to more fully effectuate this Agreement.

3.12 Attorneys' Fees. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INOGEN, INC.

/s/ Raymond Huggenberger

Raymond Huggenberger
Chief Executive Officer

Address: 326 Bollay Drive
Goleta, CA 93117
Fax (805) 562-0516

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

Novo A/S

By: /s/ Peter Moldt

Print Name: Peter Moldt

Title: Partner

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

Avalon Ventures VII, L.P.

By: Avalon Ventures VII GP, L.L.C.
Its: General Partner

By: /s/ Kevin Kinsella
Kevin J. Kinsella
Managing Director

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

Versant Venture Capital II, L.P.
Versant Affiliates Fund II-A, L.P.
Versant Side Fund II, L.P.

By: Versant Ventures II, L.L.C.
Each of Its General Partner

By: /s/ William J. Link
William J. Link, Ph.D.
Managing Director

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

AMV Partners I, L.P.

By: Accuitive Medical Ventures, L.L.C.
Its: General Partner

By: /s/ Charles Larsen
Name: Charles Larsen
Managing Director

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

Arboretum Ventures 1, LLC

By: /s/ Timothy B. Petersen
Timothy B. Petersen
Managing Director

Arboretum Ventures 1-A, LLC

By: /s/ Timothy B. Petersen
Timothy B. Petersen
Managing Director

Arboretum Ventures II, L.P.

By: Arboretum Investment Manager II, LLC
Its: General Partner

By: /s/ Timothy B. Petersen
Timothy B. Petersen
Managing Director

Arboretum Ventures IIa, L.P.

By: Arboretum Investment Manager IIa, LLC
Its: General Partner

By: Arboretum Investment Manager II, LLC
Its: Manager

By: /s/ Timothy B. Petersen

Timothy B. Petersen
Managing Director

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

Stephen E. Cooper Family Partnership
The Cooper Revocable Trust Dtd 7/26/96

By: /s/ Stephen E. Cooper TTES
Stephen E. Cooper
Trustee

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

The DeHont Family Revocable Trust, u/t/d 3/6/84

By: /s/ Charles L. DeHont, Trustee
Charles L. DeHont
Trustee

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

Louis and Bernice Weider Family Trust, u/t/d 12/23/93

By: /s/ Louis Weider
Louis Weider
Trustee

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

PARTNERS HEALTHCARE SYSTEMS, INC.

Signature: /s/ Debra Sloan

Print Name: Debra Sloan

Title: Deputy Treasurer

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

/s/ John Petote

John Petote

IN WITNESS WHEREOF, the parties have executed this Ninth Amended and Restated Investors' Rights Agreement as of the date first above written.

INVESTOR:

/s/ M. Lynn Brewer

M. Lynn Brewer

SCHEDULE A
LIST OF INVESTORS

Investor Name and Address	No. of Shares of Preferred Stock						
	Series A	Series B	Series C	Series D	Series E	Series F	Series G
LAUNCH POINT TECHNOLOGIES, LLC (f/k/a Magnetic Moments, LLC) 5735 Hollister Avenue Suite B Goleta, CA 93117	40,000						
AVALON VENTURES VII, L.P. 888 Prospect Street Suite 320 La Jolla, CA 92037				685,619	554,017		
AMV PARTNERS, I, L.P. Accuitive Medical Ventures 795 Promontory Drive West Newport Beach, CA 92660			426,621	357,725	387,586		
VERSANT VENTURE CAPITAL II, L.P. 450 Newport Center Drive, #380 Newport Beach, CA 92660		982,670	483,667	1,482,496	2,054,912		
VERSANT AFFILIATES FUND II-A, L.P. 450 Newport Center Drive, #380 Newport Beach, CA 92660		18,648	9,178	28,132	38,995		

Investor Name and Address	No. of Shares of Preferred Stock						
	Series A	Series B	Series C	Series D	Series E	Series F	Series G
VERSANT SIDE FUND II, L.P. 450 Newport Center Drive, #380 Newport Beach, CA 92660		8,782	4,322	13,249	17,824		
DUARD ENOCH 429 Pacific Oaks Road Goleta, CA 93117		13,187	3,413	4,246			
THE DEHONT FAMILY REVOCABLE TRUST 828 El Pintado Road Danville, CA 94526-1409		29,063	13,715				
ROBERT C. BODINE 720 East Mountain Drive Santa Barbara, CA 93108		19,441					
LOUIS AND BERNICE WEIDER FAMILY TRUST 1771 San Leandro Lane Montecito, CA 93108		16,165	7,628	28,995	48,043	30,252	
SCAR FAMILY TRUST P.O. Box 5188 Santa Barbara, CA 93150		12,888					
THE SUSAN L. HENRICKSEN REVOCABLE LIVING TRUST UTA DATED OCTOBER 11, 2007 952 Fairway Park Drive Incline Village, NV 89451		13,060					

Investor Name and Address	No. of Shares of Preferred Stock						
	Series A	Series B	Series C	Series D	Series E	Series F	Series G
THE RAYMOND HENRICKSEN LIVING TRUST U/A DATED JULY 23, 2007 79-920 Merion La Quinta, CA 92253		13,060					
JOHN PETOTE 20 Barranca Ave., #2 Santa Barbara, CA 93109		12,755	6,019	7,509			21,302
M. LYNN BREWER 14170 Victor Place Saratoga, CA 95070		25,578	12,070	6,445			6,426
THE COOPER REVOCABLE TRUST DTD 7/26/96, STEPHEN E. COOPER AND SUSAN D. COOPER TRUSTEES 1311 Hampton Court Discovery Bay, CA 94514	145,000	91,135	10,000	54,340			
THE STEPHEN E. COOPER FAMILY PARTNERSHIP 1311 Hampton Court Discovery Bay, CA 94514			40,694	1,000	2,500		
DANIEL THOMAS 1731 Embarcadero Road Palo Alta, CA 94303			500				

Investor Name and Address	No. of Shares of Preferred Stock						
	Series A	Series B	Series C	Series D	Series E	Series F	Series G
THE UCSB FOUNDATION F/B/O THE COLLEGE OF ENGINEERING 4219 Cheadle Hall University of California, Santa Barbara Santa Barbara, CA 93007	15,000						
ARBORETUM VENTURES 1, LLC 303 Detroit Street, Suite 301 Ann Arbor, MI 48104				143,835	160,645	100,840	
ARBORETUM VENTURES 1-A, LLC 303 Detroit Street, Suite 301 Ann Arbor, MI 48104				95,890	107,097	67,226	
ARBORETUM VENTURES IIA, L.P. 303 Detroit Street, Suite 301 Ann Arbor, MI 48104						685,908	242,614
ARBORETUM VENTURES II, L.P. 303 Detroit Street, Suite 301 Ann Arbor, MI 48104						2,927,538	1,035,505
NOVO A/S Tuborg Havnevej 19 DK 2900 Hellerup Denmark				1,095,890	1,397,833	3,781,512	7,130,843
NUMENOR VENTURES, LLC 1015 E. Mountain Drive Santa Barbara, CA 93108				102,739	121,185		

Investor Name and Address	No. of Shares of Preferred Stock						
	Series A	Series B	Series C	Series D	Series E	Series F	Series G
AIR PRODUCTS AND CHEMICALS, INC. 7201 Hamilton Boulevard Allentown, PA 18195				342,465			
DCE, INC. 5630 Starboard Drive Discovery Bay, CA 94514		12,841	6,059	7,180			
AL PADEN 5735 Hollister Ave. Suite B Goleta, CA 93117				3,956	3,471	8,402	
PARTNERS HEALTHCARE SYSTEMS, INC. 101 Merrimac Street, 4th Floor Boston, MA 02114-4719						504,201	48,526

Exhibit 4.3

THIS WARRANT AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED, OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED.

Void after
, 2017

INOGEN, INC.

WARRANT TO PURCHASE SHARES

This Warrant is issued to ("Investor") by INOGEN, INC, a Delaware corporation (the "Company"), pursuant to the terms of that certain Series D-1 Preferred Stock Convertible Promissory Note and Warrant Purchase Agreement (the "Note Purchase Agreement") of even date herewith, in connection with the Company's issuance to the holder of this Warrant of a Convertible Promissory Note (the "Note") and such Investor's Capital Commitment under the Note Purchase Agreement. Terms used but not defined herein shall have the meaning ascribed to them in the Note Purchase Agreement.

1. Purchase of Shares. Subject to the terms and conditions hereinafter set forth and set forth in the Note Purchase Agreement, the holder of this Warrant is entitled, upon surrender of this Warrant at the principal office of the Company (or at such other place as the Company shall notify the holder hereof in writing), to purchase from the Company up to the number of fully paid and nonassessable Shares (as defined below), that equals the quotient obtained by dividing (a) the Warrant Coverage Amount (as defined below) by (b) $0.73.

2. Definitions.

(a) Exercise Price. The exercise price for the Shares shall be $0.01 per share (such price, as adjusted from time to time, is herein referred to as the "Exercise Price").

(b) Exercise Period. This Warrant shall be exercisable, in whole or in part, during the term commencing on the date hereof and ending on the expiration of this Warrant pursuant to Section 14 hereof.

(c) Warrant Coverage Amount. The term "Warrant Coverage Amount" shall mean that amount which equals the sum of (i) 10% of the Investor's Capital Commitment under the Note Purchase Agreement, plus (ii) 25% of the principal of all Notes issued to the Investor under the Note Purchase Agreement in respect of such Investor's Pro Rata Share (as set forth on Schedule A to the Purchase Agreement) of all amounts raised under the Note Purchase Agreement, plus (iii) 100% of the principal of all Notes issued to the Investor under the Note Purchase Agreement in respect of principal invested by the Investor in excess of such Investor's Pro Rata Share of all amounts raised under the Note Purchase Agreement (as set forth on Schedule A to the Purchase Agreement). For clarity, Schedule A to the Purchase Agreement sets forth an example of the calculation of the Warrant Coverage Amount.

(d) The Shares. The term "Shares" shall mean Common Stock.

(e) Change of Control. The term "Change of Control" is defined in the corresponding Note.

3. Method of Exercise. While this Warrant remains outstanding and exercisable in accordance with Section 2 above, the holder may exercise, in whole or in part, the purchase rights evidenced hereby. Such exercise shall be effected by:

(i) the surrender of the Warrant, together with a notice of exercise to the Secretary of the Company at its principal offices; and

(ii) the payment to the Company of an amount equal to the aggregate Exercise Price for the number of Shares being purchased.

4. Net Exercise. In lieu of cash exercising this Warrant, the holder of this Warrant may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election, in which event the Company shall issue to the holder hereof a number of Shares computed using the following formula:

$$X = \frac{Y\ (A - B)}{A}$$

Where:

X - The number of Shares to be issued to the holder of this Warrant.

Y - The number of Shares purchasable under this Warrant.

A - The fair market value of one Share.

B - The Exercise Price (as adjusted to the date of such calculations).

For purposes of this Section 4, the fair market value of a Share shall mean the average of the closing bid and asked prices of Shares quoted in the over-the-counter market in which the Shares are traded or the closing price quoted on any exchange on which the Shares are listed, whichever is applicable, as published in the Western Edition of The Wall Street Journal for the ten (10) trading days prior to the date of determination of fair market value (or such shorter period of time during which such stock was traded over-the-counter or on such exchange). If the Shares are not traded on the over-the-counter market or on an exchange, the fair market value shall be the price per Share that the Company could obtain from a willing buyer for Shares sold by the Company from authorized but unissued Shares, as such prices shall be determined in good faith by the Company's Board of Directors.

5. Certificates for Shares. Upon the exercise of the purchase rights evidenced by this Warrant, one or more certificates for the number of Shares so purchased shall be issued as soon as practicable thereafter, and in any event within ten (10) days of the delivery of the subscription notice.

6. Issuance of Shares. The Company covenants that the Shares, when issued pursuant to the exercise of this Warrant, will be duly and validly issued, fully paid and nonassessable and free from all taxes, liens, and charges with respect to the issuance thereof.

7. Adjustment of Exercise Price and Number of Shares. The number of and kind of securities purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:

(a) Subdivisions, Combinations and Other Issuances. If the Company shall at any time prior to the expiration of this Warrant subdivide the Shares, by split-up or otherwise, or combine its Shares, or issue additional shares of its Shares as a dividend, the number of Shares issuable on the exercise of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the purchase price payable per share, but the aggregate purchase price payable for the total number of Shares purchasable under this Warrant (as adjusted) shall remain the same. Any adjustment under this Section 7(a) shall become effective at the close of business on the date the subdivision or combination becomes effective, or as of the record date of such dividend, or in the event that no record date is fixed, upon the making of such dividend.

(b) Reclassification, Reorganization and Consolidation. In case of any reclassification, capital reorganization, or change in the capital stock of the Company (other than as a result of a subdivision, combination, or stock dividend provided for in Section 7(a) above), then the Company shall make appropriate provision so that the holder of this Warrant shall have the right at any time prior to the expiration of this Warrant to purchase, at a total price equal to that payable upon the exercise of this Warrant, the kind and amount of shares of stock and other securities and property receivable in connection with such reclassification, reorganization, or change by a holder of the same number of Shares as were purchasable by the holder of this Warrant immediately prior to such reclassification, reorganization, or change. In any such case appropriate provisions shall be made with respect to the rights and interest of the holder of this Warrant so that the provisions hereof shall thereafter be applicable with respect to any shares of stock or other securities and property deliverable upon exercise hereof, and appropriate adjustments shall be made to the purchase price per share payable hereunder, provided the aggregate purchase price shall remain the same.

(c) Notice of Adjustment. When any adjustment is required to be made in the number or kind of shares purchasable upon exercise of the Warrant, or in the Exercise Price, the Company shall promptly notify the holder of such event and of the number of Shares or other securities or property thereafter purchasable upon exercise of this Warrant.

8. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant, but in lieu of such fractional shares the Company shall make a cash payment therefor on the basis of the Exercise Price then in effect.

9. Representations of the Company. The Company represents that all corporate actions on the part of the Company, its officers, directors and stockholders necessary for the sale and issuance of this Warrant have been taken.

10. Representations and Warranties by the Holder. The Holder represents and warrants to the Company as follows:

(a) This Warrant and the Shares issuable upon exercise thereof are being acquired for its own account, for investment and not with a view to, or for resale in connection with, any distribution or public offering thereof within the meaning of the Securities Act of 1933, as amended (the "Act"). Upon exercise of this Warrant, the Holder shall, if so requested by the Company, confirm in writing, in a form satisfactory to the Company, that the securities issuable upon exercise of this Warrant are being acquired for investment and not with a view toward distribution or resale.

(b) The Holder understands that the Warrant and the Shares have not been registered under the Act by reason of their issuance in a transaction exempt from the registration and prospectus delivery requirements of the Act pursuant to Section 4(2) thereof, and that they must be held by the Holder indefinitely, and that the Holder must therefore bear the economic risk of such investment indefinitely, unless a subsequent disposition thereof is registered under the Act or is exempted from such registration. The Holder further understands that the Warrant Shares have not been qualified under the California Securities Law of 1968 (the "California Law") by reason of their issuance in a transaction exempt from the qualification requirements of the California Law pursuant to Section 25102(f) thereof, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent expressed above.

(c) The Holder has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the purchase of this Warrant and the Shares purchasable pursuant to the terms of this Warrant and of protecting its interests in connection therewith.

(d) The Holder is able to bear the economic risk of the purchase of the Shares pursuant to the terms of this Warrant.

(e) The Holder is an "accredited investor" as such term is defined in Rule 501 of Regulation D promulgated under the Act.

11. Restrictive Legend.

The Shares (unless registered under the Act) shall be stamped or imprinted with a legend in substantially the following form:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF, AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SHARES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN EXEMPTION

THEREFROM UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. COPIES OF THE AGREEMENT COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE COMPANY AT THE PRINCIPAL EXECUTIVE OFFICES OF THE COMPANY.

12. Warrants Transferable. Subject to compliance with the terms and conditions of this Section 12, this Warrant and all rights hereunder are transferable, in whole or in part, without charge to the holder hereof (except for transfer taxes), upon surrender of this Warrant properly endorsed or accompanied by written instructions of transfer. With respect to any offer, sale or other disposition of this Warrant or any Shares acquired pursuant to the exercise of this Warrant prior to registration of such Warrant or Shares, the holder hereof agrees to give written notice to the Company prior thereto, describing briefly the manner thereof, together with a written opinion of such holder's counsel, or other evidence, if requested by the Company, to the effect that such offer, sale or other disposition may be effected without registration or qualification (under the Act as then in effect or any federal or state securities law then in effect) of this Warrant or the Shares and indicating whether or not under the Act certificates for this Warrant or the Shares to be sold or otherwise disposed of require any restrictive legend as to applicable restrictions on transferability in order to ensure compliance with such law. Upon receiving such written notice and reasonably satisfactory

opinion or other evidence, if so requested, the Company, as promptly as practicable, shall notify such holder that such holder may sell or otherwise dispose of this Warrant or such Shares, all in accordance with the terms of the notice delivered to the Company. If a determination has been made pursuant to this Section 12 that the opinion of counsel for the holder or other evidence is not reasonably satisfactory to the Company, the Company shall so notify the holder promptly with details thereof after such determination has been made. Each certificate representing this Warrant or the Shares transferred in accordance with this Section 12 shall bear a legend as to the applicable restrictions on transferability in order to ensure compliance with such laws, unless in the aforesaid opinion of counsel for the holder, such legend is not required in order to ensure compliance with such laws. The Company may issue stop transfer instructions to its transfer agent in connection with such restrictions.

13. Rights of Stockholders. No holder of this Warrant shall be entitled, as a Warrant holder, to vote or receive dividends or be deemed the holder of the Shares or any other securities of the Company which may at any time be issuable on the exercise hereof for any purpose, nor shall anything contained herein be construed to confer upon the holder of this Warrant, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action (whether upon any recapitalization, issuance of stock, reclassification of stock, change of par value, consolidation, merger, conveyance, or otherwise) or to receive notice of meetings, or to receive dividends or subscription rights or otherwise until the Warrant shall have been exercised and the Shares purchasable upon the exercise hereof shall have become deliverable, as provided herein.

14. Expiration of Warrant; Notice of Certain Events Terminating This Warrant.

(a) This Warrant shall expire and shall no longer be exercisable upon the earlier to occur of:

(i) 5:00 p.m., California local time, on April 20, 2017;

(ii) Any Change of Control in which the holders of Series D-1 Preferred Stock of the Company receive or would receive in respect thereof any combination of cash and freely-tradable equity securities registered under the Securities Exchange Act of 1934, as amended, and listed on the New York or American Stock Exchange or the Nasdaq National Market and the aggregate value thereof shall equal at least the Series D-1 Liquidation Preference (as defined in Section 4.2.2(a) of the Seventh Amended and Restated Certificate of Incorporation, as amended from time to time); or

(iii) The initial public offering of the Company's Common Stock pursuant to a firm commitment underwriting in which all shares of Preferred Stock are automatically converted into Common Stock; provided that the holders of a majority of the shares of Common Stock issued or issuable on exercise of all Warrants issued pursuant to the Note Purchase Agreement consent in writing to the termination of all Warrants issued under the Note Purchase Agreement.

(b) The Company shall provide at least ten (10) days prior written notice of any event set forth in Section 14(a)(ii) or (iii).

(c) If the fair market value of one Share exceeds the Exercise Price immediately prior to the time of a termination provided for under Section 14(a), then, to the extent not then exercised, this Warrant shall be deemed automatically exercised pursuant to the cash-less exercise feature set forth in Section 4 hereof.

15. Notices. All notices and other communications required or permitted hereunder shall be in writing, shall be effective when given, and shall in any event be deemed to be given upon receipt or, if earlier, (a) five (5) days after deposit with the U.S. Postal Service or other applicable postal service, if delivered by first class mail, postage prepaid, (b) upon delivery, if delivered by hand, (c) one business day after the business day of deposit with Federal Express or similar overnight courier, freight prepaid or (d) one business day after the business day of facsimile transmission, if delivered by facsimile transmission with copy by first class mail, postage prepaid, and shall be addressed (i) if to the Holder, at the Holder's address as set forth on the Schedule of Investors to the Note Purchase Agreement, and (ii) if to the Company, at the address of its principal corporate offices (attention: President) or at such other address as a party may designate by ten days advance written notice to the other party pursuant to the provisions above.

16. Governing Law. This Warrant and all actions arising out of or in connection with this Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law provisions of the State of California or of any other state.

17. Rights and Obligations Survive Exercise of Warrant. Unless otherwise provided herein, the rights and obligations of the Company, of the holder of this Warrant and of the holder of the Shares issued upon exercise of this Warrant, shall survive the exercise of this Warrant.

Issued this th day of 2007.

INOGEN, INC.

By: _____
Kathy Odell
Chief Executive Officer

EXHIBIT A

NOTICE OF EXERCISE

TO: INOGEN, INC.

_____

_____

Attention: President

1. The undersigned hereby elects to purchase Shares of pursuant to the terms of the attached Warrant.

2. Method of Exercise (Please initial the applicable blank):

____ The undersigned elects to exercise the attached Warrant by means of a cash payment, and tenders herewith payment in full for the purchase price of the shares being purchased, together with all applicable transfer taxes, if any.

____ The undersigned elects to exercise the attached Warrant by means of the net exercise provisions of Section 4 of the Warrant.

3. Please issue a certificate or certificates representing said Shares in the name of the undersigned or in such other name as is specified below:

_____

(Name)

_____

_____

(Address)

4. The undersigned hereby represents and warrants that the aforesaid Shares are being acquired for the account of the undersigned for investment and not with a view to, or for resale, in connection with the distribution thereof, and that the undersigned has no present intention of distributing or reselling such shares and all representations and warranties of the undersigned set forth in Section 10 of the attached Warrant (including Section 10 (e) thereof) are true and correct as of the date hereof.

_____

(Signature)

_____

(Name)

_____ _____

(Date) (Title)

EXHIBIT B

FORM OF TRANSFER
(To be signed only upon transfer of Warrant)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto the right represented by the attached Warrant to purchase shares of of INOGEN, INC. to which the attached Warrant relates, and appoints Attorney to transfer such right on the books of , with full power of substitution in the premises.

Dated: _____

_____
(Signature must conform in all respects to name of Holder as specified on the face of the Warrant)

Address: _____

_____

_____

Signed in the presence of:

_____

Exhibit 4.4

THIS WARRANT AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED, OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED.

Void after
, 2019

INOGEN, INC.

WARRANT TO PURCHASE SHARES

This Warrant is issued to ("Investor") by INOGEN, INC., a Delaware corporation (the "Company"), pursuant to the terms of that certain Series E Preferred Stock and Common Stock Warrant Purchase Agreement (the "Purchase Agreement") of even date herewith, in connection with the Company's issuance to the holder of this Warrant of Series E Preferred Stock (the "Series E Preferred Stock") and such Investor's Capital Commitment under the Purchase Agreement. Terms used but not defined herein shall have the meaning ascribed to them in the Purchase Agreement.

1. Purchase of Shares. Subject to the terms and conditions hereinafter set forth and set forth in the Purchase Agreement, the holder of this Warrant is entitled, upon surrender of this Warrant at the principal office of the Company (or at such other place as the Company shall notify the holder hereof in writing), to purchase from the Company up to fully paid and non-assessable Shares (as defined below).

2. Definitions.

(a) Exercise Price. The exercise price for the Shares shall be $0.01 per share (such price, as adjusted from time to time, is herein referred to as the "Exercise Price").

(b) Exercise Period. This Warrant shall be exercisable, in whole or in part, during the term commencing on the date hereof and ending on the expiration of this Warrant pursuant to Section 14 hereof.

(c) The Shares. The term "Shares" shall mean Common Stock.

(d) Change of Control. The term "Change of Control" means the (i) sale, transfer, exclusive license or other disposition of all or substantially all of the Company's assets; (ii) the consummation of the merger or consolidation of the Company or a subsidiary of the Company with or into another entity (except one in which the holders of capital stock of the Company as constituted immediately prior to such merger or consolidation continue to hold at least 50% of the voting power of the capital stock of the Company or the surviving or acquiring entity in substantially the same relative proportions); (iii) the closing of the acquisition, in one transaction or a series of related transactions, by a person or group of affiliated persons of 50% or more of the outstanding voting stock of the Company; *provided*, *however*, that a transaction shall not constitute a Change of Control pursuant to this clause (iii): if its sole purpose is to change the domicile of the Company; and (iv) a liquidation, dissolution or winding up of the Company.

3. Method of Exercise. While this Warrant remains outstanding and exercisable in accordance with Section 2 above, the holder may exercise, in whole or in part, the purchase rights evidenced hereby. Such exercise shall be effected by:

(i) the surrender of the Warrant, together with a notice of exercise to the Secretary of the Company at its principal offices; and

(ii) the payment to the Company of an amount equal to the aggregate Exercise Price for the number of Shares being purchased.

4. Net Exercise. In lieu of cash exercising this Warrant, the holder of this Warrant may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election, in which event the Company shall issue to the holder hereof a number of Shares computed using the following formula:

$$X = \frac{Y\ (A - B)}{A}$$

Where:

X - The number of Shares to be issued to the holder of this Warrant.

Y - The number of Shares purchasable under this Warrant.

A - The fair market value of one Share.

B - The Exercise Price (as adjusted to the date of such calculations).

For purposes of this Section 4, the fair market value of a Share shall mean the average of the closing bid and asked prices of Shares quoted in the over-the-counter market in which the Shares are traded or the closing price quoted on any exchange on which the Shares are listed, whichever is applicable, as published in the Western Edition of The Wall Street Journal for the ten (10) trading days prior to the date of determination of fair market value (or such shorter period of time during which such stock was traded over-the-counter or on such exchange). If the Shares are not traded on the over-the-counter market or on an exchange, the fair market value shall be the price per Share that the Company could obtain from a willing buyer for Shares sold by the Company from authorized but unissued Shares, as such prices shall be determined in good faith by the Company's Board of Directors.

5. Certificates for Shares. Upon the exercise of the purchase rights evidenced by this Warrant, one or more certificates for the number of Shares so purchased shall be issued as soon as practicable thereafter, and in any event within ten (10) days of the delivery of the subscription notice.

6. Issuance of Shares. The Company covenants that the Shares, when issued pursuant to the exercise of this Warrant, will be duly and validly issued, fully paid and nonassessable and free from all taxes, liens, and charges with respect to the issuance thereof.

7. Adjustment of Exercise Price and Number of Shares. The number of and kind of securities purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:

(a) Subdivisions, Combinations and Other Issuances. If the Company shall at any time prior to the expiration of this Warrant subdivide the Shares, by split-up or otherwise, or combine its Shares, or issue additional shares of its Shares as a dividend, the number of Shares issuable on the exercise of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the purchase price payable per share, but the aggregate purchase price payable for the total number of Shares purchasable under this Warrant (as adjusted) shall remain the same. Any adjustment under this Section 7(a) shall become effective at the close of business on the date the subdivision or combination becomes effective, or as of the record date of such dividend, or in the event that no record date is fixed, upon the making of such dividend.

(b) Reclassification, Reorganization and Consolidation. In case of any reclassification, capital reorganization, or change in the capital stock of the Company (other than as a result of a subdivision, combination, or stock dividend provided for in Section 7(a) above), then the Company shall make appropriate provision so that the holder of this Warrant shall have the right at any time prior to the expiration of this Warrant to purchase, at a total price equal to that payable upon the exercise of this Warrant, the kind and amount of shares of stock and other securities and property receivable in connection with such reclassification, reorganization, or change by a holder of the same number of Shares as were purchasable by the holder of this Warrant immediately prior to such reclassification, reorganization, or change. In any such case appropriate provisions shall be made with respect to the rights and interest of the holder of this Warrant so that the provisions hereof shall thereafter be applicable with respect to any shares of stock or other securities and property deliverable upon exercise hereof, and appropriate adjustments shall be made to the purchase price per share payable hereunder, provided the aggregate purchase price shall remain the same.

(c) Notice of Adjustment. When any adjustment is required to be made in the number or kind of shares purchasable upon exercise of the Warrant, or in the Exercise Price, the Company shall promptly notify the holder of such event and of the number of Shares or other securities or property thereafter purchasable upon exercise of this Warrant.

8. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant, but in lieu of such fractional shares the Company shall make a cash payment therefor on the basis of the Exercise Price then in effect.

9. Representations of the Company. The Company represents that all corporate actions on the part of the Company, its officers, directors and stockholders necessary for the sale and issuance of this Warrant have been taken.

10. Representations and Warranties by the Holder. The Holder represents and warrants to the Company as follows:

(a) This Warrant and the Shares issuable upon exercise thereof are being acquired for its own account, for investment and not with a view to, or for resale in connection with, any distribution or public offering thereof within the meaning of the Securities Act of 1933, as amended (the "Act"). Upon exercise of this Warrant, the Holder shall, if so requested by the Company, confirm in writing, in a form satisfactory to the Company, that the securities issuable upon exercise of this Warrant are being acquired for investment and not with a view toward distribution or resale.

(b) The Holder understands that the Warrant and the Shares have not been registered under the Act by reason of their issuance in a transaction exempt from the registration and prospectus delivery requirements of the Act pursuant to Section 4(2) thereof, and that they must be held by the Holder

indefinitely, and that the Holder must therefore bear the economic risk of such investment indefinitely, unless a subsequent disposition thereof is registered under the Act or is exempted from such registration. The Holder further understands that the Warrant Shares have not been qualified under the California Securities Law of 1968 (the "California Law") by reason of their issuance in a transaction exempt from the qualification requirements of the California Law pursuant to Section 25102(f) thereof, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent expressed above.

(c) The Holder has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the purchase of this Warrant and the Shares purchasable pursuant to the terms of this Warrant and of protecting its interests in connection therewith.

(d) The Holder is able to bear the economic risk of the purchase of the Shares pursuant to the terms of this Warrant.

(e) The Holder is an "accredited investor" as such term is defined in Rule 501 of Regulation D promulgated under the Act.

11. Restrictive Legend.

The Shares (unless registered under the Act) shall be stamped or imprinted with a legend in substantially the following form:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF, AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SHARES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN EXEMPTION THEREFROM UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. COPIES OF THE AGREEMENT COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE COMPANY AT THE PRINCIPAL EXECUTIVE OFFICES OF THE COMPANY.

12. Warrants Transferable. Subject to compliance with the terms and conditions of this Section 12, this Warrant and all rights hereunder are transferable, in whole or in part, without charge to the holder hereof (except for transfer taxes), upon surrender of this Warrant properly endorsed or accompanied by written instructions of transfer. With respect to any offer, sale or other disposition of this Warrant or any Shares acquired pursuant to the exercise of this Warrant prior to registration of such Warrant or Shares, the holder hereof agrees to give written notice to the Company prior thereto, describing briefly the manner thereof, together with a written opinion of such holder's counsel, or other evidence, if requested by the Company, to the effect that such offer, sale or other disposition may be effected without registration or qualification (under the Act as then in effect or any federal or state securities law then in effect) of this Warrant or the Shares and indicating whether or not under the Act certificates for this Warrant or the Shares to be sold or otherwise disposed of require any restrictive legend as to applicable restrictions on transferability in order to ensure compliance with such law. Upon receiving such written notice and reasonably satisfactory opinion or other evidence, if so requested, the Company, as promptly as practicable, shall notify such holder that such holder may sell or otherwise dispose of this Warrant or such Shares, all in accordance with the terms of the notice delivered to the Company. If a determination has been made pursuant to this Section 12 that the opinion of counsel for the holder or other evidence is not reasonably satisfactory to the Company, the

Company shall so notify the holder promptly with details thereof after such determination has been made. Each certificate representing this Warrant or the Shares transferred in accordance with this Section 12 shall bear a legend as to the applicable restrictions on transferability in order to ensure compliance with such laws, unless in the aforesaid opinion of counsel for the holder, such legend is not required in order to ensure compliance with such laws. The Company may issue stop transfer instructions to its transfer agent in connection with such restrictions.

13. Rights of Stockholders. No holder of this Warrant shall be entitled, as a Warrant holder, to vote or receive dividends or be deemed the holder of the Shares or any other securities of the Company which may at any time be issuable on the exercise hereof for any purpose, nor shall anything contained herein be construed to confer upon the holder of this Warrant, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action (whether upon any recapitalization, issuance of stock, reclassification of stock, change of par value, consolidation, merger, conveyance, or otherwise) or to receive notice of meetings, or to receive dividends or subscription rights or otherwise until the Warrant shall have been exercised and the Shares purchasable upon the exercise hereof shall have become deliverable, as provided herein.

14. Expiration of Warrant; Notice of Certain Events Terminating This Warrant.

(a) This Warrant shall expire and shall no longer be exercisable upon the earlier to occur of:

(i) 5:00 p.m., California local time, on February 26, 2019;

(ii) Any Change of Control in which the holders of Series E Preferred Stock of the Company receive or would receive in respect thereof any combination of cash and freely-tradable equity securities registered under the Securities Exchange Act of 1934, as amended, and listed on the New York or American Stock Exchange or the Nasdaq National Market and the aggregate value thereof shall equal at least the Series E Liquidation Preference (as defined in Section 4.2.2 of the Eighth Amended and Restated Certificate of Incorporation, as amended from time to time); or

(iii) The initial public offering of the Company's Common Stock pursuant to a firm commitment underwriting in which all shares of Preferred Stock are automatically converted into Common Stock; provided that the holders of a majority of the shares of Common Stock issued or issuable on exercise of all Warrants issued pursuant to the Purchase Agreement consent in writing to the termination of all Warrants issued under the Purchase Agreement.

(b) The Company shall provide at least ten (10) days prior written notice of any event set forth in Section 14(a)(ii) or (iii).

(c) If the fair market value of one Share exceeds the Exercise Price immediately prior to the time of a termination provided for under Section 14(a), then, to the extent not then exercised, this Warrant shall be deemed automatically exercised pursuant to the cash-less exercise feature set forth in Section 4 hereof.

15. Notices. All notices and other communications required or permitted hereunder shall be in writing, shall be effective when given, and shall in any event be deemed to be given upon receipt or, if earlier, (a) five (5) days after deposit with the U.S. Postal Service or other applicable postal service, if delivered by first class mail, postage prepaid, (b) upon delivery, if delivered by hand, (c) one business day after the

business day of deposit with Federal Express or similar overnight courier, freight prepaid or (d) one business day after the business day of facsimile transmission, if delivered by facsimile transmission with copy by first class mail, postage prepaid, and shall be addressed (i) if to the Holder, at the Holder's address as set forth on the Schedule of Investors to the Purchase Agreement, and (ii) if to the Company, at the address of its principal corporate offices (attention: President) or at such other address as a party may designate by ten days advance written notice to the other party pursuant to the provisions above.

16. Governing Law. This Warrant and all actions arising out of or in connection with this Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law provisions of the State of California or of any other state.

17. Rights and Obligations Survive Exercise of Warrant. Unless otherwise provided herein, the rights and obligations of the Company, of the holder of this Warrant and of the holder of the Shares issued upon exercise of this Warrant, shall survive the exercise of this Warrant.

Issued this day of 2009.

INOGEN, INC.

Raymond Huggenberger
Chief Executive Officer

EXHIBIT A

NOTICE OF EXERCISE

TO: INOGEN, INC.

_____

_____

Attention: President

1. The undersigned hereby elects to purchase Shares of pursuant to the terms of the attached Warrant.

2. Method of Exercise (Please initial the applicable blank):

____ The undersigned elects to exercise the attached Warrant by means of a cash payment, and tenders herewith payment in full for the purchase price of the shares being purchased, together with all applicable transfer taxes, if any.

____ The undersigned elects to exercise the attached Warrant by means of the net exercise provisions of Section 4 of the Warrant.

3. Please issue a certificate or certificates representing said Shares in the name of the undersigned or in such other name as is specified below:

_____

(Name)

_____

_____

(Address)

4. The undersigned hereby represents and warrants that the aforesaid Shares are being acquired for the account of the undersigned for investment and not with a view to, or for resale, in connection with the distribution thereof, and that the undersigned has no present intention of distributing or reselling such shares and all representations and warranties of the undersigned set forth in Section 10 of the attached Warrant (including Section 10 (e) thereof) are true and correct as of the date hereof.

_____

(Signature)

_____

(Name)

_____ _____

(Date) (Title)

EXHIBIT B

FORM OF TRANSFER
(To be signed only upon transfer of Warrant)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto the right represented by the attached Warrant to purchase shares of of INOGEN, INC. to which the attached Warrant relates, and appoints Attorney to transfer such right on the books of , with full power of substitution in the premises.

Dated: _____

_____
(Signature must conform in all respects to name of Holder as specified on the face of the Warrant)

Address: _____

_____

_____

Signed in the presence of:

_____

Exhibit 4.5

THE OFFER AND SALE OF THE SECURITIES EVIDENCED BY THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT") AND SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE 1933 ACT COVERING SUCH SECURITIES OR IF THE COMPANY RECEIVES AN OPINION OF COUNSEL FOR THE HOLDERS OF THESE SECURITIES REASONABLY SATISFACTORY TO THE COMPANY STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE 1933 ACT.

Date: , 2005

Void: , 2015

WARRANT TO PURCHASE SHARES OF SERIES C PREFERRED STOCK

This Warrant is issued to (the "Holder") by Inogen, Inc., a Delaware corporation (the "Company"), pursuant to the terms of that certain Note and Warrant Purchase Agreement dated as of the date of this Warrant (the "Agreement"), in connection with the Company's issuance to the Holder of a Promissory Note (the "Note").

1. Purchase of Shares. Subject to the terms and conditions hereinafter set forth and set forth in the Agreement, the Holder is entitled, upon surrender of this Warrant at the principal office of the Company (or at such other place as the Company shall notify the Holder in writing), to purchase from the Company up to the number of fully paid and nonassessable shares of the Company's Series C Preferred Stock that equals the quotient obtained by dividing (a) the Warrant Coverage Amount (as defined below) by (b) $0.586. The shares issuable pursuant to this Section 1 (the "Shares") shall also be subject to adjustment pursuant to Section 8 hereof. For purposes of this Warrant, the Warrant Coverage Amount shall be that amount which equals twenty five percent (25%) of the original principal amount of the Note.

2. Purchase Price. The purchase price for the Shares shall be $0.586 per share. Such price shall be subject to adjustment pursuant to Section 8 hereof, and such price, as adjusted from time to time, is herein referred to as the "Exercise Price."

3. Exercise Period. This Warrant shall be exercisable, in whole or in part, during the term commencing on the date hereof and ending at 5:00 p.m. on the earlier of (x) May 31, 2015, (y) the closing of the issuance and sale of shares of Common Stock of the Company in the Company's first underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, or (z) the closing of a Change of Control transaction. For purposes of this Warrant, the term Change of Control shall mean the sale of all or substantially all of the capital stock (other than the sale of capital stock to one or more venture capitalists or other institutional investors pursuant to an equity financing (including a debt financing that is convertible into equity of the Company) approved by a majority of the Board of Directors of the Company), assets or business of the Company, by merger, consolidation, sale of assets or otherwise (other than a transaction in which

all or substantially all of the individuals and entities who were beneficial owners of the Common Stock immediately prior to such transaction beneficially own, directly or indirectly, more than 50% of the outstanding securities entitled to vote generally in the election of directors of the resulting, surviving or acquiring corporation in such transaction).

4. Method of Exercise. While this Warrant remains outstanding and exercisable in accordance with Section 3 above, the Holder may exercise, in whole or in part, the purchase rights evidenced hereby. Such exercise shall be effected by:

(i) the surrender of the Warrant, together with a duly executed Subscription Notice in the form attached hereto, to the Secretary of the Company at its principal office; and

(ii) the payment to the Company of an amount equal to the aggregate Exercise Price for the number of Shares being purchased.

5. Net Exercise. In lieu of cash exercising this Warrant, the Holder may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election, in which event the Company shall issue to the Holder a number of Shares computed using the following formula:

$$X = \frac{Y\ (A - B)}{A}$$

Where:

X = The number of Shares to be issued to the Holder.

Y = The number of Shares purchasable under this Warrant.

A = The fair market value of one Share.

B = The Exercise Price (as adjusted to the date of such calculations).

For purposes of this Section 5, the fair market value of the Shares shall mean the average of the closing bid and asked prices of the Shares quoted in the over-the-counter market in which the Shares are traded or the closing price quoted on any exchange on which the Shares are listed, whichever is applicable, as published in the Western Edition of The Wall Street Journal, for the ten (10) trading days prior to the date of determination of fair market value (or such shorter period of time during which such stock was traded over-the-counter or on such exchange). If the Shares are not traded on the over-the-counter market or on an exchange, the fair market value shall be the price per Share that the Company could obtain from a willing buyer for Shares sold by the Company from authorized but unissued Shares, as such prices shall be determined in good faith by the Company's Board of Directors.

6. Certificates for Shares. Upon the exercise of the purchase rights evidenced by this Warrant, one or more certificates for the number of Shares so purchased shall be issued as soon as practicable thereafter, and in any event within thirty (30) days of the delivery of the Subscription Notice.

7. Issuance of Shares. The Company covenants that the Shares, when issued pursuant to the exercise of this Warrant, will be duly and validly issued, fully paid and nonassessable and free from all taxes, liens, and charges with respect to the issuance thereof.

8. Adjustment of Exercise Price and Number of Shares. The number of and kind of securities purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:

(a) Subdivisions, Combinations and Other Issuances. If the Company shall at any time prior to the expiration of this Warrant subdivide its capital stock, by split-up or otherwise, or combine its capital stock, or issue additional shares of its capital stock as a dividend with respect to any shares of its capital stock, the number of Shares issuable on the exercise of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the Exercise Price, but the aggregate purchase price payable for the total number of Shares purchasable under this Warrant (as adjusted) shall remain the same. Any adjustment under this Section 8(a) shall become effective at the close of business on the date the subdivision or combination becomes effective, or as of the record date of such dividend, or in the event that no record date is fixed, upon the making of such dividend.

(b) Reclassification, Reorganization and Consolidation. In the case of any reclassification, capital reorganization or change in the capital stock of the Company (other than as a result of a subdivision, combination or stock dividend provided for in Section 8(a) above), then, as a condition of such reclassification, reorganization or change, lawful provision shall be made, and duly executed documents evidencing the same from the Company or its successor shall be delivered to the Holder, so that the Holder shall have the right at any time prior to the expiration of this Warrant to purchase, at a total price equal to that payable upon the exercise of this Warrant, the kind and amount of shares of stock and other securities and property receivable in connection with such reclassification, reorganization or change by a holder of the same number of Shares as were purchasable by the Holder immediately prior to such reclassification, reorganization or change. In any such case appropriate provisions shall be made with respect to the rights and interest of the Holder so that the provisions hereof shall thereafter be applicable with respect to any shares of stock or other securities and property deliverable upon exercise hereof, and appropriate adjustments shall be made to the Exercise Price, provided the aggregate purchase price shall remain the same.

(c) Notice of Adjustment. When any adjustment is required to be made in the number or kind of shares purchasable upon exercise of this Warrant, or in the Exercise Price, the Company shall promptly notify the Holder of such event and of the number of Shares or other securities or property thereafter purchasable upon exercise of this Warrant.

9. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant, but in lieu of such fractional shares the Company shall make a cash payment therefor on the basis of the Exercise Price then in effect.

10. No Stockholder Rights. Prior to the exercise of this Warrant, the Holder shall not be entitled to any rights of a stockholder with respect to the Shares, including (without limitation) the right to vote such Shares, receive dividends or other distributions thereon, exercise preemptive rights or be notified of stockholder meetings, and the Holder shall not be entitled to any notice or other communication concerning the business or affairs of the Company.

11. Successors and Assigns. The terms and provisions of this Warrant and the Agreement shall inure to the benefit of, and be binding upon, the Company and the Holder and their respective successors and assigns.

12. Amendments and Waivers. Any term of this Warrant may be amended and the observance of any term of this Warrant may be waived (either generally or in a particular instance and either retroactively or prospectively), with the written consent of the Company and the holders of a majority in interest of the shares issued or issuable upon exercise of all Warrants issued pursuant to the Agreement that are then outstanding. Any waiver or amendment effected in accordance with this Section 12 shall be binding upon each holder of any Shares purchased under this Warrant at the time outstanding (including securities into which such Shares have been converted), each future holder of all such Shares and the Company.

13. Effect of Amendment or Waiver. The Holder acknowledges that, by the operation of Section 12 hereof, the holders of a majority in interest of the Warrants issued pursuant to the Agreement that are then outstanding shall have the right and power to diminish or eliminate all rights of the Holder under this Warrant or under the Agreement.

14. Governing Law. This Warrant shall be governed by the laws of the State of California as applied to agreements among California residents made and to be performed entirely within the State of California.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Company has executed this Warrant as of the day and year first above written.

INOGEN, INC.

By: _____

Michael Redard
Chief Financial Officer

SUBSCRIPTION NOTICE

Attention: Corporate Secretary

The undersigned hereby elects to purchase, pursuant to the provisions of the Warrant to Purchase Shares of Series C Preferred Stock issued by Inogen, Inc. (the "Company") and held by the undersigned, shares of Series C Preferred Stock of the Company.

Payment of the exercise price per share required under such Warrant accompanies this Subscription Notice.

The undersigned hereby represents and warrants that the undersigned is acquiring such shares for its own account for investment purposes only and not for resale or with a view to distribution of such shares or any part thereof.

WARRANTHOLDER:

Date:

By: _____

Title: _____

Address: _____

_____

_____

Name in which shares should be registered: _____

Exhibit 4.6

THE OFFER AND SALE OF THE SECURITIES EVIDENCED BY THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT") AND SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE 1933 ACT COVERING SUCH SECURITIES OR IF THE COMPANY RECEIVES AN OPINION OF COUNSEL FOR THE HOLDERS OF THESE SECURITIES REASONABLY SATISFACTORY TO THE COMPANY STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE 1933 ACT.

Date: , 2006
Void After: , 2013

WARRANT TO PURCHASE SHARES OF PREFERRED STOCK

This Warrant is issued to (the "Holder") by, Inogen, Inc., a Delaware corporation (the "Company"), pursuant to the terms of that certain Note and Warrant Purchase Agreement dated as of the date of this Warrant (the "Agreement"), in connection with the Company's issuance to the Holder of a Promissory Note (the "Note").

1. Purchase of Shares. Subject to the terms and conditions hereinafter set forth and set forth in the Agreement, the Holder is entitled, upon surrender of this Warrant at the principal office of the Company (or at such other place as the Company shall notify the Holder in writing), to purchase from the Company up to the number of fully paid and nonassessable shares of the Company's New Securities sold in the Next Financing (each as defined in the Note) that equals the quotient obtained by dividing (a) the Warrant Coverage Amount by (b) the price per share of New Securities sold to investors in the Next Financing. If the Next Financing does not close prior to a Change of Control (as defined in the Note), this Warrant will be exercisable for shares of the Company's Series D Preferred Stock at an exercise price per share of $0.73. The shares of either New Securities or Series D Preferred Stock, as the case may be, that are issuable pursuant to this Section 1 (the "Shares") shall also be subject to adjustment pursuant to Section 8 hereof. For purposes of this Warrant, the "Warrant Coverage Amount" shall be twenty-five percent (25%) of the principal amount of the Note.

2. Purchase Price. The purchase price for the Shares shall be the price per share of New Securities sold to investors in the Next Financing or, in the event that the Company does not close the Next Financing prior to a Change of Control, the purchase price for the Shares shall be equal to $0.73. In either case, such price shall be subject to adjustment pursuant to Section 8 hereof, and such price, as adjusted from time to time, is herein referred to as the "Exercise Price".

3. Exercise Period. This Warrant shall be exercisable, in whole or in part, during the term commencing on the earlier of (a) the closing of the Next Financing or (b) thirty days prior to a Change of Control transaction and ending at 5:00 p.m. on the earlier of (x) March 3, 2013, (y) the closing of the issuance and sale of shares of Common Stock of the Company in the Company's first underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, or (z) the closing of a Change of Control (as defined in the Note).

4. Method of Exercise. While this Warrant remains outstanding and exercisable in accordance with Section 3 above, the Holder may exercise, in whole or in part, the purchase rights evidenced hereby. Such exercise shall be effected by:

(i) the surrender of the Warrant, together with a duly executed Subscription Notice in the form attached hereto, to the Secretary of the Company at its principal office; and

(ii) the payment to the Company of an amount equal to the aggregate Exercise Price for the number of Shares being purchased.

5. Net Exercise. In lieu of cash exercising this Warrant, the Holder may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election, in which event the Company shall issue to the Holder a number of Shares computed using the following formula:

$$X = \frac{Y(A-B)}{A}$$

Where:

X = The number of Shares to be issued to the Holder.

Y = The number of Shares purchasable under this Warrant.

A = The fair market value of one Share.

B = The Exercise Price (as adjusted to the date of such calculations).

For purposes of this Section 5, the fair market value of the Shares shall mean the average of the closing bid and asked prices of the Shares quoted in the over-the-counter market in which the Shares are traded or the closing price quoted on any exchange on which the Shares are listed, whichever is applicable, as published in the Western Edition of The Wall Street Journal, for the ten (10) trading days prior to the date of determination of fair market value (or such shorter period of time during which such stock was traded over-the-counter or on such exchange). If the Shares are not traded on the over-the-counter market or on an exchange, the fair market value shall be the price per Share that the Company could obtain from a willing buyer for Shares sold by the Company from authorized but unissued Shares, as such prices shall be determined in good faith by the Company's Board of Directors.

6. Certificates for Shares. Upon the exercise of the purchase rights evidenced by this Warrant, one or more certificates for the number of Shares so purchased shall be issued as soon as practicable thereafter, and in any event within thirty (30) days of the delivery of the Subscription Notice.

7. Issuance of Shares. The Company covenants that the Shares, when issued pursuant to the exercise of this Warrant, will be duly and validly issued, fully paid and nonassessable and free from all taxes, liens, and charges with respect to the issuance thereof.

8. Adjustment of Exercise Price and Number of Shares. The number of and kind of securities purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:

(a) Subdivisions, Combinations and Other Issuances. If the Company shall at any time prior to the expiration of this Warrant subdivide its capital stock, by split-up or otherwise, or combine its capital stock, or issue additional shares of its capital stock as a dividend with respect to any shares of its capital stock, the number of Shares issuable on the exercise of this Warrant shall forthwith be proportionately

increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the Exercise Price, but the aggregate purchase price payable for the total number of Shares purchasable under this Warrant (as adjusted) shall remain the same. Any adjustment under this Section 8(a) shall become effective at the close of business on the date the subdivision or combination becomes effective, or as of the record date of such dividend, or in the event that no record date is fixed, upon the making of such dividend.

(b) Reclassification, Reorganization and Consolidation. In the case of any reclassification, capital reorganization or change in the capital stock of the Company (other than as a result of a subdivision, combination or stock dividend provided for in Section 8(a) above), then, as a condition of such reclassification, reorganization or change, lawful provision shall be made, and duly executed documents evidencing the same from the Company or its successor shall be delivered to the Holder, so that the Holder shall have the right at any time prior to the expiration of this Warrant to purchase, at a total price equal to that payable upon the exercise of this Warrant, the kind and amount of shares of stock and other securities and property receivable in connection with such reclassification, reorganization or change by a holder of the same number of Shares as were purchasable by the Holder immediately prior to such reclassification, reorganization or change. In any such case appropriate provisions shall be made with respect to the rights and interest of the Holder so that the provisions hereof shall thereafter be applicable with respect to any shares of stock or other securities and property deliverable upon exercise hereof, and appropriate adjustments shall he made to the Exercise Price, provided the aggregate purchase price shall remain the same.

(c) Notice of Adjustment. When any adjustment is required to be made in the number or kind of shares purchasable upon exercise of this Warrant, or in the Exercise Price, the Company shall promptly notify the Holder of such event and of the number of Shares or other securities or property thereafter purchasable upon exercise of this Warrant.

9. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant, but in lieu of such fractional shares the Company shall make a cash payment therefor on the basis of the Exercise Price then in effect.

10. No Stockholder Rights. Prior to the exercise of this Warrant, the Holder shall not be entitled to any rights of a stockholder with respect to the Shares, including (without limitation) the right to vote such Shares, receive dividends or other distributions thereon, exercise preemptive rights or be notified of stockholder meetings, and the Holder shall not be entitled to any notice or other communication concerning the business or affairs of the Company.

11. Successors and Assigns. The terms and provisions of this Warrant and the Agreement shall inure to the benefit of, and be binding upon, the Company and the Holder and their respective successors and assigns.

12. Amendments and Waivers. Any term of this Warrant may be amended and the observance of any term of this Warrant may be waived (either generally or in a particular instance and either retroactively or prospectively), with the written consent of the Company and the holders of a majority in interest of the shares issued or issuable upon exercise of all Warrants issued pursuant to the Agreement that are then outstanding. Any waiver or amendment effected in accordance with this Section 12 shall be binding upon each holder of any Shares purchased under this Warrant at the time outstanding (including securities into which such Shares have been converted), each future holder of all such Shares and the Company.

13. Effect of Amendment or Waiver. The Holder acknowledges that, by the operation of Section 12 hereof, the holders of a majority in interest of the Warrants issued pursuant to the Agreement that are then outstanding shall have the right and power to diminish or eliminate all rights of the Holder under this Warrant or under the Agreement.

14. Governing Law. This Warrant shall be governed by the laws of the State of California as applied to agreements among California residents made and to be performed entirely within the State of California.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Company has executed this Warrant to Purchase Shares of Preferred Stock as of the day and year first above written.

INOGEN, INC.,
a Delaware corporation

By: _____
Kathy Odell
President and Chief Executive Officer

Address:
120 Cremona Drive, Suite B
Goleta, California 93117

Facsimile: (805) 562-0516
Attention: Michael Redard

SUBSCRIPTION NOTICE

Attention: Corporate Secretary

The undersigned hereby elects to purchase, pursuant to the provisions of the Warrant to Purchase Shares of Series Preferred Stock issued by Inogen, Inc. (the "Company") and held by the undersigned, shares of Series Preferred Stock of the Company.

Payment of the exercise price per share required under such Warrant accompanies this Subscription Notice.

The undersigned hereby represents and warrants that the undersigned is acquiring such shares for its own account for investment purposes only and not for resale or with a view to distribution of such shares or any part thereof.

WARRANTHOLDER:

Date: _____

By: _____

Name: _____

Title: _____

Address: _____

Name in which shares should be registered: _____

_____

Exhibit 4.7

THE OFFER AND SALE OF THE SECURITIES EVIDENCED BY THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT") AND SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE 1933 ACT COVERING SUCH SECURITIES OR IF THE COMPANY RECEIVES AN OPINION OF COUNSEL FOR THE HOLDERS OF THESE SECURITIES REASONABLY SATISFACTORY TO THE COMPANY STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE 1933 ACT.

Date: , 2006

Void: , 2013

WARRANT TO PURCHASE SHARES OF SERIES D PREFERRED STOCK

This Warrant is issued to (the "Holder") by, Inogen, Inc., a Delaware corporation (the "Company"), pursuant to the terms of that certain Note and Warrant Purchase Agreement dated as of September 1, 2006 (the "Agreement") and as amended October 13th, 2006, in connection with the Company's issuance to the Holder of a Note as defined in the Agreement.

1. Purchase of Shares. Subject to the terms and conditions hereinafter set forth and set forth in the Agreement, the Holder is entitled, upon surrender of this Warrant at the principal office of the Company (or at such other place as the Company shall notify the Holder in writing), to purchase from the Company up to the number of fully paid and nonassessable shares of the Company's Series D Preferred Stock that equals the quotient obtained by dividing (a) the Warrant Coverage Amount (as defined below) by (b) $0.73, subject to adjustments pursuant to Section 8 hereof. The shares issuable pursuant to this Section 1 (the "Shares") shall also be subject to adjustment pursuant to Section 8 hereof. For purposes of this Warrant, the Warrant Coverage Amount shall be that amount which equals twenty five percent (25%) of the original principal amount of the Note held by Holder.

2. Purchase Price. The purchase price for the Shares shall be $0.73 per share. Such price shall be subject to adjustment pursuant to Section 8 hereof, and such price, as adjusted from time to time, is herein referred to as the "Exercise Price".

3. Exercise Period. This Warrant shall be exercisable, in whole or in part, during the term commencing on the date hereof and ending at 5:00 p.m. on the earlier of (x) October 31, 2013, or (y) the closing of a Change of Control transaction. For purposes of this Warrant, the term Change of Control shall mean the sale of all or substantially all of the capital stock (other than the sale of capital stock to one or more venture capitalists or other institutional investors pursuant to an equity financing (including a debt financing that is convertible into equity of the Company) approved by a majority of the Board of Directors of the Company), assets or business of the Company, by merger, consolidation, sale of assets or otherwise (other than a transaction in which all or substantially all of the individuals and entities who were beneficial owners of the Common Stock immediately prior to

such transaction beneficially own, directly or indirectly, more than 50% of the outstanding securities entitled to vote generally in the election of directors of the resulting, surviving or acquiring corporation in such transaction).

4. Method of Exercise. While this Warrant remains outstanding and exercisable in accordance with Section 3 above, the Holder may exercise, in whole or in part, the purchase rights evidenced hereby. Such exercise shall be effected by:

(i) the surrender of the Warrant, together with a duly executed Subscription Notice in the form attached hereto, to the Secretary of the Company at its principal office; and

(ii) the payment to the Company of an amount equal to the aggregate Exercise Price for the number of Shares being purchased.

5. Net Exercise. In lieu of cash exercising this Warrant, the Holder may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election, in which event the Company shall issue to the Holder a number of Shares computed using the following formula:

$$X = \frac{Y\,(A - B)}{A}$$

Where

X — The number of Shares to be issued to the Holder.

Y — The number of Shares purchasable under this Warrant.

A — The fair market value of one Share.

B — The Exercise Price (as adjusted to the date of such calculations).

For purposes of this Section 5, the fair market value of the Shares shall mean the average of the closing bid and asked prices of the Shares quoted in the over-the-counter market in which the Shares are traded or the closing price quoted on any exchange on which the Shares are listed, whichever is applicable, as published in the Western Edition of The Wall Street Journal, for the ten (10) trading days prior to the date of determination of fair market value (or such shorter period of time during which such stock was traded over-the-counter or on such exchange). If the Shares are not traded on the over-the-counter market or on an exchange, the fair market value shall be the price per Share that the Company could obtain from a willing buyer for Shares sold by the Company from authorized but unissued Shares, as such prices shall be determined in good faith by the Company's Board of Directors, including a majority of the directors elected by holders of Preferred Stock.

6. Certificates for Shares. Upon the exercise of the purchase rights evidenced by this Warrant, one or more certificates for the number of Shares so purchased shall be issued as soon as practicable thereafter, and in any event within fifteen (15) days of the delivery of the Subscription Notice.

7. Issuance of Shares. The Company covenants that the Shares, when issued pursuant to the exercise of this Warrant, will be duly and validly issued, fully paid and nonassessable and free from all taxes, liens, and charges with respect to the issuance thereof

8. Adjustment of Exercise Price and Number of Shares. The number of and kind of securities purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:

(a) Subdivisions, Combinations and Other Issuances. If the Company shall at any time prior to the expiration of this Warrant subdivide its capital stock, by split-up or otherwise, or combine its capital stock, or issue additional shares of its capital stock as a dividend with respect to any shares of its capital stock, the number of Shares issuable on the exercise of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the Exercise Price, but the aggregate purchase price payable for the total number of Shares purchasable under this Warrant (as adjusted) shall remain the same. Any adjustment under this Section 8(a) shall become effective at the close of business on the date the subdivision or combination becomes effective, or as of the record date of such dividend, or in the event that no record date is fixed, upon the making of such dividend.

(b) Reclassification, Reorganization and Consolidation. In the case of any reclassification, capital reorganization or change in the capital stock of the Company (other than as a result of a subdivision, combination or stock dividend provided for in Section 8(a) above), then, as a condition of such reclassification, reorganization or change, lawful provision shall be made, and duly executed documents evidencing the same from the Company or its successor shall be delivered to the Holder, so that the Holder shall have the right at any time prior to the expiration of this Warrant to purchase, at a total price equal to that payable upon the exercise of this Warrant, the kind and amount of shares of stock and other securities and property receivable in connection with such reclassification, reorganization or change by a holder of the same number of Shares as were purchasable by the Holder immediately prior to such reclassification, reorganization or change. In any such case appropriate provisions shall be made with respect to the rights and interest of the Holder so that the provisions hereof shall thereafter be applicable with respect to any shares of stock or other securities and property deliverable upon exercise hereof, and appropriate adjustments shall be made to the Exercise Price, provided the aggregate purchase price shall remain the same.

(c) Notice of Adjustment. When any adjustment is required to be made in the number or kind of shares purchasable upon exercise of this Warrant, or in the Exercise Price, the Company shall promptly notify the Holder of such event and of the number of Shares or other securities or property thereafter purchasable upon exercise of this Warrant.

9. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant, but in lieu of such fractional shares the Company shall make a cash payment therefor on the basis of the Exercise Price then in effect.

10. No Stockholder Rights. Prior to the exercise of this Warrant, the Holder shall not be entitled to any rights of a stockholder with respect to the Shares, including (without limitation) the right to vote such Shares, receive dividends or other distributions thereon, exercise preemptive rights or be notified of stockholder meetings, and the Holder shall not be entitled to any notice or other communication concerning the business or affairs of the Company.

11. Successors and Assigns. The terms and provisions of this Warrant and the Agreement shall inure to the benefit of, and be binding upon, the Company and the Holder and their respective successors and assigns.

12. Amendments and Waivers. Any term of this Warrant may be amended in accordance with the Agreement.

13. Governing Law. This Warrant shall be governed by the laws of the State of California as applied to agreements among California residents made and to be performed entirely within the State of California.

IN WITNESS WHEREOF, the Company has executed this Warrant as of the day and year first above written.

INOGEN, INC.

By: _____
Kathy Odell
Its: *Chief Executive Officer*

SUBSCRIPTION NOTICE

Attention: Corporate Secretary

The undersigned hereby elects to purchase, pursuant to the provisions of the Warrant to Purchase Shares of Series D Preferred Stock issued by Inogen, Inc. (the "Company") and held by the undersigned, shares of Series D Preferred Stock of the Company.

Payment of the exercise price per share required under such Warrant accompanies this Subscription Notice.

The undersigned hereby represents and warrants that the undersigned is acquiring such shares for its own account for investment purposes only and not for resale or with a view to distribution of such shares or any part thereof.

WARRANTHOLDER:

Date: _____

By: _____

Title: _____

Address: _____

Name in which shares should be registered: _____

EXHIBIT "C"

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE AND DISTRIBUTION THEREOF, AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN OPINION OF COUNSEL IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED DUE TO AN EXEMPTION THEREFROM UNDER SAID ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

WARRANT TO PURCHASE

SHARES OF PREFERRED STOCK OF

INOGEN, INC.

(Void after February 1, 2014)

This certifies that VENTURE LENDING & LEASING IV, LLC, a Delaware limited liability company, or assigns ("Holder"), for value received, is entitled to purchase from INOGEN, INC., a Delaware corporation ("Company"), the Applicable Number (hereinafter defined) of fully paid and nonassessable shares of Company's preferred stock of the series hereinafter specified (the "Preferred Stock") for cash at a purchase price per share (the "Stock Purchase Price") equal to the lower of (i) $0.73, or (ii) the Next Round Price (hereinafter defined). This Warrant is issued in connection with Supplement No. 2 dated as of September 18, 2006, to that certain Loan and Security Agreement dated as of March 15, 2005 (as amended, restated and supplemented from time to time, the "Loan Agreement") between the Company and Venture Lending & Leasing IV, Inc., an affiliate of Holder ("Lender"). Capitalized terms used herein and not otherwise defined in this Warrant shall have the meaning(s) ascribed to them in the Loan Agreement unless the context would otherwise require.

The "Next Round Price" is the lowest price per share paid by an investor for Company's equity securities issued in the Next Round (as hereinafter defined), including for this purpose the value of all consideration given by an investor for such equity securities. The "Next Round" means the next bona fide round of venture capital equity financing after the date hereof in which Company sells or issues shares of its preferred stock, and includes any options, warrants, or other convertible securities or similar consideration issued or delivered to investors in connection with such equity financing in such round; *provided* that the Next Round excludes any extensions to Company's Series D preferred stock round of financing. If the Next Round has not occurred prior to the exercise hereof, then this Warrant shall be exercisable for the Applicable Number of shares of Company's Series D Preferred Stock at a Stock Purchase Price of $0.73. If the Next Round Price becomes the applicable Stock Purchase Price, then this Warrant shall be exercisable for the Applicable Number of shares of the class and series of convertible preferred stock or other senior convertible equity security sold or issued by Company in the Next Round.

The "Applicable Number" of shares of Preferred Stock purchasable hereunder initially shall be the number obtained by dividing (i) Two Hundred Fifty Thousand Dollars ($250,000) by (ii) the Stock Purchase Price. In the event that the conditions precedent to availability of the Second Tranche of the Growth Capital Commitment described in Section 1(c) of Part 2 of Supplement No. 2 are satisfied by the Company (or waived by Lender at its option), effectively immediately and automatically upon such satisfaction (or waiver), the Applicable Number number of shares of Preferred Stock issuable under this Warrant shall be increased by that number of shares obtained by dividing (i) Two Hundred Forty Thousand Dollars ($240,000) by (ii) the Stock Purchase Price.

If in any case such number includes a fraction, the fraction shall be adjusted downward to the closest whole number.

As soon as reasonably practicable after the occurrence or non-occurrence of the latest event or condition necessary to determine (i) the actual number and type of shares of Company's stock issuable upon exercise of this Warrant and (ii) the initial Stock Purchase Price, Company shall execute and deliver a supplement to this Warrant in substantially the form of Exhibit "A" attached hereto, completed with such quantity and price terms and other information as have been determined as a result of the occurrence or non-occurrence of such events or conditions. The provisions of such supplement, once completed and executed, shall control the interpretation and exercise of this Warrant; provided, however, that the failure of Company to deliver such supplement shall not affect the rights of Holder of this Warrant to receive the number and type of shares of Preferred Stock as set forth herein.

This Warrant may be exercised at any time or from time to time up to and including 5:00 p.m. (Pacific time) on February 1, 2014 (the "Expiration Date"), upon surrender to the Company at its principal office at 120 Cremona Drive, Suite B, Goleta, CA 93117, (or at such other location as the Company may advise Holder in writing) of this Warrant properly endorsed with the Form of Subscription attached hereto duly filled in and signed and upon payment in cash or by check of the aggregate Stock Purchase Price for the number of shares for which this Warrant is being exercised determined in accordance with the provisions hereof. The Stock Purchase Price and the number of shares purchasable hereunder are subject to adjustment as provided in Section 4 of this Warrant.

This Warrant is subject to the following terms and conditions:

1. Exercise; Issuance of Certificates; Payment for Shares.

(a) Unless an election is made pursuant to clause (b) of this Section 1, this Warrant shall be exercisable at the option of the Holder, at any time or from time to time, on or before the Expiration Date for all or any portion of the shares of Preferred Stock (but not for a fraction of a share) which may be purchased hereunder for the Stock Purchase Price multiplied by the number of shares to be purchased. In the event, however, that pursuant to the Company's Certificate of Incorporation, as amended, an event causing automatic conversion of the Company's Preferred Stock shall have occurred prior to the exercise of this Warrant, in whole or in part, then this Warrant shall be exercisable for the number of shares of Common Stock of the Company into which the Preferred Stock not purchased upon any prior exercise of this Warrant would have been so converted (and, where the context requires, reference to "Preferred Stock" shall be deemed to be or include such Common Stock, as may be appropriate). The Company agrees that the shares of Preferred Stock purchased under this Warrant shall be and are deemed to be issued to the Holder hereof as the record owner of such shares as of the close of business on the date on which the form of subscription shall have been delivered and payment made for such shares. Subject to the provisions of Section 2, certificates for the shares of Preferred Stock so purchased, together with any other securities or property to which the Holder hereof is entitled upon such exercise, shall be delivered to the Holder hereof by the Company at the Company's expense within a reasonable time after the rights represented by this Warrant have been so exercised. Except as provided in clause (b) of this Section 1, in case of a purchase of less than all the shares which may be purchased under this Warrant, the Company shall cancel this Warrant and execute and deliver a new Warrant or Warrants of like tenor for the balance of the shares purchasable under this Warrant surrendered upon such purchase to the Holder hereof within a reasonable time. Each stock certificate so delivered shall be in such denominations of Preferred Stock as may be requested by the Holder hereof and shall be registered in the name of such Holder or such other name as shall be designated by such Holder, subject to the limitations contained in Section 2.

(b) The Holder, in lieu of exercising this Warrant by the cash payment of the Stock Purchase Price pursuant to clause (a) of this Section 1, may elect, at any time on or before the Expiration Date, to surrender this Warrant and receive that number of shares of Preferred Stock equal to the quotient of: (i) the difference between (A) the Per Share Price (as hereinafter defined) of the Preferred Stock, less (B) the Stock Purchase Price then in effect, multiplied by the number of shares of Preferred Stock the Holder would otherwise have been entitled to purchase hereunder (as described in the recitals to this Warrant) pursuant to clause (a) of this Section 1 (or such lesser number of shares as the Holder may designate in the case of a partial exercise of this Warrant); over (ii) the Per Share Price. Election to exercise under this section (b) may be made by delivering a signed form of subscription to the Company via facsimile, to be followed by delivery of this Warrant.

(c) For purposes of clause (b) of this Section 1, "Per Share Price" means the product of: (i) the greater of (A) the closing price of the securities issuable upon conversion of the Preferred Stock, as quoted by NASDAQ or listed on any exchange, whichever is applicable, as published in the Western Edition of The Wall Street Journal for the trading day immediately prior to the date of the Holder's election hereunder or, (B) if applicable at the time of or in connection with the exercise under clause (b) of this Section 1, the gross sales price of one share of the Company's Common Stock pursuant to a registered public offering or that amount which stockholders of the Company will receive for each share of Common Stock pursuant to a merger, reorganization or sale of assets; and (ii) that number of shares of Common Stock into which each share of Preferred Stock is convertible. If the securities issuable upon conversion of the Preferred Stock are not quoted by NASDAQ or listed on an exchange and none of the above clauses apply, the Per Share Price of the Preferred Stock (or the equivalent number of shares of Common Stock into which such Preferred Stock is convertible) shall be the fair market price per share as determined in good faith by the Board of Directors of the Company.

2. Limitation on Transfer.

(a) This Warrant and the Preferred Stock shall not be transferable except upon the conditions specified in this Section 2, which conditions are intended to insure compliance with the provisions of the Securities Act. Each Holder of this Warrant or the Preferred Stock issuable hereunder will cause any proposed transferee of the Warrant or Preferred Stock to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Section 2. Notwithstanding the foregoing and any other provision of this Section 2, Holder may freely transfer all or part of this Warrant or the shares issuable upon exercise of this Warrant (or the securities issuable, directly or indirectly, upon conversion of the shares, if any) at any time to any lender transferee of a portion of the loan commitment of Venture Lending & Leasing IV, Inc. under the Loan Agreement, by giving the Company notice of the portion of the Warrant being transferred setting forth the name, address and taxpayer identification number of the transferee and surrendering this warrant to the Company for reissuance to the transferees(s) (and Holder, if applicable); provided that, any such transfer of this Warrant shall be subject to the prior written approval of the Company, which approval shall not be unreasonably withheld; provided further that no such prior approval of the Company shall be required for transfers to one or more persons, each of whom on the date of transfer is an affiliate of the Holder, as such term is defined in the Securities Act of 1933, as amended. Any transfer undertaken in violation of this Section 2(a) shall be null and void.

(b) Each certificate representing (i) this Warrant, (ii) the Preferred Stock, (iii) shares of the Company's Common Stock issued upon conversion of the Preferred Stock and (iv) any other securities issued in respect to the Preferred Stock or Common Stock issued upon conversion of the Preferred Stock upon any stock split, stock dividend, recapitalization, merger, consolidation or similar event, shall (unless otherwise permitted by the provisions of this Section 2 or unless such securities have been registered under the Securities Act or sold under Rule 144) be stamped or otherwise imprinted with a legend substantially in the following form (in addition to any legend required under applicable state securities laws):

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE AND DISTRIBUTION THEREOF, AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OR ANY STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN OPINION OF COUNSEL IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED DUE TO AN EXEMPTION THEREFROM UNDER SAID ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

(c) The Holder of this Warrant and each person to whom this Warrant is subsequently transferred represents and warrants to the Company (by acceptance of such transfer) that it will not transfer this Warrant (or securities issuable upon exercise hereof unless a registration statement under the Securities Act was in effect with respect to such securities at the time of issuance thereof) except pursuant to (i) an effective registration statement under the Securities Act, (ii) Rule 144 under the Securities Act (or any other rule under the Securities Act relating to the disposition of securities), or (iii) an opinion of counsel, reasonably satisfactory to counsel for the Company, that an exemption from such registration is available. In connection with such transfer, the Company may require that the transferee of this Warrant enter into a confidentiality agreement substantially similar to the form of confidentiality agreement entered into between the Holder and the Company, as determined by the Company in its reasonable, good faith discretion.

3. Shares to be Fully Paid; Reservation of Shares. The Company covenants and agrees that all shares of Preferred Stock which may be issued upon the exercise of the rights represented by this Warrant will, upon issuance, be duly authorized, validly issued, fully paid and nonassessable and free from all preemptive rights of any stockholder and free of all taxes, liens and charges with respect to the issue thereof. The Company further covenants and agrees that during the period within which the rights represented by this Warrant may be exercised, the Company will at all times have authorized and reserved, for the purpose of issue or transfer upon exercise of the subscription rights evidenced by this Warrant, a sufficient number of shares of authorized but unissued Preferred Stock, or other securities and property, when and as required to provide for the exercise of the rights represented by this Warrant. The Company will take all such action as may be necessary to assure that such shares of Preferred Stock may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of any domestic securities exchange upon which the Preferred Stock may be listed. The Company will not take any action which would result in any adjustment of the Stock Purchase Price (as defined in Section 4 hereof) (i) if the total number of shares of Preferred Stock issuable after such action upon exercise of all outstanding warrants, together with all shares of Preferred Stock then outstanding and all shares of Preferred Stock then issuable upon exercise of all options and upon the conversion of all convertible securities then outstanding, would exceed the total number of shares of Preferred Stock then authorized by the Company's Certificate of Incorporation, (ii) if the total number of shares of Common Stock issuable after such action upon the conversion of all such shares of Preferred Stock together with all shares of Common Stock then outstanding and then issuable upon exercise of all options and upon the conversion of all convertible securities then outstanding would exceed the total number of shares of Common Stock then authorized by the Company's Certificate of Incorporation or (iii) if the par value per share of the Preferred Stock would exceed the Stock Purchase Price.

4. Adjustment of Stock Purchase Price and Number of Shares. The Stock Purchase Price and the number of shares purchasable upon the exercise of this Warrant shall be subject to adjustment from time to time upon the occurrence of certain events described in this Section 4. Upon each adjustment of the Stock Purchase Price, the Holder of this Warrant shall thereafter be entitled to purchase, at the Stock Purchase Price resulting from such adjustment, the number of shares obtained by multiplying the Stock Purchase Price in effect immediately prior to such adjustment by the number of shares purchasable pursuant hereto immediately prior to such adjustment, and dividing the product thereof by the Stock Purchase Price resulting from such adjustment.

4.1 Subdivision or Combination of Stock. In case the Company shall at any time subdivide its outstanding shares of Preferred Stock into a greater number of shares, the Stock Purchase Price in effect immediately prior to such subdivision shall be proportionately reduced, and conversely, in case the outstanding shares of Preferred Stock of the Company shall be combined into a smaller number of shares, the Stock Purchase Price in effect immediately prior to such combination shall be proportionately increased.

4.2 Dividends in Preferred Stock, Other Stock, Property, Reclassification. If at any time or from time to time the holders of Preferred Stock (or any shares of stock or other securities at the time receivable upon the exercise of this Warrant) shall have received or become entitled to receive, without payment therefor,

(a) Preferred Stock, or any shares of stock or other securities whether or not such securities are at any time directly or indirectly convertible into or exchangeable for Preferred Stock, or any rights or options to subscribe for, purchase or otherwise acquire any of the foregoing by way of dividend or other distribution, or

(b) any cash paid or payable otherwise than as a cash dividend, or

(c) Preferred Stock or other or additional stock or other securities or property (including cash) by way of spin off, reclassification, or similar corporate rearrangement, (other than shares of Preferred Stock issued as a stock split, adjustments in respect of which shall be covered by the terms of Section 4.1 above),

Then and in each such case, the Holder hereof shall, upon the exercise of this Warrant, be entitled to receive, in addition to the number of shares of Preferred Stock receivable thereupon, and without payment of any additional consideration therefore, the amount of stock and other securities and property (including cash in the cases referred to in clauses (b) and (c) above) which such Holder would hold on the date of such exercise had he been the holder of record of such Preferred Stock as of the date on which holders of Preferred Stock received or became entitled to receive such shares and/or all other additional stock and other securities and property.

4.3 Reorganization, Reclassification, Consolidation, Merger or Sale. If any capital reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another corporation, or the sale of all or substantially all of its assets to another corporation shall be effected in such a way that holders of Preferred Stock shall be entitled to receive stock, securities or assets with respect to or in exchange for Preferred Stock, then, as a condition of such reorganization, reclassification, consolidation, merger or sale, lawful and adequate provisions shall be made whereby the Holder hereof shall thereafter have the right to purchase and receive (in lieu of the shares of the Preferred Stock of the Company immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby) such shares of stock, securities or assets as may be issued or payable with respect to or in exchange for a number of outstanding shares of such Preferred Stock equal to the number of shares of such stock immediately theretofore purchasable and receivable upon the exercise of the rights represented hereby. In any such case, appropriate provision shall be made with respect to the rights and interests of the Holder of this Warrant to the end that the provisions hereof (including, without limitation, provisions for adjustments of the Stock Purchase Price and of the number of shares purchasable and receivable upon the exercise of this Warrant) shall thereafter be applicable, as nearly as may be possible, in relation to any shares of stock, securities or assets thereafter deliverable upon the exercise hereof. The successor corporation (if other than the Company) resulting from such consolidation or the corporation purchasing such assets shall assume by written instrument, executed and mailed or delivered to the registered Holder hereof at the last address of such Holder appearing on the books of the Company, the obligation to deliver to such Holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such Holder may be entitled to purchase.

4.4 Sale or Issuance Below Purchase Price. The other antidilution rights applicable to the shares of Preferred Stock purchasable hereunder are set forth in the Company's Certificate of Incorporation, as amended through the date hereof (the "Charter").

4.5 Notice of Adjustment. Upon any adjustment of the Stock Purchase Price, and/or any increase or decrease in the number of shares purchasable upon the exercise of this Warrant the Company shall give written notice thereof, by first class mail, postage prepaid, addressed to the registered Holder of this Warrant at the address of such Holder as shown on the books of the Company. The notice, which may be substantially in the form of Exhibit "A" attached hereto, shall be signed by the Company's chief financial officer and shall state the Stock Purchase Price resulting from such adjustment and the increase or decrease, if any, in the number of shares purchasable at such price upon the exercise of this Warrant, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

4.6 Other Notices. If at any time:

(a) the Company shall declare any cash dividend upon its Preferred Stock;

(b) the Company shall declare any dividend upon its Preferred Stock payable in stock or make any special dividend or other distribution to the holders of its Preferred Stock;

(c) there shall be any capital reorganization or reclassification of the capital stock of the Company, or consolidation or merger of the Company with, or sale of all or substantially all of its assets to, another entity;

(d) there shall be a voluntary or involuntary dissolution, liquidation or winding-up of the Company; or

(e) the Company shall take or propose to take any other action, notice of which is actually provided to holders of the Preferred Stock;

then, in any one or more of said cases, the Company shall give, by first class mail, postage prepaid, addressed to the Holder of this Warrant at the address of such Holder as shown on the books of the Company, (i) at least 20 day's prior written notice of the date on which the books of the Company shall close or a record shall be taken for such dividend, distribution or subscription rights or for determining rights to vote in respect of any such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, or other action and (ii) in the case of any such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, or other action, at least 20 day's written notice of the date when the same shall take place. Any notice given in accordance with the foregoing clause (i) shall also specify, in the case of any such dividend, distribution or subscription rights, the date on which the holders of Preferred Stock shall be entitled thereto. Any notice given in accordance with the foregoing clause (ii) shall also specify the date on which the holders of Preferred Stock shall be entitled to exchange their Preferred Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, or other action as the case may be.

4.7 Certain Events. If any change in the outstanding Preferred Stock of the Company or any other event occurs as to which the other provisions of this Section 4 are not strictly applicable or if strictly applicable would not fairly effect the adjustments to this Warrant in accordance with the essential intent and principles of such provisions, then the Board of Directors of the Company shall make in good faith an adjustment in the number and class of shares issuable under this Warrant, the Stock Purchase Price and/or the application of such provisions, in accordance with such essential intent and principles, so as to protect such purchase rights as aforesaid. The adjustment shall be such as will give the Holder of this Warrant upon exercise for the same aggregate Stock Purchase Price the total number, class and kind of shares as the Holder would have owned had this Warrant been exercised prior to the event and had the Holder continued to hold such shares until after the event requiring adjustment.

5. Issue Tax. The issuance of certificates for shares of Preferred Stock upon the exercise of this Warrant shall be made without charge to the Holder of this Warrant for any issue tax in respect thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the then Holder of this Warrant being exercised.

6. Closing of Books. The Company will at no time close its transfer books against the transfer of this Warrant or of any shares of Preferred Stock issued or issuable upon the exercise of this Warrant in any manner which interferes with the timely exercise of this Warrant.

7. No Voting or Dividend Rights; Limitation of Liability. Nothing contained in this Warrant shall be construed as conferring upon the Holder hereof the right to vote or to consent as a stockholder in respect of meetings of stockholders for the election of directors of the Company or any other matters or any rights whatsoever as a stockholder of the Company. No dividends or interest shall be payable or accrued in respect of this Warrant or the interest represented hereby or the shares purchasable hereunder until, and only to the extent that, this Warrant shall have been exercised. No provisions hereof, in the absence of affirmative action by the Holder to purchase shares of Preferred Stock, and no mere enumeration herein of the rights or privileges of the Holder hereof, shall give rise to any liability of such Holder for the Stock Purchase Price or as a stockholder of the Company, whether such liability is asserted by the Company or by its creditors.

8. [Reserved].

9. Registration Rights. The Holder hereof shall be entitled, with respect to the shares of Preferred Stock issued upon exercise hereof or the shares of Common Stock or other securities issued upon conversion of such Preferred Stock as the case may be, to all of the registration rights set forth in the Fourth Amended and Restated Investors' Rights Agreement dated as of July 21, 2006 (the "Rights Agreement"), to the same extent and on the same terms and conditions as possessed by the investors thereunder with the following exceptions and clarifications: (i) the Holder will have no demand registration rights; (ii) the Holder will be subject to the same provisions

regarding indemnification as contained in the Rights Agreement; and (iii) the registration rights are freely assignable by the Holder of this Warrant in connection with a permitted transfer of this Warrant or the shares issuable upon exercise hereof. The Company shall take such action as may be reasonably necessary to assure that the granting of such registration rights to the Holder does not violate the provisions of the Rights Agreement or any of the Company's charter documents or rights of prior grantees of registration rights. Holder agrees prior to becoming entitled to the rights specified in this Section 9, it will execute a joinder to the Rights Agreement in form and substance satisfactory to the Buyer.

10. Rights and Obligations Survive Exercise of Warrant. The rights and obligations of the Company, of the Holder of this Warrant and of the holder of shares of Preferred Stock issued upon exercise of this Warrant, contained in Sections 6 and 9 shall survive the exercise of this Warrant.

11. Modification and Waiver. This Warrant and any provision hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the same is sought.

12. Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder hereof or the Company shall be deemed to have been given (i) upon receipt if delivered personally or by courier (ii) upon confirmation of receipt if by telecopy or (iii) three business days after deposit in the US mail, with postage prepaid and certified or registered, to each such Holder at its address as shown on the books of the Company or to the Company at the address indicated therefor in the first paragraph of this Warrant.

13. Binding Effect on Successors. This Warrant shall be binding upon any corporation succeeding the Company by merger, consolidation or acquisition of all or substantially all of the Company's assets. All of the obligations of the Company relating to the Preferred Stock issuable upon the exercise of this Warrant shall survive the exercise and termination of this Warrant. All of the covenants and agreements of the Company shall inure to the benefit of the successors and assign of the Holder hereof. The Company will, at the time of the exercise of this Warrant, in whole or in part, upon request of the Holder hereof but at the Company's expense, acknowledge in writing its continuing obligation to the Holder hereof in respect of any rights (including, without limitation, any right to registration of the shares of Common Stock) to which the Holder hereof shall continue to be entitled after such exercise in accordance with this Warrant; provided, that the failure of the Holder hereof to make any such request shall not affect the continuing obligation of the Company to the Holder hereof in respect of such rights.

14. Descriptive Headings and Governing Law. The descriptive headings of the several sections and paragraphs of this Warrant are inserted for convenience only and do not constitute a part of this Warrant. This Warrant shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of California without regards for conflicts of laws principles.

15. Lost Warrants or Stock Certificates. The Company represents and warrants to the Holder hereof that upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction, or mutilation of any Warrant or stock certificate and, in the case of any such loss, theft or destruction, upon receipt of an indemnity reasonably satisfactory to the Company, or in the case of any such mutilation upon surrender and cancellation of such Warrant or stock certificate, the Company, at its expense will make and deliver a new Warrant or stock certificate, of like tenor, in lieu of the lost, stolen, destroyed or mutilated Warrant or stock certificate.

16. Fractional Shares. No fractional shares shall be issued upon exercise of this Warrant. The Company shall, in lieu of issuing any fractional share, pay the Holder entitled to such fraction a sum in cash equal to such fraction multiplied by the then effective Stock Purchase Price.

17. Representations of Holder. With respect to this Warrant, Holder represents and warrants to the Company as follows:

17.1 Experience. It is experienced in evaluating and investing in companies engaged in businesses similar to that of the Company; it understands that investment in this Warrant and the Preferred Stock and Common Stock issuable with respect thereto, involves substantial risks; it has made detailed inquiries

concerning the Company, its business and services, its officers and its personnel; the officers of the Company have made available to Holder any and all written information it has requested; the officers of the Company have answered to Holder's satisfaction all inquiries made by it; in making this investment it has relied upon information made available to it by the Company; and it has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of investment in the Company and it is able to bear the economic risk of that investment.

17.2 Investment. It is acquiring this Warrant for investment for its own account and not with a view to, or for resale in connection with, any distribution thereof. It understands that this Warrant, the shares of Preferred Stock issuable upon exercise thereof and the shares of Common Stock issuable upon conversion of the Preferred Stock, have not been registered under the Securities Act, nor qualified under applicable state securities laws.

17.3 Rule 144. It acknowledges that this Warrant, the Preferred Stock and the Common Stock must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. It has been advised or is aware of the provisions of Rule 144 promulgated under the Securities Act.

17.4 Access to Data. It has had an opportunity to discuss the Company's business, management and financial affairs with the Company's management and has had the opportunity to inspect the Company's facilities.

18. Additional Representations and Covenants of the Company. The Company hereby represents, warrants and agrees as follows:

18.1 Corporate Power. The Company has all requisite corporate power and corporate authority to issue this Warrant and to carry out and perform its obligations hereunder.

18.2 Authorization. All corporate action on the part of the Company, its directors and stockholders necessary for the authorization, execution, delivery and performance by the Company of this Warrant has been taken. This Warrant is a valid and binding obligation of the Company, enforceable in accordance with its terms.

18.3 Offering. Subject in part to the truth and accuracy of Holder's representations set forth in Section 17 hereof, the offer, issuance and sale of this Warrant is, and the issuance of Preferred Stock upon exercise of this Warrant and the issuance of Common Stock upon conversion of the Preferred Stock will be exempt from the registration requirements of the Securities Act, and are exempt from the qualification requirements of any applicable state securities laws; and neither the Company nor anyone acting on its behalf will take any action hereafter that would cause the loss of such exemptions.

18.4 Stock Issuance. Upon exercise of this Warrant, the Company will use its best efforts to cause stock certificates representing the shares of Preferred Stock purchased pursuant to the exercise to be issued in the names of Holder, its nominees or assignees, as appropriate at the time of such exercise. Upon conversion of the shares of Preferred Stock into shares of Common Stock, the Company will issue the Common Stock in the names of Holder, its nominees or assignees, as appropriate.

18.5 Certificates and By-Laws. The Company has provided Holder with true and complete copies of the Company's Certificate of Incorporation, By-Laws, and each Certificate of Designation or other charter document setting, forth any rights, preferences and privileges of Company's capital stock, each as amended and in effect on the date of issuance of this Warrant.

18.6 Conversion of Preferred Stock. As of the date hereof, each share of the Preferred Stock is convertible into one share of the Common Stock.

18.7 Financial and Other Reports. From time to time up to the earlier of the Expiration Date or the complete exercise of this Warrant, the Company shall furnish to Holder (i) within 90 days after the close of each fiscal year of the Company an audited balance sheet and statement of changes in financial position at and as of the end of such fiscal year, together with an audited statement of income for such fiscal year; (ii) within 45 days after the close of each fiscal quarter of the Company, an unaudited balance sheet and statement of cash flows at and as of the end of such quarter, together with an unaudited statement of income for such quarter; and (iii) promptly after sending, making available, or filing, copies of all reports, proxy statements, and financial statements that the Company sends or makes available to its stockholders and all registration statements and reports that the Company files with the SEC or any other governmental or regulatory authority.

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by its officers, thereunto duly authorized this 18th day of September 2006.

INOGEN, INC.

By: /s/ Kathy J. Odell

Title: Chief Executive Officer

FORM OF SUBSCRIPTION

(To be signed only upon exercise of Warrant)

To: INOGEN, INC.

☐ The undersigned, the Holder of the within Warrant, hereby irrevocably elects to exercise the purchase right represented by such Warrant for, and to purchase thereunder, (1) ( ) shares (the "Shares") of Stock of and herewith makes payment of Dollars ($) therefor, and requests that the certificates for such shares be issued in the name of, and delivered to, , whose address is .

☐ The undersigned hereby elects to convert percent (%) of the value of the Warrant pursuant to the provisions of Section 1(b) of the Warrant.

The undersigned acknowledges that it has reviewed the representations and warranties contained in Section 17 of this Warrant and by its signature below hereby makes such representations and warranties to the Company.

Dated _____

Holder: _____

By: _____

Its: _____

(Address)

_____

_____

(1) Insert here the number of shares called for on the face of the Warrant (or, in the case of a partial exercise, the portion thereof as to which the Warrant is being exercised), in either case without making any adjustment for additional Preferred Stock or any other stock or other securities or property or cash which, pursuant to the adjustment provisions of the Warrant, may be issuable upon exercise.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned, the Holder of the within Warrant, hereby sells, assigns and transfers all of the rights of the undersigned under the within Warrant, with respect to the number of shares of Preferred Stock covered thereby set forth herein below, unto:

Name of Assignee	Address	No. of Shares

Dated _____

Holder: _____

By: _____

Its: _____

EXHIBIT "A"

[On letterhead of the Company]

Reference is hereby made to that certain Warrant dated September 18, 2006, issued by INOGEN, INC., a Delaware corporation (the "Company"), to VENTURE LENDING & LEASING IV, LLC, a Delaware limited liability company (the "Holder").

[IF APPLICABLE] The Warrant provides that the actual number of shares of the Company's capital stock issuable upon exercise of the Warrant and the initial exercise price per share are to be determined by reference to one or more events or conditions subsequent to the issuance of the Warrant. Such events or conditions have now occurred or lapsed, and the Company wishes to confirm the actual number of shares issuable and the initial exercise price. The provisions of this Supplement to Warrant are incorporated into the Warrant by this reference, and shall control the interpretation and exercise of the Warrant.

[IF APPLICABLE] Notice is hereby given pursuant to Section 4.5 of the Warrant that the following adjustment(s) have been made to the Warrant: [describe adjustments, setting forth details regarding method of calculation and facts upon which calculation is based].

This certifies that the Holder is entitled to purchase from the Company ( ) fully paid and nonassessable shares of the Company's Stock at a price of Dollars ($) per share (the "Stock Purchase Price"). The Stock Purchase Price and the number of shares purchasable under the Warrant remain subject to adjustment as provided in Section 4 of the Warrant.

Executed this day of , 200 .

INOGEN, INC.,

By: _____

Name: _____

Title: _____

Exhibit 4.9

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH APPLICABLE LAW.

WARRANT TO PURCHASE STOCK

Corporation:	Inogen, Inc.
Number of Shares:	See Section 1.7 hereof
Class of Stock:	Series E Preferred
Initial Exercise Price:	$. per share
Issue Date:	, 2008
Expiration Date:	, 2015

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, the receipt of which is hereby acknowledged, or its assignee ("***Holder***") is entitled to purchase the number of fully paid and nonassessable shares of the class of securities (the "***Shares***") of the corporation (the "***Company***") at the initial exercise price per Share (the "***Warrant Price***") all as set forth above and as adjusted pursuant to Article 2 of this warrant, subject to the provisions and upon the terms and conditions set forth in this warrant.

ARTICLE 1

EXERCISE

1.1 Method of Exercise. Holder may exercise this warrant by delivering this warrant and a duly executed Notice of Exercise in substantially the form attached as Appendix 1 to the principal office of the Company. Unless Holder is exercising the conversion right set forth in Section 1.2, Holder shall also deliver to the Company a check for the aggregate Warrant Price for the Shares being purchased.

1.2 Conversion Right. In lieu of exercising this warrant as specified in Section 1.1, Holder may from time to time convert this warrant, in whole or in part, into a number of Shares determined by dividing (a) the aggregate fair market value of the Shares or other securities otherwise issuable upon exercise of this warrant minus the aggregate Warrant Price of such Shares by (b) the fair market value of one Share. The fair market value of the Shares shall be determined pursuant to Section 1.3.

1.3 Fair Market Value. If the Shares are traded regularly in a public market, the fair market value of the Shares shall be the closing price of the Shares (or the closing price of the Company's stock into which the Shares are convertible) reported for the business day immediately before Holder delivers its Notice of Exercise to the Company. If the Shares are not regularly traded in a public market, the Board of Directors of the Company shall determine fair market value in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Promptly after Holder exercises or converts this warrant, the Company shall deliver to Holder certificates for the Shares acquired and, if this warrant has not been fully exercised or converted and has not expired, a new warrant representing the Shares not so acquired.

1.5 Replacement of Warrants. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, on surrender and cancellation of this warrant, the Company at its expense shall execute and deliver, in lieu of this warrant, a new warrant of like tenor.

1.6 Repurchase on Sale, Merger, or Consolidation of the Company.

1.6.1 "***Acquisition***." For the purpose of this warrant, "Acquisition" means (a) any sale, license, or other disposition of all or substantially all of the assets (including intellectual property) of the Company, or (b) any reorganization, consolidation, merger or sale of the voting securities of the Company or any other transaction where the holders of the Company's securities before the transaction beneficially own less than 50% of the outstanding voting securities of the surviving entity after the transaction.

1.6.2 Assumption of Warrant. If upon the closing of any Acquisition the successor entity assumes the obligations of this warrant, then this warrant shall be exercisable for the same securities, cash, and property as would be payable for the Shares issuable upon exercise of the unexercised portion of this warrant as if such Shares were outstanding on the record date for the Acquisition and subsequent closing. The Warrant Price shall be adjusted accordingly. The Company shall use reasonable efforts to cause the surviving corporation to assume the obligations of this warrant.

1.6.3 Nonassumption. If upon the closing of any Acquisition the successor entity does not assume the obligations of this warrant and Holder has not otherwise exercised this warrant in full, then Holder shall have the option either to (a) deem this warrant to have been automatically converted pursuant to Section 1.2 and thereafter Holder shall participate in the Acquisition on the same terms as other holders of the same class of securities of the Company; or (b) require the Company to purchase this warrant for cash upon the closing of the Acquisition for an amount per Share equal to the Warrant Price.

1.7 Number of Shares. If, pursuant to the Loan and Security Agreement (the "LSA") entered into by the Company and the Holder on or about the same date as this Warrant, the Borrower requests and receives one or more Term Loans, Formula Advances or Non-Formula Advances, the number of Shares subject to this Warrant shall be equal to Two Percent (2%) of the aggregate amount of Term Loans, Formula Advances and Non-Formula Advances made to Borrower (in no event to exceed $3,500,000), divided by the Initial Exercise Price stated above in the caption of this Warrant. All shares subject to this warrant shall be of the same series and class and bearing the same rights, preferences, and privileges as the class of stock denoted in the above caption hereto. If not otherwise defined in this Warrant, capitalized terms in this Section shall have the same meaning as assigned to them in the LSA. The number of shares calculated pursuant to this Section 1.7 shall be subject to any further adjustments hereto made pursuant to Article 2 hereof.

ARTICLE 2

ADJUSTMENTS TO THE SHARES

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend on its common stock payable in common stock, or other securities, or subdivides the outstanding common stock into a greater amount of common stock, then upon exercise of this warrant, for each Share acquired, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend or subdivision occurred.

2.2 Reclassification, Exchange or Substitution. Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this warrant, Holder shall be entitled to receive, upon exercise or conversion of this warrant, the number and kind of securities and property that Holder would have received for the Shares if this warrant had been exercised immediately before such reclassification, exchange, substitution, or other event. Such an event shall include any automatic conversion of the outstanding or issuable securities of the Company of the same class or series as the Shares to common stock pursuant to the terms of the Company's Certificate of Incorporation upon the closing of a registered public offering of the Company's common stock. The Company or its successor shall promptly issue to Holder a new warrant for such new securities or other property. The new warrant shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 2 including, without limitation, adjustments to the Warrant Price and to the number of securities or property issuable upon exercise of the new warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, substitutions, or other events.

2.3 Adjustments for Combinations, Etc. If the outstanding Shares are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased. If the outstanding Shares are combined or consolidated, by reclassification or otherwise, into a greater number of shares, the Warrant Price shall be proportionately decreased.

2.4 Adjustments for Diluting Issuances. In the event of the issuance (a "***Diluting Issuance***") by the Company after the Issue Date of securities at a price per share less than the Warrant Price, then the number of shares of common stock issuable upon conversion of the Shares shall be adjusted in accordance with those provisions of the Company's Certificate of Incorporation that apply to Diluting Issuances.

2.5 Certificate as to Adjustments. Upon each adjustment of the Warrant Price, the Company at its expense shall promptly compute such adjustment, and furnish Holder with a certificate of its Chief Financial Officer setting forth such adjustment and the facts upon which

such adjustment is based. The Company shall, upon written request, furnish Holder a certificate setting forth the Warrant Price in effect upon the date thereof and the series of adjustments leading to such Warrant Price.

2.6 Fractional Shares. No fractional Shares shall be issuable upon exercise or conversion of the Warrant and the Number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise or conversion of the Warrant, the Company shall eliminate such fractional share interest by paying Holder amount computed by multiplying the fractional interest by the fair market value of a full Share.

ARTICLE 3

REPRESENTATIONS AND COVENANTS OF THE COMPANY

3.1 Representations and Warranties. The Company hereby represents and warrants to the Holder as follows:

(a) The initial Warrant Price referenced on the first page of this warrant is not greater than the fair market value of the Shares as of the date of this warrant.

(b) All Shares which may be issued upon the exercise of the purchase right represented by this warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and nonassessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

(c) The Company's capitalization table attached to this warrant is true and complete as of the Issue Date.

3.2 Notice of Certain Events. The Company shall provide Holder with not less than 10 days prior written notice, including a description of the material facts surrounding, any of the following events: (a) declaration of any dividend or distribution upon its common stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend; (b) offering for subscription pro rata to the holders of any class or series of its stock any additional shares of stock of any class or series or other rights; (c) effecting any reclassification or recapitalization of common stock; or (d) the merger or consolidation with or into any other corporation, or sale, lease, license, or conveyance of all or substantially all of its assets, or liquidation, dissolution or winding up.

3.3 Information Rights. So long as the Holder holds this warrant and/or any of the Shares, the Company shall deliver to the Holder (a) promptly after mailing, copies of all communiques to the stockholders of the Company, (b) within one hundred eighty (180) days after the end of each fiscal year of the Company, the annual audited financial statements of the Company certified by independent public accountants of recognized standing, and (c) within forty-five (45) days after the end of each of the first three quarters of each fiscal year, the Company's quarterly, unaudited financial statements.

3.4 Registration Under Securities Act of 1933, as amended. The Company agrees that the Shares or, if the Shares are convertible into common stock of the Company, such common stock, shall be "Registrable Securities", and Holder shall be a "Holder" under the Seventh Amended and Restated Investors' Rights Agreement among the Company and other persons dated as of October 5, 2007.

ARTICLE 4

MISCELLANEOUS

4.1 Term: Exercise Upon Expiration. This warrant is exercisable in whole or in part, at any time and from time to time on or before the Expiration Date set forth above; provided, however, that if the Company completes its initial public offering within the three-year period immediately prior to the Expiration Date, the Expiration Date shall automatically be extended until the third anniversary of the effective date of the Company's initial public offering. If this warrant has not been exercised prior to the Expiration Date, this warrant shall be deemed to have been automatically exercised on the Expiration Date by "cashless" conversion pursuant to Section 1.2.

4.2 Legends. This warrant and the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH APPLICABLE LAW.

4.3 Compliance with Securities Laws on Transfer. This warrant and the Shares issuable upon exercise of this warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee. The Company shall not require Holder to provide an opinion of counsel if the transfer is to an affiliate of Holder or if there is no material question as to the availability of current information as referenced in Rule 144(c), Holder represents that it has complied with Rule 144 (d) and (e) in reasonable detail, the selling broker represents that it has complied with Rule 144(f), and the Company is provided with a copy of Holder's notice of proposed sale.

4.4 Transfer Procedure. Subject to the provisions of Section 4.3, Holder may transfer all or part of this warrant or the Shares issuable upon exercise of this warrant (or the securities issuable, directly or indirectly, upon conversion of the Shares, if any) by giving the Company notice of the portion of the warrant being transferred setting forth the name, address and taxpayer identification number of the transferee and surrendering this warrant to the Company for reissuance to the transferee(s) (and Holder, if applicable). No surrender or reissuance shall be required if the transfer is to an affiliate of Holder.

4.5 Notices. All notices and other communications from the Company to the Holder, or vice versa, shall be deemed delivered and effective when given personally or mailed by first-class registered or certified mail, postage prepaid, at such address as may have been furnished to the Company or the Holder, as the case may be, in writing by the Company or such Holder from time to time. All notices to the Holder shall be addressed as follows:

[Holder Name]
[Holder Address]

4.6 Amendments. This warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

4.7 Attorneys' Fees. In the event of any dispute between the parties concerning the terms and provisions of this warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

4.8 Governing Law. This warrant shall be governed by and construed in accordance with the laws of the State of North Carolina, without giving effect to its principles regarding conflicts of law.

INOGEN, INC.

By: _____

Name: _____

Title: _____

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned hereby elects to purchase shares of the stock of **INOGEN, INC.** pursuant to the terms of the attached warrant, and tenders herewith payment of the purchase price of such shares in full.

1. The undersigned hereby elects to convert the attached warrant into shares in the manner specified in the warrant. This conversion is exercised with respect to of the shares covered by the warrant.

[Strike paragraph that does not apply.]

2. Please issue a certificate or certificates representing said shares in the name of the undersigned or in such other name as is specified below:

[Holder Name]
[Holder Address]

3. The undersigned represents it is acquiring the shares solely for its own account and not as a nominee for any other party and not with a view toward the resale or distribution thereof except in compliance with applicable securities laws.

[HOLDER NAME] or Registered Assignee

_____
(Signature)

_____
(Date)

Exhibit 4.10

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH APPLICABLE LAW.

SECOND WARRANT TO PURCHASE STOCK

Corporation:	Inogen, Inc.
Number of Shares:	See Section 1.7 hereof
Class of Stock:	Series E Preferred
Initial Exercise Price:	$. per share
Issue Date:	, 2009
Expiration Date:	, 2016

THIS SECOND WARRANT CERTIFIES THAT, for good and valuable consideration, the receipt of which is hereby acknowledged, or its assignee ("***Holder***") is entitled to purchase the number of fully paid and nonassessable shares of the class of securities (the "***Shares***") of the corporation (the "***Company***") at the initial exercise price per Share (the "***Warrant Price***") all as set forth above and as adjusted pursuant to Article 2 of this warrant, subject to the provisions and upon the terms and conditions set forth in this warrant.

ARTICLE 1

EXERCISE

1.1 Method of Exercise. Holder may exercise this warrant by delivering this warrant and a duly executed Notice of Exercise in substantially the form attached as Appendix 1 to the principal office of the Company. Unless Holder is exercising the conversion right set forth in Section 1.2, Holder shall also deliver to the Company a check for the aggregate Warrant Price for the Shares being purchased.

1.2 Conversion Right. In lieu of exercising this warrant as specified in Section 1.1, Holder may from time to time convert this warrant, in whole or in part, into a number of Shares determined by dividing (a) the aggregate fair market value of the Shares or other securities otherwise issuable upon exercise of this warrant minus the aggregate Warrant Price of such Shares by (b) the fair market value of one Share. The fair market value of the Shares shall be determined pursuant to Section 1.3.

1.3 Fair Market Value. If the Shares are traded regularly in a public market, the fair market value of the Shares shall be the closing price of the Shares (or the closing price of the Company's stock into which the Shares are convertible) reported for the business day immediately before Holder delivers its Notice of Exercise to the Company. If the Shares are not regularly traded in a public market, the Board of Directors of the Company shall determine fair market value in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Promptly after Holder exercises or converts this warrant, the Company shall deliver to Holder certificates for the Shares acquired and, if this warrant has not been fully exercised or converted and has not expired, a new warrant representing the Shares not so acquired.

1.5 Replacement of Warrants. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, on surrender and cancellation of this warrant, the Company at its expense shall execute and deliver, in lieu of this warrant, a new warrant of like tenor.

1.6 Repurchase on Sale, Merger, or Consolidation of the Company.

1.6.1 "***Acquisition***." For the purpose of this warrant, "Acquisition" means (a) any sale, license, or other disposition of all or substantially all of the assets (including intellectual property) of the Company, or (b) any reorganization, consolidation, merger or sale of the voting securities of the Company or any other transaction where the holders of the Company's securities before the transaction beneficially own less than 50% of the outstanding voting securities of the surviving entity after the transaction.

1.6.2 Assumption of Warrant. If upon the closing of any Acquisition the successor entity assumes the obligations of this warrant, then this warrant shall be exercisable for the same securities, cash, and property as would be payable for the Shares issuable upon exercise of the unexercised portion of this warrant as if such Shares were outstanding on the record date for the Acquisition and subsequent closing. The Warrant Price shall be adjusted accordingly. The Company shall use reasonable efforts to cause the surviving corporation to assume the obligations of this warrant.

1.6.3 Nonassumption. If upon the closing of any Acquisition the successor entity does not assume the obligations of this warrant and Holder has not otherwise exercised this warrant in full, then Holder shall have the option either to (a) deem this warrant to have been automatically converted pursuant to Section 1.2 and thereafter Holder shall participate in the Acquisition on the same terms as other holders of the same class of securities of the Company; or (b) require the Company to purchase this warrant for cash upon the closing of the Acquisition for an amount per Share equal to the Warrant Price.

1.7 Number of Shares. On or after the date of this warrant, if the Company requests and receives one or more Formula Advances (as defined in that certain Loan and Security Agreement, dated as of June 30, 2008, between the Company and the Holder), the number of Shares subject to this Warrant shall be equal to (x) Two Percent (2%) of (a) the aggregate principal amount of all such Formula Advances made to Borrower (in no event to exceed $2,000,000), minus (b) the aggregate principal amount of Formula Advances outstanding on the date of this warrant, divided by (y) the Initial Exercise Price stated above in the caption of this Warrant. All shares subject to this warrant shall be of the same series and class and bearing the same rights, preferences, and privileges as the class of stock denoted in the above caption hereto. The number of shares calculated pursuant to this Section 1.7 shall be subject to any further adjustments hereto made pursuant to Article 2 hereof.

ARTICLE 2

ADJUSTMENTS TO THE SHARES

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend on its common stock payable in common stock, or other securities, or subdivides the outstanding common stock into a greater amount of common stock, then upon exercise of this warrant, for each Share acquired, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend or subdivision occurred.

2.2 Reclassification, Exchange or Substitution. Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this warrant, Holder shall be entitled to receive, upon exercise or conversion of this warrant, the number and kind of securities and property that Holder would have received for the Shares if this warrant had been exercised immediately before such reclassification, exchange, substitution, or other event. Such an event shall include any automatic conversion of the outstanding or issuable securities of the Company of the same class or series as the Shares to common stock pursuant to the terms of the Company's Certificate of Incorporation upon the closing of a registered public offering of the Company's common stock. The Company or its successor shall promptly issue to Holder a new warrant for such new securities or other property. The new warrant shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 2 including, without limitation, adjustments to the Warrant Price and to the number of securities or property issuable upon exercise of the new warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, substitutions, or other events.

2.3 Adjustments for Combinations, Etc. If the outstanding Shares are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased. If the outstanding Shares are combined or consolidated, by reclassification or otherwise, into a greater number of shares, the Warrant Price shall be proportionately decreased.

2.4 Adjustments for Diluting Issuances. In the event of the issuance (a "***Diluting Issuance***") by the Company after the Issue Date of securities at a price per share less than the Warrant Price, then the number of shares of common stock issuable upon conversion of the Shares shall be adjusted in accordance with those provisions of the Company's Certificate of Incorporation that apply to Diluting Issuances.

2.5 Certificate as to Adjustments. Upon each adjustment of the Warrant Price, the Company at its expense shall promptly compute such adjustment, and furnish Holder with a certificate of its Chief Financial Officer setting forth such adjustment and the facts upon which

such adjustment is based. The Company shall, upon written request, furnish Holder a certificate setting forth the Warrant Price in effect upon the date thereof and the series of adjustments leading to such Warrant Price.

2.6 Fractional Shares. No fractional Shares shall be issuable upon exercise or conversion of the Warrant and the Number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise or conversion of the Warrant, the Company shall eliminate such fractional share interest by paying Holder amount computed by multiplying the fractional interest by the fair market value of a full Share.

ARTICLE 3

REPRESENTATIONS AND COVENANTS OF THE COMPANY

3.1 Representations and Warranties. The Company hereby represents and warrants to the Holder as follows:

(a) The initial Warrant Price referenced on the first page of this warrant is not greater than the fair market value of the Shares as of the date of this warrant.

(b) All Shares which may be issued upon the exercise of the purchase right represented by this warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and nonassessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

(c) The Company's capitalization table attached to this warrant is true and complete as of the Issue Date.

3.2 Notice of Certain Events. The Company shall provide Holder with not less than 10 days prior written notice, including a description of the material facts surrounding, any of the following events: (a) declaration of any dividend or distribution upon its common stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend; (b) offering for subscription pro rata to the holders of any class or series of its stock any additional shares of stock of any class or series or other rights; (c) effecting any reclassification or recapitalization of common stock; or (d) the merger or consolidation with or into any other corporation, or sale, lease, license, or conveyance of all or substantially all of its assets, or liquidation, dissolution or winding up.

3.3 Information Rights. So long as the Holder holds this warrant and/or any of the Shares, the Company shall deliver to the Holder (a) promptly after mailing, copies of all communiques to the stockholders of the Company, (b) within one hundred eighty (180) days after the end of each fiscal year of the Company, the annual audited financial statements of the Company certified by independent public accountants of recognized standing, and (c) within forty-five (45) days after the end of each of the first three quarters of each fiscal year, the Company's quarterly, unaudited financial statements.

3.4 Registration Under Securities Act of 1933, as amended. The Company agrees that the Shares or, if the Shares are convertible into common stock of the Company, such common stock, shall be "Registrable Securities", and Holder shall be a "Holder" under the Seventh Amended and Restated Investors' Rights Agreement among the Company and other persons dated as of October 5, 2007.

ARTICLE 4

MISCELLANEOUS

4.1 Term: Exercise Upon Expiration. This warrant is exercisable in whole or in part, at any time and from time to time on or before the Expiration Date set forth above; provided, however, that if the Company completes its initial public offering within the three-year period immediately prior to the Expiration Date, the Expiration Date shall automatically be extended until the third anniversary of the effective date of the Company's initial public offering. If this warrant has not been exercised prior to the Expiration Date, this warrant shall be deemed to have been automatically exercised on the Expiration Date by "cashless" conversion pursuant to Section 1.2.

4.2 Legends. This warrant and the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH APPLICABLE LAW.

4.3 Compliance with Securities Laws on Transfer. This warrant and the Shares issuable upon exercise of this warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee. The Company shall not require Holder to provide an opinion of counsel if the transfer is to an affiliate of Holder or if there is no material question as to the availability of current information as referenced in Rule 144(c), Holder represents that it has complied with Rule 144 (d) and (e) in reasonable detail, the selling broker represents that it has complied with Rule 144(f), and the Company is provided with a copy of Holder's notice of proposed sale.

4.4 Transfer Procedure. Subject to the provisions of Section 4.3, Holder may transfer all or part of this warrant or the Shares issuable upon exercise of this warrant (or the securities issuable, directly or indirectly, upon conversion of the Shares, if any) by giving the Company notice of the portion of the warrant being transferred setting forth the name, address and taxpayer identification number of the transferee and surrendering this warrant to the Company for reissuance to the transferee(s) (and Holder, if applicable). No surrender or reissuance shall be required if the transfer is to an affiliate of Holder.

4.5 Notices. All notices and other communications from the Company to the Holder, or vice versa, shall be deemed delivered and effective when given personally or mailed by first-class registered or certified mail, postage prepaid, at such address as may have been furnished to the Company or the Holder, as the case may be, in writing by the Company or such Holder from time to time. All notices to the Holder shall be addressed as follows:

[Holder Name]
[Holder Address]

4.6 Amendments. This warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

4.7 Attorneys' Fees. In the event of any dispute between the parties concerning the terms and provisions of this warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

4.8 Governing Law. This warrant shall be governed by and construed in accordance with the laws of the State of North Carolina, without giving effect to its principles regarding conflicts of law.

INOGEN, INC.

By: _____

Name: _____

Title: _____

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned hereby elects to purchase shares of the stock of **INOGEN, INC.** pursuant to the terms of the attached warrant, and tenders herewith payment of the purchase price of such shares in full.

1. The undersigned hereby elects to convert the attached warrant into shares in the manner specified in the warrant. This conversion is exercised with respect to of the shares covered by the warrant.

[Strike paragraph that does not apply.]

2. Please issue a certificate or certificates representing said shares in the name of the undersigned or in such other name as is specified below:

[Holder Name]
[Holder Address]

3. The undersigned represents it is acquiring the shares solely for its own account and not as a nominee for any other party and not with a view toward the resale or distribution thereof except in compliance with applicable securities laws.

[HOLDER NAME] or Registered Assignee

_____
(Signature)

_____
(Date)

Exhibit 10.1

INOGEN, INC.

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this "Agreement") is dated as of [*insert date*] and is between Inogen, Inc., a Delaware corporation (the "Company"), and [*insert name of indemnitee*] ("Indemnitee").

RECITALS

A. Indemnitee's service to the Company substantially benefits the Company.

B. Individuals are reluctant to serve as directors or officers of corporations or in certain other capacities unless they are provided with adequate protection through insurance or indemnification against the risks of claims and actions against them arising out of such service.

C. Indemnitee does not regard the protection currently provided by applicable law, the Company's governing documents and any insurance as adequate under the present circumstances, and Indemnitee may not be willing to serve as a director or officer without additional protection.

D. In order to induce Indemnitee to continue to provide services to the Company, it is reasonable, prudent and necessary for the Company to contractually obligate itself to indemnify, and to advance expenses on behalf of, Indemnitee as permitted by applicable law.

E. This Agreement is a supplement to and in furtherance of the indemnification provided in the Company's certificate of incorporation and bylaws, and any resolutions adopted pursuant thereto, and this Agreement shall not be deemed a substitute therefor, nor shall this Agreement be deemed to limit, diminish or abrogate any rights of Indemnitee thereunder.

The parties therefore agree as follows:

1. **Definitions.**

(a) A "Change in Control" shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

(i) *Acquisition of Stock by Third Party.* Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company's then outstanding securities;

(ii) *Change in Board Composition.* During any period of two consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Company's board of directors, and any new directors (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 1(a)(i), 1(a)(iii) or 1(a)(iv)) whose election by the board of directors or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds 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 at least a majority of the members of the Company's board of directors;

(iii) *Corporate Transactions.* The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such surviving entity;

(iv) *Liquidation.* The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

(v) *Other Events.* Any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item on any similar schedule or form) promulgated under the Securities Exchange Act of 1934, as amended, whether or not the Company is then subject to such reporting requirement.

For purposes of this Section 1(a), the following terms shall have the following meanings:

(1) "Person" shall have the meaning as set forth in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended; *provided, however,* that "Person" shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(2) "Beneficial Owner" shall have the meaning given to such term in Rule 13d-3 under the Securities Exchange Act of 1934, as amended; *provided, however,* that "Beneficial Owner" shall exclude any Person otherwise becoming a Beneficial Owner by reason of (i) the stockholders of the Company approving a merger of the Company with another entity or (ii) the Company's board of directors approving a sale of securities by the Company to such Person.

(b) "Corporate Status" describes the status of a person who is or was a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of the Company or any other Enterprise.

(c) "DGCL" means the General Corporation Law of the State of Delaware.

(d) "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 Indemnitee.

(e) "Enterprise" means the Company and any other corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary.

(f) "Expenses" include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees and costs of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily 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. Expenses also include (i) Expenses incurred in connection with any appeal resulting from any Proceeding,

including without limitation the premium, security for, and other costs relating to any cost bond, supersedeas bond or other appeal bond or their equivalent, and (ii) for purposes of Section 12(c), Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) "Independent Counsel" means a law firm, or a partner or member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent (i) the Company or Indemnitee in any matter material to either such party (other than as Independent Counsel with respect to matters concerning Indemnitee under this Agreement, or other indemnitees 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 person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement.

(h) "Proceeding" means any threatened, pending or completed action, suit, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative or investigative nature, including any appeal therefrom and including without limitation any such Proceeding pending as of the date of this Agreement, in which Indemnitee was, is or will be involved as a party, a potential party, a non-party witness or otherwise by reason of (i) the fact that Indemnitee is or was a director or officer of the Company, (ii) any action taken by Indemnitee or any action or inaction on Indemnitee's part while acting as a director or officer of the Company, or (iii) the fact that he or she is or was serving at the request of the Company as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of the Company or any other Enterprise, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification or advancement of expenses can be provided under this Agreement.

(i) Reference to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan (excluding any "parachute payments" within the meanings of Sections 280G and 4999 of the Internal Revenue Code of 1986, as amended); references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he or she reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Agreement.

2. **Indemnity in Third-Party Proceedings.** The Company shall indemnify Indemnitee in accordance with the provisions of this Section 2 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 2, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee or on his or her behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he or she 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 that his or her conduct was unlawful.

3. **Indemnity in Proceedings by or in the Right of the Company.** The Company shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company. No indemnification for Expenses shall be made under this Section 3 in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged by a court of competent jurisdiction to be liable to the Company, unless and only to the extent that the Delaware Court of Chancery or any court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification for such expenses as the Delaware Court of Chancery or such other court shall deem proper.

4. **Indemnification for Expenses of a Party Who is Wholly or Partly Successful.** To the extent that Indemnitee is a party to or a participant in and is successful (on the merits or otherwise) in defense of any Proceeding or any claim, issue or matter therein, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith. To the extent permitted by applicable law, if Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, in defense of one or more but less than all claims, issues or matters in such Proceeding, then, subject to and in accordance with the requirements and process described in Section 10, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with (a) each successfully resolved claim, issue or matter and (b) any claim, issue or matter related to any such successfully resolved claim, issuer or matter. For purposes of this section, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

5. **Indemnification for Expenses of a Witness.** To the extent that Indemnitee is, by reason of his or her Corporate Status, a witness in any Proceeding to which Indemnitee is not a party, Indemnitee shall be indemnified to the extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith.

6. **Additional Indemnification.**

(a) Notwithstanding any limitation in Sections 2, 3 or 4, the Company shall indemnify Indemnitee to the fullest extent permitted by applicable law if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee or on his or her behalf in connection with the Proceeding or any claim, issue or matter therein.

(b) For purposes of Section 6(a), the meaning of the phrase "to the fullest extent permitted by applicable law" shall include, but not be limited to:

(i) the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL; and

(ii) the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

7. **Exclusions.** Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any Proceeding (or any part of any Proceeding):

(a) [except as provided in Section 15,] for which payment has actually been made to or on behalf of Indemnitee under any statute, insurance policy, indemnity provision, vote or otherwise, except with respect to any excess beyond the amount paid;

(b) for an accounting or disgorgement of profits pursuant to Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of federal, state or local statutory law or common law, if Indemnitee is held liable therefor (including pursuant to any settlement arrangements);

(c) for any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Securities Exchange Act of 1934, as amended (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act), if Indemnitee is held liable therefor (including pursuant to any settlement arrangements);

(d) for any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation to the extent such reimbursement is required under Section 954 of the Dodd–Frank Wall Street Reform and Consumer Protection Act or any rules adopted or promulgated thereunder or in connection therewith, but in any case only if Indemnitee is held liable therefor (including pursuant to any settlement arrangements);

(e) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees, agents or other indemnitees, unless (i) the Company's board of directors authorized the Proceeding (or the relevant part of the Proceeding) prior to its initiation, (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law, (iii) otherwise authorized in Section 12(d) or (iv) otherwise required by applicable law; or

(f) if prohibited by applicable law.

8. **Advances of Expenses; Audit of Expenses.**

(a) The Company shall advance the Expenses incurred by Indemnitee in connection with any Proceeding, and such advancement shall be made as soon as reasonably practicable, but in any event no later than 60 days, after the receipt by the Company of a written statement or statements requesting such advances from time to time (which shall include invoices received by Indemnitee in connection with such Expenses but, in the case of invoices in connection with legal services, any references to legal work performed or to expenditure made that would cause Indemnitee to waive any privilege accorded by applicable law shall not be included with the invoice). Advances shall be unsecured and interest free and made without regard to Indemnitee's ability to repay such advances. Indemnitee hereby undertakes to repay any advance to the extent that it is ultimately determined that Indemnitee is

not entitled to be indemnified by the Company. This Section 8 shall not apply to the extent advancement is prohibited by law and shall not apply to any Proceeding for which indemnity is not permitted under this Agreement, but shall apply to any Proceeding referenced in Section 7(b) or 7(c) prior to a determination that Indemnitee is not entitled to be indemnified by the Company.

(b) The Company shall have the right, from time to time and upon written request, to audit, review and inspect any and all Expenses for which advancement, reimbursement and/or indemnification is sought ("Expense Audit"). Indemnitee will cooperate with the Company in the performance of any Expense Audit. In addition to other requests it may make in connection with any Expense Audit, the Company may require that the Indemnitee provide to the Company receipts or other documentation sufficient, in the reasonable determination of this Company, to document and confirm that such Expenses are actual, complete, correct and subject to the terms of this Agreement. If the Indemnitee fails to provide such documentation in a timely manner, the Company may reject Indemnitee's request for indemnification, reimbursement and/or advancement of such Expenses.

9. **Procedures for Notification and Defense of Claim.**

(a) Indemnitee shall notify the Company in writing of any matter with respect to which Indemnitee intends to seek indemnification or advancement of Expenses as soon as reasonably practicable following the receipt by Indemnitee of notice thereof. The written notification to the Company shall include, in reasonable detail, a description of the nature of the Proceeding and the facts underlying the Proceeding. The failure by Indemnitee to notify the Company will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay in so notifying the Company shall not constitute a waiver by Indemnitee of any rights, except to the extent that such failure or delay materially prejudices the Company.

(b) If, at the time of the receipt of a notice of a Proceeding pursuant to the terms hereof, the Company has directors' and officers' liability insurance in effect, the Company shall give prompt notice of the commencement of the Proceeding to the insurers in accordance with the procedures set forth in the applicable policies. The Company shall thereafter take all commercially-reasonable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event the Company may be obligated to make any indemnity in connection with a Proceeding, the Company shall be entitled to assume the defense of such Proceeding with counsel approved by Indemnitee, which approval shall not be unreasonably withheld. After the retention of such counsel by the Company, the Company will not be liable to Indemnitee for any fees or expenses of counsel subsequently incurred by Indemnitee with respect to the same Proceeding. Notwithstanding the Company's assumption of the defense of any such Proceeding, the Company shall be obligated to pay the fees and expenses of Indemnitee's separate counsel to the extent (i) the employment of separate counsel by Indemnitee is authorized by the Company, (ii) Independent Counsel shall have reasonably concluded that there is a conflict of interest between the Company and Indemnitee in the conduct of any such defense such that Indemnitee needs to be separately represented, or (iii) the Company shall not have retained, or shall not continue to retain, such counsel to defend such Proceeding. The Company shall have the right to conduct such defense as it sees fit in its sole discretion. Regardless of any provision in this Agreement, Indemnitee shall have the right to employ counsel in any Proceeding at Indemnitee's personal expense. The Company shall not be entitled, without the consent of Indemnitee, to assume the defense of any claim brought by or in the right of the Company. In the event the Company is obligated to pay the fees and expenses of Indemnitee separate counsel pursuant to subsection (i) above, the Company's obligations to advance or indemnify Expenses for such separate counsel will be capped at $3 million unless and until the Board authorizes additional funding for such separate counsel.

(d) Indemnitee shall give the Company such information and cooperation in connection with the Proceeding as may be reasonably appropriate.

(e) The Company shall not be liable to indemnify Indemnitee for any settlement of any Proceeding (or any part thereof) without the Company's prior written consent, which shall not be unreasonably withheld.

(f) The Company shall have the right to settle any Proceeding (or any part thereof) without the consent of Indemnitee.

10. **Procedures upon Application for Indemnification.**

(a) To obtain indemnification, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and as is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of the Proceeding. The Company shall, as soon as reasonably practicable after receipt of such a request for indemnification, advise the board of directors that Indemnitee has requested indemnification. Any delay in providing the request will not relieve the Company from its obligations under this Agreement, except to the extent such failure is prejudicial.

(b) Upon written request by Indemnitee for indemnification pursuant to Section 10(a), a determination with respect to Indemnitee's entitlement thereto shall be made in the specific case (i) if a Change in Control shall have occurred, by Independent Counsel in a written opinion to the Company's board of directors, a copy of which shall be delivered to Indemnitee or (ii) if a Change in Control shall not have occurred, (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Company's board of directors, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Company's 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 Company's board of directors, a copy of which shall be delivered to Indemnitee or (D) if so directed by the Company's board of directors, by the stockholders of the Company. If it is determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten days after such determination. Indemnitee shall cooperate with the person, persons or entity making the determination with respect to 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 Indemnitee and reasonably necessary to such determination. Any costs or expenses (including attorneys' fees and disbursements) reasonably incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company, to the extent permitted by applicable law.

(c) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 10(b), the Independent Counsel shall be selected as provided in this Section 10(c). If a Change in Control shall not have occurred, the Independent Counsel shall be selected by the Company's board of directors, and the Company shall give written notice to Indemnitee advising him or her of the identity of the Independent Counsel so selected. If a Change in Control shall have occurred, the Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Company's board of directors, in which event the preceding sentence shall apply), and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either event, Indemnitee or the Company, as the case may be, may, within ten days after such written notice of selection shall have been given, deliver to the Company or to 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 Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 1 of this Agreement, and the objection shall set forth with particularity the factual 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 Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within 20 days after the later of (i) submission by Indemnitee of a written request for indemnification pursuant to Section 10(a) hereof and (ii) the final disposition of the Proceeding, the parties have not agreed upon an Independent Counsel, either the Company or Indemnitee may petition a court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 10(b) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 12(a) of this Agreement, the Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

(d) The Company agrees to pay the reasonable fees and expenses of any Independent Counsel and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

11. **Presumptions and Effect of Certain Proceedings.**

(a) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that his or her conduct was unlawful.

(b) For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith to the extent Indemnitee relied in good faith on (i) the records or books of account of the Enterprise, including financial statements (except that this shall not apply to the extent that the Indemnitee participated in the creating of such financial statements or otherwise certified their completeness and/or veracity), (ii) information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, (iii) the advice of legal counsel for the Enterprise or its board of directors or counsel selected by any committee of the board of directors or (iv) information or records given or reports made to the Enterprise by an independent certified public accountant, an appraiser, investment banker or other expert selected with reasonable care by the Enterprise or its board of directors or any committee of the board of directors. The provisions of this Section 11(b) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(c) Neither the knowledge, actions nor failure to act of any other director, officer, agent or employee of the Enterprise shall be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

12. **Remedies of Indemnitee.**

(a) Subject to Section 12(d), in the event that (i) a determination is made pursuant to Section 10 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 8 or 12(d) of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10 of this Agreement within 90 days after the later of the receipt by the Company of the request for indemnification or the final disposition of the Proceeding, (iv) payment of indemnification pursuant to this Agreement is not made (A) within ten days after a determination has been made that Indemnitee is entitled to indemnification or (B) with respect to indemnification pursuant to Sections 4, 5 and 12(d) of this Agreement, within 30 days after receipt by the Company of a written request therefor, or (v) the Company or any other person or entity takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or proceeding designed to deny, or to recover from, Indemnitee the benefits provided or intended to be provided to Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of competent jurisdiction of his or her entitlement to such indemnification or advancement of Expenses. Alternatively, Indemnitee, at his or her option, may seek an award in arbitration with respect to his or her entitlement to such indemnification or advancement of Expenses, to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 12(a); *provided, however,* that the foregoing clause shall not apply in respect of a proceeding brought by Indemnitee to enforce his or her rights under Section 4 of this Agreement. The Company shall not oppose Indemnitee's right to seek any such adjudication or an award in arbitration in accordance with this Agreement.

(b) Neither (i) the failure of the Company, its board of directors, any committee or subgroup of the board of directors, Independent Counsel or stockholders to have made a determination that indemnification of Indemnitee is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor (ii) an actual determination by the Company, its board of directors, any committee or subgroup of the board of directors, Independent Counsel or stockholders that Indemnitee has not met the applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has or has not met the applicable standard of conduct. In the event that a determination shall have been made pursuant to Section 10 of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 12 shall be conducted in all respects as a *de novo* trial, or arbitration, on the merits, and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 12, the Company shall, to the fullest extent not prohibited by law, have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) To the extent not prohibited by law, the Company shall indemnify Indemnitee against all Expenses that are incurred by Indemnitee in connection with any action for indemnification or advancement of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company to the extent Indemnitee is successful in such action, and, if requested by Indemnitee, shall (as soon as reasonably practicable, but in any event no later than 60 days, after receipt by the Company of a written request therefor) advance such Expenses to Indemnitee, subject to the provisions of Section 8.

(d) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement to indemnification shall be required to be made prior to the final disposition of the Proceeding.

13. **Contribution.** To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amounts incurred by Indemnitee, whether for Expenses, judgments, fines or amounts paid or to be paid in settlement, 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 and Indemnitee as a result of the events and transactions giving rise to such Proceeding; and (ii) the relative fault of Indemnitee and the Company (and its other directors, officers, employees and agents) in connection with such events and transactions.

14. **Non-exclusivity.** 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 Indemnitee may at any time be entitled under applicable law, the Company's certificate of incorporation or bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Company's certificate of incorporation and bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change, subject to the restrictions expressly set forth herein or therein. Except as expressly set forth herein, 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. Except as expressly set forth herein, 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.

15. [**Primary Responsibility.** The Company acknowledges that Indemnitee has certain rights to indemnification and advancement of expenses provided by [*insert name of fund*] (the "Secondary Indemnitor"). The Company agrees that, as between the Company and the Secondary Indemnitor, the Company is primarily responsible for amounts required to be indemnified or advanced under the Company's certificate of incorporation or bylaws or this Agreement and any obligation of the Secondary Indemnitor to provide indemnification or advancement for the same amounts is secondary to those Company obligations. To the extent not in contravention of any insurance policy or policies providing liability or other insurance for the Company or any director, trustee, general partner, managing member, officer, employee, agent or fiduciary of the Company or any other Enterprise, the Company waives any right of contribution or subrogation against the Secondary Indemnitor with respect to the liabilities for which the Company is primarily responsible under this Section 15. In the event of any payment by the Secondary Indemnitor of amounts otherwise required to be indemnified or advanced by the Company under the Company's certificate of incorporation or bylaws or this Agreement, the Secondary Indemnitor shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee for indemnification or advancement of expenses under the Company's certificate of incorporation or bylaws or this Agreement or, to the extent such subrogation is unavailable and contribution is found to be the applicable remedy, shall have a right of contribution with respect to the amounts paid. The Secondary Indemnitor is an express third-party beneficiary of the terms of this Section 15.]

16. **No Duplication of Payments.** [Except as provided in Section 15, t][T]he Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder (or for which advancement is provided hereunder) if and to the extent that Indemnitee has otherwise actually received payment for such amounts under any insurance policy, contract, agreement or otherwise.

17. **Insurance.** To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, trustees, general partners, managing members, officers, employees, agents or fiduciaries of the Company or any other Enterprise, Indemnitee shall be covered by such policy or policies to the same extent as the most favorably-insured persons under such policy or policies in a comparable position.

18. **Subrogation.** [Except as provided in Section 15, i] [I]n the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of 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.

19. **Services to the Company.** Indemnitee agrees to serve as a director or officer of the Company or, at the request of the Company, as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of another Enterprise, for so long as Indemnitee is duly elected or appointed or until Indemnitee tenders his or her resignation or is removed from such position. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to continue Indemnitee in such position. This Agreement shall not be deemed an employment contract between the Company (or any of its subsidiaries or any Enterprise) and Indemnitee. Indemnitee specifically acknowledges that any employment with the Company (or any of its subsidiaries or any Enterprise) is at will, and Indemnitee may be discharged at any time for any reason, with or without cause, with or without notice, except as may be otherwise expressly provided in any executed, written employment contract between Indemnitee and the Company (or any of its subsidiaries or any Enterprise), any existing formal severance policies adopted by the Company's board of directors or, with respect to service as a director or officer of the Company, the Company's certificate of incorporation or bylaws or the DGCL. No such document shall be subject to any oral modification thereof.

20. **Duration.** This Agreement shall continue until and terminate upon the later of (a) ten years after the date that Indemnitee shall have ceased to serve as a director or officer of the Company or as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of any other Enterprise, as applicable; or (b) one year after the final termination of any Proceeding, including any appeal, then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 12 of this Agreement relating thereto.

21. **Successors.** This Agreement shall be binding upon the Company and its successors and assigns, including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company, and shall inure to the benefit of Indemnitee and Indemnitee's heirs, executors and administrators. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Company, by written agreement, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

22. **Severability.** Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. The Company's inability, pursuant to court order or other applicable law, to perform its obligations under this Agreement shall not constitute a breach of this Agreement. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) 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; (ii) 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 (iii) 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.

23. **Enforcement.** The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director or officer of the Company.

24. **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; *provided*, *however*, that this Agreement is a supplement to and in furtherance of the Company's certificate of incorporation and bylaws and applicable law.

25. **Modification and Waiver.** No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties hereto. No amendment, alteration or repeal of this Agreement shall adversely affect any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal. No waiver of any of the provisions of this Agreement shall constitute or be deemed a waiver of any other provision of this Agreement nor shall any waiver constitute a continuing waiver.

26. **Notices.** All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered or certified mail, postage prepaid, sent by facsimile or electronic mail or otherwise delivered by hand, messenger or courier service addressed:

(a) if to Indemnitee, to Indemnitee's address, facsimile number or electronic mail address as shown on the signature page of this Agreement or in the Company's records, as may be updated in accordance with the provisions hereof; or

(b) if to the Company, to the attention of the Chief Executive Officer or Chief Financial Officer of the Company at 326 Bollay Drive Goleta, California 93117, or at such other current address as the Company shall have furnished to Indemnitee, with a copy (which shall not constitute notice) to Martin J. Waters, Esq., Wilson Sonsini Goodrich & Rosati, P.C., 12235 El Camino Real, Suite 200, San Diego, California 92130.

Each such notice or other communication shall for all purposes of this Agreement be treated as effective or having been given (i) if delivered by hand, messenger or courier service, when delivered (or if sent *via* a nationally-recognized overnight courier service, freight prepaid, specifying next-business-day delivery, one business day after deposit with the courier), or (ii) if sent *via* mail, at the earlier of its receipt or five days after the same has been deposited in a regularly-maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid, or (iii) if sent *via* facsimile, upon confirmation of facsimile transfer or, if sent *via* electronic mail, upon confirmation of delivery when directed to the relevant electronic mail address, if sent during normal business hours of the recipient, or if not sent during normal business hours of the recipient, then on the recipient's next business day.

27. **Applicable Law and Consent to Jurisdiction.** This Agreement and the legal relations among the parties 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. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 12(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Delaware Court of Chancery, and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court of Chancery for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, the Corporation Service Company, Wilmington, Delaware as its agent in the State of Delaware as such party's agent for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court of Chancery, and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court of Chancery has been brought in an improper or inconvenient forum.

28. **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. This Agreement may also be executed and delivered by facsimile signature and in 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. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

29. **Captions.** 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.

(*signature page follows*)

The parties are signing this Indemnification Agreement as of the date stated in the introductory sentence.

INOGEN, INC.

(*Signature*)

(*Print name*)

(*Title*)

[*INSERT INDEMNITEE NAME*]

(*Signature*)

(*Print name*)

(*Street address*)

(City, State and ZIP)

Exhibit 10.2

INOGEN, INC.

2002 STOCK INCENTIVE PLAN
(As Amended Through July 25, 2005)

This 2002 STOCK INCENTIVE PLAN (the "Plan") is hereby established by Inogen, Inc., a Delaware corporation (the "Company"), and adopted by its Board of Directors as of the 17th day of May, 2002 and effective as of the filing of the Company's Amended and Restated Certificate of Incorporation on May 29, 2002 (the "Effective Date"), as amended by the consent of the Board of Directors and the Company's stockholders through July 25, 2005 to increase the aggregate number of shares reserved hereunder to 9,411,000 shares.

ARTICLE 1.

PURPOSES OF THE PLAN

1.1 Purposes. The purposes of the Plan are (a) to enhance the Company's ability to attract and retain the services of qualified employees, officers and directors (including non-employee officers and directors), and consultants and other service providers upon whose judgment, initiative and efforts the successful conduct and development of the Company's business largely depends, and (b) to provide additional incentives to such persons or entities to devote their utmost effort and skill to the advancement and betterment of the Company, by providing them an opportunity to participate in the ownership of the Company and thereby have an interest in the success and increased value of the Company.

ARTICLE 2.

DEFINITIONS

For purposes of this Plan, the following terms shall have the meanings indicated:

2.1 Administrator. "Administrator" means the Board or, if the Board delegates responsibility for any matter to the Committee, the term Administrator shall mean the Committee.

2.2 Affiliated Company. "Affiliated Company" means any "parent corporation" or "subsidiary corporation" of the Company, whether now existing or hereafter created or acquired, as those terms are defined in Sections 424(e) and 424(f) of the Code, respectively.

2.3 Board. "Board" means the Board of Directors of the Company.

2.4 Change in Control. "Change in Control" shall mean (i) the acquisition, directly or indirectly, in one transaction or a series of related transactions, by any person or group (within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) of the beneficial ownership of securities of the Company possessing more than fifty percent (50%) of the total combined voting power of all outstanding securities of the Company; (ii) a merger or consolidation in which the Company is not the surviving entity, except for a transaction in which the holders of the outstanding voting securities of the Company immediately prior to such merger or consolidation hold, in the aggregate, securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the surviving entity immediately after such merger or consolidation; (iii) a reverse merger in which the Company is the surviving entity but in

which securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the Company are transferred to or acquired by a person or persons different from the persons holding those securities immediately prior to such merger; (iv) the sale, transfer or other disposition (in one transaction or a series of related transactions) of all or substantially all of the assets of the Company; or (v) the approval by the stockholders of a plan or proposal for the liquidation or dissolution of the Company.

2.5 Code. "Code" means the Internal Revenue Code of 1986, as amended from time to time.

2.6 Committee. "Committee" means a committee of two or more members of the Board appointed to administer the Plan, as set forth in Section 7.1 hereof.

2.7 Common Stock. "Common Stock" means the Common Stock of the Company, subject to adjustment pursuant to Section 4.2 hereof.

2.8 Consultant. "Consultant" means any consultant or advisor if: (i) the consultant or advisor renders bona fide services to the Company or any Affiliated Company; (ii) the services rendered by the consultant or advisor are not in connection with the offer or sale of securities in a capital-raising transaction and do not directly or indirectly promote or maintain a market for the Company's securities; and (iii) the consultant or advisor is a natural person who has contracted directly with the Company or any Affiliated Company to render such services.

2.9 Covered Employee. "Covered Employee" means the chief executive officer of the Company (or the individual acting in such capacity) and the four (4) other individuals that are the highest compensated officers of the Company for the relevant taxable year for whom total compensation is required to be reported to stockholders under the Exchange Act. Provisions in this Plan making reference to a Covered Employee shall apply only at such time that the Company is Publicly Held.

2.10 Disability. "Disability" means permanent and total disability as defined in Section 22(e)(3) of the Code. The Administrator's determination of a Disability or the absence thereof shall be conclusive and binding on all interested parties.

2.11 Effective Date. "Effective Date" means the date on which the Plan is adopted by the Board, as set forth on the first page hereof.

2.12 Exchange Act. "Exchange Act" means the Securities and Exchange Act of 1934, as amended.

2.13 Exercise Price. "Exercise Price" means the purchase price per share of Common Stock payable upon exercise of an Option.

2.14 Fair Market Value. "Fair Market Value" on any given date means the value of one share of Common Stock, determined as follows:

(a) If the Common Stock is then listed or admitted to trading on a NASDAQ market system or a stock exchange which reports closing sale prices, the Fair Market Value shall be the closing sale price on the date of valuation on such NASDAQ market system or principal stock exchange on which the Common Stock is then listed or admitted to trading, or, if no closing sale

price is quoted on such day, then the Fair Market Value shall be the closing sale price of the Common Stock on such NASDAQ market system or such exchange on the next preceding day for which a closing sale price is reported.

(b) If the Common Stock is not then listed or admitted to trading on a NASDAQ market system or a stock exchange which reports closing sale prices, the Fair Market Value shall be the average of the closing bid and asked prices of the Common Stock in the over-the-counter market on the date of valuation.

(c) If neither (a) nor (b) is applicable as of the date of valuation, then the Fair Market Value shall be determined by the Administrator in good faith using any reasonable method of evaluation, which determination shall be conclusive and binding on all interested parties.

2.15 Incentive Option. "Incentive Option" means any Option designated and qualified as an "incentive stock option" as defined in Section 422 of the Code.

2.16 Incentive Option Agreement. "Incentive Option Agreement" means an Option Agreement with respect to an Incentive Option.

2.17 NASD Dealer. "NASD Dealer" means a broker-dealer that is a member of the National Association of Securities Dealers, Inc.

2.18 Nonqualified Option. "Nonqualified Option" means any Option that is not an Incentive Option. To the extent that any Option designated as an Incentive Option fails in whole or in part to qualify as an Incentive Option, including, without limitation, for failure to meet the limitations applicable to a 10% Stockholder or because it exceeds the annual limit provided for in Section 5.6 below, it shall to that extent constitute a Nonqualified Option.

2.19 Nonqualified Option Agreement. "Nonqualified Option Agreement" means an Option Agreement with respect to a Nonqualified Option.

2.20 Option. "Option" means any option to purchase Common Stock granted pursuant to the Plan.

2.21 Option Agreement. "Option Agreement" means the written agreement entered into between the Company and the Optionee with respect to an Option granted under the Plan.

2.22 Optionee. "Optionee" means a Participant who holds an Option.

2.23 Participant. "Participant" means an individual or entity who holds an Option or Restricted Stock under the Plan.

2.24 Publicly Held. "Publicly Held" means, with respect to the Company, any point in time in which any class of common equity securities of the Company are required to be registered under Section 12 of the Exchange Act.

2.25 Purchase Price. "Purchase Price" means the purchase price per share of Restricted Stock.

2.26 Restricted Stock. "Restricted Stock" means shares of Common Stock issued pursuant to Article 6 hereof, subject to any restrictions and conditions as are established pursuant to such Article 6.

2.27 Service Provider. "Service Provider" means a Consultant or other natural person the Administrator authorizes to become a Participant in the Plan and who provides services to (i) the Company, (ii) an Affiliated Company, or (iii) any other business venture designated by the Administrator in which the Company (or any entity that is a successor to the Company) or an Affiliated Company has a significant ownership interest.

2.28 Stock Purchase Agreement. "Stock Purchase Agreement" means the written agreement entered into between the Company and a Participant with respect to the purchase of Restricted Stock under the Plan.

2.29 10% Stockholder. "10% Stockholder" means a person who, as of a relevant date, owns or is deemed to own (by reason of the attribution rules applicable under Section 424(d) of the Code) stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or of an Affiliated Company.

ARTICLE 3.

ELIGIBILITY

3.1 Incentive Options. Only employees of the Company or of an Affiliated Company (including officers of the Company and members of the Board if they are employees of the Company or of an Affiliated Company) are eligible to receive Incentive Options under the Plan.

3.2 Nonqualified Options and Restricted Stock. Employees of the Company or of an Affiliated Company, officers of the Company and members of the Board (whether or not employed by the Company or an Affiliated Company), and Service Providers are eligible to receive Nonqualified Options or acquire Restricted Stock under the Plan.

3.3 Section 162(m) Limitation. Subject to the provisions of Section 4.2, no employee of the Company or of an Affiliated Company shall be eligible to be granted Options covering more than 500,000 shares of Common Stock during any calendar year. The foregoing shall not apply, however, until the first date upon which the Company is Publicly Held, and following the date that the Company is Publicly Held, this Section 3.3 shall not apply until such time as required by Section 162(m) of the Code and the rules and regulations thereunder.

ARTICLE 4.

PLAN SHARES

4.1 Shares Subject to the Plan. A total of 9,411,000 shares of Common Stock may be issued under the Plan, subject to adjustment as to the number and kind of shares pursuant to Section 4.2 hereof. For purposes of this limitation, in the event that (a) all or any portion of any Option or Restricted Stock granted or offered under the Plan can no longer under any circumstances be exercised, or (b) any shares of Common Stock are reacquired by the Company which were initially the subject of an Incentive Option Agreement, Nonqualified Option Agreement or Stock Purchase

Agreement, the shares of Common Stock allocable to the unexercised portion of such Option or such Stock Purchase Agreement, or the shares so reacquired, shall again be available for grant or issuance under the Plan.

4.2 Changes in Capital Structure. In the event that the outstanding shares of Common Stock are hereafter increased or decreased or changed into or exchanged for a different number or kind of shares or other securities of the Company by reason of a recapitalization, stock split, reverse stock split, combination of shares, reclassification, stock dividend, or other change in the capital structure of the Company, then appropriate adjustments shall be automatically made to the aggregate number and kind of shares subject to this Plan, the number and kind of shares and the price per share subject to outstanding Option Agreements and Stock Purchase Agreements and the limit on the number of shares under Section 3.3, all in order to preserve, as nearly as practical, but not to increase, the benefits to Participants.

ARTICLE 5.

OPTIONS

5.1 Option Agreement. Each Option granted pursuant to this Plan shall be evidenced by an Option Agreement that shall specify the number of shares subject thereto, the Exercise Price per share, and whether the Option is an Incentive Option or Nonqualified Option. As soon as is practical following the grant of an Option, an Option Agreement shall be duly executed and delivered by or on behalf of the Company to the Optionee to whom such Option was granted. Each Option Agreement shall be in such form and contain such additional terms and conditions, not inconsistent with the provisions of this Plan, as the Administrator shall, from time to time, deem desirable, including, without limitation, the imposition of any rights of first refusal and resale obligations upon any shares of Common Stock acquired pursuant to an Option Agreement. Each Option Agreement may be different from each other Option Agreement.

5.2 Exercise Price. The Exercise Price per share of Common Stock covered by each Option shall be determined by the Administrator, subject to the following: (a) the Exercise Price of an Incentive Option shall not be less than 100% of Fair Market Value on the date the Incentive Option is granted, (b) the Exercise Price of a Nonqualified Option shall not be less than 85% of Fair Market Value on the date the Nonqualified Option is granted, except for Nonqualified Options granted to Covered Employees where in such case the Exercise Price shall not be less than 100% of Fair Market Value on such date, and (c) if the person to whom an Option is granted is a 10% Stockholder on the date of grant, the Exercise Price shall not be less than 110% of Fair Market Value on the date the Option is granted. However, an Option may be granted with an exercise price lower than that set forth in the preceding sentence if such Option is granted pursuant to an assumption or substitution for another option in a manner satisfying the provisions of Section 424 of the Code.

5.3 Payment of Exercise Price. Payment of the Exercise Price shall be made upon exercise of an Option and may be made, in the discretion of the Administrator, subject to any legal restrictions, by: (a) cash; (b) check; (c) the surrender of shares of Common Stock acquired pursuant to the exercise of an Option (provided that shares acquired pursuant to the exercise of options granted by the Company must have been held by the Optionee for the requisite period necessary to avoid a charge to the Company's earnings for financial reporting purposes), which surrendered shares shall be valued at Fair Market Value as of the date of such exercise; (d) the Optionee's promissory note in a form and on terms acceptable to the Administrator, provided that an amount equal to at least the

aggregate par value of the shares purchased upon exercise of an Option shall be paid in such other form of consideration permitted under the Delaware General Corporation Law; (e) the cancellation of indebtedness of the Company to the Optionee; (f) the waiver of compensation due or accrued to the Optionee for services rendered; (g) provided that a public market for the Common Stock exists, a "same day sale" commitment from the Optionee and an NASD Dealer whereby the Optionee irrevocably elects to exercise the Option and to sell a portion of the shares so purchased to pay for the Exercise Price and whereby the NASD Dealer irrevocably commits upon receipt of such shares to forward the Exercise Price directly to the Company; (h) provided that a public market for the Common Stock exists, a "margin" commitment from the Optionee and an NASD Dealer whereby the Optionee irrevocably elects to exercise the Option and to pledge the shares so purchased to the NASD Dealer in a margin account as security for a loan from the NASD Dealer in the amount of the Exercise Price, and whereby the NASD Dealer irrevocably commits upon receipt of such shares to forward the Exercise Price directly to the Company; or (i) any combination of the foregoing methods of payment or any other consideration or method of payment as shall be permitted by applicable corporate law.

5.4 Term and Termination of Options. The term and provisions for termination of each Option shall be as fixed by the Administrator, but no Option may be exercisable more than ten (10) years after the date it is granted. An Incentive Option granted to a person who is a 10% Stockholder on the date of grant shall not be exercisable more than five (5) years after the date it is granted.

5.5 Vesting and Exercise of Options. Each Option shall vest and become exercisable in one or more installments at such time or times and subject to such conditions, including without limitation the achievement of specified performance goals or objectives, as shall be determined by the Administrator. An Option granted to an employee who is not an officer, a director or Consultant of the Company must vest at a rate of at least 20% per year over a period of five years from the date of grant, subject to reasonable conditions such as continued employment. Notwithstanding the foregoing, to the extent required by applicable law, each Option shall provide that the Optionee shall have the right to exercise the vested portion of any Option held at termination for at least 30 days following termination for any reason, and that the Optionee shall have the right to exercise the Option for at least six months if such termination was due to the death or Disability of the Optionee.

5.6 Annual Limit on Incentive Options. To the extent required for "incentive stock option" treatment under Section 422 of the Code, the aggregate Fair Market Value (determined as of the time of grant) of the Common Stock shall not, with respect to which Incentive Options granted under this Plan and any other plan of the Company or any Affiliated Company become exercisable for the first time by an Optionee during any calendar year, exceed $100,000.

5.7 Nontransferability of Options. No Option shall be assignable or transferable except by will or the laws of descent and distribution, and during the life of the Optionee shall be exercisable only by such Optionee.

5.8 Rights as Stockholder. An Optionee or permitted transferee of an Option shall have no rights or privileges as a stockholder with respect to any shares covered by an Option until such Option has been duly exercised and certificates representing shares purchased upon such exercise have been issued to such person.

5.9 Unvested Shares. The Administrator shall have the discretion to grant Options which are exercisable for unvested shares of Common Stock. Should the Optionee cease being an employee, a Service Provider, an officer, director or Consultant of the Company while owning such unvested shares, the Company shall have the right to repurchase, at the exercise price paid per share, any or all of those unvested shares. The terms upon which such repurchase right shall be exercisable (including the period and procedure for exercise and the appropriate vesting schedule for the purchased shares) shall be established by the Administrator and set forth in the document evidencing such repurchase right. The Administrator may not impose a vesting schedule upon any Option grant or the shares of Common Stock subject to that Option which is more restrictive than twenty percent (20%) per year vesting, with the initial vesting to occur not later than one (1) year after the Option grant date. However, such limitation shall not be applicable to any Option grants made to individuals who are officers, directors or Consultants of the Company.

ARTICLE 6.

RESTRICTED STOCK

6.1 Issuance and Sale of Restricted Stock. The Administrator shall have the right to issue shares of Common Stock subject to such terms, restrictions and conditions as the Administrator may determine at the time of grant ("Restricted Stock"). Such conditions may include, but are not limited to, continued employment or the achievement of specified performance goals or objectives. The Purchase Price of Restricted Stock shall be determined by the Administrator, provided that (a) the Purchase Price shall not be less than 85% of Fair Market Value of the stock on the date the Restricted Stock is granted or at the time the purchase is consummated, or (b) if the person to whom a right to purchase Restricted Stock is granted is a 10% Stockholder on the date of grant, the Purchase Price shall not be less than 100% of Fair Market Value of the stock on the date the Restricted Stock is granted or at the time the purchase is consummated.

6.2 Restricted Stock Purchase Agreements. A Participant shall have no rights with respect to the shares of Restricted Stock covered by a Stock Purchase Agreement until the Participant has paid the full Purchase Price to the Company in the manner set forth in Section 6.3 hereof and has executed and delivered to the Company the Stock Purchase Agreement. Each Stock Purchase Agreement shall be in such form, and shall set forth the Purchase Price and such other terms, conditions and restrictions of the Restricted Stock, not inconsistent with the provisions of this Plan, as the Administrator shall, from time to time, deem desirable. Each Stock Purchase Agreement may be different from each other Stock Purchase Agreement.

6.3 Payment of Purchase Price. Subject to any legal restrictions, payment of the Purchase Price may be made, in the discretion of the Administrator, by: (a) cash; (b) check; (c) the surrender of shares of Common Stock owned by the Participant that have been held by the Participant for the requisite period necessary to avoid a charge to the Company's earnings for financial reporting purposes, which surrendered shares shall be valued at Fair Market Value as of the date of such acceptance; (d) the Participant's promissory note in a form and on terms acceptable to the Administrator, provided that an amount equal to at least the aggregate par value of the shares purchased pursuant to a Stock Purchase Agreement shall be paid in such other form of consideration permitted under the Delaware General Corporation Law; (e) the cancellation of indebtedness of the Company to the Participant; (f) the waiver of compensation due or accrued to the Participant for services rendered; or (g) any combination of the foregoing methods of payment or any other consideration or method of payment as shall be permitted by applicable corporate law.

6.4 Rights as a Stockholder. Upon complying with the provisions of Section 6.2 hereof, a Participant shall have the rights of a stockholder with respect to the Restricted Stock purchased pursuant to a Stock Purchase Agreement, including voting and dividend rights, subject to the terms, restrictions and conditions as are set forth in such Stock Purchase Agreement. Unless the Administrator shall determine otherwise, certificates evidencing shares of Restricted Stock shall remain in the possession of the Company until such shares have vested in accordance with the terms of the Stock Purchase Agreement.

6.5 Restrictions. Shares of Restricted Stock may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of except as specifically provided in the Stock Purchase Agreement. In the event of termination of a Participant's employment, service as a director of the Company or Service Provider status for any reason whatsoever (including death or disability), the Stock Purchase Agreement may provide, in the discretion of the Administrator, that the Company shall have the right, exercisable at the discretion of the Administrator, to repurchase (i) at the original Purchase Price, any shares of Restricted Stock which have not vested as of the date of termination (provided that the right to repurchase at the original Purchase Price shall lapse at the rate of at least 20% per year over five (5) years from the date of the Stock Purchase Agreement for Participants other than directors, officers and Consultants of the Company), and (ii) at Fair Market Value, any shares of Restricted Stock which have vested as of such date, on such terms as may be provided in the Stock Purchase Agreement.

In any event, the right to repurchase must be exercised within sixty (60) days of the termination of Participant's Continuous Service and may be paid by the Company or its assignee, by cash, check, or cancellation of indebtedness within thirty (30) days of the expiration of the right to exercise.

6.6 Vesting of Restricted Stock. The Stock Purchase Agreement shall specify the date or dates, the performance goals or objectives which must be achieved, and any other conditions on which the Restricted Stock may vest. A Stock Purchase Agreement awarded to an employee who is not an officer, director, or Consultant of the Company must vest at a rate of at least 20% per year over a period of five years from the date of grant, subject to reasonable conditions such as continued employment.

6.7 Dividends. If payment for shares of Restricted Stock is made by promissory note, any cash dividends paid with respect to the Restricted Stock may be applied, in the discretion of the Administrator, to repayment of such note.

ARTICLE 7.

ADMINISTRATION OF THE PLAN

7.1 Administrator. Authority to control and manage the operation and administration of the Plan shall be vested in the Board, which may delegate such responsibilities in whole or in part to a committee consisting of two (2) or more members of the Board (the "Committee"). Members of the Committee may be appointed from time to time by, and shall serve at the pleasure of, the Board. The Board may limit the composition of the Committee to those persons necessary to comply with the requirements of Section 162(m) of the Code and Section 16 of the Exchange Act. As used herein, the term "Administrator" means the Board or, with respect to any matter as to which responsibility has been delegated to the Committee, the term Administrator shall mean the Committee.

7.2 Powers of the Administrator. In addition to any other powers or authority conferred upon the Administrator elsewhere in the Plan or by law, the Administrator shall have full power and authority: (a) to determine the persons to whom, and the time or times at which, Incentive Options or Nonqualified Options or rights to purchase Restricted Stock shall be granted, the number of shares to be represented by each Option and the number of shares of Restricted Stock to be offered, and the consideration to be received by the Company upon the exercise of such Options or sale of such Restricted Stock; (b) to interpret the Plan; (c) to create, amend or rescind rules and regulations relating to the Plan; (d) to determine the terms, conditions and restrictions contained in, and the form of, Option Agreements and Stock Purchase Agreements; (e) to determine the identity or capacity of any persons who may be entitled to exercise a Participant's rights under any Option or Stock Purchase Agreement under the Plan; (f) to correct any defect or supply any omission or reconcile any inconsistency in the Plan or in any Option Agreement or Stock Purchase Agreement; (g) to accelerate the vesting of any Option or release or waive any repurchase rights of the Company with respect to Restricted Stock; (h) to extend the exercise date of any Option or acceptance date of any Restricted Stock; (i) to provide for rights of first refusal and/or repurchase rights; (j) to amend outstanding Option Agreements and Stock Purchase Agreements to provide for, among other things, any change or modification which the Administrator could have included in the original Agreement or in furtherance of the powers provided for herein; and (k) to make all other determinations necessary or advisable for the administration of the Plan, but only to the extent not contrary to the express provisions of the Plan. Any action, decision, interpretation or determination made in good faith by the Administrator in the exercise of its authority conferred upon it under the Plan shall be final and binding on the Company and all Participants.

7.3 Limitation on Liability. No employee of the Company or member of the Board or Committee shall be subject to any liability with respect to duties under the Plan unless the person acts fraudulently or in bad faith. To the extent permitted by law, the Company shall indemnify each member of the Board or Committee, and any employee of the Company with duties under the Plan, who was or is a party, or is threatened to be made a party, to any threatened, pending or completed proceeding, whether civil, criminal, administrative or investigative, by reason of such person's conduct in the performance of duties under the Plan.

ARTICLE 8.

CHANGE IN CONTROL

8.1 Change in Control. In order to preserve a Participant's rights in the event of a Change in Control of the Company:

(a) Vesting of all outstanding Options shall accelerate automatically effective as of immediately prior to the consummation of the Change in Control unless the Options are to be assumed by the acquiring or successor entity (or parent thereof) or new options or New Incentives are to be issued in exchange therefor, as provided in subsection (b) below.

(b) Vesting of outstanding Options shall not accelerate if and to the extent that: (i) the Options (including the unvested portion thereof) are to be assumed by the acquiring or successor entity (or parent thereof) or new options of comparable value are to be issued in exchange

therefor pursuant to the terms of the Change in Control transaction, or (ii) the Options (including the unvested portion thereof) are to be replaced by the acquiring or successor entity (or parent thereof) with other incentives of comparable value under a new incentive program ("New Incentives") containing such terms and provisions as the Administrator in its discretion may consider equitable. If outstanding Options are assumed, or if new options of comparable value are issued in exchange therefor, then each such Option or new option shall be appropriately adjusted, concurrently with the Change in Control, to apply to the number and class of securities or other property that the Participant would have received pursuant to the Change in Control transaction in exchange for the shares issuable upon exercise of the Option had the Option been exercised immediately prior to the Change in Control, and appropriate adjustment also shall be made to the Exercise Price such that the aggregate Exercise Price of each such Option or new option shall remain the same as nearly as practicable.

(c) If any Option is assumed by an acquiring or successor entity (or parent thereof) or a new option of comparable value or New Incentive is issued in exchange therefor pursuant to the terms of a Change in Control transaction, then vesting of the Option, the new option or the New Incentive shall accelerate if and at such time as the Participant's service as an employee, director, officer, consultant or other service provider to the acquiring or successor entity (or a parent or subsidiary thereof) is terminated involuntarily or voluntarily under certain circumstances within a specified period following consummation of the Change in Control, pursuant to such terms and conditions as shall be set forth in the Option Agreement.

(d) If outstanding Options will accelerate pursuant to subsection (a) above, the Administrator in its discretion may provide, in connection with the Change in Control transaction, for the purchase or exchange of each Option for an amount of cash or other property having a value equal to the difference (or "spread") between: (x) the value of the cash or other property that the Participant would have received pursuant to the Change in Control transaction in exchange for the shares issuable upon exercise of the Option had the Option been exercised immediately prior to the Change in Control, and (y) the Exercise Price of the Option.

(e) In the event of a Change in Control of the Company, all Repurchase Rights shall automatically terminate immediately prior to the consummation of such Change in Control, and the shares of Common Stock subject to such terminated Repurchase Rights shall immediately vest in full, except to the extent that: (i) in connection with such Change in Control, the acquiring or successor entity (or parent thereof) provides for the continuance or assumption of Stock Purchase Agreements or the substitution of new agreements of comparable value covering shares of a successor corporation, with appropriate adjustments as to the number and kind of shares and purchase price, or (ii) such accelerated vesting is precluded by other limitations imposed by the Administrator in the Stock Purchase Agreement at the time the Restricted Stock is issued.

(f) If, upon a Change in Control, the acquiring or successor entity (or parent thereof) provides for the continuance or assumption of any Stock Purchase Agreement or the substitution of new agreements of comparable value covering shares of a successor corporation (with appropriate adjustments as to the number and kind of shares and purchase price), then any Repurchase Right provided for in such Stock Purchase Agreement shall terminate, and the shares of Common Stock subject to the terminated Repurchase Right or any substituted shares shall immediately vest in full, if the Participant's service as an employee, director, officer, consultant or other service provider to the acquiring or successor entity (or a parent or subsidiary thereof) is terminated involuntarily or voluntarily under certain circumstances within a specified period following consummation of a Change in Control pursuant to such terms and conditions as shall be set forth in the Stock Purchase Agreement.

(g) The Administrator shall have the discretion to provide in each option Agreement or Stock Purchase Agreement terms and conditions that relate to (i) vesting of such Option or Restricted Stock in the event of a Change in Control, and (ii) assumption of such Options or Stock Purchase Agreements or issuance of comparable securities or New Incentives in the event of a Change in Control. The aforementioned terms and conditions may vary in each Option and Stock Purchase Agreement, and may be different from the provisions set forth in Sections 8.1(a) - 8.1(f) above.

(h) Outstanding Options shall terminate and cease to be exercisable upon consummation of a Change in Control except to the extent that the Options are assumed by the successor entity (or parent thereof) or new options of comparable value or New Incentives are issued in exchange therefor pursuant to the terms of the Change in Control transaction.

(i) The Administrator shall cause written notice of a proposed Change in Control transaction to be given to Participants not less than fifteen (15) days prior to the anticipated effective date of the proposed transaction.

ARTICLE 9.

AMENDMENT AND TERMINATION OF THE PLAN

9.1 Amendments. The Board may from time to time alter, amend, suspend or terminate the Plan in such respects as the Board may deem advisable. No such alteration, amendment, suspension or termination shall be made which shall substantially affect or impair the rights of any Participant under an outstanding Option Agreement or Stock Purchase Agreement without such Participant's consent. The Board may alter or amend the Plan to comply with requirements under the Code relating to Incentive Options or other types of options which give Optionees more favorable tax treatment than that applicable to Options granted under this Plan as of the date of its adoption. Upon any such alteration or amendment, any outstanding Option granted hereunder may, if the Administrator so determines and if permitted by applicable law, be subject to the more favorable tax treatment afforded to an Optionee pursuant to such terms and conditions.

9.2 Plan Termination. Unless the Plan shall theretofore have been terminated, the Plan shall terminate on the tenth (10th) anniversary of the Effective Date and no Options or Restricted Stock may be granted under the Plan thereafter, but Option Agreements and Stock Purchase Agreements then outstanding shall continue in effect in accordance with their respective terms.

ARTICLE 10.

TAX WITHHOLDING

10.1 Withholding. The Company shall have the power to withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy any applicable Federal, state, and local tax withholding requirements with respect to any Options exercised or Restricted Stock issued under the Plan. To the extent permissible under applicable tax, securities and other laws, the Administrator may, in its sole discretion and upon such terms and conditions as it may deem

appropriate, permit a Participant to satisfy his or her obligation to pay any such tax, in whole or in part, up to an amount determined on the basis of the highest marginal tax rate applicable to such Participant, by (a) directing the Company to apply shares of Common Stock to which the Participant is entitled as a result of the exercise of an Option or as a result of the purchase of or lapse of restrictions on Restricted Stock or (b) delivering to the Company shares of Common Stock owned by the Participant. The shares of Common Stock so applied or delivered in satisfaction of the Participant's tax withholding obligation shall be valued at their Fair Market Value as of the date of measurement of the amount of income subject to withholding.

ARTICLE 11.

MISCELLANEOUS

11.1 Benefits Not Alienable. Other than as provided above, benefits under the Plan may not be assigned or alienated, whether voluntarily or involuntarily. Any unauthorized attempt at assignment, transfer, pledge or other disposition shall be without effect.

11.2 No Enlargement of Employee Rights. This Plan is strictly a voluntary undertaking on the part of the Company and shall not be deemed to constitute a contract between the Company and any Participant to be consideration for, or an inducement to, or a condition of, the employment of any Participant. Nothing contained in the Plan shall be deemed to give the right to any Participant to be retained as an employee of the Company or any Affiliated Company or to limit the right of the Company or any Affiliated Company to discharge any Participant at any time.

11.3 Application of Funds. The proceeds received by the Company from the sale of Common Stock pursuant to Option Agreements and Stock Purchase Agreements, except as otherwise provided herein, will be used for general corporate purposes.

11.4 Annual and Other Periodic Reports. To the extent required by Section 260.140.46 of Title 10 of the California Code of Regulations, the Company shall provide to each Participant, not less frequently than annually during the period such Participant has one or more Options or rights to purchase Restricted Stock outstanding, and in the case of an individual who acquires shares pursuant to the Plan, during the period such individual owns such shares, copies of annual financial statements. Notwithstanding the preceding sentence, the Company shall not be required to provide such statements to key employees whose duties in connection with the Company assure their access to equivalent information.

11.5 Stockholder Approval. The Company shall obtain stockholder approval of the Plan within twelve (12) months before or after the adoption of the Plan by the Board of Directors.

Amendment No. 1 to the 2002 Stock Incentive Plan

Section 4.1 of the 2002 STOCK INCENTIVE PLAN of INOGEN, INC., a Delaware corporation, is hereby amended and restated in full as follows:

> "4.1 **Shares Subject to the Plan.** A total of 3,300,000 shares of Common Stock may be issued under the Plan, subject to adjustment as to the number and kind of shares pursuant to Section 4.2 hereof. For purposes of this limitation, in the event that (a) all or any portion of any Option or Restricted Stock granted or offered under the Plan can no longer under any circumstances be exercised, or (b) any shares of Common Stock are reacquired by the Company which were initially the subject of an Incentive Option Agreement, Nonqualified Option Agreement or Stock Purchase Agreement, the shares of Common Stock allocable to the unexercised portion of such Option or such Stock Purchase Agreement, or the shares so reacquired, shall again be available for grant or issuance under the Plan."

Except as stated above, all terms and conditions for the 2002 STOCK INCENTIVE PLAN shall remain in full force and effect.

Amendment No. 2 to Amended 2002 Stock Incentive Plan

Section 4.1 of the AMENDED 2002 STOCK INCENTIVE PLAN of INOGEN, INC., a Delaware corporation, is hereby amended and restated in full as follows:

> "4.1 **Shares Subject to the Plan.** A total of 5,440,000 shares of Common Stock may be issued under the Plan, subject to adjustment as to the number and kind of shares pursuant to Section 4.2 hereof. For purposes of this limitation, in the event that (a) all or any portion of any Option or Restricted Stock granted or offered under the Plan can no longer under any circumstances be exercised, or (b) any shares of Common Stock are reacquired by the Company which were initially the subject of an Incentive Option Agreement, Nonqualified Option Agreement or Stock Purchase Agreement, the shares of Common Stock allocable to the unexercised portion of such Option or such Stock Purchase Agreement, or the shares so reacquired, shall again be available for grant or issuance under the Plan."

Except as stated above, all terms and conditions for the AMENDED 2002 STOCK INCENTIVE PLAN shall remain in full force and effect.

Amendment No. 3 to the Amended 2002 Stock Incentive Plan

Section 4.1 of the AMENDED 2002 STOCK INCENTIVE PLAN of INOGEN, INC., a Delaware corporation, is hereby amended and restated in full as follows:

> "4.1 **Shares Subject to the Plan.** A total of 6,940,000 shares of Common Stock may be issued under the Plan, subject to adjustment as to the number and kind of shares pursuant to Section 4.2 hereof. For purposes of this limitation, in the event that (a) all or any portion of any Option or Restricted Stock granted or offered under the Plan can no longer under any circumstances be exercised, or (b) any shares of Common Stock are reacquired by the Company which were initially the subject of an Incentive Option Agreement, Nonqualified Option Agreement or Stock Purchase Agreement, the shares of Common Stock allocable to the unexercised portion of such Option or such Stock Purchase Agreement, or the shares so reacquired, shall again be available for grant or issuance under the Plan."

Except as stated above, all terms and conditions for the AMENDED 2002 STOCK INCENTIVE PLAN shall remain in full force and effect.

Amendment No. 4 to the Amended 2002 Stock Incentive Plan

Section 4.1 of the AMENDED 2002 STOCK INCENTIVE PLAN of INOGEN, INC., a Delaware corporation, is hereby amended and restated in full as follows:

> "4.1 **Shares Subject to the Plan.** A total of 9,411,000 shares of Common Stock may be issued under the Plan, subject to adjustment as to the number and kind of shares pursuant to Section 4.2 hereof. For purposes of this limitation, in the event that (a) all or any portion of any Option or Restricted Stock granted or offered under the Plan can no longer under any circumstances be exercised, or (b) any shares of Common Stock are reacquired by the Company which were initially the subject of an Incentive Option Agreement, Nonqualified Option Agreement or Stock Purchase Agreement, the shares of Common Stock allocable to the unexercised portion of such Option or such Stock Purchase Agreement, or the shares so reacquired, shall again be available for grant or issuance under the Plan."

Except as stated above, all terms and conditions for the AMENDED 2002 STOCK INCENTIVE PLAN shall remain in full force and effect.

Amendment No. 5 to the Amended 2002 Stock Incentive Plan

Section 4.1 of the AMENDED 2002 STOCK INCENTIVE PLAN (the "Plan"); of INOGEN, INC., a Delaware corporation, is hereby amended and restated in full as follows:

> "**4.1 Shares Subject to the Plan.** A total of 33,478,672 shares of Common Stock may be issued under the Plan, subject to adjustment as to the number and kind of shares pursuant to Section 4.2 hereof. For purposes of this limitation, in the event that (a) all or any portion of any Option or Restricted Stock granted or offered under the Plan can no longer under any circumstances be exercised, or (b) any shares of Common Stock are reacquired by the Company which were initially the subject of an Incentive Option Agreement, Nonqualified Option Agreement or Stock Purchase Agreement under the Plan, the shares of Common Stock allocable to the unexercised portion of such Option or Stock Purchase Agreement, or the shares so reacquired, shall again be available for grant or issuance under the Plan."

Except as stated above, all terms and conditions for the AMENDED 2002 STOCK INCENTIVE PLAN shall remain in full force and effect.

Exhibit 10.3

Inogen, Inc.
326 Bollay Drive
Goleta, California 93117

NOTICE OF GRANT OF STOCK OPTION

Dear [_____], Date [_____]

I am pleased to inform you that the Board of Directors of Inogen, Inc. (the "Company") has granted you a stock option to purchase up to a total of [_____][_____] shares of the Company's Common Stock at a purchase price of $[_____] per share. This option was granted as of [_____], [_____], pursuant to the Company's 2002 Stock Incentive Plan (the "Plan"), and is evidenced by the Stock Option Agreement (the "Agreement") that accompanies this letter.

A. Summary of Your Stock Option.

Set forth below is a brief summary of your option, however, the full terms and conditions of your option are contained in the Agreement and the Plan. The following summary is qualified in its entirety by reference to those documents:

1. The right to exercise this Option shall vest in installments, as specified in the Agreement, and this Option will expire ten (10) years after the date of grant unless terminated earlier, as described below.

2. If your employment with the Company terminates, the option will expire the earlier of: (a) one (1) year after termination of employment if due to death or permanent disability, (b) three (3) months after termination if such termination occurs for any reason other than death, permanent disability, voluntary termination or cause, (c) one (1) month after a voluntary termination of employment, and (d) upon termination if such termination is for cause.

3. The option is nontransferable except to your heirs upon your death, and during your lifetime the option may be exercised only by you.

4. The shares of Common Stock purchased by you upon exercise of the option will be subject to (i) repurchase by the Company upon termination of your employment and (ii) a right of first refusal in favor of the Company in the event you plan to sell the shares.

B. List of Documents Enclosed with this Letter.

Copies of the following documents accompany this letter. Please take a few moments to read through them and then keep them in a safe place for future reference.

1. Stock Option Agreement (two copies). Please sign both copies on page 9 to indicate your acceptance of the option and return one signed copy to the Company.

2. Inogen, Inc. 2002 Stock Incentive Plan.

3. Summary of Federal Income Tax Consequences Relating to Participation in the Company's 2002 Stock Incentive Plan.

4. Notice of Exercise of Stock Option and Investment Representations. A copy of this form must be completed and delivered to the Company when you exercise your option.

If you have any questions about your option, please feel free to discuss them with **either myself or Alison Perry.**

On behalf of the Board of Directors, I want to congratulate you for being selected to receive this option.

Sincerely,

Kathy Odell
Chief Executive Officer

Inogen/Option Plan/Notice of Grant

Option No.

INOGEN, INC.

STOCK OPTION AGREEMENT

Type of Option (check one): ☐ Incentive ☒ Nonqualified

This Stock Option Agreement (the "Agreement") is entered into as of , **200** , by and between Inogen, Inc., a Delaware corporation (the "Company"), and (the "Optionee") pursuant to the Company's 2002 Stock Incentive Plan (the "Plan"). Any capitalized term not defined herein shall have the same meaning ascribed to it in the Plan.

1. Grant of Option. The Company hereby grants to Optionee an option (the "Option") to purchase all or any portion of a total of , ( ) shares (the "Shares") of the Common Stock of the Company at a purchase price of ($) per share (the "Exercise Price"), subject to the terms and conditions set forth herein and the provisions of the Plan. If the box marked "Incentive" above is checked, then this Option is intended to qualify as an "incentive stock option" as defined in Section 422 of the Internal Revenue Code of l986, as amended (the "Code"). If this Option fails in whole or in part to qualify as an incentive stock option, or if the box marked "Nonqualified" is checked, then this Option shall to that extent constitute a nonqualified stock option.

2. Vesting of Option. The right to exercise this Option shall vest in installments, and this Option shall be exercisable from time to time in whole or in part as to any vested installment ("Vested Shares"). Shares shall become Vested Shares in a series of twenty-four (24) successive equal monthly installments for each full month of Continuous Service provided by the Optionee, such that 100% of the Shares shall become Vested Shares on the second anniversary of the "Vesting Commencement Date." For these purposes, the Vesting Commencement Date shall be .

No additional Shares shall vest after the date of termination of Optionee's "Continuous Service" (as defined below), but this Option shall continue to be exercisable in accordance with Section 3 hereof with respect to that number of shares that have vested as of the date of termination of Optionee's Continuous Service.

For purposes of this Agreement, the term "Continuous Service" means (i) employment by either the Company or any parent or subsidiary corporation of the Company, or by a corporation or a parent or subsidiary of a corporation issuing or assuming a stock option in a transaction to which Section 424(a) of the Code applies, which is uninterrupted except for vacations, illness (except for permanent disability, as defined in Section 22(e)(3) of the Code), or leaves of absence which are approved in writing by the Company or any of such other employer corporations, if applicable, (ii) service as a member of the Board of Directors of the Company until Optionee resigns, is removed from office, or Optionee's term of office expires and he or she is not reelected, or (iii) so long as Optionee is engaged as a Consultant or other Service Provider.

3. Term of Option. The right of the Optionee to exercise this Option shall terminate upon the first to occur of the following:

(a) the expiration of ten (10) years from the date of this Agreement;

(b) the expiration of one (1) year from the date of termination of Optionee's Continuous Service if such termination is due to permanent disability of the Optionee (as defined in Section 22(e)(3) of the Code);

(c) the expiration of one (1) year from the date of termination of Optionee's Continuous Service if such termination is due to Optionee's death or if death occurs during either the three-month or one-month period following termination of Optionee's Continuous Service pursuant to Section 3(d) or 3(e) below, as the case may be;

(d) the expiration of three (3) months from the date of termination of Optionee's Continuous Service if such termination occurs for any reason other than permanent disability, death, voluntary resignation or cause; provided, however, that if Optionee dies during such three-month period the provisions of Section 3(c) above shall apply;

(e) the expiration of one (1) month from the date of termination of Optionee's Continuous Service if such termination occurs due to voluntary resignation; provided, however, that if Optionee dies during such one-month period the provisions of Section 3(c) above shall apply;

(f) the termination of Optionee's Continuous Service, if such termination is for cause; or

(g) upon the consummation of a "Change in Control" (as defined in Section 2.4 of the Plan), unless otherwise provided pursuant to Section 11 below.

4. Exercise of Option. On or after the vesting of any portion of this Option in accordance with Sections 2 or 11 hereof, and until termination of the right to exercise this Option in accordance with Section 3 above, the portion of this Option that has vested may be exercised in whole or in part by the Optionee (or, after his or her death, by the person designated in Section 5 below) upon delivery of the following to the Company at its principal executive offices:

(a) a written notice of exercise which identifies this Agreement and states the number of Shares then being purchased (but no fractional Shares may be purchased), with any partial exercise being deemed to cover first vested Shares and then the earliest vesting installments of unvested Shares;

(b) a check or cash in the amount of the Exercise Price (or payment of the Exercise Price in such other form of lawful consideration as the Administrator may approve from time to time under the provisions of Section 5.3 of the Plan);

(c) a check or cash in the amount reasonably requested by the Company to satisfy the Company's withholding obligations under federal, state or other applicable tax laws with respect to the taxable income, if any, recognized by the Optionee in connection with the exercise of this Option (unless the Company and Optionee shall have made other arrangements for deductions or withholding from Optionee's wages, bonus or other compensation payable to Optionee, or by the withholding of Shares issuable upon exercise of this Option or the delivery of Shares owned by the Optionee in accordance with Section 10.1 of the Plan, provided such arrangements satisfy the requirements of applicable tax laws); and

(d) a letter, if requested by the Company, in such form and substance as the Company may require, setting forth the investment intent of the Optionee, or person designated in Section 5 below, as the case may be.

5. Death of Optionee; No Assignment. The rights of the Optionee under this Agreement may not be assigned or transferred except by will or by the laws of descent and distribution, and may be exercised during the lifetime of the Optionee only by such Optionee. Any attempt to sell, pledge, assign, hypothecate, transfer or dispose of this Option in contravention of this Agreement or the Plan shall be void and shall have no effect. If the Optionee's Continuous Service terminates as a result of his or her death, and provided Optionee's rights hereunder shall have vested pursuant to Section 2 hereof, Optionee's legal representative, his or her legatee, or the person who acquired the right to exercise this Option by reason of the death of the Optionee (individually, a "Successor") shall succeed to the Optionee's rights and obligations under this Agreement. After the death of the Optionee, only a Successor may exercise this Option.

6. Representations and Warranties of Optionee.

(a) Optionee represents and warrants that this Option is being acquired by Optionee for Optionee's personal account, for investment purposes only, and not with a view to the distribution, resale or other disposition thereof.

(b) Optionee acknowledges that the Company may issue Shares upon the exercise of the Option without registering such Shares under the Securities Act of l933, as amended (the "Securities Act"), on the basis of certain exemptions from such registration requirement. Accordingly, Optionee agrees that his or her exercise of the Option may be expressly conditioned upon his or her delivery to the Company of an investment certificate including such representations and undertakings as the Company may reasonably require in order to assure the availability of such exemptions, including a representation that Optionee is acquiring the Shares for investment and not with a present intention of selling or otherwise disposing thereof and an agreement by Optionee that the certificates evidencing the Shares may bear a legend indicating such non-registration under the Securities Act and the resulting restrictions on transfer. Optionee acknowledges that, because Shares received upon exercise of an Option may be unregistered, Optionee may be required to hold the Shares indefinitely unless they are subsequently registered for resale under the Securities Act or an exemption from such registration is available.

(c) Optionee acknowledges receipt of a copy of the Plan and understands that all rights and obligations connected with this Option are set forth in this Agreement and in the Plan.

7. Right of First Refusal.

(a) The Shares acquired pursuant to the exercise of this Option may be sold by the Optionee only in compliance with the provisions of this Section 7, and subject in all cases to compliance with the provisions of Section 6(b) hereof. Prior to any intended sale, Optionee shall first give written notice (the "Offer Notice") to the Company specifying (i) his or her bona fide intention to sell or otherwise transfer such Shares, (ii) the name and address of the proposed

purchaser(s), (iii) the number of Shares the Optionee proposes to sell (the "Offered Shares"), (iv) the price for which he or she proposes to sell the Offered Shares, and (v) all other material terms and conditions of the proposed sale.

(b) Within 30 days after receipt of the Offer Notice, the Company or its nominee(s) may elect to purchase all or any portion of the Offered Shares at the price and on the terms and conditions set forth in the Offer Notice by delivery of written notice (the "Acceptance Notice") to the Optionee specifying the number of Offered Shares that the Company or its nominees elect to purchase. Within 15 days after delivery of the Acceptance Notice to the Optionee, the Company and/or its nominee(s) shall deliver to the Optionee payment of the amount of the purchase price of the Offered Shares to be purchased pursuant to this Section 7, against delivery by the Optionee of a certificate or certificates representing the Offered Shares to be purchased, duly endorsed for transfer to the Company or such nominee(s), as the case may be. Payment shall be made on the same terms as set forth in the Offer Notice or, at the election of the Company or its nominees(s), by check or wire transfer of funds. If the Company and/or its nominee(s) do not elect to purchase all of the Offered Shares, the Optionee shall be entitled to sell the balance of the Offered Shares to the purchaser(s) named in the Offer Notice at the price specified in the Offer Notice or at a higher price and on the terms and conditions set forth in the Offer Notice; provided, however, that such sale or other transfer must be consummated within 60 days from the date of the Offer Notice and any proposed sale after such 60-day period may be made only by again complying with the procedures set forth in this Section 7.

(c) The Optionee may transfer all or any portion of the Shares to a trust established for the sole benefit of the Optionee and/or his or her spouse or children without such transfer being subject to the right of first refusal set forth in this Section 7, provided that the Shares so transferred shall remain subject to the terms and conditions of this Agreement and no further transfer of such Shares may be made without complying with the provisions of this Section 7.

(d) Any Successor of Optionee pursuant to Section 5 hereof, and any transferee of the Shares pursuant to this Section 7, shall hold the Shares subject to the terms and conditions of this Agreement and no further transfer of the Shares may be made without complying with the provisions of this Section 7.

(e) The rights provided the Company and its nominee(s) under this Section 7 shall terminate upon the closing of the initial public offering of shares of the Company's Common Stock pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act.

8. <u>Company's Repurchase Right</u>.

(a) The Company shall have the right (but not the obligation) to repurchase (the "Repurchase Right") any or all of the Shares acquired pursuant to the exercise of this Option in the event that the Optionee's Continuous Service should terminate for any reason whatsoever, including without limitation Optionee's death, disability, voluntary resignation or termination by the Company with or without cause. Upon exercise of the Repurchase Right, the Optionee shall be obligated to sell his or her Shares to the Company, as provided in this Section 8. The Repurchase Right may be exercised by the Company at any time during the period commencing on the date of termination of Optionee's Continuous Service and ending sixty (60) days after the last to occur of the following:

(i) the termination of Optionee's Continuous Service;

(ii) the expiration of Optionee's right to exercise this Option pursuant to Section 3 hereof; or

(iii) in the event of Optionee's death, receipt by the Company of notice of the identity and address of Optionee's Successor (as defined in Section 5 hereof).

(b) The purchase price for Shares repurchased hereunder (the "Repurchase Price") shall be the Fair Market Value per share of Common Stock (determined in accordance with Section 2.14 of the Plan) as of the date of termination of Optionee's Continuous Service.

(c) Written notice of exercise of the Repurchase Right, stating the number of Shares to be repurchased and the Repurchase Price per Share, shall be given by the Company to the Optionee or his or her Successor, as the case may be, during the period specified in Section 8(a) above.

(d) The Repurchase Price shall be payable, at the option of the Company, by check or by cancellation of all or a portion of any outstanding indebtedness of Optionee to the Company, or by any combination thereof. The Repurchase Price shall be paid without interest within thirty (30) days after delivery of the notice of exercise of the Repurchase Right, against delivery by the Optionee or his or her Successor of a certificate or certificates representing the Shares to be repurchased, duly endorsed for transfer to the Company.

(e) The rights provided the Company under this Section 8 shall terminate upon the closing of the initial public offering of shares of the Company's Common Stock pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act.

9. Restrictive Legends.

(a) Optionee hereby acknowledges that federal securities laws and the securities laws of the state in which he or she resides may require the placement of certain restrictive legends upon the Shares issued upon exercise of this Option, and Optionee hereby consents to the placing of any such legends upon certificates evidencing the Shares as the Company, or its counsel, may deem necessary or advisable.

(b) In addition, all stock certificates evidencing the Shares shall be imprinted with a legend substantially as follows:

"THE SHARES OF STOCK REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AND A RIGHT OF FIRST REFUSAL IN FAVOR OF THE COMPANY AND/OR ITS NOMINEE(S), AS SET FORTH IN A STOCK OPTION AGREEMENT DATED , 200 . TRANSFER OF THESE SHARES MAY BE MADE ONLY IN COMPLIANCE WITH THE PROVISIONS OF SAID AGREEMENT, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF SAID CORPORATION. SUCH TRANSFER RESTRICTIONS AND RIGHT OF FIRST REFUSAL ARE BINDING ON TRANSFEREES OF THESE SHARES."

10. Adjustments Upon Changes in Capital Structure. In the event that the outstanding shares of Common Stock of the Company are hereafter increased or decreased or changed into or exchanged for a different number or kind of shares or other securities of the Company by reason of a recapitalization, stock split, combination of shares, reclassification, stock dividend or other change in the capital structure of the Company, then appropriate adjustment shall be made by the Administrator to the number of Shares subject to the unexercised portion of this Option and to the Exercise Price per share, in order to preserve, as nearly as practical, but not to increase, the benefits of the Optionee under this Option, in accordance with the provisions of Section 4.2 of the Plan.

11. Change in Control. In the event of a Change in Control (as defined in Section 2.4 of the Plan):

(a) The right to exercise this Option shall accelerate automatically and vest in full (notwithstanding the provisions of Section 2 above) effective as of immediately prior to the consummation of the Change in Control unless this Option is to be assumed by the acquiring or successor entity (or parent thereof) or a new option or New Incentives are to be issued in exchange therefor, as provided in subsection (b) below. If vesting of this Option will accelerate pursuant to the preceding sentence, the Administrator in its discretion may provide, in connection with the Change in Control transaction, for the purchase or exchange of this Option for an amount of cash or other property having a value equal to the difference (or "spread") between: (x) the value of the cash or other property that the Optionee would have received pursuant to the Change in Control transaction in exchange for the Shares issuable upon exercise of this Option had this Option been exercised immediately prior to the Change in Control, and (y) the aggregate Exercise Price for such Shares. If the vesting of this Option will accelerate pursuant to this subsection (a), then the Administrator shall cause written notice of the Change in Control transaction to be given to the Optionee not less than fifteen (15) days prior to the anticipated effective date of the proposed transaction.

(b) The vesting of this Option shall not accelerate if and to the extent that: (i) this Option (including the unvested portion thereof) is to be assumed by the acquiring or successor entity (or parent thereof) or a new option of comparable value is to be issued in exchange therefor pursuant to the terms of the Change in Control transaction, or (ii) this Option (including the unvested portion thereof) is to be replaced by the acquiring or successor entity (or parent thereof) with other incentives of comparable value under a new incentive program ("New Incentives") containing such terms and provisions as the Administrator in its discretion may consider equitable. If this Option is assumed, or if a new option of comparable value is issued in exchange therefor, then this Option or the new option shall be appropriately adjusted, concurrently with the Change in Control, to apply to the number and class of securities or other property that the Optionee would have received pursuant to the Change in Control transaction in exchange for the Shares issuable upon exercise of this Option had this Option been exercised immediately prior to the Change in Control, and appropriate adjustment also shall be made to the Exercise Price such that the aggregate Exercise Price of this Option or the new option shall remain the same as nearly as practicable.

(c) If the provisions of subsection (b) above apply, then this Option, the new option or the New Incentives shall continue to vest in accordance with the provisions of Section 2 hereof and shall continue in effect for the remainder of the term of this Option in accordance with the provisions of Section 3 hereof. However, in the event of an Involuntary Termination (as defined below) of Optionee's Continuous Service within twelve (12) months following such Change in Control, then vesting of this Option, the new option or the New Incentives shall accelerate in full automatically effective upon such Involuntary Termination.

(d) For purposes of this Section 11, the following terms shall have the meanings set forth below:

(i) "Involuntary Termination" shall mean the termination of Optionee's Continuous Service by reason of:

(A) Optionee's involuntary dismissal or discharge by the Company, or by the acquiring or successor entity (or parent or any subsidiary thereof employing the Optionee) for reasons other than Misconduct (as defined below), or

(B) Optionee's voluntary resignation following (x) a change in Optionee's position with the Company, the acquiring or successor entity (or parent or any subsidiary thereof) which materially reduces Optionee's duties and responsibilities or the level of management to which Optionee reports, (y) a reduction in Optionee's level of compensation (including base salary, fringe benefits and target bonus under any performance based bonus or incentive programs) by more than ten percent (10%), or (z) a relocation of Optionee's principal place of employment by more than thirty (30) miles, provided and only if such change, reduction or relocation is effected without Optionee's written consent.

(ii) "Misconduct" shall mean (A) the commission of any act of fraud, embezzlement or dishonesty by Optionee which materially and adversely affects the business of the Company, the acquiring or successor entity (or parent or any subsidiary thereof), (B) any unauthorized use or disclosure by Optionee of confidential information or trade secrets of the Company, the acquiring or successor entity (or parent or any subsidiary thereof), (C) the continued refusal or omission by the Optionee to perform any material duties required of him if such duties are consistent with duties customary for the position held with the Company, the acquiring or successor entity (or parent or any subsidiary thereof), (D) any material act or omission by the Optionee involving malfeasance or gross negligence in the performance of Optionee's duties to, or material deviation from any of the policies or directives of, the Company or the acquiring or successor entity (or parent or any subsidiary thereof), (E) conduct on the part of Optionee which constitutes the breach of any statutory or common law duty of loyalty to the Company, the acquiring or successor entity (or parent or any subsidiary thereof), or (F) any illegal act by Optionee which materially and adversely affects the business of the Company, the acquiring or successor entity (or parent or any subsidiary thereof), or any felony committed by Optionee, as evidenced by conviction thereof. The provisions of this Section shall not limit the grounds for the dismissal or discharge of Optionee or any other individual in the service of the Company, the acquiring or successor entity (or parent or any subsidiary thereof).

12. Limitation of Company's Liability for Nonissuance. The Company agrees to use its reasonable best efforts to obtain from any applicable regulatory agency such authority or approval as may be required in order to issue and sell the Shares to the Optionee pursuant to this Option. Inability of the Company to obtain, from any such regulatory agency, authority or approval deemed by the Company's counsel to be necessary for the lawful issuance and sale of the Shares hereunder and under the Plan shall relieve the Company of any liability in respect of the nonissuance or sale of such shares as to which such requisite authority or approval shall not have been obtained.

13. No Employment Contract Created. Neither the granting of this Option nor the exercise hereof shall be construed as granting to the Optionee any right with respect to continuance of employment by the Company or any of its subsidiaries. The right of the Company or any of its subsidiaries to terminate at will the Optionee's employment at any time (whether by dismissal, discharge or otherwise), with or without cause, is specifically reserved.

14. Rights as Stockholder. The Optionee (or transferee of this option by will or by the laws of descent and distribution) shall have no rights as a stockholder with respect to any Shares covered by this Option until such person has duly exercised this Option, paid the Exercise Price and become a holder of record of the Shares purchased.

15. "Market Stand-Off" Agreement. Optionee agrees that, if requested by the Company or the managing underwriter of any proposed public offering of the Company's securities, Optionee will not sell or otherwise transfer or dispose of any Shares held by Optionee without the prior written consent of the Company or such underwriter, as the case may be, during such period of time, not to exceed 180 days following the effective date of the registration statement filed by the Company with respect to such offering, as the Company or the underwriter may specify.

16. Interpretation. This Option is granted pursuant to the terms of the Plan, and shall in all respects be interpreted in accordance therewith. The Administrator shall interpret and construe this Option and the Plan, and any action, decision, interpretation or determination made in good faith by the Administrator shall be final and binding on the Company and the Optionee. As used in this Agreement, the term "Administrator" shall refer to the committee of the Board of Directors of the Company appointed to administer the Plan, and if no such committee has been appointed, the term Administrator shall mean the Board of Directors.

17. Notices. Any notice, demand or request required or permitted to be given under this Agreement shall be in writing and shall be deemed given when delivered personally or three (3) days after being deposited in the United States mail, as certified or registered mail, with postage prepaid, (or by such other method as the Administrator may from time to time deem appropriate), and addressed, if to the Company, at its principal place of business, Attention: the Chief Financial Officer, and if to the Optionee, at his or her most recent address as shown in the employment or stock records of the Company.

18. Governing Law. The validity, construction, interpretation, and effect of this Option shall be governed by and determined in accordance with the laws of the State of California.

19. Severability. Should any provision or portion of this Agreement be held to be unenforceable or invalid for any reason, the remaining provisions and portions of this Agreement shall be unaffected by such holding.

20. Attorneys' Fees. If any party shall bring an action in law or equity against another to enforce or interpret any of the terms, covenants and provisions of this Agreement, the prevailing party in such action shall be entitled to recover from the other party reasonable attorneys' fees and any expert witness fees.

21. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall be deemed one instrument.

22. California Corporate Securities Law. The sale of the shares that are the subject of this Agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such shares or the payment or receipt of any part of the consideration therefor prior to such qualification is unlawful, unless the sale of such shares is exempt from such qualification by Section 25100, 25102 or 25105 of the California Corporate Securities Law of l968, as amended. The rights of all parties to this Agreement are expressly conditioned upon such qualification being obtained, unless the sale is so exempt.

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

THE COMPANY:

Inogen, Inc.

By: _____

Its: Kathy Odell, Chief Executive Officer

OPTIONEE:

_____
(Signature)

_____
(Optionee)

Address:

_____

_____

Exhibit 10.4

INOGEN, INC.

2012 EQUITY INCENTIVE PLAN

as amended and restated on October 11, 2013

1. Purposes of the Plan. The purposes of this Plan are:

- to attract and retain the best available personnel for positions of substantial responsibility,
- to provide additional incentive to Employees, Directors and Consultants, and
- to promote the success of the Company's business.

The Plan permits the grant of Incentive Stock Options, Nonstatutory Stock Options, Stock Appreciation Rights, Restricted Stock and Restricted Stock Units.

2. Definitions. As used herein, the following definitions will apply:

(a) "Administrator" means the Board or any of its Committees as will be administering the Plan, in accordance with Section 4 of the Plan.

(b) "Applicable Laws" means the requirements relating to the administration of equity-based awards under U.S. state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted and the applicable laws of any foreign country or jurisdiction where Awards are, or will be, granted under the Plan.

(c) "Award" means, individually or collectively, a grant under the Plan of Options, Stock Appreciation Rights, Restricted Stock, or Restricted Stock Units.

(d) "Award Agreement" means the written or electronic agreement setting forth the terms and provisions applicable to each Award granted under the Plan. The Award Agreement is subject to the terms and conditions of the Plan.

(e) "Board" means the Board of Directors of the Company.

(f) "Cause" means (i) Participant's conviction of any crime (A) constituting a felony or (B) that has, or could reasonably be expected to result in, an adverse impact on the performance of Participant's duties to the Company (or any Parent or Subsidiary), or otherwise has, or could reasonably be expected to result in, an adverse impact to the business or reputation of the Company (or any Parent or Subsidiary); (ii) conduct of Participant, in connection with Participant's employment or service to the Company (or any Parent or Subsidiary), that has, or could reasonably be expected to result in, material injury to the business or reputation of the Company (or any Parent or Subsidiary), including, without limitation, act(s) of fraud, embezzlement, misappropriation and

breach of fiduciary duty; (iii) any material violation of the operating and ethics policies of the Company (or any Parent or Subsidiary), including, but not limited to those relating to sexual harassment and the disclosure or misuse of confidential information; (iv) willful neglect in the performance of Participant's duties or willful or repeated failure or refusal to perform such duties; or (v) Partiicipant's breach of any material provision of any agreement between Participant and the Company (or any Parent or Subsidiary), including, without limitation, any confidentiality agreement.

(g) "Change in Control" means the occurrence of any of the following events:

(i) Change in Ownership of the Company. A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group ("Person"), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company, except that any change in the ownership of the stock of the Company as a result of a private financing of the Company that is approved by the Board will not be considered a Change in Control; or

(ii) Change in Effective Control of the Company. If the Company has a class of securities registered pursuant to Section 12 of the Exchange Act, a change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by Directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this clause (ii), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change in Control; or

(iii) Change in Ownership of a Substantial Portion of the Company's Assets. A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For purposes of this Section 2(g), persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing, a transaction will not be deemed a Change in Control unless the transaction qualifies as a change in control event within the meaning of Code Section 409A, as it has been and may be amended from time to time, and any proposed or final Treasury Regulations and Internal Revenue Service guidance that has been promulgated or may be promulgated thereunder from time to time.

Further and for the avoidance of doubt, a transaction will not constitute a Change in Control if: (i) its sole purpose is to change the jurisdiction of the Company's incorporation, or (ii) its sole purpose is to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

(h) "Code" means the Internal Revenue Code of 1986, as amended. Any reference to a section of the Code herein will be a reference to any successor or amended section of the Code.

(i) "Committee" means a committee of Directors or of other individuals satisfying Applicable Laws appointed by the Board, or by the compensation committee of the Board, in accordance with Section 4 hereof.

(j) "Common Stock" means the common stock of the Company.

(k) "Company" means Inogen, Inc., a Delaware corporation, or any successor thereto.

(l) Consultant" means any individual, including an advisor, engaged by the Company or a Parent or Subsidiary to render services to such entity. For the avoidance of doubt, the term "Consultant" shall not include any entity or any non-natural person.

(m) "Director" means a member of the Board.

(n) "Disability" means total and permanent disability as defined in Code Section 22(e)(3), provided that in the case of Awards other than Incentive Stock Options, the Administrator in its discretion may determine whether a permanent and total disability exists in accordance with uniform and non-discriminatory standards adopted by the Administrator from time to time.

(o) "Employee" means any person, including officers and Directors, employed by the Company or any Parent or Subsidiary of the Company. Neither service as a Director nor payment of a director's fee by the Company will be sufficient to constitute "employment" by the Company.

(p) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(q) "Exchange Program" means a program under which (i) outstanding Awards are surrendered or cancelled in exchange for Awards of the same type (which may have higher or lower exercise prices and different terms), Awards of a different type, and/or cash, (ii) Participants would have the opportunity to transfer any outstanding Awards to a financial institution or other person or entity selected by the Administrator, and/or (iii) the exercise price of an outstanding Award is reduced or increased. The Administrator will determine the terms and conditions of any Exchange Program in its sole discretion.

(r) "Fair Market Value" means, as of any date, the value of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the Nasdaq Global Select Market, the Nasdaq Global Market or the Nasdaq Capital Market of The Nasdaq Stock Market, its Fair Market Value will be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the day of determination, as reported in The Wall Street Journal or such other source as the Administrator deems reliable;

(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, the Fair Market Value of a Share will be the mean between the high bid and low asked prices for the Common Stock on the day of determination (or, if no bids and asks were reported on that date, as applicable, on the last trading date such bids and asks were reported), as reported in The Wall Street Journal or such other source as the Administrator deems reliable; or

(iii) In the absence of an established market for the Common Stock, the Fair Market Value will be determined in good faith by the Administrator.

(s) "Good Reason" means, without Participant's consent, (i) a substantial and material diminution in Participant's duties or responsibilities; (ii) a reduction in base salary or annual bonus opportunity of 10% or more; or (iii) the failure of the Company to pay any compensation when due. Participant may terminate Participant's status as Service Provider with Good Reason by providing the Company thirty (30) days' written notice setting forth in reasonable specificity the event that constitutes Good Reason, which written notice, to be effective, must be provided to the Company within thirty (30) days of the occurrence of such event. During such thirty (30)-day notice period, the Company shall have a cure right (if curable), and if not cured within such period, Participant's termination will be effective upon the expiration of such cure period.

(t) "Incentive Stock Option" means an Option that by its terms qualifies and is otherwise intended to qualify as an incentive stock option within the meaning of Code Section 422 and the regulations promulgated thereunder.

(u) "Involuntary Termination" means the termination of Participant as a Service Provider by reason of:

(i) Participant's involuntary dismissal or discharge by the Company, or by the acquiring or successor entity (or Parent or any Subsidiary thereof for which Participant is a Service Provider) for reasons other than Misconduct; or

(ii) Participant's voluntary resignation for Good Reason.

(v) "Nonstatutory Stock Option" means an Option that by its terms does not qualify or is not intended to qualify as an Incentive Stock Option.

(w) "Option" means a stock option granted pursuant to the Plan.

(x) "Parent" means a "parent corporation," whether now or hereafter existing, as defined in Code Section 424(e).

(y) "Participant" means the holder of an outstanding Award.

(z) "Period of Restriction" means the period during which the transfer of Shares of Restricted Stock are subject to restrictions and therefore, the Shares are subject to a substantial risk of forfeiture. Such restrictions may be based on the passage of time, the achievement of target levels of performance, or the occurrence of other events as determined by the Administrator.

(aa) "Plan" means this 2012 Equity Incentive Plan, as amended and restated.

(bb) "Restricted Stock" means Shares issued pursuant to an Award of Restricted Stock under Section 8 of the Plan, or issued pursuant to the early exercise of an Option.

(cc) "Restricted Stock Unit" means a bookkeeping entry representing an amount equal to the Fair Market Value of one Share, granted pursuant to Section 9. Each Restricted Stock Unit represents an unfunded and unsecured obligation of the Company.

(dd) "Service Provider" means an Employee, Director or Consultant.

(ee) "Share" means a share of the Common Stock, as adjusted in accordance with Section 13 of the Plan.

(ff) "Stock Appreciation Right" means an Award, granted alone or in connection with an Option, that pursuant to Section 7 is designated as a Stock Appreciation Right.

(gg) "Subsidiary" means a "subsidiary corporation," whether now or hereafter existing, as defined in Code Section 424(f).

3. Stock Subject to the Plan.

(a) Stock Subject to the Plan. Subject to the provisions of Section 13 of the Plan, the maximum aggregate number of Shares that may be subject to Awards and sold under the Plan is 2,514,750 Shares, plus (i) 1,067,484 Shares that, as of the date of the initial stockholder approval of this Plan, had been reserved but not issued pursuant to any awards granted under the Amended 2002 Stock Incentive Plan (the "2002 Plan") and were not subject to any awards granted thereunder, and (ii) any Shares subject to stock options or similar awards granted under the 2002 Plan that expire or otherwise terminate without having been exercised in full and Shares issued pursuant to awards granted under the 2002 Plan that are forfeited to or repurchased by the Company, with the maximum number of Shares to be added to the Plan pursuant from the 2002 Plan equal to 4,273,940 Shares. The Shares may be authorized but unissued, or reacquired Common Stock. The maximum possible number of Shares that may be subject to Awards and sold under the Plan is 7,856,174.

(b) Lapsed Awards. If an Award expires or becomes unexercisable without having been exercised in full, is surrendered pursuant to an Exchange Program, or, with respect to Restricted Stock or Restricted Stock Units, is forfeited to or repurchased by the Company due to the failure to vest, the unpurchased Shares (or for Awards other than Options or Stock Appreciation Rights the forfeited or repurchased Shares) which were subject thereto will become available for future grant or sale under the Plan (unless the Plan has terminated). With respect to Stock Appreciation Rights, only Shares actually issued pursuant to a Stock Appreciation Right will cease

to be available under the Plan; all remaining Shares under Stock Appreciation Rights will remain available for future grant or sale under the Plan (unless the Plan has terminated). Shares that have actually been issued under the Plan under any Award will not be returned to the Plan and will not become available for future distribution under the Plan; provided, however, that if Shares issued pursuant to Awards of Restricted Stock or Restricted Stock Units are repurchased by the Company or are forfeited to the Company due to the failure to vest, such Shares will become available for future grant under the Plan. Shares used to pay the exercise price of an Award or to satisfy the tax withholding obligations related to an Award will become available for future grant or sale under the Plan. To the extent an Award under the Plan is paid out in cash rather than Shares, such cash payment will not result in reducing the number of Shares available for issuance under the Plan. Notwithstanding the foregoing and, subject to adjustment as provided in Section 13, the maximum number of Shares that may be issued upon the exercise of Incentive Stock Options will equal the aggregate Share number stated in Section 3(a), plus, to the extent allowable under Code Section 422 and the Treasury Regulations promulgated thereunder, any Shares that become available for issuance under the Plan pursuant to Section 3(b).

(c) Share Reserve. The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as will be sufficient to satisfy the requirements of the Plan.

4. Administration of the Plan.

(a) Procedure.

(i) Multiple Administrative Bodies. Different Committees with respect to different groups of Service Providers may administer the Plan.

(ii) Other Administration. Other than as provided above, the Plan will be administered by (A) the Board or (B) a Committee, which Committee will be constituted to satisfy Applicable Laws.

(b) Powers of the Administrator. Subject to the provisions of the Plan, and in the case of a Committee, subject to the specific duties delegated by the Board to such Committee, the Administrator will have the authority, in its discretion:

(i) to determine the Fair Market Value;

(ii) to select the Service Providers to whom Awards may be granted hereunder;

(iii) to determine the number of Shares to be covered by each Award granted hereunder;

(iv) to approve forms of Award Agreements for use under the Plan;

(v) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any Award granted hereunder. Such terms and conditions include, but are not limited to, the exercise price, the time or times when Awards may be exercised (which may be based on performance criteria), any vesting acceleration or waiver of forfeiture restrictions, and any restriction or limitation regarding any Award or the Shares relating thereto, based in each case on such factors as the Administrator will determine;

(vi) to institute and determine the terms and conditions of an Exchange Program;

(vii) to construe and interpret the terms of the Plan and Awards granted pursuant to the Plan;

(viii) to prescribe, amend and rescind rules and regulations relating to the Plan, including rules and regulations relating to sub-plans established for the purpose of satisfying applicable foreign laws or for qualifying for favorable tax treatment under applicable foreign laws;

(ix) to modify or amend each Award (subject to Section 18(c) of the Plan), including but not limited to the discretionary authority to extend the post-termination exercisability period of Awards and to extend the maximum term of an Option (subject to Section 6(d));

(x) to allow Participants to satisfy withholding tax obligations in a manner prescribed in Section 14;

(xi) to authorize any person to execute on behalf of the Company any instrument required to effect the grant of an Award previously granted by the Administrator;

(xii) to allow a Participant to defer the receipt of the payment of cash or the delivery of Shares that otherwise would be due to such Participant under an Award; and

(xiii) to make all other determinations deemed necessary or advisable for administering the Plan.

(c) Effect of Administrator's Decision. The Administrator's decisions, determinations and interpretations will be final and binding on all Participants and any other holders of Awards.

5. Eligibility. Nonstatutory Stock Options, Stock Appreciation Rights, Restricted Stock, and Restricted Stock Units may be granted to Service Providers. Incentive Stock Options may be granted only to Employees.

6. Stock Options.

(a) Grant of Options. Subject to the terms and provisions of the Plan, the Administrator, at any time and from time to time, may grant Options in such amounts as the Administrator, in its sole discretion, will determine.

(b) Option Agreement. Each Award of an Option will be evidenced by an Award Agreement that will specify the exercise price, the term of the Option, the number of Shares subject to the Option, the exercise restrictions, if any, applicable to the Option, and such other terms and conditions as the Administrator, in its sole discretion, will determine.

(c) Limitations. Each Option will be designated in the Award Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. Notwithstanding such designation, however, to the extent that the aggregate Fair Market Value of the Shares with respect to which Incentive Stock Options are exercisable for the first time by the Participant during any calendar year (under all plans of the Company and any Parent or Subsidiary) exceeds one hundred thousand dollars ($100,000), such Options will be treated as Nonstatutory Stock Options. For purposes of this Section 6(c), Incentive Stock Options will be taken into account in the order in which they were granted, the Fair Market Value of the Shares will be determined as of the time the Option with respect to such Shares is granted, and calculation will be performed in accordance with Code Section 422 and Treasury Regulations promulgated thereunder.

(d) Term of Option. The term of each Option will be stated in the Award Agreement; provided, however, that the term will be no more than ten (10) years from the date of grant thereof. In the case of an Incentive Stock Option granted to a Participant who, at the time the Incentive Stock Option is granted, owns stock representing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Incentive Stock Option will be five (5) years from the date of grant or such shorter term as may be provided in the Award Agreement.

(e) Option Exercise Price and Consideration.

(i) Exercise Price. The per Share exercise price for the Shares to be issued pursuant to the exercise of an Option will be determined by the Administrator, but will be no less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant. In addition, in the case of an Incentive Stock Option granted to an Employee who owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per Share exercise price will be no less than one hundred ten percent (110%) of the Fair Market Value per Share on the date of grant. Notwithstanding the foregoing provisions of this Section 6(e)(i), Options may be granted with a per Share exercise price of less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant pursuant to a transaction described in, and in a manner consistent with, Code Section 424(a).

(ii) Waiting Period and Exercise Dates. At the time an Option is granted, the Administrator will fix the period within which the Option may be exercised and will determine any conditions that must be satisfied before the Option may be exercised.

(iii) Form of Consideration. The Administrator will determine the acceptable form of consideration for exercising an Option, including the method of payment. In the case of an Incentive Stock Option, the Administrator will determine the acceptable form of consideration at the time of grant. Such consideration may consist entirely of: (1) cash; (2) check; (3) promissory note, to the extent permitted by Applicable Laws, (4) other Shares, provided that such Shares have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which such Option will be exercised and provided further that accepting such Shares will not result in any adverse accounting consequences to the Company, as the Administrator determines in its sole discretion; (5) consideration received by the Company under cashless exercise program (whether through a broker or otherwise) implemented by the Company in connection with the Plan; (6) by net exercise, (7) such other consideration and method of payment for the issuance of

Shares to the extent permitted by Applicable Laws, or (8) any combination of the foregoing methods of payment. In making its determination as to the type of consideration to accept, the Administrator will consider if acceptance of such consideration may be reasonably expected to benefit the Company.

(f) Exercise of Option.

(i) Procedure for Exercise; Rights as a Stockholder. Any Option granted hereunder will be exercisable according to the terms of the Plan and at such times and under such conditions as determined by the Administrator and set forth in the Award Agreement. An Option may not be exercised for a fraction of a Share.

An Option will be deemed exercised when the Company receives: (i) notice of exercise (in such form as the Administrator may specify from time to time) from the person entitled to exercise the Option, and (ii) full payment for the Shares with respect to which the Option is exercised (together with applicable tax withholding). Full payment may consist of any consideration and method of payment authorized by the Administrator and permitted by the Award Agreement and the Plan. Shares issued upon exercise of an Option will be issued in the name of the Participant or, if requested by the Participant, in the name of the Participant and his or her spouse. Until the Shares are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder will exist with respect to the Shares subject to an Option, notwithstanding the exercise of the Option. The Company will issue (or cause to be issued) such Shares promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 13 of the Plan.

Exercising an Option in any manner will decrease the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(ii) Termination of Relationship as a Service Provider. If a Participant ceases to be a Service Provider, other than upon the Participant's termination as the result of the Participant's death or Disability, the Participant may exercise his or her Option within thirty (30) days of termination, or such longer period of time as is specified in the Award Agreement (but in no event later than the expiration of the term of such Option as set forth in the Award Agreement) to the extent that the Option is vested on the date of termination. Unless otherwise provided by the Administrator, if on the date of termination the Participant is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option will revert to the Plan. If after termination the Participant does not exercise his or her Option within the time specified by the Administrator, the Option will terminate, and the Shares covered by such Option will revert to the Plan.

(iii) Disability of Participant. If a Participant ceases to be a Service Provider as a result of the Participant's Disability, the Participant may exercise his or her Option within six (6) months of termination, or such longer period of time as is specified in the Award Agreement (but in no event later than the expiration of the term of such Option as set forth in the Award Agreement) to the extent the Option is vested on the date of termination. Unless otherwise

provided by the Administrator, if on the date of termination the Participant is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option will revert to the Plan. If after termination the Participant does not exercise his or her Option within the time specified herein, the Option will terminate, and the Shares covered by such Option will revert to the Plan.

(iv) Death of Participant. If a Participant dies while a Service Provider, the Option may be exercised within six (6) months following the Participant's death, or within such longer period of time as is specified in the Award Agreement (but in no event later than the expiration of the term of such Option as set forth in the Award Agreement) to the extent that the Option is vested on the date of death, by the Participant's designated beneficiary, provided such beneficiary has been designated prior to the Participant's death in a form acceptable to the Administrator. If no such beneficiary has been designated by the Participant, then such Option may be exercised by the personal representative of the Participant's estate or by the person(s) to whom the Option is transferred pursuant to the Participant's will or in accordance with the laws of descent and distribution. Unless otherwise provided by the Administrator, if at the time of death Participant is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option will immediately revert to the Plan. If the Option is not so exercised within the time specified herein, the Option will terminate, and the Shares covered by such Option will revert to the Plan.

7. Stock Appreciation Rights.

(a) Grant of Stock Appreciation Rights. Subject to the terms and conditions of the Plan, a Stock Appreciation Right may be granted to Service Providers at any time and from time to time as will be determined by the Administrator, in its sole discretion.

(b) Number of Shares. The Administrator will have complete discretion to determine the number of Shares subject to any Award of Stock Appreciation Rights.

(c) Exercise Price and Other Terms. The per Share exercise price for the Shares that will determine the amount of the payment to be received upon exercise of a Stock Appreciation Right as set forth in Section 7(f) will be determined by the Administrator and will be no less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant. Otherwise, the Administrator, subject to the provisions of the Plan, will have complete discretion to determine the terms and conditions of Stock Appreciation Rights granted under the Plan.

(d) Stock Appreciation Right Agreement. Each Stock Appreciation Right grant will be evidenced by an Award Agreement that will specify the exercise price, the term of the Stock Appreciation Right, the conditions of exercise, and such other terms and conditions as the Administrator, in its sole discretion, will determine.

(e) Expiration of Stock Appreciation Rights. A Stock Appreciation Right granted under the Plan will expire upon the date determined by the Administrator, in its sole discretion, and set forth in the Award Agreement. Notwithstanding the foregoing, the rules of Section 6(d) relating to the maximum term and Section 6(f) relating to exercise also will apply to Stock Appreciation Rights.

(f) Payment of Stock Appreciation Right Amount. Upon exercise of a Stock Appreciation Right, a Participant will be entitled to receive payment from the Company in an amount determined by multiplying:

(i) The difference between the Fair Market Value of a Share on the date of exercise over the exercise price; times

(ii) The number of Shares with respect to which the Stock Appreciation Right is exercised.

At the discretion of the Administrator, the payment upon Stock Appreciation Right exercise may be in cash, in Shares of equivalent value, or in some combination thereof.

8. Restricted Stock.

(a) Grant of Restricted Stock. Subject to the terms and provisions of the Plan, the Administrator, at any time and from time to time, may grant Shares of Restricted Stock to Service Providers in such amounts as the Administrator, in its sole discretion, will determine.

(b) Restricted Stock Agreement. Each Award of Restricted Stock will be evidenced by an Award Agreement that will specify the Period of Restriction, the number of Shares granted, and such other terms and conditions as the Administrator, in its sole discretion, will determine. Unless the Administrator determines otherwise, the Company as escrow agent will hold Shares of Restricted Stock until the restrictions on such Shares have lapsed.

(c) Transferability. Except as provided in this Section 8 or as the Administrator determines, Shares of Restricted Stock may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated until the end of the applicable Period of Restriction.

(d) Other Restrictions. The Administrator, in its sole discretion, may impose such other restrictions on Shares of Restricted Stock as it may deem advisable or appropriate.

(e) Removal of Restrictions. Except as otherwise provided in this Section 8, Shares of Restricted Stock covered by each Restricted Stock grant made under the Plan will be released from escrow as soon as practicable after the last day of the Period of Restriction or at such other time as the Administrator may determine. The Administrator, in its discretion, may accelerate the time at which any restrictions will lapse or be removed.

(f) Voting Rights. During the Period of Restriction, Service Providers holding Shares of Restricted Stock granted hereunder may exercise full voting rights with respect to those Shares, unless the Administrator determines otherwise.

(g) Dividends and Other Distributions. During the Period of Restriction, Service Providers holding Shares of Restricted Stock will be entitled to receive all dividends and other distributions paid with respect to such Shares, unless the Administrator provides otherwise. If any such dividends or distributions are paid in Shares, the Shares will be subject to the same restrictions on transferability and forfeitability as the Shares of Restricted Stock with respect to which they were paid.

(h) Return of Restricted Stock to Company. On the date set forth in the Award Agreement, the Restricted Stock for which restrictions have not lapsed will revert to the Company and again will become available for grant under the Plan.

9. Restricted Stock Units.

(a) Grant. Restricted Stock Units may be granted at any time and from time to time as determined by the Administrator. After the Administrator determines that it will grant Restricted Stock Units, it will advise the Participant in an Award Agreement of the terms, conditions, and restrictions related to the grant, including the number of Restricted Stock Units.

(b) Vesting Criteria and Other Terms. The Administrator will set vesting criteria in its discretion, which, depending on the extent to which the criteria are met, will determine the number of Restricted Stock Units that will be paid out to the Participant. The Administrator may set vesting criteria based upon the achievement of Company-wide, business unit, or individual goals (including, but not limited to, continued employment or service), or any other basis determined by the Administrator in its discretion.

(c) Earning Restricted Stock Units. Upon meeting the applicable vesting criteria, the Participant will be entitled to receive a payout as determined by the Administrator. Notwithstanding the foregoing, at any time after the grant of Restricted Stock Units, the Administrator, in its sole discretion, may reduce or waive any vesting criteria that must be met to receive a payout.

(d) Form and Timing of Payment. Payment of earned Restricted Stock Units will be made as soon as practicable after the date(s) determined by the Administrator and set forth in the Award Agreement. The Administrator, in its sole discretion, may settle earned Restricted Stock Units in cash, Shares, or a combination of both.

(e) Cancellation. On the date set forth in the Award Agreement, all unearned Restricted Stock Units will be forfeited to the Company.

10. Compliance With Code Section 409A. Awards will be designed and operated in such a manner that they are either exempt from the application of, or comply with, the requirements of Code Section 409A, except as otherwise determined in the sole discretion of the Administrator. The Plan and each Award Agreement under the Plan is intended to meet the requirements of Code Section 409A and will be construed and interpreted in accordance with such intent, except as otherwise determined in the sole discretion of the Administrator. To the extent that an Award or payment, or the settlement or deferral thereof, is subject to Code Section 409A the Award will be granted, paid, settled or deferred in a manner that will meet the requirements of Code Section 409A, such that the grant, payment, settlement or deferral will not be subject to the additional tax or interest applicable under Code Section 409A.

11. Leaves of Absence/Transfer Between Locations. Unless the Administrator provides otherwise, vesting of Awards granted hereunder will be suspended during any unpaid leave of absence. A Participant will not cease to be an Employee in the case of (i) any leave of absence approved by the Company or (ii) transfers between locations of the Company or between the Company, its Parent, or any Subsidiary. For purposes of Incentive Stock Options, no such leave

may exceed three (3) months, unless reemployment upon expiration of such leave is guaranteed by statute or contract. If reemployment upon expiration of a leave of absence approved by the Company is not so guaranteed, then six (6) months following the first (1st) day of such leave, any Incentive Stock Option held by the Participant will cease to be treated as an Incentive Stock Option and will be treated for tax purposes as a Nonstatutory Stock Option.

12. Limited Transferability of Awards.

(a) Unless determined otherwise by the Administrator, Awards may not be sold, pledged, assigned, hypothecated, or otherwise transferred in any manner other than by will or by the laws of descent and distribution, and may be exercised, during the lifetime of the Participant, only by the Participant. If the Administrator makes an Award transferable, such Award may only be transferred (i) by will, (ii) by the laws of descent and distribution, or (iii) as permitted by Rule 701 of the Securities Act of 1933, as amended (the "Securities Act").

(b) Further, until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, or after the Administrator determines that it is, will, or may no longer be relying upon the exemption from registration under the Exchange Act as set forth in Rule 12h-1(f) promulgated under the Exchange Act, an Option, or prior to exercise, the Shares subject to the Option, may not be pledged, hypothecated or otherwise transferred or disposed of, in any manner, including by entering into any short position, any "put equivalent position" or any "call equivalent position" (as defined in Rule 16a-1(h) and Rule 16a-1(b) of the Exchange Act, respectively), other than to (i) persons who are "family members" (as defined in Rule 701(c)(3) of the Securities Act) through gifts or domestic relations orders, or (ii) to an executor or guardian of the Participant upon the death or disability of the Participant. Notwithstanding the foregoing sentence, the Administrator, in its sole discretion, may determine to permit transfers to the Company or in connection with a Change in Control or other acquisition transactions involving the Company to the extent permitted by Rule 12h-1(f).

13. Adjustments; Dissolution or Liquidation; Merger or Change in Control.

(a) Adjustments. In the event that any dividend or other distribution (whether in the form of cash, 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, or other change in the corporate structure of the Company affecting the Shares occurs, the Administrator, in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the Plan, will adjust the number and class of shares of stock that may be delivered under the Plan and/or the number, class, and price of shares of stock covered by each outstanding Award; provided, however, that the Administrator will make such adjustments to an Award required by Section 25102(o) of the California Corporations Code to the extent the Company is relying upon the exemption afforded thereby with respect to the Award.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, the Administrator will notify each Participant as soon as practicable prior to the effective date of such proposed transaction. To the extent it has not been previously exercised, an Award will terminate immediately prior to the consummation of such proposed action.

(c) Merger or Change in Control. In the event of a merger of the Company with or into another corporation or other entity or a Change in Control, each outstanding Award will be treated as the Administrator determines (subject to the provisions of the following paragraph) without a Participant's consent, including, without limitation, that (i) Awards will be assumed, or substantially equivalent Awards will be substituted, by the acquiring or succeeding corporation (or an affiliate thereof) with appropriate adjustments as to the number and kind of shares and prices; (ii) upon written notice to a Participant, that the Participant's Awards will terminate upon or immediately prior to the consummation of such merger or Change in Control; (iii) outstanding Awards will vest and become exercisable, realizable, or payable, or restrictions applicable to an Award will lapse, in whole or in part prior to or upon consummation of such merger or Change in Control, and, to the extent the Administrator determines, terminate upon or immediately prior to the effectiveness of such merger or Change in Control; (iv) (A) the termination of an Award in exchange for an amount of cash and/or property, if any, equal to the amount that would have been attained upon the exercise of such Award or realization of the Participant's rights as of the date of the occurrence of the transaction (and, for the avoidance of doubt, if as of the date of the occurrence of the transaction the Administrator determines in good faith that no amount would have been attained upon the exercise of such Award or realization of the Participant's rights, then such Award may be terminated by the Company without payment), or (B) the replacement of such Award with other rights or property selected by the Administrator in its sole discretion; or (v) any combination of the foregoing. In taking any of the actions permitted under this subsection 13(c), the Administrator will not be obligated to treat all Awards, all Awards held by a Participant, or all Awards of the same type, similarly.

In the event that the successor corporation does not assume or substitute for the Award (or portion thereof), the Participant will fully vest in and have the right to exercise all of his or her outstanding Options and Stock Appreciation Rights, including Shares as to which such Awards would not otherwise be vested or exercisable, all restrictions on Restricted Stock and Restricted Stock Units will lapse, and, with respect to Awards with performance-based vesting, all performance goals or other vesting criteria will be deemed achieved at one hundred percent (100%) of target levels and all other terms and conditions met. In addition, if an Option or Stock Appreciation Right is not assumed or substituted in the event of a merger or Change in Control, the Administrator will notify the Participant in writing or electronically that the Option or Stock Appreciation Right will be exercisable for a period of time determined by the Administrator in its sole discretion, and the Option or Stock Appreciation Right will terminate upon the expiration of such period.

For the purposes of this subsection 13(c), an Award will be considered assumed if, following the merger or Change in Control, the Award confers the right to purchase or receive, for each Share subject to the Award immediately prior to the merger or Change in Control, the consideration (whether stock, cash, or other securities or property) received in the merger or Change in Control by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the merger or Change in Control is not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon the exercise of an Option or Stock Appreciation Right or upon the payout of a Restricted Stock Unit, for each Share subject to such Award, to be solely common stock of the successor corporation or its Parent equal in fair market value to the per share consideration received by holders of Common Stock in the merger or Change in Control.

Notwithstanding anything in this Section 13(c) to the contrary, an Award that vests, is earned or paid-out upon the satisfaction of one or more performance goals will not be considered assumed if the Company or its successor modifies any of such performance goals without the Participant's consent; provided, however, a modification to such performance goals only to reflect the successor corporation's post-Change in Control corporate structure will not be deemed to invalidate an otherwise valid Award assumption.

Nowithstanding anything in this Section 13(c) to the contrary, in the event of an Involuntary Termination (as defined below) of Participant as a Service Provider on or within twelve (12) months following a Change in Control, the Participant will fully vest in and have the right to exercise all of his or her outstanding Options and Stock Appreciation Rights, including Shares as to which such Awards would not otherwise be vested or exercisable, all restrictions on Restricted Stock and Restricted Stock Units will lapse, and, with respect to Awards with performance-based vesting, all performance goals or other vesting criteria will be deemed achieved at one hundred percent (100%) of target levels and all other terms and conditions met.

Notwithstanding anything in this Section 13(c) to the contrary, if a payment under an Award Agreement is subject to Code Section 409A and if the change in control definition contained in the Award Agreement does not comply with the definition of "change of control" for purposes of a distribution under Code Section 409A, then any payment of an amount that is otherwise accelerated under this Section will be delayed until the earliest time that such payment would be permissible under Code Section 409A without triggering any penalties applicable under Code Section 409A.

14. Tax Withholding.

(a) Withholding Requirements. Prior to the delivery of any Shares or cash pursuant to an Award (or exercise thereof), the Company will have the power and the right to deduct or withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy federal, state, local, foreign or other taxes (including the Participant's FICA obligation) required to be withheld with respect to such Award (or exercise thereof).

(b) Withholding Arrangements. The Administrator, in its sole discretion and pursuant to such procedures as it may specify from time to time, may permit a Participant to satisfy such tax withholding obligation, in whole or in part by (without limitation) (i) paying cash, (ii) electing to have the Company withhold otherwise deliverable Shares having a Fair Market Value equal to the minimum statutory amount required to be withheld, (iii) delivering to the Company already-owned Shares having a Fair Market Value equal to the statutory amount required to be withheld, provided the delivery of such Shares will not result in any adverse accounting consequences, as the Administrator determines in its sole discretion, or (iv) selling a sufficient number of Shares otherwise deliverable to the Participant through such means as the Administrator may determine in its sole discretion (whether through a broker or otherwise) equal to the amount required to be withheld. The amount of the withholding requirement will be deemed to include any amount which the Administrator agrees may be withheld at the time the election is made, not to

exceed the amount determined by using the maximum federal, state or local marginal income tax rates applicable to the Participant with respect to the Award on the date that the amount of tax to be withheld is to be determined. The Fair Market Value of the Shares to be withheld or delivered will be determined as of the date that the taxes are required to be withheld.

15. No Effect on Employment or Service. Neither the Plan nor any Award will confer upon a Participant any right with respect to continuing the Participant's relationship as a Service Provider with the Company, nor will they interfere in any way with the Participant's right or the Company's right to terminate such relationship at any time, with or without cause, to the extent permitted by Applicable Laws.

16. Date of Grant. The date of grant of an Award will be, for all purposes, the date on which the Administrator makes the determination granting such Award, or such other later date as is determined by the Administrator. Notice of the determination will be provided to each Participant within a reasonable time after the date of such grant.

17. Term of Plan. Subject to Section 21 of the Plan, the Plan will become effective upon its adoption by the Board. Unless sooner terminated under Section 18, it will continue in effect for a term of ten (10) years from the later of (a) the effective date of the Plan, or (b) the earlier of the most recent Board or stockholder approval of an increase in the number of Shares reserved for issuance under the Plan.

18. Amendment and Termination of the Plan.

(a) Amendment and Termination. The Board may at any time amend, alter, suspend or terminate the Plan.

(b) Stockholder Approval. The Company will obtain stockholder approval of any Plan amendment to the extent necessary and desirable to comply with Applicable Laws.

(c) Effect of Amendment or Termination. No amendment, alteration, suspension or termination of the Plan will impair the rights of any Participant, unless mutually agreed otherwise between the Participant and the Administrator, which agreement must be in writing and signed by the Participant and the Company. Termination of the Plan will not affect the Administrator's ability to exercise the powers granted to it hereunder with respect to Awards granted under the Plan prior to the date of such termination.

19. Conditions Upon Issuance of Shares.

(a) Legal Compliance. Shares will not be issued pursuant to the exercise of an Award unless the exercise of such Award and the issuance and delivery of such Shares will comply with Applicable Laws and will be further subject to the approval of counsel for the Company with respect to such compliance.

(b) Investment Representations. As a condition to the exercise of an Award, the Company may require the person exercising such Award to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required.

20. Inability to Obtain Authority. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, will relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority will not have been obtained.

21. Stockholder Approval. The Plan will be subject to approval by the stockholders of the Company within twelve (12) months after the date the Plan is adopted by the Board. Such stockholder approval will be obtained in the manner and to the degree required under Applicable Laws.

22. Information to Participants. Beginning on the earlier of (i) the date that the aggregate number of Participants under this Plan is five hundred (500) or more and the Company is relying on the exemption provided by Rule 12h-1(f)(1) under the Exchange Act and (ii) the date that the Company is required to deliver information to Participants pursuant to Rule 701 under the Securities Act, and until such time as the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, is no longer relying on the exemption provided by Rule 12h-1(f)(1) under the Exchange Act or is no longer required to deliver information to Participants pursuant to Rule 701 under the Securities Act, the Company shall provide to each Participant the information described in paragraphs (e)(3), (4), and (5) of Rule 701 under the Securities Act not less frequently than every six (6) months with the financial statements being not more than 180 days old and with such information provided either by physical or electronic delivery to the Participants or by written notice to the Participants of the availability of the information on an Internet site that may be password-protected and of any password needed to access the information. The Company may request that Participants agree to keep the information to be provided pursuant to this section confidential. If a Participant does not agree to keep the information to be provided pursuant to this section confidential, then the Company will not be required to provide the information unless otherwise required pursuant to Rule 12h-1(f)(1) under the Exchange Act or Rule 701 of the Securities Act.

Exhibit 10.5

INOGEN, INC.

2012 EQUITY INCENTIVE PLAN

STOCK OPTION AGREEMENT

Unless otherwise defined herein, the terms defined in the 2012 Equity Incentive Plan (the "Plan") shall have the same defined meanings in this Stock Option Agreement (the "Option Agreement").

I. NOTICE OF STOCK OPTION GRANT

Name: _____

Address: _____

_____

The undersigned Participant has been granted an Option to purchase Common Stock of the Company, subject to the terms and conditions of the Plan and this Option Agreement, as follows:

Date of Grant:	_____
Vesting Commencement Date:	_____
Exercise Price per Share:	$ _____
Total Number of Shares Granted:	_____
Total Exercise Price:	$ _____
Type of Option:	_____ Incentive Stock Option
	_____ Nonstatutory Stock Option
Term/Expiration Date:	_____

Vesting Schedule:

This Option shall be exercisable, in whole or in part, according to the following vesting schedule:

Twenty-five percent (25%) of the Shares subject to the Option shall vest on the one (1) year anniversary of the Vesting Commencement Date, and one thirty-sixth (1/36th) of the Shares subject to the Option shall vest each month thereafter on the same day of the month as the Vesting Commencement Date (and if there is no corresponding day, on the last day of the month), subject to Participant continuing to be a Service Provider through each such date.

Termination Period:

This Option shall be exercisable for three (3) months after Participant ceases to be a Service Provider, unless such termination is due to Participant's death or Disability, in which case this Option shall be exercisable for twelve (12) months after Participant ceases to be a Service Provider. Notwithstanding the foregoing sentence, in no event may this Option be exercised after the Term/Expiration Date as provided above and this Option may be subject to earlier termination as provided in Section 13 of the Plan.

II. AGREEMENT

1. Grant of Option. The Administrator of the Company hereby grants to the Participant named in the Notice of Stock Option Grant in Part I of this Agreement ("Participant"), an option (the "Option") to purchase the number of Shares set forth in the Notice of Stock Option Grant, at the exercise price per Share set forth in the Notice of Stock Option Grant (the "Exercise Price"), and subject to the terms and conditions of the Plan, which is incorporated herein by reference. Subject to Section 18 of the Plan, in the event of a conflict between the terms and conditions of the Plan and this Option Agreement, the terms and conditions of the Plan shall prevail.

If designated in the Notice of Stock Option Grant as an Incentive Stock Option ("ISO"), this Option is intended to qualify as an Incentive Stock Option as defined in Section 422 of the Code. Nevertheless, to the extent that it exceeds the $100,000 rule of Code Section 422(d), this Option shall be treated as a Nonstatutory Stock Option ("NSO"). Further, if for any reason this Option (or portion thereof) shall not qualify as an ISO, then, to the extent of such nonqualification, such Option (or portion thereof) shall be regarded as a NSO granted under the Plan. In no event shall the Administrator, the Company or any Parent or Subsidiary or any of their respective employees or directors have any liability to Participant (or any other person) due to the failure of the Option to qualify for any reason as an ISO.

2. Exercise of Option.

(a) Right to Exercise. This Option shall be exercisable during its term in accordance with the Vesting Schedule set out in the Notice of Stock Option Grant and with the applicable provisions of the Plan and this Option Agreement.

(b) Method of Exercise. This Option shall be exercisable by delivery of an exercise notice in the form attached as Exhibit A (the "Exercise Notice") or in a manner and pursuant to such procedures as the Administrator may determine, which shall state the election to exercise the Option, the number of Shares with respect to which the Option is being exercised (the "Exercised Shares"), and such other representations and agreements as may be required by the Company. The Exercise Notice shall be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares, together with any applicable tax withholding. This Option shall be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by the aggregate Exercise Price, together with any applicable tax withholding.

No Shares shall be issued pursuant to the exercise of an Option unless such issuance and such exercise comply with Applicable Laws. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to Participant on the date on which the Option is exercised with respect to such Shares.

3. Participant's Representations. In the event the Shares have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), at the time this Option is exercised, Participant shall, if required by the Company, concurrently with the exercise of all or any portion of this Option, deliver to the Company his or her Investment Representation Statement in the form attached hereto as Exhibit B.

4. Lock-Up Period. Participant hereby agrees that Participant shall not offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any Common Stock (or other securities) of the Company or enter into any swap, hedging or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Common Stock (or other securities) of the Company held by Participant (other than those included in the registration) for a period specified by the representative of the underwriters of Common Stock (or other securities) of the Company not to exceed one hundred and eighty (180) days following the effective date of any registration statement of the Company filed under the Securities Act (or such other period as may be requested by the Company or the underwriters to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto).

Participant agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter which are consistent with the foregoing or which are necessary to give further effect thereto. In addition, if requested by the Company or the representative of the underwriters of Common Stock (or other securities) of the Company, Participant shall provide, within ten (10) days of such request, such information as may be required by the Company or such representative in connection with the completion of any public offering of the Company's securities pursuant to a registration statement filed under the Securities Act. The obligations described in this Section 4 shall not apply to a registration relating solely to employee benefit plans on Form S-1 or Form S-8 or similar forms that may be promulgated in the future, or a registration relating solely to a Commission Rule 145 transaction on Form S-4 or similar forms that may be promulgated in the future. The Company may impose stop-transfer instructions with respect to the shares of Common Stock (or other securities) subject to the foregoing restriction until the end of said one hundred and eighty (180) day (or other) period. Participant agrees that any transferee of the Option or shares acquired pursuant to the Option shall be bound by this Section 4.

5. Method of Payment. Payment of the aggregate Exercise Price shall be by any of the following, or a combination thereof, at the election of the Participant:

(a) cash;

(b) check;

(c) consideration received by the Company under a formal cashless exercise program adopted by the Company in connection with the Plan; or

(d) surrender of other Shares which (i) shall be valued at its Fair Market Value on the date of exercise, and (ii) must be owned free and clear of any liens, claims, encumbrances or security interests, if accepting such Shares, in the sole discretion of the Administrator, shall not result in any adverse accounting consequences to the Company.

6. Restrictions on Exercise. This Option may not be exercised until such time as the Plan has been approved by the stockholders of the Company, or if the issuance of such Shares upon such exercise or the method of payment of consideration for such shares would constitute a violation of any Applicable Law.

7. Non-Transferability of Option.

(a) This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Participant only by Participant. The terms of the Plan and this Option Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of Participant.

(b) Further, until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, or after the Administrator determines that it is, will, or may no longer be relying upon the exemption from registration of Options under the Exchange Act as set forth in Rule 12h-1(f) promulgated under the Exchange Act (the "Reliance End Date"), Participant shall not transfer this Option or, prior to exercise, the Shares subject to this Option, in any manner other than (i) to persons who are "family members" (as defined in Rule 701(c)(3) of the Securities Act) through gifts or domestic relations orders, or (ii) to an executor or guardian of Participant upon the death or disability of Participant. Until the Reliance End Date, the Options and, prior to exercise, the Shares subject to this Option, may not be pledged, hypothecated or otherwise transferred or disposed of, including by entering into any short position, any "put equivalent position" or any "call equivalent position" (as defined in Rule 16a-1(h) and Rule 16a-1(b) of the Exchange Act, respectively), other than as permitted in clauses (i) and (ii) of this paragraph.

8. Term of Option. This Option may be exercised only within the term set out in the Notice of Stock Option Grant, and may be exercised during such term only in accordance with the Plan and the terms of this Option Agreement.

9. Tax Obligations.

(a) Tax Withholding. Participant agrees to make appropriate arrangements with the Company (or the Parent or Subsidiary employing or retaining Participant) for the satisfaction of all Federal, state, local and foreign income and employment tax withholding requirements applicable to the Option exercise. Participant acknowledges and agrees that the Company may refuse to honor the exercise and refuse to deliver the Shares if such withholding amounts are not delivered at the time of exercise.

(b) Notice of Disqualifying Disposition of ISO Shares. If the Option granted to Participant herein is an ISO, and if Participant sells or otherwise disposes of any of the Shares

acquired pursuant to the ISO on or before the later of (i) the date two (2) years after the Date of Grant, or (ii) the date one (1) year after the date of exercise, Participant shall immediately notify the Company in writing of such disposition. Participant agrees that Participant may be subject to income tax withholding by the Company on the compensation income recognized by Participant.

(c) Code Section 409A. Under Code Section 409A, an Option that vests after December 31, 2004 (or that vested on or prior to such date but which was materially modified after October 3, 2004) that was granted with a per Share exercise price that is determined by the Internal Revenue Service (the "IRS") to be less than the Fair Market Value of a Share on the date of grant (a "discount option") may be considered "deferred compensation." An Option that is a "discount option" may result in (i) income recognition by Participant prior to the exercise of the Option, (ii) an additional twenty percent (20%) federal income tax, and (iii) potential penalty and interest charges. The "discount option" may also result in additional state income, penalty and interest tax to the Participant. Participant acknowledges that the Company cannot and has not guaranteed that the IRS will agree that the per Share exercise price of this Option equals or exceeds the Fair Market Value of a Share on the date of grant in a later examination. Participant agrees that if the IRS determines that the Option was granted with a per Share exercise price that was less than the Fair Market Value of a Share on the date of grant, Participant shall be solely responsible for Participant's costs related to such a determination.

10. Entire Agreement; Governing Law. The Plan is incorporated herein by reference. The Plan and this Option Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof, and may not be modified adversely to the Participant's interest except by means of a writing signed by the Company and Participant. This Option Agreement is governed by the internal substantive laws but not the choice of law rules of California.

11. No Guarantee of Continued Service. PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE VESTING OF SHARES PURSUANT TO THE VESTING SCHEDULE HEREOF IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AT THE WILL OF THE COMPANY (OR THE PARENT OR SUBSIDIARY EMPLOYING OR RETAINING PARTICIPANT) AND NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS OPTION OR ACQUIRING SHARES HEREUNDER. PARTICIPANT FURTHER ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE IN ANY WAY WITH PARTICIPANT'S RIGHT OR THE RIGHT OF THE COMPANY (OR THE PARENT OR SUBSIDIARY EMPLOYING OR RETAINING PARTICIPANT) TO TERMINATE PARTICIPANT'S RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE.

Participant acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof, and hereby accepts this Option subject to all of the terms and provisions thereof. Participant has reviewed the Plan and this Option in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Option and fully understands all provisions of the Option. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan or this Option. Participant further agrees to notify the Company upon any change in the residence address indicated below.

PARTICIPANT	INOGEN, INC.
Signature	By
Print Name	Print Name
	Title
Residence Address	

EXHIBIT A

2012 EQUITY INCENTIVE PLAN

EXERCISE NOTICE

Inogen, Inc.
326 Bollay Drive
Goleta, CA 93117

Attention: _____

1. Exercise of Option. Effective as of today, , , the undersigned ("Participant") hereby elects to exercise Participant's option (the "Option") to purchase shares of the Common Stock (the "Shares") of Inogen, Inc. (the "Company") under and pursuant to the 2012 Equity Incentive Plan (the "Plan") and the Stock Option Agreement dated , (the "Option Agreement").

2. Delivery of Payment. Participant herewith delivers to the Company the full purchase price of the Shares, as set forth in the Option Agreement, and any and all withholding taxes due in connection with the exercise of the Option.

3. Representations of Participant. Participant acknowledges that Participant has received, read and understood the Plan and the Option Agreement and agrees to abide by and be bound by their terms and conditions.

4. Rights as Stockholder. Until the issuance of the Shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Common Stock subject to an Award, notwithstanding the exercise of the Option. The Shares shall be issued to Participant as soon as practicable after the Option is exercised in accordance with the Option Agreement. No adjustment shall be made for a dividend or other right for which the record date is prior to the date of issuance except as provided in Section 13 of the Plan.

5. Company's Right of First Refusal. Before any Shares held by Participant or any transferee (either being sometimes referred to herein as the "Holder") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section 5 (the "Right of First Refusal").

(a) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the "Notice") stating: (i) the Holder's bona fide intention to sell or otherwise transfer such Shares; (ii) the name of each proposed purchaser or other transferee ("Proposed Transferee"); (iii) the number of Shares to be transferred to each Proposed Transferee; and (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Shares (the "Offered Price"), and the Holder shall offer the Shares at the Offered Price to the Company or its assignee(s).

(b) Exercise of Right of First Refusal. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the purchase price determined in accordance with subsection (c) below.

(c) Purchase Price. The purchase price ("Purchase Price") for the Shares purchased by the Company or its assignee(s) under this Section 5 shall be the Offered Price. If the Offered Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board of Directors of the Company in good faith.

(d) Payment. Payment of the Purchase Price shall be made, at the option of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness of the Holder to the Company (or, in the case of repurchase by an assignee, to the assignee), or by any combination thereof within thirty (30) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(e) Holder's Right to Transfer. If all of the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section 5, then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Offered Price or at a higher price, *provided* that such sale or other transfer is consummated within one hundred and twenty (120) days after the date of the Notice, that any such sale or other transfer is effected in accordance with any applicable securities laws and that the Proposed Transferee agrees in writing that the provisions of this Section 5 shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(f) Exception for Certain Family Transfers. Anything to the contrary contained in this Section 5 notwithstanding, the transfer of any or all of the Shares during the Participant's lifetime or on the Participant's death by will or intestacy to the Participant's immediate family or a trust for the benefit of the Participant's immediate family shall be exempt from the provisions of this Section 5. "Immediate Family" as used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section 5, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 5.

(g) Termination of Right of First Refusal. The Right of First Refusal shall terminate as to any Shares upon the earlier of (i) the first sale of Common Stock of the Company to the general public, or (ii) a Change in Control in which the successor corporation has equity securities that are publicly traded.

6. Tax Consultation. Participant understands that Participant may suffer adverse tax consequences as a result of Participant's purchase or disposition of the Shares. Participant represents that Participant has consulted with any tax consultants Participant deems advisable in connection with the purchase or disposition of the Shares and that Participant is not relying on the Company for any tax advice.

7. Restrictive Legends and Stop-Transfer Orders.

(a) Legends. Participant understands and agrees that the Company shall cause the legends set forth below or legends substantially equivalent thereto, to be placed upon any certificate(s) evidencing ownership of the Shares together with any other legends that may be required by the Company or by state or federal securities laws:

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 SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS IN COMPLIANCE THEREWITH.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AND A RIGHT OF FIRST REFUSAL HELD BY THE ISSUER OR ITS ASSIGNEE(S) AS SET FORTH IN THE EXERCISE NOTICE BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH TRANSFER RESTRICTIONS AND RIGHT OF FIRST REFUSAL ARE BINDING ON TRANSFEREES OF THESE SHARES.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER FOR A PERIOD OF TIME FOLLOWING THE EFFECTIVE DATE OF THE UNDERWRITTEN PUBLIC OFFERING OF THE COMPANY'S SECURITIES SET FORTH IN AN AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES AND MAY NOT BE SOLD OR OTHERWISE DISPOSED OF BY THE HOLDER PRIOR TO THE EXPIRATION OF SUCH PERIOD WITHOUT THE CONSENT OF THE COMPANY OR THE MANAGING UNDERWRITER.

(b) Stop-Transfer Notices. Participant agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate "stop transfer" instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) Refusal to Transfer. The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Exercise Notice or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.

8. Successors and Assigns. The Company may assign any of its rights under this Exercise Notice to single or multiple assignees, and this Exercise Notice shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth, this Exercise Notice shall be binding upon Participant and his or her heirs, executors, administrators, successors and assigns.

9. Interpretation. Any dispute regarding the interpretation of this Exercise Notice shall be submitted by Participant or by the Company forthwith to the Administrator, which shall review such dispute at its next regular meeting. The resolution of such a dispute by the Administrator shall be final and binding on all parties.

10. Governing Law; Severability. This Exercise Notice is governed by the internal substantive laws, but not the choice of law rules, of California. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Exercise Notice shall continue in full force and effect.

11. Entire Agreement. The Plan and Option Agreement are incorporated herein by reference. This Exercise Notice, the Plan, the Option Agreement and the Investment Representation Statement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof, and may not be modified adversely to the Participant's interest except by means of a writing signed by the Company and Participant.

Submitted by: PARTICIPANT	Accepted by: INOGEN, INC.
_____	_____
Signature	By
_____	_____
Print Name	Print Name
	_____
	Title
Address:	Address:
_____	_____
_____	_____
	_____
	Date Received

EXHIBIT B

INVESTMENT REPRESENTATION STATEMENT

PARTICIPANT	:	_____
COMPANY	:	INOGEN, INC.
SECURITY	:	COMMON STOCK
AMOUNT	:	_____
DATE	:	_____

In connection with the purchase of the above-listed Securities, the undersigned Participant represents to the Company the following:

(a) Participant is aware of the Company's business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Securities. Participant is acquiring these Securities for investment for Participant's own account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act of 1933, as amended (the "Securities Act").

(b) Participant acknowledges and understands that the Securities constitute "restricted securities" under the Securities Act and have not been registered under the Securities Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Participant's investment intent as expressed herein. In this connection, Participant understands that, in the view of the Securities and Exchange Commission, the statutory basis for such exemption may be unavailable if Participant's representation was predicated solely upon a present intention to hold these Securities for the minimum capital gains period specified under tax statutes, for a deferred sale, for or until an increase or decrease in the market price of the Securities, or for a period of one (1) year or any other fixed period in the future. Participant further understands that the Securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Participant further acknowledges and understands that the Company is under no obligation to register the Securities. Participant understands that the certificate evidencing the Securities shall be imprinted with any legend required under applicable state securities laws.

(c) Participant is familiar with the provisions of Rule 701 and Rule 144, each promulgated under the Securities Act, which, in substance, permit limited public resale of "restricted securities" acquired, directly or indirectly from the issuer thereof, in a non-public offering subject to the satisfaction of certain conditions. Rule 701 provides that if the issuer qualifies under Rule 701 at the time of the grant of the Option to Participant, the exercise shall be exempt from registration under the Securities Act. In the event the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, ninety (90) days thereafter (or such

longer period as any market stand-off agreement may require) the Securities exempt under Rule 701 may be resold, subject to the satisfaction of the applicable conditions specified by Rule 144, including in the case of affiliates (1) the availability of certain public information about the Company, (2) the amount of Securities being sold during any three (3) month period not exceeding specified limitations, (3) the resale being made in an unsolicited "broker's transaction", transactions directly with a "market maker" or "riskless principal transactions" (as those terms are defined under the Securities Exchange Act of 1934) and (4) the timely filing of a Form 144, if applicable.

In the event that the Company does not qualify under Rule 701 at the time of grant of the Option, then the Securities may be resold in certain limited circumstances subject to the provisions of Rule 144, which may require (i) the availability of current public information about the Company; (ii) the resale to occur more than a specified period after the purchase and full payment (within the meaning of Rule 144) for the Securities; and (iii) in the case of the sale of Securities by an affiliate, the satisfaction of the conditions set forth in sections (2), (3) and (4) of the paragraph immediately above.

(d) Participant further understands that in the event all of the applicable requirements of Rule 701 or 144 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption shall be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rules 144 or 701 shall have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk. Participant understands that no assurances can be given that any such other registration exemption shall be available in such event.

PARTICIPANT

_____

Signature

_____

Print Name

_____

Date

Exhibit 10.9

INOGEN, INC.

EXECUTIVE INCENTIVE COMPENSATION PLAN

Adopted by the Board of Directors on October 11, 2013

and effective upon the Company's initial public offering

1. Purposes of the Plan. The Plan is intended to increase shareholder value and the success of the Company by motivating Employees to (a) perform to the best of their abilities, and (b) achieve the Company's objectives.

2. Definitions.

(a) "Affiliate" means any corporation or other entity (including, but not limited to, partnerships and joint ventures) controlled by the Company.

(b) "Actual Award" means as to any Performance Period, the actual award (if any) payable to a Participant for the Performance Period, subject to the Committee's authority under Section 3(d) to modify the award.

(c) "Board" means the Board of Directors of the Company.

(d) "Bonus Pool" means the pool of funds available for distribution to Participants. Subject to the terms of the Plan, the Committee establishes the Bonus Pool for each Performance Period.

(e) "Code" means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code or regulation thereunder will include such section or regulation, any valid regulation promulgated thereunder, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

(f) "Committee" means the committee appointed by the Board (pursuant to Section 5) to administer the Plan. Unless and until the Board otherwise determines, the Board's Compensation Committee will administer the Plan.

(g) "Company" means Inogen, Inc., a Delaware corporation, or any successor thereto.

(h) "Disability" means a permanent and total disability determined in accordance with uniform and nondiscriminatory standards adopted by the Committee from time to time.

(i) "Employee" means any executive, officer, or key employee of the Company or of an Affiliate, whether such individual is so employed at the time the Plan is adopted or becomes so employed subsequent to the adoption of the Plan.

(j) "Fiscal Year" means the fiscal year of the Company.

(k) "Participant" means as to any Performance Period, an Employee who has been selected by the Committee for participation in the Plan for that Performance Period.

(l) "Performance Period" means the period of time for the measurement of the performance criteria that must be met to receive an Actual Award, as determined by the Committee in its sole discretion. A Performance Period may be divided into one or more shorter periods if, for example, but not by way of limitation, the Committee desires to measure some performance criteria over 12 months and other criteria over 3 months.

(m) "Plan" means this Executive Incentive Compensation Plan, as set forth in this instrument and as hereafter amended from time to time.

(n) "Target Award" means the target award, at 100% performance achievement, payable under the Plan to a Participant for the Performance Period, as determined by the Committee in accordance with Section 3(b).

(o) "Termination of Service" means a cessation of the employee-employer relationship between an Employee and the Company or an Affiliate for any reason, including, but not by way of limitation, a termination by resignation, discharge, death, Disability, retirement, or the disaffiliation of an Affiliate, but excluding any such termination where there is a simultaneous reemployment by the Company or an Affiliate.

3. Selection of Participants and Determination of Awards.

(a) Selection of Participants. The Committee, in its sole discretion, will select the Employees who will be Participants for any Performance Period. Participation in the Plan is in the sole discretion of the Committee, on a Performance Period by Performance Period basis. Accordingly, an Employee who is a Participant for a given Performance Period in no way is guaranteed or assured of being selected for participation in any subsequent Performance Period or Periods.

(b) Determination of Target Awards. The Committee, in its sole discretion, will establish a Target Award for each Participant, which generally will be a percentage of a Participant's average annual base salary for the Performance Period.

(c) Bonus Pool. Each Performance Period, the Committee, in its sole discretion, will establish a Bonus Pool, which pool may be established before, during or after the applicable Performance Period. Actual Awards will be paid from the Bonus Pool.

(d) Discretion to Modify Awards. Notwithstanding any contrary provision of the Plan, the Committee may, in its sole discretion and at any time, (i) increase, reduce or eliminate a Participant's Actual Award, and/or (ii) increase, reduce or eliminate the amount

allocated to the Bonus Pool. The Actual Award may be below, at or above the Target Award, in the Committee's discretion. The Committee may determine the amount of any reduction on the basis of such factors as it deems relevant, and will not be required to establish any allocation or weighting with respect to the factors it considers.

(e) Discretion to Determine Criteria. Notwithstanding any contrary provision of the Plan, the Committee will, in its sole discretion, determine the performance goals applicable to any Target Award which requirement may include, without limitation, (i) attainment of research and development milestones, (ii) sales bookings, (iii) business divestitures and acquisitions, (iv) cash flow, (v) cash position, (vi) earnings (which may include any calculation of earnings, including but not limited to earnings before interest and taxes, earnings before taxes, earnings before interested, taxes, depreciation and amortization and net earnings), (vii) earnings per share, (viii) net income, (ix) net profit, (x) net sales, (xi) operating cash flow, (xii) operating expenses, (xiii) operating income, (xiv) operating margin, (xv) overhead or other expense reduction, (xvi) product defect measures, (xvii) product release timelines, (xviii) productivity, (xix) profit, (xx) return on assets, (xxi) return on capital, (xxii) return on equity, (xxiii) return on investment, (xxiv) return on sales, (xxv) revenue, (xxvi) revenue growth, (xxvii) sales results, (xviii) sales growth, (xxix) stock price, (xxx) time to market, (xxxi) total stockholder return, (xxxii) working capital, and (xxxiii) individual objectives such as peer reviews or other subjective or objective criteria. As determined by the Committee, the performance goals may be based on generally accepted accounting principles ("GAAP") or non-GAAP results and any actual results may be adjusted by the Committee for one-time items or unbudgeted or unexpected items when determining whether the performance goals have been met. The goals may be on the basis of any factors the Committee determines relevant, and may be on an individual, divisional, business unit or Company-wide basis. Any criteria used may be measured on such basis as the Committee determines, including but not limited to, as applicable, (i) in absolute terms, (ii) in combination with another performance goal or goals (for example, but not by way of limitation, as a ratio or matrix), (iii) in relative terms (including, but not limited to, results for other periods, passage of time and/or against another company or companies or an index or indices), (iv) on a per-share basis, (v) against the performance of the Company as a whole or a segment of the Company and/or (vi) on a pre-tax or after-tax basis. The performance goals may differ from Participant to Participant and from award to award. Failure to meet the goals will result in a failure to earn the Target Award, except as provided in Section 3(d).

4. Payment of Awards.

(a) Right to Receive Payment. Each Actual Award will be paid solely from the general assets of the Company. Nothing in this Plan will be construed to create a trust or to establish or evidence any Participant's claim of any right other than as an unsecured general creditor with respect to any payment to which he or she may be entitled.

(b) Timing of Payment. Payment of each Actual Award shall be made as soon as practicable after the end of the Performance Period during which the Actual Award was earned and after the Actual Award is approved by the Committee, but in no event following the later of (i) the fifteenth (15th) day of the third (3rd) month of the Fiscal Year following the date the Participant's Actual Award has been earned and is no longer subject to a substantial risk of

forfeiture and (ii) March 15 following the calendar year in which the Participant's Actual Award has been earned and is no longer subject to a substantial risk of forfeiture. Unless otherwise determined by the Committee, to earn an Actual Award a Participant must be employed by the Company or any Affiliate on the date the Actual Award is paid.

It is the intent that this Plan comply with the requirements of Code Section 409A so that none of the payments to be provided hereunder will be subject to the additional tax imposed under Code Section 409A, and any ambiguities herein will be interpreted to so comply.

(c) Form of Payment. Each Actual Award will be paid in cash (or its equivalent) in a single lump sum.

(d) Payment in the Event of Death or Disability. If a Participant dies or becomes Disabled prior to the payment of an Actual Award earned by him or her prior to death or Disability for a prior Performance Period, the Actual Award will be paid to his or her estate or to the Participant, as the case may be, subject to the Committee's discretion to reduce or eliminate any Actual Award otherwise payable.

5. Plan Administration.

(a) Committee is the Administrator. The Plan will be administered by the Committee. The Committee will consist of not less than two (2) members of the Board. The members of the Committee will be appointed from time to time by, and serve at the pleasure of, the Board.

(b) Committee Authority. It will be the duty of the Committee to administer the Plan in accordance with the Plan's provisions. The Committee will have all powers and discretion necessary or appropriate to administer the Plan and to control its operation, including, but not limited to, the power to (i) determine which Employees will be granted awards, (ii) prescribe the terms and conditions of awards, (iii) interpret the Plan and the awards, (iv) adopt such procedures and subplans as are necessary or appropriate to permit participation in the Plan by Employees who are foreign nationals or employed outside of the United States, (v) adopt rules for the administration, interpretation and application of the Plan as are consistent therewith, and (vi) interpret, amend or revoke any such rules.

(c) Decisions Binding. All determinations and decisions made by the Committee, the Board, and any delegate of the Committee pursuant to the provisions of the Plan will be final, conclusive, and binding on all persons, and will be given the maximum deference permitted by law.

(d) Delegation by Committee. The Committee, in its sole discretion and on such terms and conditions as it may provide, may delegate all or part of its authority and powers under the Plan to one or more directors and/or officers of the Company.

(e) Indemnification. Each person who is or will have been a member of the Committee will be indemnified and held harmless by the Company against and from (i) any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by him or her in

connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action taken or failure to act under the Plan or any award, and (ii) from any and all amounts paid by him or her in settlement thereof, with the Company's approval, or paid by him or her in satisfaction of any judgment in any such claim, action, suit, or proceeding against him or her, provided he or she will give the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification will not be exclusive of any other rights of indemnification to which such persons may be entitled under the Company's Certificate of Incorporation or Bylaws, by contract, as a matter of law, or otherwise, or under any power that the Company may have to indemnify them or hold them harmless.

6. General Provisions.

(a) Tax Withholding. The Company will withhold all applicable taxes from any Actual Award, including any federal, state and local taxes (including, but not limited to, the Participant's FICA and SDI obligations).

(b) No Effect on Employment or Service. Nothing in the Plan will interfere with or limit in any way the right of the Company to terminate any Participant's employment or service at any time, with or without cause. For purposes of the Plan, transfer of employment of a Participant between the Company and any one of its Affiliates (or between Affiliates) will not be deemed a Termination of Service. Employment with the Company and its Affiliates is on an at-will basis only. The Company expressly reserves the right, which may be exercised at any time and without regard to when during a Performance Period such exercise occurs, to terminate any individual's employment with or without cause, and to treat him or her without regard to the effect that such treatment might have upon him or her as a Participant.

(c) Participation. No Employee will have the right to be selected to receive an award under this Plan, or, having been so selected, to be selected to receive a future award.

(d) Successors. All obligations of the Company under the Plan, with respect to awards granted hereunder, will be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise, of all or substantially all of the business or assets of the Company.

(e) Beneficiary Designations. If permitted by the Committee, a Participant under the Plan may name a beneficiary or beneficiaries to whom any vested but unpaid award will be paid in the event of the Participant's death. Each such designation will revoke all prior designations by the Participant and will be effective only if given in a form and manner acceptable to the Committee. In the absence of any such designation, any vested benefits remaining unpaid at the Participant's death will be paid to the Participant's estate.

(f) Nontransferability of Awards. No award granted under the Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will, by the laws of descent and distribution, or to the limited extent provided in Section 6(e). All rights with respect to an award granted to a Participant will be available during his or her lifetime only to the Participant.

7. Amendment, Termination, and Duration.

(a) Amendment, Suspension, or Termination. The Board, in its sole discretion, may amend or terminate the Plan, or any part thereof, at any time and for any reason. The amendment, suspension or termination of the Plan will not, without the consent of the Participant, alter or impair any rights or obligations under any Actual Award theretofore earned by such Participant. No award may be granted during any period of suspension or after termination of the Plan.

(b) Duration of Plan. The Plan will commence on the date specified herein, and subject to Section 7(a) (regarding the Board's right to amend or terminate the Plan), will remain in effect thereafter.

8. Legal Construction.

(a) Gender and Number. Except where otherwise indicated by the context, any masculine term used herein also will include the feminine; the plural will include the singular and the singular will include the plural.

(b) Severability. In the event any provision of the Plan will be held illegal or invalid for any reason, the illegality or invalidity will not affect the remaining parts of the Plan, and the Plan will be construed and enforced as if the illegal or invalid provision had not been included.

(c) Requirements of Law. The granting of awards under the Plan will be subject to all applicable laws, rules and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required.

(d) Governing Law. The Plan and all awards will be construed in accordance with and governed by the laws of the State of California, but without regard to its conflict of law provisions.

(e) Bonus Plan. The Plan is intended to be a "bonus program" as defined under U.S. Department of Labor regulation 2510.3-2(c) and will be construed and administered in accordance with such intention.

(f) Captions. Captions are provided herein for convenience only, and will not serve as a basis for interpretation or construction of the Plan.

Exhibit 10.15

EXECUTION COPY

INOGEN, INC.

AMENDED AND RESTATED REVOLVING CREDIT AND TERM LOAN AGREEMENT

DATED AS OF OCTOBER 12, 2012

COMERICA BANK,
AS ADMINISTRATIVE AGENT AND SOLE LEAD ARRANGER/SOLE BOOKRUNNER

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AMENDED AND RESTATED REVOLVING CREDIT AND TERM LOAN AGREEMENT

This Amended and Restated Revolving Credit and Term Loan Agreement ("Agreement") is made as of the 12th day of October, 2012, by and among the financial institutions from time to time signatory hereto (individually a "Lender," and any and all such financial institutions collectively the "Lenders"), Comerica Bank, as the Administrative Agent for the Lenders (in such capacity, the "Agent") and Sole Lead Arranger/Sole Bookrunner, and Inogen, Inc. ("Borrower").

RECITALS

A. Borrower and Lenders entered into that certain Amended and Restated Loan and Security Agreement dated as of May 19, 2011 (as subsequently amended from time to time, the "Prior Credit Agreement").

B. Borrower now desires to amend and replace the Prior Credit Agreement with an amended and restated credit agreement evidenced by this Agreement.

C. The Borrower has requested that the Lenders extend to it credit and letters of credit on the terms and conditions set forth herein.

D. The Lenders are prepared to extend such credit as aforesaid, but only on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the covenants contained herein, the Borrower, the Lenders, and the Agent agree as follows:

1. DEFINITIONS.

1.1 Certain Defined Terms. For the purposes of this Agreement the following terms will have the following meanings:

"Account(s)" shall mean any account or account receivable as defined under the UCC, including without limitation, all presently existing and hereafter arising accounts, contract rights, payment intangibles, and all other forms of obligations owing to Borrower arising out of the sale or lease of goods (including, without limitation, the licensing of software and other technology) or the rendering of services by Borrower, whether or not earned by performance, and any and all credit insurance, guaranties, and other security therefor, as well as all merchandise returned to or reclaimed by Borrower and Borrower's books and records relating to any of the foregoing.

"Account Debtor" shall mean the party who is obligated on or under any Account.

"Advance(s)" shall mean, as the context may indicate, a borrowing requested by the Borrower, and made by the Revolving Credit Lenders under Section 2.1 hereof, the Term Loan Lenders, Term Loan B Lenders and/or Term Loan C Lenders under Section 4.1 hereof, or the Swing Line Lender under Section 2.5 hereof, including without limitation any readvance, refunding or conversion of such borrowing pursuant to Section 2.3, 2.5 or 4.5 hereof, and any advance deemed to have been made in respect of a Letter of Credit under Section 3.6(c) hereof, and shall include, as applicable, a Eurodollar-based Advance, a Base Rate Advance and a Quoted Rate Advance.

"Affected Lender" shall have the meaning set forth in Section 13.11 hereof.

"Affiliate" shall mean, with respect to any Person, any other Person directly or indirectly controlling (including but not limited to all directors and officers of such Person), controlled by, or under direct or indirect common control with such Person. A Person shall be deemed to control another Person for the purposes of this

definition if such Person possesses, directly or indirectly, the power (i) to vote 10% or more of the Equity Interests having ordinary voting power for the election of directors or managers of such other Person or (ii) to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

"Agent" shall have the meaning set forth in the preamble, and include any successor agents appointed in accordance with Section 12.4 hereof.

"Agent's Correspondent" shall mean for Eurodollar-based Advances, the Agent's Grand Cayman Branch (or for the account of said branch office, at the Agent's main office in Detroit, Michigan, United States).

"Applicable Interest Rate" shall mean, (i) with respect to each Revolving Credit Advance and Term Loan Advance, subject to the terms of Sections 2.13 and 4.11 hereof, the Eurodollar-based Rate or the Base Rate, and (ii) with respect to each Swing Line Advance, the Base Rate or, if made available to the Borrower by the Swing Line Lender at its option, the Quoted Rate, in each case as selected by the Borrower from time to time subject to the terms and conditions of this Agreement.

"Applicable Margin" shall mean, as of any date of determination thereof, the applicable interest rate margin, determined by reference to the Pricing Matrix attached to this Agreement as Schedule 1.1.

"Asset Sale" shall mean the sale, transfer or other disposition by any Credit Party of any asset (other than the sale or transfer of less than one hundred percent (100%) of the stock or other ownership interests of any Subsidiary) to any Person (other than to the Borrower or a Guarantor).

"Assignment Agreement" shall mean an Assignment Agreement substantially in the form of Exhibit H hereto.

"Authorized Signer" shall mean each person who has been authorized by the Borrower to execute and deliver any requests for Advances hereunder pursuant to a written authorization delivered to the Agent and whose signature card or incumbency certificate has been received by the Agent.

"Bankruptcy Code" shall mean Title 11 of the United States Code and the rules promulgated thereunder.

"Base Rate" shall mean for any day, that rate of interest which is equal to the sum of the Applicable Margin plus the greatest of (a) the Prime Rate for such day, (b) the Federal Funds Effective Rate in effect on such day, plus one percent (1.0%), and (c) the Daily Adjusting LIBOR Rate plus one percent (1.0%); provided, however, for purposes of determining the Base Rate during any period that LIBOR Rate is unavailable as determined under Sections 11.3 or 11.4 hereof, the Base Rate shall be determined using, for clause (c) hereof, the Daily Adjusting LIBOR Rate in effect immediately prior to the LIBOR Rate becoming unavailable pursuant to Sections 11.3 or 11.4.

"Base Rate Advance" shall mean an Advance which bears interest at the Base Rate.

"Blocked Account" shall have the meaning set forth in Section 7.15 hereof.

"Borrower" shall have the meaning set forth in the preamble to this Agreement.

"Borrowing Base" shall mean, as of any date of determination thereof, an amount equal to eighty percent (80%) of Eligible Accounts; provided that (x) the Borrowing Base shall be determined on the basis of the most current Borrowing Base Certificate required or permitted to be submitted hereunder, and (y) the amount determined as the Borrowing Base shall be subject to, without duplication, any reserves for contras/offsets, drop ship receivables, potential offsets due to customer deposits, discount arrangements, chargebacks, disputed accounts (or potential chargebacks or disputed accounts), and such other reserves as reasonably established by the Agent, at the direction or with the concurrence of the Majority Revolving Lenders from time to time, including, without limitation any reserves or other adjustments established by the Agent or the Majority Revolving Credit Lenders on the basis of any subsequent collateral audits conducted hereunder, all in accordance with ordinary and customary asset-based lending standards, as reasonably determined by the Agent and the Majority Revolving Credit Lenders.

"Borrowing Base Certificate" shall mean a borrowing base certificate, in substantially the form of Exhibit G attached hereto, executed by a Responsible Officer of the Borrower.

"Borrowing Base Obligors" shall mean the Borrower and the Guarantors, and "Borrowing Base Obligor" shall mean any of them, as the context shall indicate.

"Business Day" shall mean any day other than a Saturday or a Sunday on which commercial banks are open for domestic and international business (including dealings in foreign exchange) in Detroit, Michigan, New York, New York and Los Angeles, California, and in the case of a Business Day which relates to a Eurodollar-based Advance, on which dealings are carried on in the London interbank eurodollar market.

"Capital Expenditures" shall mean, for any period, with respect to any Person (without duplication), the aggregate of all expenditures incurred by such Person and its Subsidiaries during such period for the acquisition or leasing (pursuant to a Capitalized Lease) of fixed or capital assets or additions to equipment, plant and property that should be capitalized under GAAP on a consolidated balance sheet of such Person and its Subsidiaries.

"Capitalized Lease" shall mean, as applied to any Person, any lease of any property (whether real, personal or mixed) with respect to which the discounted present value of the rental obligations of such Person as lessee thereunder, in conformity with GAAP, is required to be capitalized on the balance sheet of that Person.

"Cash" shall mean unrestricted cash and cash equivalents.

"Change in Law" shall mean the occurrence, after the Effective Date, of any of the following: (i) the adoption or introduction of, or any change in any applicable law, treaty, rule or regulation (whether domestic or foreign) now or hereafter in effect and whether or not applicable to any Lender or Agent on such date, or (ii) any change in interpretation, administration or implementation of any such law, treaty, rule or regulation by any Governmental Authority, or (iii) the issuance, making or implementation by any Governmental Authority of any interpretation, administration, request, regulation, guideline, or directive (whether or not having the force of law), including any risk-based capital guidelines. For purposes of this definition, (x) a change in law, treaty, rule, regulation, interpretation, administration or implementation shall include, without limitation, any change made or which becomes effective on the basis of a law, treaty, rule, regulation, interpretation administration or implementation then in force, the effective date of which change is delayed by the terms of such law, treaty, rule, regulation, interpretation, administration or implementation, (y) the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173) and all requests, rules, regulations, guidelines, interpretations or directives promulgated thereunder or issued in connection therewith shall be deemed to be a "Change in "Law", regardless of the date enacted, adopted, issued or promulgated, whether before or after the Effective Date and (z) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States regulatory authorities, in each case pursuant to Basel III, shall each be deemed to be a "Change in Law", regardless of the date enacted, adopted, issued or implemented.

"Change of Control" shall mean (a) a transaction in which any "person" or "group" (within the meaning of Section 13(d) and 14(d)(2) of the Securities Exchange Act of 1934, as amended) becomes the "beneficial owner" (as defined in Rule 13d-3 under the Securities Exchange Act of 1934), directly or indirectly, of a sufficient number of shares of all classes of stock then outstanding of Borrower ordinarily entitled to vote in the election of directors, empowering such "person" or "group" to elect a majority of the board of directors of Borrower, who did not have such power before such transaction, (b) the occurrence of an Initial Public Offering, or (c) the occurrence of an event or series of events that would trigger a violation of any change of control or change in control provision in any of the Subordinated Debt Documents.

"CMS" shall mean the Centers for Medicare & Medicaid Services.

"Collateral" shall mean all property or rights in which a security interest, mortgage, lien or other encumbrance for the benefit of the Lenders is or has been granted or arises or has arisen, under or in connection with this Agreement, the other Loan Documents, or otherwise to secure the Indebtedness.

"Collateral Access Agreement" shall mean an agreement in form and substance satisfactory to the Agent in its sole discretion, pursuant to which a mortgagee or lessor of real property on which Collateral is stored or otherwise located, or a warehouseman, processor or other bailee of inventory or other property owned by any Credit Party, that acknowledges the Liens under the Collateral Documents and subordinates or waives any Liens held by such Person on such property and, includes such other agreements with respect to the Collateral as the Agent may require in its sole discretion, as the same may be amended, restated or otherwise modified from time to time.

"Collateral Documents" shall mean the Security Agreement, the Pledge Agreements, the Mortgages, the Collateral Access Agreements, and all other security documents (and any joinders thereto) executed by any Credit Party in favor of the Agent on or after the Effective Date, in connection with any of the foregoing collateral documents, in each case, as such collateral documents may be amended or otherwise modified from time to time.

"Comerica Bank" shall mean Comerica Bank, and its successors or assigns.

"Commitments" shall mean the Revolving Credit Aggregate Commitment and the Term Loan C Commitment (which shall include the Tranche 1 Commitment and the Tranche 2 Commitment, as applicable), as the context may indicate.

"Consolidated" (or "consolidated") or "Consolidating" (or "consolidating") shall mean, when used with reference to any financial term in this Agreement, the aggregate for two or more Persons of the amounts signified by such term for all such Persons determined on a consolidated (or consolidating) basis in accordance with GAAP, applied on a consistent basis. Unless otherwise specified herein, "Consolidated" and "Consolidating" shall refer to the Borrower and its Subsidiaries, determined on a Consolidated or Consolidating basis.

"Consolidated Net Income (or Deficit)" shall mean the consolidated net income (or deficit) of any Person and its Subsidiaries, after deduction of all expenses, taxes, and other proper charges, determined in accordance with GAAP, after eliminating therefrom all extraordinary nonrecurring items of income.

"Consolidated Total Interest Expense" shall mean with respect to any Person for any period, the aggregate amount of interest required to be paid or accrued by a Person and its Subsidiaries during such period on all Debt of such Person and its Subsidiaries outstanding during all or any part of such period, whether such interest was or is required to be reflected as an item of expense or capitalized, including payments consisting of interest in respect of any capitalized lease or any synthetic lease, and including commitment fees, agency fees, facility fees, balance deficiency fees and similar fees or expenses in connection with the borrowing of money.

"Contractual Obligation" shall mean, as to any Person, any provision of any security issued by such Person or of any material agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Covenant Compliance Report" shall mean the report to be furnished by the Borrower to the Agent pursuant to Section 7.2(a) hereof, substantially in the form attached hereto as Exhibit G and certified by a Responsible Officer of the Borrower, in which report the Borrower shall set forth the information specified therein.

"Credit Parties" shall mean the Borrower and its Subsidiaries, and "Credit Party" shall mean any one of them, as the context indicates or otherwise requires.

"Daily Adjusting LIBOR Rate" shall mean for any day a per annum interest rate which is equal to the quotient of the following:

(a) the LIBOR Rate;

divided by

(b) a percentage (expressed as a decimal) equal to 1.00 minus the maximum rate on such date at which Agent is required to maintain reserves on "Euro-currency Liabilities" as defined in and pursuant to Regulation D of the Board of Governors of the Federal Reserve System or, if such regulation or definition is modified, and as long as Agent is required to maintain reserves against a category of liabilities which includes eurodollar deposits or includes a category of assets which includes eurodollar loans, the rate at which such reserves are required to be maintained on such category;

such sum to be rounded upward, if necessary, in the discretion of the Agent, to the seventh decimal place.

"Debt" shall mean as to any Person, without duplication (a) all Funded Debt of a Person, (b) all Guarantee Obligations of such Person, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property or assets purchased by such Person, (d) all indebtedness of such Person arising in connection with any Hedging Transaction entered into by such Person, (e) all recourse Debt of any partnership of which such Person is the general partner, and (f) any Off Balance Sheet Liabilities.

"Debt Service Coverage Ratio" shall mean, as of any date of determination, a ratio, determined on a Consolidated basis with respect to the Borrower and its Subsidiaries, of (a) EBITDA, less (i) cash capital expenditures (including rental equipment) and (ii) taxes paid or payable, to (b) the sum of cash principal payments plus interest expense paid or payable, all such items in clauses (a) and (b) measured on an annualized trailing six (6) months basis; provided that cash capital expenditures shall not be subtracted from clause (a) hereof so long as Borrower maintains at least One Million Five Hundred Thousand Dollars ($1,500,000) in unrestricted cash during the entire relevant fiscal period.

"Debtor Relief Laws" shall mean the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" shall mean any event that with the giving of notice or the passage of time, or both, would constitute an Event of Default under this Agreement.

"Defaulting Lender" shall mean a Lender that, as determined by the Agent (with notice to the Borrower of such determination), (a) has failed to perform any of its funding obligations hereunder, including, without limitation, in respect of its Percentage of any Advances or participations in Letters of Credit or Swing Line Advances, within one Business Day of the date required to be funded by it hereunder, (b) has notified the Borrower, the Agent or any Lender that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or under other agreements in which it commits to extend credit, (c) has failed, within one Business Day after request by the Agent, to confirm in a manner satisfactory to the Agent that it will comply with its funding obligations, or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state, federal or other governmental or regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority unless deemed so by the Agent in its sole discretion.

"Distribution" is defined in Section 8.5 hereof.

"Dollars" and the sign "$" shall mean lawful money of the United States of America.

"Domestic Subsidiary" shall mean any Subsidiary of the Borrower incorporated or organized under the laws of the United States of America, or any state or other political subdivision thereof or which is considered to be a "disregarded entity" for United States federal income tax purposes and which is not a "controlled foreign corporation" as defined under Section 957 of the Internal Revenue Code, in each case provided such Subsidiary is owned by the Borrower or a Domestic Subsidiary of the Borrower, and "Domestic Subsidiaries" shall mean any or all of them.

"EBITDA" shall mean with respect to any fiscal period an amount equal to the sum of (a) Consolidated Net Income of the Borrower and its Subsidiaries for such fiscal period, plus (b) in each case to the extent deducted in the calculation of the Borrower's Consolidated Net Income and without duplication, (i) depreciation and amortization for such period, (ii) income tax expense for such period, (iii) Consolidated Total Interest Expense paid or accrued during such period, and (iv) non-cash expense associated with granting stock options, minus (c) to the extent added in computing Consolidated Net Income, and without duplication, all extraordinary and non-recurring revenue and gains (including income tax benefits) for such period, all as determined in accordance with GAAP.

"Effective Date" shall mean the date on which all the conditions precedent set forth in Sections 5.1 and 5.2 have been satisfied.

"Electronic Transmission" shall mean each document, instruction, authorization, file, information and any other communication transmitted, posted or otherwise made or communicated by e-mail or E-Fax, or otherwise to or from an E-System or other equivalent service.

"Eligible Accounts" shall mean an Account as to which the following is true and accurate as of the date that such Account is included in the applicable Borrowing Base Certificate:

(a) such Account arose in the ordinary course of the business of a Borrowing Base Obligor out of either (i) a bona fide sale of Inventory by such Borrowing Base Obligor, and in such case such Inventory has in fact been shipped to the applicable Account Debtor or the Inventory has otherwise been accepted by the applicable Account Debtor, or (ii) services performed by such Borrowing Base Obligor under an enforceable contract (written or oral), and in such case such services have in fact been performed for the applicable Account Debtor and accepted by such Account Debtor;

(b) such Account represents a legally valid and enforceable claim which is due and owing to a Borrowing Base Obligor by the applicable Account Debtor and for such amount as is represented by the Borrower to the Agent in the applicable Borrowing Base Certificate;

(c) such Account is evidenced by an invoice dated not later than three (3) Business Days after the date of the delivery or shipment of the related Inventory giving rise to such Account and not more than one hundred twenty (120) days have passed since the invoice date corresponding to such Account;

(d) such Account does not carry a positive credit balance exceeding one hundred twenty (120) days;

(e) the unpaid balance of such Account (or portion thereof) that is included in the applicable Borrowing Base Certificate is not subject to any defense or counterclaim that has been asserted by the applicable Account Debtor, or any setoff, contra account, credit, allowance or adjustment by the Account Debtor because of returned, inferior or damaged Inventory or services, or for any other reason, except for customary discounts allowed by the applicable Borrowing Base Obligor in the ordinary course of business for prompt payment, and, to the extent there is any agreement between the applicable Borrowing Base Obligor, the related Account Debtor and any other Person, for any rebate, discount, concession or release of liability in respect of such Account, in whole or in part, the amount of such rebate, discount, concession or release of liability shall be excluded from the Borrowing Base;

(f) the applicable Borrowing Base Obligor has granted to the Agent pursuant to or in accordance with the Collateral Documents (except to the extent not required to do so thereunder) a first priority perfected security interest in such Account prior in right to all other Persons and such Account has not been sold, transferred or otherwise assigned or encumbered by such Borrowing Base Obligor, as applicable, to or in favor of any Person other than pursuant to or in accordance with the Collateral Documents or this Agreement;

(g) such Account is not owing by any Account Debtor who, as of the date of determination, has failed to pay twenty-five percent (25%) or more of the aggregate amount of its Accounts owing to any Borrowing Base Obligor within one hundred twenty (120) days since the original invoice date corresponding to such Accounts;

(h) such Account is not owing by any Account Debtor, including Subsidiaries and Affiliates, whose total obligations to Borrower exceed twenty-five percent (25%) of all Accounts, to the extent such obligations exceed the aforementioned percentage, except as approved in writing by Lenders;

(i) such Account is not represented by any note, trade acceptance, draft or other negotiable instrument or by any chattel paper, except to the extent any such note, trade acceptance, draft, other negotiable instrument or chattel paper has been endorsed and delivered by any Borrowing Base Obligor pursuant to or in accordance with the Collateral Documents or this Agreement and/or otherwise in a manner satisfactory to the Agent on or prior to such Account's inclusion in any applicable Borrowing Base Certificate;

(j) the Borrowing Base Obligors have not received, with respect to such Account, any notice of the dissolution, liquidation, termination of existence, insolvency, business failure, appointment of a receiver for any part of the property of, assignment for the benefit of creditors by, or the filing of a petition in bankruptcy or the commencement of any proceeding under any bankruptcy or insolvency laws by or against, such Account Debtor;

(k) it is not an account billed in advance, payable on delivery, for consigned goods, for guaranteed sales, for unbilled sales, payable at a future date, bonded or insured by a surety company or subject to a retainage or holdback by the Account Debtor;

(l) the Account Debtor on such Account is not:

(i) an Affiliate of any Credit Party;

(ii) the United States of America or any department, agency, or instrumentality thereof, unless the applicable Borrowing Base Obligor has assigned its right to payment of such Account to the Agent in a manner satisfactory to the Agent so as to comply with the provisions of the Federal Assignment of Claims Act);

(iii) a foreign Governmental Authority or a citizen or resident of any jurisdiction other than one of the United States, unless such Account is an Eligible Foreign Account; or

(iv) an Account Debtor whose Accounts the Agent, acting in its reasonable credit judgment, has deemed not to constitute Eligible Accounts because the collectibility of such Accounts is doubtful or is or is reasonably expected to be impaired; and

(m) such Account satisfies any other eligibility criteria established from time to time by the Agent in its sole discretion or at the direction of the Majority Revolving Credit Lenders.

Any Account, which is at any time an Eligible Account but which subsequently fails to meet any of the foregoing requirements, shall forthwith cease to be an Eligible Account.

"Eligible Assignee" shall mean (a) a Lender; (b) an Affiliate of a Lender; (c) any Person (other than a natural person) that is or will be engaged in the business of making, purchasing, holding or otherwise investing in commercial loans or similar extensions of credit in the ordinary course of its business, provided that such Person is administered or managed by a Lender, an Affiliate of a Lender or an entity or Affiliate of an entity that administers or manages a Lender; or (d) any other Person (other than a natural person) approved by the (i) the Agent (and in the case of an assignment of a commitment under the Revolving Credit, the Issuing Lender and Swing Line Lender), and (ii) unless a Event of Default has occurred and is continuing, the Borrower (each such approval not to be

unreasonably withheld or delayed); provided that (x) notwithstanding the foregoing, "Eligible Assignee" shall not include the Borrower, or any of the Borrower's Affiliates or Subsidiaries; and (y) no assignment shall be made to a Defaulting Lender (or any Person who would be a Defaulting Lender if such Person was a Lender hereunder) without the consent of the Agent, and in the case of an assignment of a commitment under the Revolving Credit, the Issuing Lender and the Swing Line Lender.

"Eligible Foreign Accounts" shall mean Accounts with respect to which the Account Debtor does not have its principal place of business in the United States and that are (i) supported by one or more letters of credit or foreign credit insurance in an amount and of a tenor, and issued by a financial institution, acceptable to Lenders, (ii) Accounts where the Account Debtor is a foreign subsidiary of Air Products and Chemicals, Inc. (provided that, to the extent that Accounts owing by a foreign subsidiary of Air Products and Chemicals, Inc. exceed an amount equal to twenty five percent (25%) of the aggregate Eligible Accounts owing to Borrower from all Account Debtors, such Accounts shall be excluded from the definition of Eligible Foreign Accounts), or (iii) approved by Lenders on a case-by-case basis. All Eligible Foreign Accounts shall be determined in the equivalent of U.S. Dollars of the amount thereof. Any Account, which is at any time an Eligible Foreign Account but which subsequently fails to meet any of the foregoing requirements, shall forthwith cease to be an Eligible Foreign Account.

"Equity Interest" shall mean (i) in the case of any corporation, all capital stock and any securities exchangeable for or convertible into capital stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents of corporate stock (however designated) in or to such association or entity, (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited) and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distribution of assets of, the issuing Person, and including, in all of the foregoing cases described in clauses (i), (ii), (iii) or (iv), any warrants, rights or other options to purchase or otherwise acquire any of the interests described in any of the foregoing cases.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, or any successor act or code and the regulations in effect from time to time thereunder.

"E-System" shall mean any electronic system and any other Internet or extranet-based site, whether such electronic system is owned, operated, hosted or utilized by the Agent, any of its Affiliates or any other Person, providing for access to data protected by passcodes or other security system.

"Eurodollar-based Advance" shall mean any Advance which bears interest at the Eurodollar-based Rate.

"Eurodollar-based Rate" shall mean a per annum interest rate which is equal to the sum of the Applicable Margin, plus the quotient of**:**

(a) the LIBOR Rate, divided by

(b) a percentage equal to 100% minus the maximum rate on such date at which the Agent is required to maintain reserves on 'Eurocurrency Liabilities' as defined in and pursuant to Regulation D of the Board of Governors of the Federal Reserve System or, if such regulation or definition is modified, and as long as the Agent is required to maintain reserves against a category of liabilities which includes eurocurrency deposits or includes a category of assets which includes eurocurrency loans, the rate at which such reserves are required to be maintained on such category, such sum to be rounded upward, if necessary, in the discretion of the Agent, to the seventh decimal place.

"Eurodollar-Interest Period" shall mean, for any Eurodollar-based Advance, an Interest Period of one, two or three months (or any shorter or longer periods agreed to in advance by the Borrower, the Agent and the Lenders) as selected by the Borrower, for such Eurodollar-based Advance pursuant to Section 2.3, 4.4 or 4.5 hereof, as the case may be.

"Eurodollar Lending Office" shall mean, (a) with respect to the Agent, the Agent's office located at its Grand Caymans Branch or such other branch of the Agent, domestic or foreign, as it may hereafter designate as its Eurodollar Lending Office by written notice to the Borrower and the Lenders and (b) as to each of the Lenders, its office, branch or affiliate located at its address set forth on the signature pages hereof (or identified thereon as its Eurodollar Lending Office), or at such other office, branch or affiliate of such Lender as it may hereafter designate as its Eurodollar Lending Office by written notice to the Borrower and the Agent.

"Eurodollar-based Rate Amendment" shall mean that certain amendment to the Credit Agreement (if Agent and Lenders elect to provide Eurodollar-based Advances), which shall permit Eurodollar-based Advances to be made under this Agreement and which shall otherwise be on terms satisfactory to the Agent and the Lenders, including, without limitation, establishing the Applicable Margins for Eurodollar-based Advances of the Revolving Credit and each Term Loan.

"Event of Default" shall mean each of the Events of Default specified in Section 9.1 hereof.

"Excluded Taxes" shall mean, with respect to any Lender or Agent, (a) taxes measured by net income (including branch profit taxes) and franchise taxes imposed in lieu of net income taxes, in each case imposed on any Lender or Agent as a result of a present or former connection between such Lender or Agent and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than such connection arising solely from any Lender or Agent having executed, delivered or performed its obligations or received a payment under, or enforced, any Loan Document); (b) in the case of any Non-U.S. Lender, any U.S. withholding taxes to the extent that the obligation to withhold amounts existed on the date that such Person became a "Lender" under this Agreement in the capacity under which such Person makes a claim under Section 10.1(d) or designates a new lending office, except in each case to the extent such Person is a direct or indirect assignee of any other Lender that was entitled, at the time the assignment to such Person became effective, to receive additional amounts under Section 10.1(d); (c) backup withholding or other withholding taxes that are directly attributable to the failure by any Lender to deliver the documentation required to be delivered pursuant to Section 13.12; and (d) in the case of a Non-U.S. Lender, any United States federal withholding taxes imposed on amounts payable to such Non-U.S. Lender as a result of such Non-U.S. Lender's failure to comply with the applicable requirements set forth in FATCA after December 31, 2012.

"FATCA" shall mean sections 1471 through 1474 of the Internal Revenue Code as of the date of this Agreement, and the United States Treasury Regulations promulgated thereunder (or any amended or successor provisions substantively comparable and not materially more onerous to comply with).

"Federal Funds Effective Rate" shall mean, for any day, a fluctuating interest rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Agent from three Federal funds brokers of recognized standing selected by the Agent, all as conclusively determined by the Agent, such sum to be rounded upward, if necessary, in the discretion of the Agent, to the nearest whole multiple of 1/100th of 1%.

"Fee Letter" shall mean any fee letter relating to the Indebtedness which may be entered into by and among Agent, Borrower (if applicable) and the Lenders from time to time.

"Fees" shall mean the Term Loan C Commitment Fee, the Letter of Credit Fees and the other fees and charges (including any agency fees) payable by the Borrower to the Lenders, the Issuing Lender or the Agent hereunder or under any Fee Letter.

"Final Maturity Date" shall mean the last to occur of (i) the Revolving Credit Maturity Date, (ii) the Term Loan A Maturity Date, (iii) the Term Loan B Maturity Date, or (iv) the Term Loan C Maturity Date.

"Fiscal Year" shall mean the twelve-month period ending on each December 31.

"Foreign Subsidiary" shall mean any Subsidiary, other than a Domestic Subsidiary, and "Foreign Subsidiaries" shall mean any or all of them.

"Fronting Exposure" shall mean, at any time there is an Defaulting Lender, (a) with respect to the Issuing Lender, such Defaulting Lender's Percentage of the outstanding Letter of Credit Obligations with respect to Letters of Credit issued by such Issuing Lender, and (b) with respect to the Swing Line Lender, such Defaulting Lender's Percentage of outstanding Swing Line Advances made by the Swing Line Lender.

"Funded Debt" of any Person shall mean, without duplication, (a) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services as of such date (other than operating leases and trade liabilities incurred in the ordinary course of business and payable in accordance with customary practices) or which is evidenced by a note, bond, debenture or similar instrument, (b) the principal component of all obligations of such Person under Capitalized Leases, (c) all reimbursement obligations (actual, contingent or otherwise) of such Person in respect of letters of credit, bankers acceptances or similar obligations issued or created for the account of such Person, (d) all liabilities of the type described in (a), (b) and (c) above that are secured by any Liens on any property owned by such Person as of such date even though such Person has not assumed or otherwise become liable for the payment thereof, the amount of which is determined in accordance with GAAP; provided however that so long as such Person is not personally liable for any such liability, the amount of such liability shall be deemed to be the lesser of the fair market value at such date of the property subject to the Lien securing such liability and the amount of the liability secured, and (e) all Guarantee Obligations in respect of any liability which constitutes Funded Debt; provided, however that Funded Debt shall not include any indebtedness under any Hedging Transaction prior to the occurrence of a termination event with respect thereto.

"GAAP" shall mean, as of any applicable date of determination, generally accepted accounting principles in the United States of America, as applicable on such date, consistently applied, as in effect from time to time.

"Governmental Authority" shall mean the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including without limitation any supranational bodies such as the European Union or the European Central Bank).

"Governmental Obligations" shall mean noncallable direct general obligations of the United States of America or obligations the payment of principal of and interest on which is unconditionally guaranteed by the United States of America.

"Guarantee Obligation" shall mean as to any Person (the "guaranteeing person") any obligation of the guaranteeing Person in respect of any obligation of another Person (the "primary obligor") (including, without limitation, any bank under any letter of credit), the creation of which was induced by a reimbursement agreement, guaranty agreement, keepwell agreement, purchase agreement, counterindemnity or similar obligation issued by the guaranteeing person, in either case guaranteeing or in effect guaranteeing any Debt, leases, dividends or other obligations (the "primary obligations") of the primary obligor in any manner, whether directly or indirectly, including, without limitation, any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the applicable Person in good faith.

"Guarantor(s)" shall mean each Subsidiary of the Borrower which has executed and delivered to the Agent a Guaranty (or a joinder to a Guaranty), and a Security Agreement (or a joinder to the Security Agreement).

"Guaranty" shall mean, collectively, the guaranty agreements executed and delivered by the applicable Guarantors on the Effective Date pursuant to Section 5.1 hereof and those guaranty agreements executed and delivered from time to time after the Effective Date (whether by execution of joinder agreements or otherwise) pursuant to Section 7.13 hereof or otherwise, in each case in the form attached hereto as Exhibit I, as amended, restated or otherwise modified from time to time.

"Hazardous Material" shall mean any hazardous or toxic waste, substance or material defined or regulated as such in or for purposes of the Hazardous Material Laws.

"Hazardous Material Law(s)" shall mean all laws, codes, ordinances, rules, regulations and other governmental restrictions and requirements issued by any federal, state, local or other governmental or quasi-governmental authority or body (or any agency, instrumentality or political subdivision thereof) pertaining to any substance or material which is regulated for reasons of health, safety or the environment and which is present or alleged to be present on or about or used in any facilities owned, leased or operated by any Credit Party, or any portion thereof including, without limitation, those relating to soil, surface, subsurface ground water conditions and the condition of the indoor and outdoor ambient air; any so-called "superfund" or "superlien" law; and any other United States federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any Hazardous Material, as now or at any time during the term of the Agreement in effect.

"Healthcare Laws" shall mean all applicable federal, state, provincial, territorial, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, injunctions, permits, governmental agreements and governmental restrictions, whether now or hereafter in effect, relating to the possession, control, warehousing, marketing, sale and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, injunctions, permits, governmental agreements and governmental restrictions, whether now or hereafter in effect, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. §1320a-7b(6)), the Stark Law (42 U.S.C. §1395nn), the civil False Claims Act (31 U.S.C. §3729 et seq.), (b) TRICARE, (c) HIPAA, (d) Medicare, (e) Medicaid, (f) quality of medical care and accreditation standards and requirements of all applicable state Laws or regulatory bodies, (g) all statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, injunctions, permits, governmental agreements and governmental restrictions, whether now or hereafter in effect, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (h) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (h) as may be amended from time to time.

"Healthcare Permit" shall mean a Permit (a) issued or required under Healthcare Laws applicable to the business of any Borrower or any of its Subsidiaries or necessary in the possession, ownership, warehousing, marketing, promoting, sale, labeling, furnishing, distribution or delivery of goods or services under Healthcare Laws applicable to the business of Borrower or any of its Subsidiaries, and/or (b) issued by any Person from which any Borrower has, as of the Effective Date, received an accreditation (including, without limitation, JCAHO).

"Hedging Agreement" shall mean any agreement relating to a Hedging Transaction entered into between the Borrower and any Lender or an Affiliate of a Lender.

"Hedging Transaction" shall mean each interest rate swap transaction, basis swap transaction, forward rate transaction, equity transaction, equity index transaction, foreign exchange transaction, cap transaction, floor transaction (including any option with respect to any of these transactions and any combination of any of the foregoing).

"Hereof", "hereto", "hereunder" and similar terms shall refer to this Agreement and not to any particular paragraph or provision of this Agreement.

"HIPAA" shall mean the Health Insurance Portability and Accountability Act of 1996, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto, and any and all rules or regulations promulgated from time to time thereunder.

"HIPAA Compliant" shall mean that the applicable Person (a) has adopted and implemented policies and procedures, and has trained its personnel, in compliance with each of the applicable requirements of the so-called "Administrative Simplification" provisions of HIPAA, and (b) is not and could not reasonably be expected to become subject to any deficiency with respect to HIPAA.

"Income Taxes" shall mean for any period the aggregate amount of taxes based on income or profits for such period with respect to the operations of the Borrower and its respective Subsidiaries (including, without limitation, the Michigan Single Business Tax and all other corporate franchise, capital stock, net worth and value-added taxes assessed by state and local governments) determined in accordance with GAAP on a Consolidated basis (to the extent such income and profits were included in computing Consolidated Net Income).

"Indebtedness" shall mean all indebtedness and liabilities (including without limitation principal, interest (including without limitation interest accruing at the then applicable rate provided in this Agreement or any other applicable Loan Document after an applicable maturity date and interest accruing at the then applicable rate provided in this Agreement or any other applicable Loan Document after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Credit Parties whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), fees, expenses and other charges) arising under this Agreement or any of the other Loan Documents, whether direct or indirect, absolute or contingent, of any Credit Party to any of the Lenders or Affiliates thereof or to the Agent, in any manner and at any time, whether arising under this Agreement, the Guaranty or any of the other Loan Documents (including without limitation, payment obligations under Hedging Transactions evidenced by Hedging Agreements), due or hereafter to become due, now owing or that may hereafter be incurred by any Credit Party to any of the Lenders or Affiliates thereof or to the Agent, and which shall be deemed to include protective advances made by the Agent with respect to the Collateral under or pursuant to the terms of any Loan Document and any liabilities of any Credit Party to the Agent or any Lender arising in connection with any Lender Products, in each case whether or not reduced to judgment, with interest according to the rates and terms specified, and any and all consolidations, amendments, renewals, replacements, substitutions or extensions of any of the foregoing; provided, however that for purposes of calculating the Indebtedness outstanding under this Agreement or any of the other Loan Documents, the direct and indirect and absolute and contingent obligations of the Credit Parties (whether direct or contingent) shall be determined without duplication.

"Initial Public Offering" shall mean the first offering by the Borrower of its Equity Interests to the public, whether in a single transaction or a series of related transactions.

"Intercompany Note" shall mean any promissory note issued or to be issued by any Credit Party to evidence an intercompany loan in form and substance satisfactory to the Agent.

"Interest Period" shall mean (a) with respect to a Eurodollar-based Advance, a Eurodollar-Interest Period, commencing on the day a Eurodollar-based Advance is made, or on the effective date of an election of the Eurodollar-based Rate made under Section 2.3, 4.4 or 4.5 hereof, and (b) with respect to a Swing Line Advance carried at the Quoted Rate, an interest period of 30 days (or any lesser number of days agreed to in advance by the Borrower, the Agent and the Swing Line Lender); provided, however that (i) any Interest Period which would otherwise end on a day which is not a Business Day shall end on the next succeeding Business Day, except that as to an Interest Period in respect of a Eurodollar-based Advance, if the next succeeding Business Day falls in another calendar month, such Interest Period shall end on the next preceding Business Day, (ii) when an Interest Period in respect of a Eurodollar-based Advance begins on a day which has no numerically corresponding day in the calendar

month during which such Interest Period is to end, it shall end on the last Business Day of such calendar month, and (iii) no Interest Period in respect of any Advance shall extend beyond the Revolving Credit Maturity Date, the Term Loan A Maturity Date, the Term Loan B Maturity Date, or the Term Loan C Maturity Date, as applicable.

"Internal Revenue Code" shall mean the Internal Revenue Code of 1986 of the United States of America, as amended from time to time, and the regulations promulgated thereunder.

"Inventory" shall mean any inventory as defined under the UCC.

"Investment" shall mean, when used with respect to any Person, (a) any loan, investment or advance made by such Person to any other Person (including, without limitation, any Guarantee Obligation) in respect of any Equity Interest, Debt, obligation or liability of such other Person and (b) any other investment made by such Person (however acquired) in Equity Interests in any other Person, including, without limitation, any investment made in exchange for the issuance of Equity Interest of such Person and any investment made as a capital contribution to such other Person.

"In-Use Rental Equipment" shall mean Borrower's currently in-use rental equipment and related accessories.

"In-Use Revenue Generating Rental Equipment" shall mean In-Use Rental Equipment that generates revenue.

"Issuing Lender" shall mean Comerica Bank in its capacity as issuer of one or more Letters of Credit hereunder, or its successor designated by the Borrower and the Revolving Credit Lenders.

"Issuing Office" shall mean such office as Issuing Lender shall designate as its Issuing Office.

"Lender Products" shall mean any one or more of the following types of services or facilities extended to the Credit Parties by any Lender: (i) credit cards, (ii) credit card processing services, (iii) debit cards, (iv) purchase cards, (v) Automated Clearing House (ACH) transactions, (vi) cash management, including controlled disbursement services, and (vii) establishing and maintaining deposit accounts.

"Lenders" shall have the meaning set forth in the preamble, and shall include the Revolving Credit Lenders, the Term Loan Lenders, the Swing Line Lender and any assignee which becomes a Lender pursuant to Section 13.7 hereof.

"Letter of Credit Agreement" shall mean, collectively, the letter of credit application and related documentation executed and/or delivered by the Borrower in respect of each Letter of Credit, in each case satisfactory to the Issuing Lender, as amended, restated or otherwise modified from time to time.

"Letter of Credit Documents" shall have the meaning ascribed to such term in Section 3.7(a) hereof.

"Letter of Credit Fees" shall mean the fees payable in connection with Letters of Credit pursuant to Section 3.4(a) and (b) hereof.

"Letter of Credit Maximum Amount" shall mean Zero Dollars ($0).

"Letter of Credit Obligations" shall mean at any date of determination, the sum of (a) the aggregate undrawn amount of all Letters of Credit then outstanding, and (b) the aggregate amount of Reimbursement Obligations which remain unpaid as of such date.

"Letter of Credit Payment" shall mean any amount paid or required to be paid by the Issuing Lender in its capacity hereunder as issuer of a Letter of Credit as a result of a draft or other demand for payment under any Letter of Credit.

"Letter(s) of Credit" shall mean any standby letters of credit issued by Issuing Lender at the request of or for the account of the Borrower pursuant to Article 3 hereof.

"LIBOR Rate" shall mean,

(a) with respect to the principal amount of any Eurodollar-based Advance outstanding hereunder, the per annum rate of interest determined on the basis of the rate for deposits in United States Dollars for a period equal to the relevant Eurodollar-Interest Period, commencing on the first day of such Eurodollar-Interest Period, appearing on Page BBAM of the Bloomberg Financial Markets Information Service as of 11:00 a.m. (Detroit time) (or soon thereafter as practical), two (2) Business Days prior to the first day of such Eurodollar-Interest Period. In the event that such rate does not appear on Page BBAM of the Bloomberg Financial Markets Information Service (or otherwise on such Service), the "LIBOR Rate" shall be determined by reference to such other publicly available service for displaying LIBOR rates as may be agreed upon by the Agent and the Borrower, or, in the absence of such agreement, the "LIBOR Rate" shall, instead, be the per annum rate equal to the average (rounded upward, if necessary, to the nearest one-sixteenth of one percent (1/16%)) of the rate at which the Agent is offered dollar deposits at or about 11:00 a.m. (Detroit time) (or soon thereafter as practical), two (2) Business Days prior to the first day of such Eurodollar-Interest Period in the interbank LIBOR market in an amount comparable to the principal amount of the relevant Eurodollar-based Advance which is to bear interest at such Eurodollar-based Rate and for a period equal to the relevant Eurodollar-Interest Period; and

(b) with respect to the principal amount of any Advance carried at the Daily Adjusting LIBOR Rate outstanding hereunder, the per annum rate of interest determined on the basis of the rate for deposits in United States Dollars for a period equal to one (1) month appearing on Page BBAM of the Bloomberg Financial Markets Information Service as of 11:00 a.m. (Detroit time) (or soon thereafter as practical) on such day, or if such day is not a Business Day, on the immediately preceding Business Day. In the event that such rate does not appear on Page BBAM of the Bloomberg Financial Markets Information Service (or otherwise on such Service), the "LIBOR Rate" shall be determined by reference to such other publicly available service for displaying eurodollar rates as may be agreed upon by the Agent and the Borrower, or, in the absence of such agreement, the "LIBOR Rate" shall, instead, be the per annum rate equal to the average of the rate at which the Agent is offered dollar deposits at or about 11:00 a.m. (Detroit time) (or soon thereafter as practical) on such day in the interbank eurodollar market in an amount comparable to the principal amount of the Indebtedness hereunder which is to bear interest at such "LIBOR Rate" and for a period equal to one (1) month.

"Lien" shall mean any security interest in or lien on or against any property arising from any pledge, assignment, hypothecation, mortgage, security interest, deposit arrangement, trust receipt, conditional sale or title retaining contract, sale and leaseback transaction, Capitalized Lease, consignment or bailment for security, or any other type of lien, charge, encumbrance, title exception, preferential or priority arrangement affecting property (including with respect to stock, any stockholder agreements, voting rights agreements, buy-back agreements and all similar arrangements), whether based on common law or statute.

"Liquidity" shall mean the sum of Cash plus Eligible Accounts.

"Liquidity Ratio" shall mean the ratio of (i) Liquidity to (ii) the current portion of all Indebtedness owing the Lenders.

"Loan Documents" shall mean, collectively, this Agreement, the Notes (if issued), the Letter of Credit Agreements, the Letters of Credit, the Guaranty, the Subordination Agreements, the Collateral Documents, each Hedging Agreement, and any other documents, certificates or agreements that are executed and required to be delivered pursuant to any of the foregoing documents, as such documents may be amended, restated or otherwise modified from time to time.

"Majority Lenders" shall mean at any time, Lenders holding more than 66.67% of the sum of (i) the Revolving Credit Aggregate Commitment (or, if the Revolving Credit Aggregate Commitment has been terminated (whether by maturity, acceleration or otherwise), the aggregate principal amount outstanding under the Revolving Credit), plus (ii) the aggregate principal amount then outstanding under the Term Loans; provided that, for purposes of determining Majority Lenders hereunder, the Letter of Credit Obligations and principal amount outstanding under

the Swing Line shall be allocated among the Revolving Credit Lenders based on their respective Revolving Credit Percentages; provided further that so long as there are fewer than three Lenders, considering any Lender and its Affiliates as a single Lender, "Majority Lenders" shall mean all Lenders. The Commitments of, and portion of the Indebtedness attributable to, any Defaulting Lender shall be excluded for purposes of making a determination of "Majority Lenders".

"Majority Revolving Credit Lenders" shall mean at any time, the Revolving Credit Lenders holding more than 66.67% of the Revolving Credit Aggregate Commitment (or, if the Revolving Credit Aggregate Commitment has been terminated (whether by maturity, acceleration or otherwise), the aggregate principal amount then outstanding under the Revolving Credit); provided that, for purposes of determining Majority Revolving Credit Lenders hereunder, the Letter of Credit Obligations and principal amount outstanding under the Swing Line shall be allocated among the Revolving Credit Lenders based on their respective Revolving Credit Percentages; provided further that so long as there are fewer than three Revolving Credit Lenders, considering any Revolving Credit Lender and its Affiliates as a single Revolving Credit Lender, "Majority Revolving Credit Lenders" shall mean all Revolving Credit Lenders. The Commitments of, and portion of the Indebtedness attributable to, any Defaulting Lender shall be excluded for purposes of making a determination of "Majority Revolving Credit Lenders".

"Majority Term Loan A Lenders" shall mean at any time with respect to Term Loan A, Term Loan A Lenders holding more than 66.67% of the aggregate principal amount then outstanding under Term Loan A; provided however that so long as there are fewer than three Term Loan A Lenders, considering any Term Loan A Lender and its Affiliates as a single Term Loan A Lender, "Majority Term Loan A Lenders" shall mean all Term Loan A Lenders. The portion of the Indebtedness attributable to, any Defaulting Lender shall be excluded for purposes of making a determination of "Majority Term Loan A Lenders".

"Majority Term Loan B Lenders" shall mean at any time with respect to Term Loan B, Term Loan B Lenders holding more than 66.67% of the aggregate principal amount then outstanding under Term Loan B; provided however that so long as there are fewer than three Term Loan B Lenders, considering any Term Loan B Lender and its Affiliates as a single Term Loan B Lender, "Majority Term Loan B Lenders" shall mean all Term Loan B Lenders. The portion of the Indebtedness attributable to, any Defaulting Lender shall be excluded for purposes of making a determination of "Majority Term Loan B Lenders".

"Majority Term Loan C Lenders" shall mean at any time with respect to Term Loan C, Term Loan C Lenders holding more than 66.67% of the aggregate principal amount then outstanding under Term Loan C; provided however that so long as there are fewer than three Term Loan C Lenders, considering any Term Loan C Lender and its Affiliates as a single Term Loan C Lender, "Majority Term Loan C Lenders" shall mean all Term Loan C Lenders. The portion of the Indebtedness attributable to, any Defaulting Lender shall be excluded for purposes of making a determination of "Majority Term Loan C Lenders".

"Material Adverse Effect" shall mean a material adverse effect on (a) the condition (financial or otherwise), business, performance, operations, properties or prospects of the Credit Parties taken as a whole, (b) the ability of any Credit Party to perform its obligations under this Agreement, the Notes (if issued) or any other Loan Document to which it is a party, or (c) the validity or enforceability of this Agreement, any of the Notes (if issued) or any of the other Loan Documents or the rights or remedies of the Agent or the Lenders hereunder or thereunder.

"Material Contract" shall mean (i) each agreement or contract to which any Credit Party is a party or in respect of which any Credit Party has any liability, that by its terms (without reference to any indemnity or reimbursement provision therein) provides for aggregate future guaranteed payments in respect of any such individual agreement or contract of at least $250,000 and (ii) any other agreement or contract the loss of which would be reasonably likely to result in a Material Adverse Effect; provided that Material Contracts shall not be deemed to include any Pension Plans, collective bargaining agreements, or casualty or liability or other insurance policies maintained in the ordinary course of business.

"Mortgages" shall mean the mortgages, deeds of trust and any other similar documents related thereto or required thereby executed and delivered by a Credit Party on the Effective Date pursuant to Section 5.1 hereof, if any, and executed and delivered after the Effective Date by a Credit Party pursuant to Section 7.13 hereof or otherwise, and "Mortgage" shall mean any such document, as such documents may be amended, restated or otherwise modified from time to time.

"Multiemployer Plan" shall mean a Pension Plan which is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Non-Defaulting Lender" shall mean any Lender that is not, as of the date of relevance, a Defaulting Lender.

"Non-U.S. Lender" is defined in Section 13.12 hereof.

"Notes" shall mean the Revolving Credit Notes, the Swing Line Note and the Term Loan Notes.

"Off Balance Sheet Liability(ies)" of a Person shall mean (i) any repurchase obligation or liability of such Person with respect to accounts or notes receivables sold by such Person, (ii) any liability under any sale and leaseback transaction which is not a Capitalized Lease, (iii) any liability under any so-called "synthetic lease" transaction entered into by such Person, or (iv) any obligation arising with respect to any other transaction which is the functional equivalent of Debt or any of the liabilities set forth in subsections (i)-(iii) of this definition, but which does not constitute a liability on the balance sheets of such Person.

"Participation Agreements" shall have the meaning assigned to such term in Section 7.17 hereof.

"PBGC" shall mean the Pension Benefit Guaranty Corporation or any successor thereto.

"Pension Plan" shall mean any plan established and maintained by a Credit Party, or contributed to by a Credit Party, which is qualified under Section 401(a) of the Internal Revenue Code and subject to the minimum funding standards of Section 412 of the Internal Revenue Code.

"Percentage" shall mean, as applicable, the Revolving Credit Percentage, the Term Loan A Percentage, the Term Loan B Percentage, the Term Loan C Percentage or the Weighted Percentage.

"Permitted Acquisition" shall mean any acquisition by the Borrower or any Guarantor of all or substantially all of the assets of another Person, or of a division or line of business of another Person, or any Equity Interests of another Person which satisfies and/or is conducted in accordance with the following requirements:

(a) Such acquisition is of a business or Person engaged in a line of business which is compatible with, or complementary to, the business of the Borrower or such Guarantor;

(b) If such acquisition is structured as an acquisition of the Equity Interests of any Person, then the Person so acquired shall (X) become a wholly-owned direct Subsidiary of the Borrower or of a Guarantor and the Borrower or the applicable Guarantor shall cause such acquired Person to comply with Section 7.13 hereof or (Y) provided that the Credit Parties continue to comply with Section 7.4(a) hereof, be merged with and into the Borrower or such a Guarantor (and, in the case of the Borrower, with the Borrower being the surviving entity);

(c) If such acquisition is structured as the acquisition of assets, such assets shall be acquired directly by the Borrower or a Guarantor (subject to compliance with Section 7.4(a) hereof);

(d) Both immediately before and after the consummation of such acquisition, no Default or Event of Default shall have occurred and be continuing;

(e) The board of directors (or other Person(s) exercising similar functions) of the seller of the assets or issuer of the Equity Interests being acquired shall not have disapproved such transaction or recommended that such transaction be disapproved;

(f) The purchase price of such proposed new acquisition, computed on the basis of total acquisition consideration paid or incurred, or required to be paid or incurred, with respect thereto, including the amount of Debt (such Debt being otherwise permitted under this Agreement) assumed or to which such assets, businesses or business or Equity Interests, or any Person so acquired is subject and including any portion of the purchase price allocated to any non-compete agreements, when added to the purchase price for each other acquisition consummated hereunder as a Permitted Acquisition during the term of this agreement (not including acquisitions specifically consented to which fall outside the terms of this definition), does not exceed Two Hundred Fifty Thousand Dollars ($250,000).

"Permitted Investments" shall mean with respect to any Person:

(a) Governmental Obligations;

(b) Obligations of a state or commonwealth of the United States or the obligations of the District of Columbia or any possession of the United States, or any political subdivision of any of the foregoing, which are described in Section 103(a) of the Internal Revenue Code and are graded in any of the highest three (3) major grades as determined by at least one Rating Agency; or secured, as to payments of principal and interest, by a letter of credit provided by a financial institution or insurance provided by a bond insurance company which in each case is itself or its debt is rated in one of the highest three (3) major grades as determined by at least one Rating Agency;

(c) Banker's acceptances, commercial accounts, demand deposit accounts, certificates of deposit, other time deposits or depository receipts issued by or maintained with any Lender or any Affiliate thereof, or any bank, trust company, savings and loan association, savings bank or other financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and whose reported capital and surplus equal at least $250,000,000, provided that such minimum capital and surplus requirement shall not apply to demand deposit accounts maintained by any Credit Party in the ordinary course of business;

(d) Commercial paper rated at the time of purchase within the two highest classifications established by not less than two Rating Agencies, and which matures within 270 days after the date of issue;

(e) Secured repurchase agreements against obligations itemized in paragraph (a) above, and executed by a bank or trust company or by members of the association of primary dealers or other recognized dealers in United States government securities, the market value of which must be maintained at levels at least equal to the amounts advanced; and

(f) Any fund or other pooling arrangement which exclusively purchases and holds only those liquid investments itemized in (a) through (e) above.

"Permitted Liens" shall mean with respect to any Person:

(a) Liens for (i) taxes or governmental assessments or charges or (ii) customs duties in connection with the importation of goods to the extent such Liens attach to the imported goods that are the subject of the duties, in each case (x) to the extent not yet due, (y) as to which the period of grace, if any, related thereto has not expired or (z) which are being contested in good faith by appropriate proceedings, provided that in the case of any such contest, any proceedings for the enforcement of such liens have been suspended and adequate reserves with respect thereto are maintained on the books of such Person in conformity with GAAP;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's, processor's, landlord's liens or other like liens arising in the ordinary course of business which secure obligations that are not overdue for a period of more than 30 days or which are being contested in good faith by appropriate proceedings, provided that in the case of any such contest, (x) any proceedings commenced for the enforcement of such Liens have been suspended and (y) appropriate reserves with respect thereto are maintained on the books of such Person in conformity with GAAP;

(c) (i) Liens incurred in the ordinary course of business to secure the performance of statutory obligations arising in connection with progress payments or advance payments due under contracts with the United States government or any agency thereof entered into in the ordinary course of business and (ii) Liens incurred or deposits made in the ordinary course of business to secure the performance of statutory obligations (not otherwise permitted under subsection (g) of this definition), bids, leases, fee and expense arrangements with trustees and fiscal agents, trade contracts, surety and appeal bonds, performance bonds and other similar obligations (exclusive of obligations incurred in connection with the borrowing of money, any lease-purchase arrangements or the payment of the deferred purchase price of property), provided, that in each case full provision for the payment of all such obligations has been made on the books of such Person as may be required by GAAP;

(d) any attachment or judgment lien that remains unpaid, unvacated, unbonded or unstayed by appeal or otherwise for a period ending on the earlier of (i) thirty (30) consecutive days from the date of its attachment or entry (as applicable) or (ii) the commencement of enforcement steps with respect thereto, other than the filing of notice thereof in the public record;

(e) minor survey exceptions or minor encumbrances, easements or reservations, or rights of others for rights-of-way, utilities and other similar purposes, or zoning or other restrictions as to the use of real properties, or any interest of any lessor or sublessor under any lease permitted hereunder which, in each case, does not materially interfere with the business of such Person;

(f) Liens arising in connection with worker's compensation, unemployment insurance, old age pensions and social security benefits and similar statutory obligations (excluding Liens arising under ERISA), provided that no enforcement proceedings in respect of such Liens are pending and provisions have been made for the payment of such liens on the books of such Person as may be required by GAAP; and

(g) continuations of Liens that are permitted under subsections (a)-(g) hereof, provided such continuations do not violate the specific time periods set forth in subsections (b) and (d) and provided further that such Liens do not extend to any additional property or assets of any Credit Party or secure any additional obligations of any Credit Party.

Regardless of the language set forth in this definition, no Lien over the Equity Interests of any Credit Party granted to any Person other than to the Agent for the benefit of the Lenders shall be deemed a "Permitted Lien" under the terms of this Agreement.

"Person" shall mean a natural person, corporation, limited liability company, partnership, limited liability partnership, trust, incorporated or unincorporated organization, joint venture, joint stock company, firm or association or a government or any agency or political subdivision thereof or other entity of any kind.

"Pledge Agreement(s)" shall mean any pledge agreement executed and delivered by a Credit Party on the Effective Date pursuant to Section 5.1 hereof, if any, and executed and delivered from time to time after the Effective Date by any Credit Party pursuant to Section 7.13 hereof or otherwise, and any agreements, instruments or documents related thereto, in each case in form and substance satisfactory to the Agent amended, restated or otherwise modified from time to time.

"Prime Rate" shall mean the per annum rate of interest announced by the Agent, at its main office from time to time as its "prime rate" (it being acknowledged that such announced rate may not necessarily be the lowest rate charged by the Agent to any of its customers), which Prime Rate shall change simultaneously with any change in such announced rate.

"Pro Forma Projected Financial Information" shall mean, as to any proposed acquisition, a statement executed by the Borrower (supported by reasonable detail) setting forth the total consideration to be paid or incurred in connection with the proposed acquisition, and pro forma combined projected financial information for the Credit Parties and the acquisition target (if applicable), consisting of projected balance sheets as of the proposed effective date of the acquisition and as of the end of at least the next succeeding three (3) Fiscal Years following the acquisition and projected statements of income and cash flows for each of those years, including sufficient detail to

permit calculation of the ratios described in Section 7.9 hereof, as projected as of the effective date of the acquisition and as of the ends of those Fiscal Years and accompanied by (i) a statement setting forth a calculation of the ratio so described, (ii) a statement in reasonable detail specifying all material assumptions underlying the projections and (iii) such other information as the Agent or the Lenders shall reasonably request.

"Purchasing Lender" shall have the meaning set forth in Section 13.11.

"Quoted Rate" shall mean the rate of interest per annum offered by the Swing Line Lender in its sole discretion with respect to a Swing Line Advance and accepted by the Borrower.

"Quoted Rate Advance" shall mean any Swing Line Advance which bears interest at the Quoted Rate.

"Rating Agency" shall mean Moody's Investor Services, Inc., Standard and Poor's Ratings Services, their respective successors or any other nationally recognized statistical rating organization which is acceptable to the Agent.

"Register" is defined in Section 13.7(g) hereof.

"Reimbursement Obligation(s)" shall mean the aggregate amount of all unreimbursed drawings under all Letters of Credit (excluding for the avoidance of doubt, reimbursement obligations that are deemed satisfied pursuant to a deemed disbursement under Section 3.6(c)).

"Request for Advance" shall mean a Request for Revolving Credit Advance, a Request for Term Loan C Advance or a Request for Swing Line Advance, as the context may indicate or otherwise require.

"Request for Revolving Credit Advance" shall mean a request for a Revolving Credit Advance issued by the Borrower under Section 2.3 of this Agreement in the form attached hereto as Exhibit A.

"Request for Swing Line Advance" shall mean a request for a Swing Line Advance issued by the Borrower under Section 2.5(b) of this Agreement in the form attached hereto as Exhibit D.

"Request for Term Loan C Advance" shall mean a request for a Term Loan C Advance issued by the Borrower under Section 4.4 of this Agreement in the form attached hereto as Exhibit N.

"Requirement of Law" shall mean as to any Person, the certificate of incorporation and bylaws, the partnership agreement or other organizational or governing documents of such Person and any law, treaty, rule or regulation or determination of an arbitration or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer" shall mean, with respect to any Person, the chief executive officer, chief financial officer, chief operating officer, treasurer, president or controller of such Person, or with respect to compliance with financial covenants, the chief financial officer or the treasurer of such Person, or any other officer of such Person having substantially the same authority and responsibility.

"Revocation Order" shall have the meaning assigned to such term in Section 7.15 hereof.

"Revolving Credit" shall mean the revolving credit loans to be advanced to the Borrower by the applicable Revolving Credit Lenders pursuant to Article 2 hereof, in an aggregate amount (subject to the terms hereof), not to exceed, at any one time outstanding, the Revolving Credit Aggregate Commitment.

"Revolving Credit Advance" shall mean a borrowing requested by the Borrower and made by the Revolving Credit Lenders under Section 2.1 of this Agreement, including without limitation any readvance, refunding or conversion of such borrowing pursuant to Section 2.3 hereof and any deemed disbursement of an Advance in respect of a Letter of Credit under Section 3.6(c) hereof, and may include, subject to the terms hereof, Eurodollar-based Advances and Base Rate Advances.

"Revolving Credit Aggregate Commitment" shall mean One Million Dollars ($1,000,000), subject to reduction or termination under Section 2.10 or 9.2 hereof.

"Revolving Credit Commitment Amount" shall mean with respect to any Revolving Credit Lender, (i) if the Revolving Credit Aggregate Commitment has not been terminated, the amount specified opposite such Revolving Credit Lender's name in the column entitled "Revolving Credit Commitment Amount" on Schedule 1.2, as adjusted from time to time in accordance with the terms hereof; and (ii) if the Revolving Credit Aggregate Commitment has been terminated (whether by maturity, acceleration or otherwise), the amount equal to its Percentage of the aggregate principal amount outstanding under the Revolving Credit (including the outstanding Letter of Credit Obligations and any outstanding Swing Line Advances).

"Revolving Credit Lenders" shall mean the financial institutions from time to time parties hereto as lenders of the Revolving Credit.

"Revolving Credit Maturity Date" shall mean the earlier to occur of (i) October 12, 2013, and (ii) the date on which the Revolving Credit Aggregate Commitment shall terminate in accordance with the provisions of this Agreement.

"Revolving Credit Notes" shall mean the revolving credit notes described in Section 2.2 hereof, made by the Borrower to each of the Revolving Credit Lenders in the form attached hereto as Exhibit B, as such notes may be amended or supplemented from time to time, and any other notes issued in substitution, replacement or renewal thereof from time to time.

"Revolving Credit Percentage" shall mean, with respect to any Revolving Credit Lender, the percentage specified opposite such Revolving Credit Lender's name in the column entitled "Revolving Credit Percentage" on Schedule 1.2, as adjusted from time to time in accordance with the terms hereof.

"Security Agreement" shall mean, collectively, the security agreement(s) executed and delivered by the Borrower and the Guarantors on the Effective Date pursuant to Section 5.1 hereof, and any such agreements executed and delivered after the Effective Date (whether by execution of a joinder agreement to any existing security agreement or otherwise) pursuant to Section 7.13 hereof or otherwise, in the form of the Security Agreement attached hereto as Exhibit F, as amended, restated or otherwise modified from time to time.

"Senior Leverage Ratio" shall mean, as of any date of determination, the ratio of (a) Funded Debt (other than Subordinated Debt) of Borrower and its Subsidiaries, on a Consolidated basis, as of such date, to (b) EBITDA measured on an annualized trailing six (6) months basis.

"Square 1 Bank" shall mean Square 1 Bank, and its successors or assigns.

"Subordinated Debt" shall mean any unsecured Funded Debt of any Credit Party and other obligations under the Subordinated Debt Documents and any other Funded Debt of any Credit Party which, in each case, has been subordinated in right of payment and priority to the Indebtedness, all on terms and conditions satisfactory to the Agent and the Majority Lenders.

"Subordinated Debt Documents" shall mean and include any documents evidencing any Subordinated Debt, in each case, as the same may be amended, modified, supplemented or otherwise modified from time to time in compliance with the terms of this Agreement.

"Subordination Agreements" shall mean, collectively, any subordination agreements entered into by any Person from time to time in favor of the Agent in connection with any Subordinated Debt, the terms of which are acceptable to the Agent, in each case as the same may be amended, restated or otherwise modified from time to time, and "Subordination Agreement" shall mean any one of them.

"Subsidiary(ies)" shall mean any other corporation, association, joint stock company, business trust, limited liability company, partnership or any other business entity of which more than fifty percent (50%) of the outstanding

voting stock, share capital, membership, partnership or other interests, as the case may be, is owned either directly or indirectly by any Person or one or more of its Subsidiaries, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by any Person and/or its Subsidiaries. Unless otherwise specified to the contrary herein or the context otherwise requires, Subsidiary(ies) shall refer to the Subsidiary(ies) of the Borrower.

"Sweep Agreement" shall mean any agreement relating to the "Sweep to Loan" automated system of the Agent or any other cash management arrangement which the Borrower and the Agent have executed for the purposes of effecting the borrowing and repayment of Swing Line Advances.

"Swing Line" shall mean the revolving credit loans to be advanced to the Borrower by the Swing Line Lender pursuant to Section 2.5 hereof, in an aggregate amount (subject to the terms hereof), not to exceed, at any one time outstanding, the Swing Line Maximum Amount.

"Swing Line Advance" shall mean a borrowing requested by the Borrower and made by Swing Line Lender pursuant to Section 2.5 hereof and may include, subject to the terms hereof, Quoted Rate-Advances and Base Rate Advances.

"Swing Line Lender" shall mean Comerica Bank in its capacity as lender of the Swing Line under Section 2.5 of this Agreement, or its successor as subsequently designated hereunder.

"Swing Line Maximum Amount" shall mean Zero Dollars ($0).

"Swing Line Note" shall mean the swing line note which may be issued by the Borrower to Swing Line Lender pursuant to Section 2.5(b)(ii) hereof in the form attached hereto as Exhibit C, as such note may be amended or supplemented from time to time, and any note or notes issued in substitution, replacement or renewal thereof from time to time.

"Swing Line Participation Certificate" shall mean the Swing Line Participation Certificate delivered by the Agent to each Revolving Credit Lender pursuant to Section 2.5(e)(ii) hereof in the form attached hereto as Exhibit M.

"Term Loan A" shall mean the term loan made to the Borrower by the Term Loan A Lenders pursuant to Section 4.1(a) hereof.

"Term Loan A Advance" shall mean a borrowing requested by the Borrower and made by the Term Loan A Lenders pursuant to Section 4.1(a) hereof, including without limitation any refunding or conversion of such borrowing pursuant to Section 4.5 hereof, and may include, subject to the terms hereof, Eurodollar-based Advances and Base Rate Advances.

"Term Loan A Amount" shall mean with respect to any Term Loan A Lender, the amount equal to its Term Loan A Percentage of the aggregate principal amount outstanding under the Term Loan A.

"Term Loan A Lenders" shall mean the financial institutions from time to time parties hereto as lenders of Term Loan A.

"Term Loan A Maturity Date" shall mean April 15, 2014.

"Term Loan A Notes" shall mean the term notes described in Section 4.2(e) hereof, made by the Borrower to each of the Term Loan A Lenders in the form attached hereto as Exhibit K-1, as such notes may be amended or supplemented from time to time, and any other notes issued in substitution, replacement or renewal thereof from time to time.

"Term Loan A Percentage" shall mean with respect to any Term Loan A Lender, the percentage specified opposite such Term Loan A Lender's name in the column entitled "Term Loan A Percentage" on Schedule 1.2, as adjusted from time to time in accordance with the terms hereof.

"Term Loan Advances" shall mean, collectively, the Term Loan A Advances, the Term Loan B Advances and the Term Loan C Advances.

"Term Loan B" shall mean the term loan made to the Borrower by the Term Loan B Lenders pursuant to Section 4.1(b) hereof.

"Term Loan B Advance" shall mean a borrowing requested by the Borrower and made by the Term Loan B Lenders pursuant to Section 4.1(b) hereof, including without limitation any refunding or conversion of such borrowing pursuant to Section 4.5 hereof, and may include, subject to the terms hereof, Eurodollar-based Advances and Base Rate Advances.

"Term Loan B Amount" shall mean with respect to any Term Loan B Lender, the amount equal to its Term Loan B Percentage of the aggregate principal amount outstanding under the Term Loan B.

"Term Loan B Lenders" shall mean the financial institutions from time to time parties hereto as lenders of Term Loan B.

"Term Loan B Maturity Date" shall mean May 19, 2015.

"Term Loan B Notes" shall mean the term notes described in Section 4.2(e) hereof, made by the Borrower to each of the Term Loan B Lenders in the form attached hereto as Exhibit K-1, as such notes may be amended or supplemented from time to time, and any other notes issued in substitution, replacement or renewal thereof from time to time.

"Term Loan B Percentage" shall mean with respect to any Term Loan B Lender, the percentage specified opposite such Term Loan B Lender's name in the column entitled "Term Loan B Percentage" on Schedule 1.2, as adjusted from time to time in accordance with the terms hereof.

"Term Loan C" shall mean the term loan to be made to the Borrower by the Term Loan C Lenders pursuant to Section 4.1(c) hereof, in the aggregate principal amount not to exceed Twelve Million Dollars ($12,000,000).

"Term Loan C Advance" shall mean a borrowing requested by the Borrower and made by the Term Loan C Lenders pursuant to Section 4.1(c) hereof, including without limitation any refunding or conversion of such borrowing pursuant to Section 4.5 hereof, and may include, subject to the terms hereof, Eurodollar-based Advances and Base Rate Advances.

"Term Loan C Amount" shall mean with respect to any Term Loan C Lender, the amount equal to its Term Loan C Percentage of the aggregate principal amount outstanding under the Term Loan C.

"Term Loan C Commitment" shall mean Twelve Million Dollars ($12,000,000).

"Term Loan C Commitment Fee" shall mean the fee payable to the Agent for distribution to the Term Loan C Lenders in accordance with Section 4.10(c) hereof.

"Term Loan C Lenders" shall mean the financial institutions from time to time parties hereto as lenders of Term Loan C.

"Term Loan C Maturity Date" shall mean October 12, 2016.

"Term Loan C Notes" shall mean the term notes described in Section 4.2(e) hereof, made by the Borrower to each of the Term Loan C Lenders in the form attached hereto as Exhibit K-3, as such notes may be amended or supplemented from time to time, and any other notes issued in substitution, replacement or renewal thereof from time to time.

"Term Loan C Percentage" shall mean with respect to any Term Loan C Lender, the percentage specified opposite such Term Loan C Lender's name in the column entitled "Term Loan C Percentage" on Schedule 1.2, as adjusted from time to time in accordance with the terms hereof.

"Term Loan Lenders" shall mean, collectively, the Term Loan A Lenders, the Term Loan B Lenders and the Term Loan C Lenders.

"Term Loan Notes" shall mean, collectively, the Term Loan A Notes, the Term Loan B Notes and the Term Loan C Notes.

"Term Loan Rate Request" shall mean a request for the refunding or conversion of any Advance of a Term Loan submitted by Borrower under Section 4.5 of this Agreement in the form attached hereto as Exhibit L.

"Term Loans" shall mean collectively, Term Loan A, Term Loan B and Term Loan C, and "Term Loan" shall mean any of them.

"Third-Party Payor" shall mean Medicare, Medicaid, TRICARE, and other state or federal health care program, Blue Cross and/or Blue Shield, private insurers, managed care plans and any other Person or entity which presently or in the future maintains Third-Party Payor Programs.

"Third-Party Payor Programs" shall mean all payment and reimbursement programs, sponsored by a Third-Party Payor, in which Borrower or any Subsidiary participates.

"Tranche 1" shall mean portion of the Term Loan C as further described in Section 4.1(c)(i) hereof.

"Tranche 1 Commitment" shall mean Six Million Dollars ($6,000,000).

"Tranche 1 Funding Period" shall mean the period commencing on the Effective Date and ending on October 11, 2013.

"Tranche 2" shall mean the portion of the Term Loan C as further described in Section 4.1(c)(ii) hereof.

"Tranche 2 Commitment" shall mean Six Million Dollars ($6,000,000).

"Tranche 2 Funding Period" shall mean the period commencing on October 12, 2013 and ending on April 12, 2014.

"Uniform Commercial Code" or "UCC" shall mean the Uniform Commercial Code as in effect in any applicable state; provided that, unless specified otherwise or the context otherwise requires, such terms shall refer to the Uniform Commercial Code as in effect in the State of California.

"Unused Revolving Credit Availability" shall mean, on any date of determination, the amount equal to the lesser of (i) the Revolving Credit Aggregate Commitment or (ii) the then applicable Borrowing Base, minus (x) the aggregate outstanding principal amount of all Advances (including Swing Line Advances) and (y) the Letter of Credit Obligations.

"U.S. Lender" is defined in Section 13.12 hereof.

"USA Patriot Act" is defined in Section 6.7.

"Weighted Percentage" shall mean with respect to any Lender, its weighted percentage calculated by dividing (i) the sum of (w) its Revolving Credit Commitment Amount plus (x) its Term Loan A Amount plus (y) its

Term Loan B Amount plus (z) its Term Loan C Amount, by (ii) the sum of (w) the Revolving Credit Aggregate Commitment (or, if the Revolving Credit Aggregate Commitment has been terminated (whether by maturity, acceleration or otherwise), the aggregate principal amount outstanding under the Revolving Credit, including any outstanding Letter of Credit Obligations and outstanding Swing Line Advances), plus (x) the aggregate principal amount of Indebtedness outstanding under the Term Loan A plus (y) the aggregate principal amount of Indebtedness outstanding under the Term Loan B plus (z) the aggregate principal amount of Indebtedness outstanding under the Term Loan C. Schedule 1.2 reflects each Lender's Weighted Percentage and may be revised by the Agent from time to time to reflect changes in the Weighted Percentages of the Lenders.

"Withdrawal Liability" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

2. REVOLVING CREDIT.

2.1 Commitment. Subject to the terms and conditions of this Agreement (including without limitation Section 2.3 hereof), each Revolving Credit Lender severally and for itself alone agrees to make Advances of the Revolving Credit in Dollars to the Borrower from time to time on any Business Day during the period from the Effective Date hereof until (but excluding) the Revolving Credit Maturity Date in an aggregate amount, not to exceed at any one time outstanding such Lender's Revolving Credit Percentage of the Revolving Credit Aggregate Commitment. Subject to the terms and conditions set forth herein, advances, repayments and readvances may be made under the Revolving Credit.

2.2 Accrual of Interest and Maturity; Evidence of Indebtedness.

(a) The Borrower hereby unconditionally promises to pay to the Agent for the account of each Revolving Credit Lender the then unpaid principal amount of each Revolving Credit Advance (plus all accrued and unpaid interest) of such Revolving Credit Lender to the Borrower on the Revolving Credit Maturity Date and on such other dates and in such other amounts as may be required from time to time pursuant to this Agreement. Subject to the terms and conditions hereof, each Revolving Credit Advance shall, from time to time from and after the date of such Advance (until paid), bear interest at its Applicable Interest Rate.

(b) Each Revolving Credit Lender shall maintain in accordance with its usual practice an account or accounts evidencing indebtedness of the Borrower to the appropriate lending office of such Revolving Credit Lender resulting from each Revolving Credit Advance made by such lending office of such Revolving Credit Lender from time to time, including the amounts of principal and interest payable thereon and paid to such Revolving Credit Lender from time to time under this Agreement.

(c) The Agent shall maintain the Register pursuant to Section 13.7(g), and a subaccount therein for each Revolving Credit Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Revolving Credit Advance made hereunder, the type thereof and each Eurodollar-Interest Period applicable to any Eurodollar-based Advance, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Revolving Credit Lender hereunder in respect of the Revolving Credit Advances and (iii) both the amount of any sum received by the Agent hereunder from the Borrower in respect of the Revolving Credit Advances and each Revolving Credit Lender's share thereof.

(d) The entries made in the Register maintained pursuant to paragraph (c) of this Section 2.2 shall, absent manifest error, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that the failure of any Revolving Credit Lender or the Agent to maintain the Register or any account, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay the Revolving Credit Advances (and all other amounts owing with respect thereto) made to the Borrower by the Revolving Credit Lenders in accordance with the terms of this Agreement.

(e) The Borrower agrees that, upon written request to the Agent by any Revolving Credit Lender, the Borrower will execute and deliver, to such Revolving Credit Lender, at the Borrower's own expense, a Revolving Credit Note evidencing the outstanding Revolving Credit Advances owing to such Revolving Credit Lender.

2.3 Requests for and Refundings and Conversions of Advances. The Borrower may request an Advance of the Revolving Credit, a refund of any Revolving Credit Advance in the same type of Advance or to convert any Revolving Credit Advance to any other type of Revolving Credit Advance only by delivery to the Agent of a Request for Revolving Credit Advance executed by an Authorized Signer for the Borrower, subject to the following and Section 2.13 hereof:

(a) each such Request for Revolving Credit Advance shall set forth the information required on the Request for Revolving Credit Advance, including without limitation:

(i) the proposed date of such Revolving Credit Advance (or the refunding or conversion of an outstanding Revolving Credit Advance), which must be a Business Day;

(ii) whether such Advance is a new Revolving Credit Advance or a refunding or conversion of an outstanding Revolving Credit Advance; and

(iii) whether such Revolving Credit Advance is to be a Base Rate Advance or a Eurodollar-based Advance, and, except in the case of a Base Rate Advance, the first Eurodollar-Interest Period applicable thereto, provided, however, that the initial Revolving Credit Advance made under this Agreement shall be a Base Rate Advance, which may then be converted into a Eurodollar-based Advance in compliance with this Agreement.

(b) each such Request for Revolving Credit Advance shall be delivered to the Agent by 12:00 p.m. (Detroit time) three (3) Business Days prior to the proposed date of the Revolving Credit Advance, except in the case of a Base Rate Advance, for which the Request for Revolving Credit Advance must be delivered by 12:00 p.m. (Detroit time) on the proposed date for such Revolving Credit Advance;

(c) on the proposed date of such Revolving Credit Advance, the sum of (x) the aggregate principal amount of all Revolving Credit Advances and Swing Line Advances outstanding on such date (including, without duplication) the Advances that are deemed to be disbursed by the Agent under Section 3.6(c) hereof in respect of the Borrower's Reimbursement Obligations hereunder), plus (y) the Letter of Credit Obligations as of such date, in each case after giving effect to all outstanding requests for Revolving Credit Advances and Swing Line Advances and for the issuance of any Letters of Credit, shall not exceed the lesser of (i) the Revolving Credit Aggregate Commitment and (ii) the then applicable Borrowing Base;

(d) in the case of a Base Rate Advance, the principal amount of the initial funding of such Advance, as opposed to any refunding or conversion thereof, shall be at least One Hundred Thousand Dollars ($100,000) or the remainder available under the Revolving Credit Aggregate Commitment if less than One Hundred Thousand Dollars ($100,000);

(e) in the case of a Eurodollar-based Advance, the principal amount of such Advance, plus the amount of any other outstanding Revolving Credit Advance to be then combined therewith having the same Eurodollar-Interest Period, if any, shall be at least One Hundred Thousand Dollars ($100,000) (or a larger integral multiple of Ten Thousand Dollars ($10,000)) or the remainder available under the Revolving Credit Aggregate Commitment if less than One Hundred Thousand Dollars ($100,000) and at any one time there shall not be in effect more than three (3) different Eurodollar-Interest Periods;

(f) a Request for Revolving Credit Advance, once delivered to the Agent, shall not be revocable by the Borrower and shall constitute a certification by the Borrower as of the date thereof that:

(i) all conditions to the making of Revolving Credit Advances set forth in this Agreement have been satisfied (including, without limitation, the delivery of the Borrowing Base Certificate as required in accordance with Section 7.2(b) hereof), and shall remain satisfied to the date of such Revolving Credit Advance (both before and immediately after giving effect to such Revolving Credit Advance);

(ii) there is no Default or Event of Default in existence, and none will exist upon the making of such Revolving Credit Advance (both before and immediately after giving effect to such Revolving Credit Advance); and

(iii) the representations and warranties of the Credit Parties contained in this Agreement and the other Loan Documents are true and correct in all material respects and shall be true and correct in all material respects as of the date of the making of such Revolving Credit Advance (both before and immediately after giving effect to such Revolving Credit Advance), other than any representation or warranty that expressly speaks only as of a different date;

The Agent, acting on behalf of the Revolving Credit Lenders, may also, at its option, lend under this Section 2.3 upon the telephone or email request of an Authorized Signer of the Borrower to make such requests and, in the event the Agent, acting on behalf of the Revolving Credit Lenders, makes any such Advance upon a telephone or email request, an Authorized Signer shall fax or deliver by electronic file to the Agent, on the same day as such telephone or email request, an executed Request for Revolving Credit Advance. The Borrower hereby authorizes the Agent to disburse Advances under this Section 2.3 pursuant to the telephone or email instructions of any person purporting to be an Authorized Signer. Notwithstanding the foregoing, the Borrower acknowledges that the Borrower shall bear all risk of loss resulting from disbursements made upon any telephone or email request. Each telephone or email request for an Advance from an Authorized Signer for the Borrower shall constitute a certification of the matters set forth in the Request for Revolving Credit Advance form as of the date of such requested Advance.

2.4 Disbursement of Advances.

(a) Upon receiving any Request for Revolving Credit Advance from the Borrower under Section 2.3 hereof, the Agent shall promptly notify each Revolving Credit Lender by wire, telex or telephone (confirmed by wire, telecopy or telex) of the amount of such Advance being requested and the date such Revolving Credit Advance is to be made by each Revolving Credit Lender in an amount equal to its Revolving Credit Percentage of such Advance. Unless such Revolving Credit Lender's commitment to make Revolving Credit Advances hereunder shall have been suspended or terminated in accordance with this Agreement, each such Revolving Credit Lender shall make available the amount of its Revolving Credit Percentage of each Revolving Credit Advance in immediately available funds to the Agent, as follows:

(i) for Base Rate Advances, at the office of the Agent located at 411 West Lafayette, 7th Floor, MC 3289, Detroit, Michigan 48226, not later than 1:00 p.m. (Detroit time) on the date of such Advance; and

(ii) for Eurodollar-based Advances, at the Agent's Correspondent for the account of the Eurodollar Lending Office of the Agent, not later than 12:00 p.m. (the time of the Agent's Correspondent) on the date of such Advance.

(b) Subject to submission of an executed Request for Revolving Credit Advance by the Borrower without exceptions noted in the compliance certification therein, the Agent shall make available to the Borrower the aggregate of the amounts so received by it from the Revolving Credit Lenders in like funds and currencies:

(i) for Base Rate Advances, not later than 4:00 p.m. (Detroit time) on the date of such Revolving Credit Advance, by credit to an account of the Borrower maintained with the Agent or to such other account or third party as the Borrower may reasonably direct in writing, provided such direction is timely given; and

(ii) for Eurodollar-based Advances, not later than 4:00 p.m. (the time of the Agent's Correspondent) on the date of such Revolving Credit Advance, by credit to an account of the Borrower maintained with the Agent's Correspondent or to such other account or third party as the Borrower may direct, provided such direction is timely given.

(c) The Agent shall deliver the documents and papers received by it for the account of each Revolving Credit Lender to such Revolving Credit Lender. Unless the Agent shall have been notified by any Revolving Credit Lender prior to the date of any proposed Revolving Credit Advance that such Revolving Credit Lender does not intend to make available to the Agent such Revolving Credit Lender's Percentage of such Advance, the Agent may assume that such Revolving Credit Lender has made such amount available to the Agent on such date, as aforesaid. The Agent may, but shall not be obligated to, make available to the Borrower the amount of such payment in reliance on such assumption. If such amount is not in fact made available to the Agent by such Revolving Credit Lender, as aforesaid, the Agent shall be entitled to recover such amount on demand from such Revolving Credit Lender. If such Revolving Credit Lender does not pay such amount forthwith upon the Agent's demand therefor and the Agent has in fact made a corresponding amount available to the Borrower, the Agent shall promptly notify the Borrower and the Borrower shall pay such amount to the Agent, if such notice is delivered to the Borrower prior to 1:00 p.m. (Detroit time) on a Business Day, on the day such notice is received, and otherwise on the next Business Day, and such amount paid by the Borrower shall be applied as a prepayment of the Revolving Credit (without any corresponding reduction in the Revolving Credit Aggregate Commitment), reimbursing the Agent for having funded said amounts on behalf of such Revolving Credit Lender. The Borrower shall retain its claim against such Revolving Credit Lender with respect to the amounts repaid by it to the Agent and, if such Revolving Credit Lender subsequently makes such amounts available to the Agent, the Agent shall promptly make such amounts available to the Borrower as a Revolving Credit Advance. The Agent shall also be entitled to recover from such Revolving Credit Lender or the Borrower, as the case may be, but without duplication, interest on such amount in respect of each day from the date such amount was made available by the Agent to the Borrower, to the date such amount is recovered by the Agent, at a rate per annum equal to:

(i) in the case of such Revolving Credit Lender, for the first two (2) Business Days such amount remains unpaid, the Federal Funds Effective Rate, and thereafter, at the rate of interest then applicable to such Revolving Credit Advances; and

(ii) in the case of the Borrower, the rate of interest then applicable to such Advance of the Revolving Credit.

Until such Revolving Credit Lender has paid the Agent such amount, such Revolving Credit Lender shall have no interest in or rights with respect to such Advance for any purpose whatsoever. The obligation of any Revolving Credit Lender to make any Revolving Credit Advance hereunder shall not be affected by the failure of any other Revolving Credit Lender to make any Advance hereunder, and no Revolving Credit Lender shall have any liability to the Borrower or any of its Subsidiaries, the Agent, any other Revolving Credit Lender, or any other party for another Revolving Credit Lender's failure to make any loan or Advance hereunder.

2.5 Swing Line. (a) Swing Line Advances. The Swing Line Lender may, on the terms and subject to the conditions hereinafter set forth (including without limitation Section 2.5(c) hereof) and provided that this Agreement has been amended to provide that the Swing Line Maximum Amount is greater than Zero Dollars ($0), but shall not be required to, make one or more Advances (each such advance being a "Swing Line Advance") to the Borrower from time to time on any Business Day during the period from the Effective Date hereof until (but excluding) the Revolving Credit Maturity Date in an aggregate amount not to exceed at any one time outstanding the Swing Line Maximum Amount. Subject to the terms set forth herein, advances, repayments and readvances may be made under the Swing Line.

(b) Accrual of Interest and Maturity; Evidence of Indebtedness.

(i) Swing Line Lender shall maintain in accordance with its usual practice an account or accounts evidencing indebtedness of the Borrower to Swing Line Lender resulting from each Swing Line Advance from time to time, including the amount and date of each Swing Line Advance, its Applicable Interest Rate, its Interest Period, if any, and the amount and date of any repayment made on any Swing Line Advance from time to time. The entries made in such account or accounts of Swing Line Lender shall be prima facie evidence, absent manifest error, of the existence and amounts of the obligations of the

Borrower therein recorded; provided, however, that the failure of Swing Line Lender to maintain such account, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay the Swing Line Advances (and all other amounts owing with respect thereto) in accordance with the terms of this Agreement.

(ii) The Borrower agrees that, upon the written request of Swing Line Lender, the Borrower will execute and deliver to Swing Line Lender a Swing Line Note.

(iii) The Borrower unconditionally promises to pay to the Swing Line Lender the then unpaid principal amount of such Swing Line Advance (plus all accrued and unpaid interest) on the Revolving Credit Maturity Date and on such other dates and in such other amounts as may be required from time to time pursuant to this Agreement. Subject to the terms and conditions hereof, each Swing Line Advance shall, from time to time after the date of such Advance (until paid), bear interest at its Applicable Interest Rate.

(c) Requests for Swing Line Advances. The Borrower may request a Swing Line Advance by the delivery to Swing Line Lender of a Request for Swing Line Advance executed by an Authorized Signer for the Borrower, subject to the following:

(i) each such Request for Swing Line Advance shall set forth the information required on the Request for Advance, including without limitation, (A) the proposed date of such Swing Line Advance, which must be a Business Day, (B) whether such Swing Line Advance is to be a Base Rate Advance or a Quoted Rate Advance, and (C) in the case of a Quoted Rate Advance, the duration of the Interest Period applicable thereto;

(ii) on the proposed date of such Swing Line Advance, after giving effect to all outstanding requests for Swing Line Advances made by the Borrower as of the date of determination, the aggregate principal amount of all Swing Line Advances outstanding on such date shall not exceed the Swing Line Maximum Amount;

(iii) on the proposed date of such Swing Line Advance, after giving effect to all outstanding requests for Revolving Credit Advances and Swing Line Advances and Letters of Credit requested by the Borrower on such date of determination (including, without duplication, Advances that are deemed disbursed pursuant to Section 3.6(c) hereof in respect of the Borrower's Reimbursement Obligations hereunder), the sum of (x) the aggregate principal amount of all Revolving Credit Advances and the Swing Line Advances outstanding on such date plus (y) the Letter of Credit Obligations on such date shall not exceed the lesser of (A) the Revolving Credit Aggregate Commitment and (B) the then applicable Borrowing Base;

(iv) (A) in the case of a Swing Line Advance that is a Base Rate Advance, the principal amount of the initial funding of such Advance, as opposed to any refunding or conversion thereof, shall be at least Fifty Thousand Dollars ($50,000) or such lesser amount as may be agreed to by the Swing Line Lender, and (B) in the case of a Swing Line Advance that is a Quoted Rate Advance, the principal amount of such Advance, plus any other outstanding Swing Line Advances to be then combined therewith having the same Interest Period, if any, shall be at least Fifty Thousand Dollars ($50,000) or such lesser amount as may be agreed to by the Swing Line Lender, and at any time there shall not be in effect more than two (2) Interest Rates and Interest Periods;

(v) each such Request for Swing Line Advance shall be delivered to the Swing Line Lender by 3:00 p.m. (Detroit time) on the proposed date of the Swing Line Advance;

(vi) each Request for Swing Line Advance, once delivered to Swing Line Lender, shall not be revocable by the Borrower, and shall constitute and include a certification by the Borrower as of the date thereof that:

(A) all conditions to the making of Swing Line Advances set forth in this Agreement shall have been satisfied (including, without limitation, the delivery of the Borrowing Base Certificate as required in accordance with Section 7.2(b) hereof) and shall remain satisfied to the date of such Swing Line Advance (both before and immediately after giving effect to such Swing Line Advance);

(B) there is no Default or Event of Default in existence, and none will exist upon the making of such Swing Line Advance (both before and immediately after giving effect to such Swing Line Advance); and

(C) the representations and warranties of the Credit Parties contained in this Agreement and the other Loan Documents are true and correct in all material respects and shall be true and correct in all material respect as of the date of the making of such Swing Line Advance (both before and immediately after giving effect to such Swing Line Advance), other than any representation or warranty that expressly speaks only as of a different date;

(vii) At the option of the Agent, subject to revocation by the Agent at any time and from time to time and so long as the Agent is the Swing Line Lender, the Borrower may utilize the Agent's "Sweep to Loan" automated system for obtaining Swing Line Advances and making periodic repayments. At any time during which the "Sweep to Loan" system is in effect, Swing Line Advances shall be advanced to fund borrowing needs pursuant to the terms of the Sweep Agreement. Each time a Swing Line Advance is made using the "Sweep to Loan" system, the Borrower shall be deemed to have certified to the Agent and the Lenders each of the matters set forth in clause (vi) of this Section 2.5(b). Principal and interest on Swing Line Advances requested, or deemed requested, pursuant to this Section shall be paid pursuant to the terms and conditions of the Sweep Agreement without any deduction, setoff or counterclaim whatsoever. Unless sooner paid pursuant to the provisions hereof or the provisions of the Sweep Agreement, the principal amount of the Swing Loans shall be paid in full, together with accrued interest thereon, on the Revolving Credit Maturity Date. The Agent may suspend or revoke the Borrower's privilege to use the "Sweep to Loan" system at any time and from time to time for any reason and, immediately upon any such revocation, the "Sweep to Loan" system shall no longer be available to the Borrower for the funding of Swing Line Advances hereunder (or otherwise), and the regular procedures set forth in this Section 2.5 for the making of Swing Line Advances shall be deemed immediately to apply. The Agent may, at its option, also elect to make Swing Line Advances upon the Borrower's telephone requests on the basis set forth in the last paragraph of Section 2.3, provided that the Borrower complies with the provisions set forth in this Section 2.5.

(d) Disbursement of Swing Line Advances. Upon receiving any executed Request for Swing Line Advance from the Borrower and the satisfaction of the conditions set forth in Section 2.5(c) hereof, Swing Line Lender shall, at its option, make available to the Borrower the amount so requested in Dollars not later than 4:00 p.m. (Detroit time) on the date of such Advance, by credit to an account of the Borrower maintained with the Agent or to such other account or third party as the Borrower may reasonably direct in writing, subject to applicable law, provided such direction is timely given. Swing Line Lender shall promptly notify the Agent of any Swing Line Advance by telephone, telex or telecopier.

(e) Refunding of or Participation Interest in Swing Line Advances.

(i) The Agent, at any time in its sole and absolute discretion, may, in each case on behalf of the Borrower (which hereby irrevocably directs the Agent to act on their behalf) request each of the Revolving Credit Lenders (including the Swing Line Lender in its capacity as a Revolving Credit Lender) to make an Advance of the Revolving Credit to the Borrower, in an amount equal to such Revolving Credit Lender's Revolving Credit Percentage of the aggregate principal amount of the Swing Line Advances outstanding on the date such notice is given (the "Refunded Swing Line Advances"); provided however that the Swing Line Advances carried at the Quoted Rate which are refunded with Revolving Credit Advances at the request of the Swing Line Lender at a time when no Default or Event of Default has occurred and is continuing shall not be subject to Section 11.1 and no losses, costs or expenses may be

assessed by the Swing Line Lender against the Borrower or the Revolving Credit Lenders as a consequence of such refunding. The applicable Revolving Credit Advances used to refund any Swing Line Advances shall be Base Rate Advances. In connection with the making of any such Refunded Swing Line Advances or the purchase of a participation interest in Swing Line Advances under Section 2.5(e)(ii) hereof, the Swing Line Lender shall retain its claim against the Borrower for any unpaid interest or fees in respect thereof accrued to the date of such refunding. Unless any of the events described in Section 9.1(i) hereof shall have occurred (in which event the procedures of Section 2.5(e)(ii) shall apply) and regardless of whether the conditions precedent set forth in this Agreement to the making of a Revolving Credit Advance are then satisfied (but subject to Section 2.5(e)(iii)), each Revolving Credit Lender shall make the proceeds of its Revolving Credit Advance available to the Agent for the benefit of the Swing Line Lender at the office of the Agent specified in Section 2.4(a) hereof prior to 11:00 a.m. (Detroit time) on the Business Day next succeeding the date such notice is given, in immediately available funds. The proceeds of such Revolving Credit Advances shall be immediately applied to repay the Refunded Swing Line Advances, subject to Section 11.1 hereof.

(ii) If, prior to the making of an Advance of the Revolving Credit pursuant to Section 2.5(e)(i) hereof, one of the events described in Section 9.1(i) hereof shall have occurred, each Revolving Credit Lender will, on the date such Advance of the Revolving Credit was to have been made, purchase from the Swing Line Lender an undivided participating interest in each Swing Line Advance that was to have been refunded in an amount equal to its Revolving Credit Percentage of such Swing Line Advance. Each Revolving Credit Lender within the time periods specified in Section 2.5(e)(i) hereof, as applicable, shall immediately transfer to the Agent, for the benefit of the Swing Line Lender, in immediately available funds, an amount equal to its Revolving Credit Percentage of the aggregate principal amount of all Swing Line Advances outstanding as of such date. Upon receipt thereof, the Agent will deliver to such Revolving Credit Lender a Swing Line Participation Certificate evidencing such participation.

(iii) Each Revolving Credit Lender's obligation to make Revolving Credit Advances to refund Swing Line Advances, and to purchase participation interests, in accordance with Section 2.5(e)(i) and (ii), respectively, shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (A) any set-off, counterclaim, recoupment, defense or other right which such Revolving Credit Lender may have against Swing Line Lender, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of any Default or Event of Default; (C) any adverse change in the condition (financial or otherwise) of the Borrower or any other Person; (D) any breach of this Agreement or any other Loan Document by the Borrower or any other Person; (E) any inability of the Borrower to satisfy the conditions precedent to borrowing set forth in this Agreement on the date upon which such Revolving Credit Advance is to be made or such participating interest is to be purchased; (F) the termination of the Revolving Credit Aggregate Commitment hereunder; or (G) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. If any Revolving Credit Lender does not make available to the Agent the amount required pursuant to Section 2.5(e)(i) or (ii) hereof, as the case may be, the Agent on behalf of the Swing Line Lender, shall be entitled to recover such amount on demand from such Revolving Credit Lender, together with interest thereon for each day from the date of non-payment until such amount is paid in full (x) for the first two (2) Business Days such amount remains unpaid, at the Federal Funds Effective Rate and (y) thereafter, at the rate of interest then applicable to such Swing Line Advances. The obligation of any Revolving Credit Lender to make available its pro rata portion of the amounts required pursuant to Section 2.5(e)(i) or (ii) hereof shall not be affected by the failure of any other Revolving Credit Lender to make such amounts available, and no Revolving Credit Lender shall have any liability to any Credit Party, the Agent, the Swing Line Lender, or any other Revolving Credit Lender or any other party for another Revolving Credit Lender's failure to make available the amounts required under Section 2.5(e)(i) or (ii) hereof.

(iv) Notwithstanding the foregoing, no Revolving Credit Lender shall be required to make any Revolving Credit Advance to refund a Swing Line Advance or to purchase a participation in a Swing Line Advance if at least two (2) Business Days prior to the making of such Swing Line Advance by the Swing Line Lender, the officers of the Swing Line Lender immediately responsible for matters concerning this Agreement shall have received written notice from the Agent or any Lender that Swing Line Advances should be suspended based on the occurrence and continuance of a Default or Event of Default and stating

that such notice is a "notice of default"; provided, however that the obligation of the Revolving Credit Lenders to make or refund such Swing Line Advance or purchase a participation in such Swing Line Advance) shall be reinstated upon the date on which such Default or Event of Default has been waived by the requisite Lenders.

2.6 Interest Payments; Default Interest.

(a) Interest on the unpaid balance of all Base Rate Advances of the Revolving Credit and the Swing Line from time to time outstanding shall accrue from the date of such Advance to the date repaid, at a per annum interest rate equal to the Base Rate, and shall be payable in immediately available funds monthly in arrears commencing on November 1, 2012, and on the first day of each month thereafter. Whenever any payment under this Section 2.6(a) shall become due on a day which is not a Business Day, the date for payment thereof shall be extended to the next Business Day. Interest accruing at the Base Rate shall be computed on the basis of a 360 day year and assessed for the actual number of days elapsed, and in such computation effect shall be given to any change in the interest rate resulting from a change in the Base Rate on the date of such change in the Base Rate.

(b) Interest on each Eurodollar-based Advance of the Revolving Credit shall accrue at its Eurodollar-based Rate and shall be payable in immediately available funds on the last day of the Eurodollar-Interest Period applicable thereto (and, if any Eurodollar-Interest Period shall exceed three months, then on the last Business Day of the third month of such Eurodollar-Interest Period, and at three month intervals thereafter). Interest accruing at the Eurodollar-based Rate shall be computed on the basis of a 360 day year and assessed for the actual number of days elapsed from the first day of the Eurodollar-Interest Period applicable thereto to but not including the last day thereof.

(c) Interest on each Quoted Rate Advance of the Swing Line shall accrue at its Quoted Rate and shall be payable in immediately available funds on the last day of the Interest Period applicable thereto. Interest accruing at the Quoted Rate shall be computed on the basis of a 360-day year and assessed for the actual number of days elapsed from the first day of the Interest Period applicable thereto to, but not including, the last day thereof.

(d) Notwithstanding anything to the contrary in the preceding sections, all accrued and unpaid interest on any Revolving Credit Advance refunded or converted pursuant to Section 2.3 hereof and any Swing Line Advance refunded pursuant to Section 2.5(e) hereof, shall be due and payable in full on the date such Advance is refunded or converted.

(e) In the case of any Event of Default under Section 9.1(i), immediately upon the occurrence thereof, and in the case of any other Event of Default, immediately upon receipt by the Agent of notice from the Majority Revolving Credit Lenders, interest shall be payable on demand on all Revolving Credit Advances and Swing Line Advances from time to time outstanding at a per annum rate equal to the Applicable Interest Rate in respect of each such Advance plus, in the case of Eurodollar-based Advances and Quoted Rate Advances, five percent (5%) for the remainder of the then existing Interest Period, if any, and at all other such times, and for all Base Rate Advances from time to time outstanding, at a per annum rate equal to the Base Rate plus five percent (5%).

2.7 Optional Prepayments.

(a) (i) The Borrower may prepay all or part of the outstanding principal of any Base Rate Advance(s) of the Revolving Credit at any time, provided that, unless the "Sweep to Loan" system shall be in effect in respect of the Revolving Credit, after giving effect to any partial prepayment, the aggregate balance of Base Rate Advance(s) of the Revolving Credit remaining outstanding shall be at least One Hundred Thousand Dollars ($100,000), and (ii) subject to Section 2.9(b) hereof, the Borrower may prepay all or part of the outstanding principal of any Eurodollar-based Advance of the Revolving Credit at any time (subject to not less than five (5) Business Day's notice to the Agent) provided that, after giving effect to any partial prepayment, the unpaid portion of such Advance which is to be refunded or converted under Section 2.3 hereof shall be at least One Hundred Thousand Dollars ($100,000).

(b) (i) The Borrower may prepay all or part of the outstanding principal of any Swing Line Advance carried at the Base Rate at any time, provided that after giving effect to any partial prepayment, the aggregate

balance of such Base Rate Advances remaining outstanding shall be at least Fifty Thousand Dollars ($50,000) and (ii) subject to Section 2.9(b) hereof, the Borrower may prepay all or part of the outstanding principal of any Swing Line Advance carried at the Quoted Rate at any time (subject to not less than one (1) day's notice to the Swing Line Lender) provided that after giving effect to any partial prepayment, the aggregate balance of such Quoted Rate Swing Line Advances remaining outstanding shall be at least Fifty Thousand Dollars ($50,000).

(c) Any prepayment of a Base Rate Advance made in accordance with this Section shall be without premium or penalty and any prepayment of any other type of Advance shall be subject to the provisions of Section 11.1 hereof, but otherwise without premium or penalty.

2.8 Base Rate Advance in Absence of Election or Upon Default. If, (a) as to any outstanding Eurodollar-based Advance of the Revolving Credit or any outstanding Quoted Rate Advance of the Swing Line, the Agent has not received payment of all outstanding principal and accrued interest on the last day of the Interest Period applicable thereto, or does not receive a timely Request for Advance meeting the requirements of Section 2.3 or 2.5 hereof with respect to the refunding or conversion of such Advance, or (b) if on the last day of the applicable Interest Period a Default or an Event of Default shall have occurred and be continuing, then, on the last day of the applicable Interest Period the principal amount of any Eurodollar-based Advance or Quoted Rate Advance, as the case may be, which has not been prepaid shall, absent a contrary election of the Majority Revolving Credit Lenders, be converted automatically to a Base Rate Advance and the Agent shall thereafter promptly notify the Borrower of said action. All accrued and unpaid interest on any Advance converted to a Base Rate Advance under this Section 2.8 shall be due and payable in full on the date such Advance is converted.

2.9 Mandatory Repayment of Revolving Credit Advances.

(a) If at any time and for any reason the aggregate outstanding principal amount of Revolving Credit Advances plus Swing Line Advances, plus the outstanding Letter of Credit Obligations, shall exceed the lesser of (i) the Revolving Credit Aggregate Commitment and (ii) the then applicable Borrowing Base, the Borrower shall immediately reduce any pending request for a Revolving Credit Advance on such day by the amount of such excess and, to the extent any excess remains thereafter, repay any Revolving Credit Advances and Swing Line Advances in an amount equal to the lesser of the outstanding amount of such Advances and the amount of such remaining excess, with such amounts to be applied between the Revolving Credit Advances and Swing Line Advances as determined by the Agent and then, to the extent that any excess remains after payment in full of all Revolving Credit Advances and Swing Line Advances, to provide cash collateral in support of any Letter of Credit Obligations in an amount equal to the lesser of (x) 105% of the amount of such Letter of Credit Obligations and (y) the amount of such remaining excess, with such cash collateral to be provided on terms satisfactory to the Agent. The Borrower acknowledges that, in connection with any repayment required hereunder, it shall also be responsible for the reimbursement of any prepayment or other costs required under Section 11.1 hereof. Any payments made pursuant to this Section shall be applied first to outstanding Base Rate Advances under the Revolving Credit, next to Swing Line Advances carried at the Base Rate and then to Eurodollar-based Advances of the Revolving Credit, and then to Swing Line Advances carried at the Quoted Rate.

(b) To the extent that, on the date any mandatory repayment of the Revolving Credit Advances under this Section 2.9 or payment pursuant to the terms of any of the Loan Documents is due, the Indebtedness under the Revolving Credit or any other Indebtedness to be prepaid is being carried, in whole or in part, at the Eurodollar-based Rate and no Default or Event of Default has occurred and is continuing, the Borrower may deposit the amount of such mandatory prepayment in a cash collateral account to be held by the Agent, for and on behalf of the Revolving Credit Lenders, on such terms and conditions as are reasonably acceptable to the Agent and upon such deposit the obligation of the Borrower to make such mandatory prepayment shall be deemed satisfied. Subject to the terms and conditions of said cash collateral account, sums on deposit in said cash collateral account shall be applied (until exhausted) to reduce the principal balance of the Revolving Credit on the last day of each Eurodollar-Interest Period attributable to the Eurodollar-based Advances of such Revolving Advance, thereby avoiding breakage costs under Section 11.1 hereof; provided, however, that if a Default or Event of Default shall have occurred at any time while sums are on deposit in the cash collateral account, the Agent may, in its sole discretion, elect to apply such sums to reduce the principal balance of such Eurodollar-based Advances prior to the last day of the applicable Eurodollar-Interest Period, and the Borrower will be obligated to pay any resulting breakage costs under Section 11.1.

2.10 Optional Reduction or Termination of Revolving Credit Aggregate Commitment. The Borrower may, upon at least five (5) Business Days' prior written notice to the Agent, permanently reduce the Revolving Credit Aggregate Commitment in whole at any time, or in part from time to time, without premium or penalty, provided that: (i) each partial reduction of the Revolving Credit Aggregate Commitment shall be in an aggregate amount equal to One Hundred Thousand Dollars ($100,000) or a larger integral multiple of Ten Thousand Dollars ($10,000); (ii) the Borrower shall prepay in accordance with the terms hereof the amount, if any, by which the aggregate unpaid principal amount of Revolving Credit Advances and Swing Line Advances (including, without duplication, any deemed Advances made under Section 3.6 hereof) outstanding hereunder, plus the Letter of Credit Obligations, exceeds the amount of the then applicable Revolving Credit Aggregate Commitment as so reduced, together with interest thereon to the date of prepayment; (iii) no reduction shall reduce the Revolving Credit Aggregate Commitment to an amount which is less than the aggregate undrawn amount of any Letters of Credit outstanding at such time; and (iv) no such reduction shall reduce the Swing Line Maximum Amount unless the Borrower so elects, provided that the Swing Line Maximum Amount shall at no time be greater than the Revolving Credit Aggregate Commitment; provided, however that if the termination or reduction of the Revolving Credit Aggregate Commitment requires the prepayment of a Eurodollar-based Advance or a Quoted Rate Advance and such termination or reduction is made on a day other than the last Business Day of the then current Interest Period applicable to such Eurodollar-based Advance or such Quoted Rate Advance, then, pursuant to Section 11.1, the Borrower shall compensate the Revolving Credit Lenders and/or the Swing Line Lender for any losses or, so long as no Default or Event of Default has occurred and is continuing, the Borrower may deposit the amount of such prepayment in a collateral account as provided in Section 2.9(b). Reductions of the Revolving Credit Aggregate Commitment and any accompanying prepayments of Advances of the Revolving Credit shall be distributed by the Agent to each Revolving Credit Lender in accordance with such Revolving Credit Lender's Revolving Percentage thereof, and will not be available for reinstatement by or readvance to the Borrower, and any accompanying prepayments of Advances of the Swing Line shall be distributed by the Agent to the Swing Line Lender and will not be available for reinstatement by or readvance to the Borrower. Any reductions of the Revolving Credit Aggregate Commitment hereunder shall reduce each Revolving Credit Lender's portion thereof proportionately (based on the applicable Percentages), and shall be permanent and irrevocable. Any payments made pursuant to this Section shall be applied first to outstanding Base Rate Advances under the Revolving Credit, next to Swing Line Advances carried at the Base Rate and then to Eurodollar-based Advances of the Revolving Credit, and then to Swing Line Advances carried at the Quoted Rate.

2.11 Use of Proceeds of Advances. Advances of the Revolving Credit shall be used to finance working capital and other lawful corporate purposes.

2.12 Revolving Credit Renewal Fee. On the Effective Date, the Borrower shall have paid to Agent, for distribution to the Revolving Credit Lenders, pro rata in accordance with their respective Revolving Credit Percentages, a fee on account of the Revolving Credit equal to Five Thousand Dollars ($5,000), which shall be nonrefundable.

2.13 Eurodollar-based Rate Amendment. Notwithstanding anything in this Agreement to the contrary, the Lenders shall not make any Eurodollar-based Advances and the Eurodollar-based Rate shall not be an available Applicable Interest Rate with respect to any Revolving Credit Advance unless and until Agent shall have received a duly executed Eurodollar-based Rate Amendment.

3. LETTERS OF CREDIT.

3.1 Letters of Credit. Subject to the terms and conditions of this Agreement and provided that this Agreement has been amended to provide that the Letter of Credit Maximum Amount is greater than Zero Dollars ($0), Issuing Lender may, but shall not be required to, through the Issuing Office, at any time and from time to time from and after the date hereof until thirty (30) days prior to the Revolving Credit Maturity Date, upon the written request of the Borrower accompanied by a duly executed Letter of Credit Agreement and such other documentation related to the requested Letter of Credit as the Issuing Lender may require, issue Letters of Credit in Dollars for the account of the Borrower, in an aggregate amount for all Letters of Credit issued hereunder at any one time outstanding not to exceed the Letter of Credit Maximum Amount. Each Letter of Credit shall be in a minimum face amount of One Hundred Thousand Dollars ($100,000) (or such lesser amount as may be agreed to by Issuing Lender) and each Letter of Credit (including any renewal thereof) shall expire not later than the first to occur of (i)

twelve (12) months after the date of issuance thereof and (ii) ten (10) Business Days prior to the Revolving Credit Maturity Date in effect on the date of issuance thereof. The submission of all applications in respect of and the issuance of each Letter of Credit hereunder shall be subject in all respects to the International Standby Practices 98, and any successor documentation thereto and to the extent not inconsistent therewith, the laws of the State of California. In the event of any conflict between this Agreement and any Letter of Credit Document other than any Letter of Credit, this Agreement shall control.

3.2 Conditions to Issuance. No Letter of Credit shall be issued (including the renewal or extension of any Letter of Credit previously issued) at the request and for the account of the Borrower unless, as of the date of issuance (or renewal or extension) of such Letter of Credit:

(a) (i) after giving effect to the Letter of Credit requested, the Letter of Credit Obligations do not exceed the Letter of Credit Maximum Amount; and (ii) after giving effect to the Letter of Credit requested, the Letter of Credit Obligations on such date plus the aggregate amount of all Revolving Credit Advances and Swing Line Advances (including all Advances deemed disbursed by the Agent under Section 3.6(c) hereof in respect of the Borrower Reimbursement Obligations) hereunder requested or outstanding on such date do not exceed the lesser of (A) the Revolving Credit Aggregate Commitment and (B) the then applicable Borrowing Base;

(b) the representations and warranties of the Credit Parties contained in this Agreement and the other Loan Documents are true and correct in all material respects and shall be true and correct in all material respects as of date of the issuance of such Letter of Credit (both before and immediately after the issuance of such Letter of Credit), other than any representation or warranty that expressly speaks only as of a different date;

(c) there is no Default or Event of Default in existence, and none will exist upon the issuance of such Letter of Credit;

(d) the Borrower shall have delivered to Issuing Lender at its Issuing Office, not less than three (3) Business Days prior to the requested date for issuance (or such shorter time as the Issuing Lender, in its sole discretion, may permit), the Letter of Credit Agreement related thereto, together with such other documents and materials as may be required pursuant to the terms thereof, and the terms of the proposed Letter of Credit shall be reasonably satisfactory to Issuing Lender;

(e) no order, judgment or decree of any court, arbitrator or Governmental Authority shall purport by its terms to enjoin or restrain Issuing Lender from issuing the Letter of Credit requested, or any Revolving Credit Lender from taking an assignment of its Revolving Credit Percentage thereof pursuant to Section 3.6 hereof, and no law, rule, regulation, request or directive (whether or not having the force of law) shall prohibit the Issuing Lender from issuing, or any Revolving Credit Lender from taking an assignment of its Revolving Credit Percentage of, the Letter of Credit requested or letters of credit generally;

(f) there shall have been (i) no introduction of or change in the interpretation of any law or regulation, (ii) no declaration of a general banking moratorium by banking authorities in the United States, California or the respective jurisdictions in which the Revolving Credit Lenders, the Borrower and the beneficiary of the requested Letter of Credit are located, and (iii) no establishment of any new restrictions by any central bank or other governmental agency or authority on transactions involving letters of credit or on banks generally that, in any case described in this clause (e), would make it unlawful or unduly burdensome for the Issuing Lender to issue or any Revolving Credit Lender to take an assignment of its Revolving Credit Percentage of the requested Letter of Credit or letters of credit generally;

(g) if any Revolving Credit Lender is a Defaulting Lender, the Issuing Lender has entered into arrangements satisfactory to it to eliminate the Fronting Exposure with respect to the participation in the Letter of Credit Obligations by such Defaulting Lender, including creation of a cash collateral account on terms satisfactory to the Agent or delivery of other security to assure payment of such Defaulting Lender's Percentage of all outstanding Letter of Credit Obligations; and

(h) Issuing Lender shall have received the issuance fees required in connection with the issuance of such Letter of Credit pursuant to Section 3.4 hereof.

Each Letter of Credit Agreement submitted to Issuing Lender pursuant hereto shall constitute the certification by the Borrower of the matters set forth in Sections 5.2 hereof. The Agent shall be entitled to rely on such certification without any duty of inquiry.

3.3 Notice. The Issuing Lender shall deliver to the Agent, concurrently with or promptly following its issuance of any Letter of Credit, a true and complete copy of each Letter of Credit. Promptly upon its receipt thereof, the Agent shall give notice, substantially in the form attached as Exhibit E, to each Revolving Credit Lender of the issuance of each Letter of Credit, specifying the amount thereof and the amount of such Revolving Credit Lender's Percentage thereof.

3.4 Letter of Credit Fees; Increased Costs. (a) The Borrower shall pay letter of credit fees as follows:

(i) A per annum letter of credit fee with respect to the undrawn amount of each Letter of Credit issued pursuant hereto (based on the amount of each Letter of Credit) in the amount of two percent (2.0%) shall be paid to the Agent for distribution to the Revolving Credit Lenders in accordance with their Revolving Credit Percentages.

(ii) A letter of credit facing fee on the face amount of each Letter of Credit shall be paid to the Agent for distribution to the Issuing Lender for its own account, in accordance with the terms of the applicable Fee Letter.

(b) All payments by the Borrower to the Agent for distribution to the Issuing Lender or the Revolving Credit Lenders under this Section 3.4 shall be made in Dollars in immediately available funds at the Issuing Office or such other office of the Agent as may be designated from time to time by written notice to the Borrower by the Agent. The fees described in clauses (a)(i) and (ii) above (i) shall be nonrefundable under all circumstances, (ii) in the case of fees due under clause (a)(i) above, shall be payable quarterly in advance on the first day of each February, May, August and November and (iii) in the case of fees due under clause (a)(ii) above, shall be payable upon the issuance of such Letter of Credit and quarterly in advance thereafter. The fees due under clause (a)(i) above shall be determined by multiplying two percent (2.0%) times the undrawn amount of the face amount of each such Letter of Credit on the date of determination, and shall be calculated on the basis of a 360 day year and assessed for the actual number of days from the date of the issuance thereof to the stated expiration thereof. The parties hereto acknowledge that, unless the Issuing Lender otherwise agrees, any material amendment and any extension to a Letter of Credit issued hereunder shall be treated as a new Letter of Credit for the purposes of the letter of credit facing fee.

(c) If any Change in Law shall either (i) impose, modify or cause to be deemed applicable any reserve, special deposit, limitation or similar requirement against letters of credit issued or participated in by, or assets held by, or deposits in or for the account of, Issuing Lender or any Revolving Credit Lender or (ii) impose on Issuing Lender or any Revolving Credit Lender any other condition regarding this Agreement, the Letters of Credit or any participations in such Letters of Credit, and the result of any event referred to in clause (i) or (ii) above shall be to increase the cost or expense to Issuing Lender or such Revolving Credit Lender of issuing or maintaining or participating in any of the Letters of Credit (which increase in cost or expense shall be determined by the Issuing Lender's or such Revolving Credit Lender's reasonable allocation of the aggregate of such cost increases and expenses resulting from such events), then, upon demand by the Issuing Lender or such Revolving Credit Lender, as the case may be, the Borrower shall, within thirty (30) days following demand for payment, pay to Issuing Lender or such Revolving Credit Lender, as the case may be, from time to time as specified by the Issuing Lender or such Revolving Credit Lender, additional amounts which shall be sufficient to compensate the Issuing Lender or such Revolving Credit Lender for such increased cost and expense (together with interest on each such amount from ten days after the date such payment is due until payment in full thereof at the Base Rate), provided that if the Issuing Lender or such Revolving Credit Lender could take any reasonable action, without cost or administrative or other burden or restriction to such Lender, to mitigate or eliminate such cost or expense, it agrees to do so within a reasonable time after becoming aware of the foregoing matters. Each demand for payment under this Section 3.4(c) shall be accompanied by a certificate of Issuing Lender or the applicable Revolving Credit Lender setting forth the

amount of such increased cost or expense incurred by the Issuing Lender or such Revolving Credit Lender, as the case may be, as a result of any event mentioned in clause (i) or (ii) above, and in reasonable detail, the methodology for calculating and the calculation of such amount, which certificate shall be prepared in good faith and shall be conclusive evidence, absent manifest error, as to the amount thereof.

3.5 Other Fees. In connection with the Letters of Credit, and in addition to the Letter of Credit Fees, the Borrower shall pay, for the sole account of the Issuing Lender, standard documentation, administration, payment and cancellation charges assessed by Issuing Lender or the Issuing Office, at the times, in the amounts and on the terms set forth or to be set forth from time to time in the standard fee schedule of the Issuing Office in effect from time to time.

3.6 Participation Interests in and Drawings and Demands for Payment Under Letters of Credit.

(a) Upon issuance by the Issuing Lender of each Letter of Credit hereunder (and on the Effective Date with respect to each Existing Letter of Credit), each Revolving Credit Lender shall automatically acquire a pro rata participation interest in such Letter of Credit and each related Letter of Credit Payment based on its respective Revolving Credit Percentage.

(b) If the Issuing Lender shall honor a draft or other demand for payment presented or made under any Letter of Credit, the Borrower agrees to pay to the Issuing Lender an amount equal to the amount paid by the Issuing Lender in respect of such draft or other demand under such Letter of Credit and all reasonable expenses paid or incurred by the Agent relative thereto not later than 1:00 p.m. (Detroit time), in Dollars, on (i) the Business Day that the Borrower received notice of such presentment and honor, if such notice is received prior to 11:00 a.m. (Detroit time) or (ii) the Business Day immediately following the day that the Borrower received such notice, if such notice is received after 11:00 a.m. (Detroit time).

(c) If the Issuing Lender shall honor a draft or other demand for payment presented or made under any Letter of Credit, but the Borrower does not reimburse the Issuing Lender as required under clause (b) above and the Revolving Credit Aggregate Commitment has not been terminated (whether by maturity, acceleration or otherwise), the Borrower shall be deemed to have immediately requested that the Revolving Credit Lenders make a Base Rate Advance of the Revolving Credit (which Advance may be subsequently converted at any time into a Eurodollar-based Advance pursuant to Section 2.3 hereof) in the principal amount equal to the amount paid by the Issuing Lender in respect of such draft or other demand under such Letter of Credit and all reasonable expenses paid or incurred by the Agent relative thereto. The Agent will promptly notify the Revolving Credit Lenders of such deemed request, and each such Lender shall make available to the Agent an amount equal to its pro rata share (based on its Revolving Credit Percentage) of the amount of such Advance.

(d) If the Issuing Lender shall honor a draft or other demand for payment presented or made under any Letter of Credit, but the Borrower does not reimburse the Issuing Lender as required under clause (b) above, and (i) the Revolving Credit Aggregate Commitment has been terminated (whether by maturity, acceleration or otherwise), or (ii) any reimbursement received by the Issuing Lender from the Borrower is or must be returned or rescinded upon or during any bankruptcy or reorganization of any Credit Party or otherwise, then the Agent shall notify each Revolving Credit Lender, and each Revolving Credit Lender will be obligated to pay the Agent for the account of the Issuing Lender its pro rata share (based on its Revolving Credit Percentage) of the amount paid by the Issuing Lender in respect of such draft or other demand under such Letter of Credit and all reasonable expenses paid or incurred by the Agent relative thereto (but no such payment shall diminish the obligations of the Borrower hereunder). Upon receipt thereof, the Agent will deliver to such Revolving Credit Lender a participation certificate evidencing its participation interest in respect of such payment and expenses. To the extent that a Revolving Credit Lender fails to make such amount available to the Agent by 11:00 am (Detroit time) on the Business Day next succeeding the date such notice is given, such Revolving Credit Lender shall pay interest on such amount in respect of each day from the date such amount was required to be paid, to the date paid to the Agent, at a rate per annum equal to the Federal Funds Effective Rate. The failure of any Revolving Credit Lender to make its pro rata portion of any such amount available under to the Agent shall not relieve any other Revolving Credit Lender of its obligation to make available its pro rata portion of such amount, but no Revolving Credit Lender shall be responsible for failure of any other Revolving Credit Lender to make such pro rata portion available to the Agent.

(e) In the case of any Advance made under this Section 3.6, each such Advance shall be disbursed notwithstanding any failure to satisfy any conditions for disbursement of any Advance set forth in Article 2 hereof or Article 5 hereof, and, to the extent of the Advance so disbursed, the Reimbursement Obligation of the Borrower to the Agent under this Section 3.6 shall be deemed satisfied (unless, in each case, taking into account any such deemed Advances, the aggregate outstanding principal amount of Advances of the Revolving Credit and the Swing Line, plus the Letter of Credit Obligations (other than the Reimbursement Obligations to be reimbursed by this Advance) on such date exceed the lesser of the Borrowing Base or the then applicable Revolving Credit Aggregate Commitment).

(f) If the Issuing Lender shall honor a draft or other demand for payment presented or made under any Letter of Credit, the Issuing Lender shall provide notice thereof to the Borrower on the date such draft or demand is honored, and to each Revolving Credit Lender on such date unless the Borrower shall have satisfied its reimbursement obligations by payment to the Agent (for the benefit of the Issuing Lender) as required under this Section 3.6. The Issuing Lender shall further use reasonable efforts to provide notice to the Borrower prior to honoring any such draft or other demand for payment, but such notice, or the failure to provide such notice, shall not affect the rights or obligations of the Issuing Lender with respect to any Letter of Credit or the rights and obligations of the parties hereto, including without limitation the obligations of the Borrower under this Section 3.6.

(g) Notwithstanding the foregoing however no Revolving Credit Lender shall be deemed to have acquired a participation in a Letter of Credit if the officers of the Issuing Lender immediately responsible for matters concerning this Agreement shall have received written notice from the Agent or any Lender at least two (2) Business Days prior to the date of the issuance or extension of such Letter of Credit or, with respect to any Letter of Credit subject to automatic extension, at least five (5) Business Days prior to the date that the beneficiary under such Letter of Credit must be notified that such Letter of Credit will not be renewed, that the issuance or extension of Letters of Credit should be suspended based on the occurrence and continuance of a Default or Event of Default and stating that such notice is a "notice of default"; provided, however that the Revolving Credit Lenders shall be deemed to have acquired such a participation upon the date on which such Default or Event of Default has been waived by the requisite Revolving Credit Lenders, as applicable.

(h) Nothing in this Agreement shall be construed to require or authorize any Revolving Credit Lender to issue any Letter of Credit, it being recognized that the Issuing Lender shall be the sole issuer of Letters of Credit under this Agreement.

(i) In the event that any Revolving Credit Lender becomes a Defaulting Lender, the Issuing Lender may, at its option, require that the Borrower enter into arrangements satisfactory to Issuing Lender to eliminate the Fronting Exposure with respect to the participation in the Letter of Credit Obligations by such Defaulting Lender, including creation of a cash collateral account on terms satisfactory to the Agent or delivery of other security to assure payment of such Defaulting Lender's Percentage of all outstanding Letter of Credit Obligations.

3.7 Obligations Irrevocable. The obligations of the Borrower to make payments to the Agent for the account of Issuing Lender or the Revolving Credit Lenders with respect to Letter of Credit Obligations under Section 3.6 hereof, shall be unconditional and irrevocable and not subject to any qualification or exception whatsoever, including, without limitation:

(a) Any lack of validity or enforceability of any Letter of Credit, any Letter of Credit Agreement, any other documentation relating to any Letter of Credit, this Agreement or any of the other Loan Documents (the "Letter of Credit Documents");

(b) Any amendment, modification, waiver, consent, or any substitution, exchange or release of or failure to perfect any interest in collateral or security, with respect to or under any Letter of Credit Document;

(c) The existence of any claim, setoff, defense or other right which the Borrower may have at any time against any beneficiary or any transferee of any Letter of Credit (or any persons or entities for whom any such beneficiary or any such transferee may be acting), the Agent, the Issuing Lender or any Revolving Credit Lender or any other Person, whether in connection with this Agreement, any of the Letter of Credit Documents, the transactions contemplated herein or therein or any unrelated transactions;

(d) Any draft or other statement or document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(e) Payment by the Issuing Lender to the beneficiary under any Letter of Credit against presentation of documents which do not comply with the terms of such Letter of Credit, including failure of any documents to bear any reference or adequate reference to such Letter of Credit;

(f) Any failure, omission, delay or lack on the part of the Agent, Issuing Lender or any Revolving Credit Lender or any party to any of the Letter of Credit Documents or any other Loan Document to enforce, assert or exercise any right, power or remedy conferred upon the Agent, Issuing Lender, any Revolving Credit Lender or any such party under this Agreement, any of the other Loan Documents or any of the Letter of Credit Documents, or any other acts or omissions on the part of the Agent, Issuing Lender, any Revolving Credit Lender or any such party; or

(g) Any other event or circumstance that would, in the absence of this Section 3.7, result in the release or discharge by operation of law or otherwise of the Borrower from the performance or observance of any obligation, covenant or agreement contained in Section 3.6 hereof.

No setoff, counterclaim, reduction or diminution of any obligation or any defense of any kind or nature which the Borrower has or may have against the beneficiary of any Letter of Credit shall be available hereunder to the Borrower against the Agent, Issuing Lender or any Revolving Credit Lender. With respect to any Letter of Credit, nothing contained in this Section 3.7 shall be deemed to prevent the Borrower, after satisfaction in full of the absolute and unconditional obligations of the Borrower hereunder with respect to such Letter of Credit, from asserting in a separate action any claim, defense, set off or other right which they (or any of them) may have against the Agent, Issuing Lender or any Revolving Credit Lender in connection with such Letter of Credit.

3.8 Risk Under Letters of Credit.

(a) In the administration and handling of Letters of Credit and any security therefor, or any documents or instruments given in connection therewith, Issuing Lender shall have the sole right to take or refrain from taking any and all actions under or upon the Letters of Credit.

(b) Subject to other terms and conditions of this Agreement, Issuing Lender shall issue the Letters of Credit and shall hold the documents related thereto in its own name and shall make all collections thereunder and otherwise administer the Letters of Credit in accordance with Issuing Lender's regularly established practices and procedures and will have no further obligation with respect thereto. In the administration of Letters of Credit, Issuing Lender shall not be liable for any action taken or omitted on the advice of counsel, accountants, appraisers or other experts selected by Issuing Lender with due care and Issuing Lender may rely upon any notice, communication, certificate or other statement from the Borrower, beneficiaries of Letters of Credit, or any other Person which Issuing Lender believes to be authentic. Issuing Lender will, upon request, furnish the Revolving Credit Lenders with copies of Letter of Credit Documents related thereto.

(c) In connection with the issuance and administration of Letters of Credit and the assignments hereunder, Issuing Lender makes no representation and shall have no responsibility with respect to (i) the obligations of the Borrower or the validity, sufficiency or enforceability of any document or instrument given in connection therewith, or the taking of any action with respect to same, (ii) the financial condition of, any representations made by, or any act or omission of the Borrower or any other Person, or (iii) any failure or delay in exercising any rights or powers possessed by Issuing Lender in its capacity as issuer of Letters of Credit in the absence of its gross negligence or willful misconduct. Each of the Revolving Credit Lenders expressly acknowledges that it has made and will continue to make its own evaluations of the Borrower's creditworthiness without reliance on any representation of Issuing Lender or Issuing Lender's officers, agents and employees.

(d) If at any time Issuing Lender shall recover any part of any unreimbursed amount for any draw or other demand for payment under a Letter of Credit, or any interest thereon, the Agent or Issuing Lender, as the case

may be, shall receive same for the pro rata benefit of the Revolving Credit Lenders in accordance with their respective Percentages and shall promptly deliver to each Revolving Credit Lender its share thereof, less such Revolving Credit Lender's pro rata share of the costs of such recovery, including court costs and attorney's fees. If at any time any Revolving Credit Lender shall receive from any source whatsoever any payment on any such unreimbursed amount or interest thereon in excess of such Revolving Credit Lender's Percentage of such payment, such Revolving Credit Lender will promptly pay over such excess to the Agent, for redistribution in accordance with this Agreement.

3.9 Indemnification. The Borrower hereby indemnifies and agrees to hold harmless the Revolving Credit Lenders, the Issuing Lender and the Agent and their respective Affiliates, and the respective officers, directors, employees and agents of such Persons (each an "L/C Indemnified Person"), from and against any and all claims, damages, losses, liabilities, costs or expenses of any kind or nature whatsoever which the Revolving Credit Lenders, the Issuing Lender or the Agent or any such Person may incur or which may be claimed against any of them by reason of or in connection with any Letter of Credit (collectively, the "L/C Indemnified Amounts"), and none of the Issuing Lender, any Revolving Credit Lender or the Agent or any of their respective officers, directors, employees or agents shall be liable or responsible for:

(a) the use which may be made of any Letter of Credit or for any acts or omissions of any beneficiary in connection therewith;

(b) the validity, sufficiency or genuineness of documents or of any endorsement thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged;

(c) payment by the Issuing Lender to the beneficiary under any Letter of Credit against presentation of documents which do not strictly comply with the terms of any Letter of Credit (unless such payment resulted from the gross negligence or willful misconduct of the Issuing Lender), including failure of any documents to bear any reference or adequate reference to such Letter of Credit;

(d) any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit; or

(e) any other event or circumstance whatsoever arising in connection with any Letter of Credit.

It is understood that in making any payment under a Letter of Credit the Issuing Lender will rely on documents presented to it under such Letter of Credit as to any and all matters set forth therein without further investigation and regardless of any notice or information to the contrary.

With respect to subparagraphs (a) through (e) hereof, (i) no Borrower shall be required to indemnify any L/C Indemnified Person for any L/C Indemnified Amounts to the extent such amounts result from the gross negligence or willful misconduct of such L/C Indemnified Person or any officer, director, employee or agent of such L/C Indemnified Person and (ii) the Agent and the Issuing Lender shall be liable to the Borrower to the extent, but only to the extent, of any direct, as opposed to consequential or incidental, damages suffered by the Borrower which were caused by the gross negligence or willful misconduct of the Issuing Lender or any officer, director, employee or agent of the Issuing Lender or by the Issuing Lender's wrongful dishonor of any Letter of Credit after the presentation to it by the beneficiary thereunder of a draft or other demand for payment and other documentation strictly complying with the terms and conditions of such Letter of Credit.

3.10 Right of Reimbursement. Each Revolving Credit Lender agrees to reimburse the Issuing Lender on demand, pro rata in accordance with its respective Revolving Credit Percentage, for (i) the reasonable out-of-pocket costs and expenses of the Issuing Lender to be reimbursed by the Borrower pursuant to any Letter of Credit Agreement or any Letter of Credit, to the extent not reimbursed by the Borrower or any other Credit Party and (ii) any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, fees, reasonable out-of-pocket expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against Issuing Lender in any way relating to or arising out of this Agreement (including Section 3.6(c) hereof), any Letter of Credit, any documentation or any transaction relating thereto, or any Letter of Credit

Agreement, to the extent not reimbursed by the Borrower, except to the extent that such liabilities, losses, costs or expenses were incurred by Issuing Lender as a result of Issuing Lender's gross negligence or willful misconduct or by the Issuing Lender's wrongful dishonor of any Letter of Credit after the presentation to it by the beneficiary thereunder of a draft or other demand for payment and other documentation strictly complying with the terms and conditions of such Letter of Credit.

4. TERM LOANS.

4.1 Term Loans.

(a) Prior to the Effective Date, the Term Loan A Lenders (each based on its Term Loan A Percentage) advanced to Borrower Term Loan A in an aggregate amount equal to $3,000,000. As of the Effective Date, the outstanding principal balance of Term Loan A is $1,583,333.22.

(b) Prior to the Effective Date, the Term Loan B Lenders (each based on its Term Loan B Percentage) advanced to Borrower Term Loan B in an aggregate amount equal to $8,000,000. As of the Effective Date, the outstanding principal balance of Term Loan B is $6,888,888.90.

(c) Subject to the terms and conditions hereof, each Term Loan C Lender, severally and for itself alone, agrees to advance to the Borrower an amount not to exceed such Lender's Percentage of the Term Loan C Commitment, to be funded as follows:

(i) During the Tranche 1 Funding Period, one or more Advances of Tranche 1 of Term Loan C in an aggregate amount not to exceed such Lender's Percentage of the Tranche 1 Commitment; and

(ii) During the Tranche 2 Funding Period, one or more Advances of Tranche 2 of Term Loan C in an aggregate amount not to exceed such Lender's Percentage of the Tranche 2 Commitment.

4.2 Accrual of Interest and Maturity; Evidence of Indebtedness.

(a) (i) The Borrower hereby unconditionally promises to pay to the Agent for the account of each Term Loan A Lender such Lender's Percentage of the then unpaid aggregate principal amount of Term Loan A outstanding on the Term Loan A Maturity Date and on such other dates and in such other amounts as may be required from time to time pursuant to this Agreement. Subject to the terms and conditions hereof, the unpaid principal Indebtedness outstanding under Term Loan A shall, from the Effective Date (until paid), bear interest at the Applicable Interest Rate, (ii) the Borrower hereby unconditionally promises to pay to the Agent for the account of each Term Loan B Lender such Lender's Percentage of the then unpaid aggregate principal amount of Term Loan B outstanding on the Term Loan B Maturity Date and on such other dates and in such other amounts as may be required from time to time pursuant to this Agreement. Subject to the terms and conditions hereof, the unpaid principal Indebtedness outstanding under Term Loan B shall, from the Effective Date (until paid), bear interest at the Applicable Interest Rate, and (iii) the Borrower hereby unconditionally promises to pay to the Agent for the account of each Term Loan C Lender such Lender's Percentage of the then unpaid aggregate principal amount of Term Loan C outstanding on the Term Loan C Maturity Date and on such other dates and in such other amounts as may be required from time to time pursuant to this Agreement. Subject to the terms and conditions hereof, the unpaid principal Indebtedness outstanding under Term Loan C shall, from the Effective Date (until paid), bear interest at the Applicable Interest Rate. There shall be no readvance or reborrowings of any principal reductions of Term Loan A, Term Loan B or Term Loan C.

(b) Each Term Loan Lender shall maintain in accordance with its usual practice an account or accounts evidencing indebtedness of the Borrower to the appropriate lending office of such Term Loan Lender resulting from each Advance of Term Loan A, Term Loan B or Term Loan C, as applicable made by such lending office of such Lender from time to time, including the amounts of principal and interest payable thereon and paid to such Term Loan Lender from time to time under this Agreement.

(c) The Agent shall maintain the Register pursuant to Section 13.7(g), and a subaccount therein for each Term Loan Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Advance of the Term Loans made hereunder, the type thereof and each Eurodollar-Interest Period applicable to any Eurodollar-based Advance, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Term Loan Lender hereunder in respect of the Advances of Term Loan A, Term Loan B or Term Loan C, as applicable and (iii) both the amount of any sum received by the Agent hereunder from the Borrower in respect of the Advances of the Term Loans and each Term Loan Lender's share thereof.

(d) The entries made in the Register pursuant to paragraph (c) of this Section 4.2 shall, absent manifest error, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that the failure of any Term Loan Lender or the Agent to maintain the Register or any such account, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay the Advances of each of the Term Loans (and all other amounts owing with respect thereto) made to the Borrower by the Term Loan Lenders in accordance with the terms of this Agreement.

(e) The Borrower agrees that, upon written request to the Agent by any Term Loan Lender, the Borrower will execute and deliver to such Term Loan Lender, at the Borrower's expense, a Term Loan A Note, Term Loan B Note or Term Loan C Note evidencing the outstanding Advances under Term Loan A, Term Loan B or Term Loan C, as applicable, owing to such Term Loan Lender.

4.3 Repayment of Principal. (a) The Borrower shall repay Term Loan A in equal principal installments of $83,333.34, commencing on November 1, 2012, and on the first day of each month thereafter, until the Term Loan A Maturity Date, when all remaining outstanding principal plus accrued interest thereon shall be due and payable in full.

(b) The Borrower shall repay Term Loan B in equal principal installments of $222,222.22, commencing on November 1, 2012, and on the first day of each month thereafter, until the Term Loan B Maturity Date, when all remaining outstanding principal plus accrued interest thereon shall be due and payable in full.

(c) (i) The Borrower shall, with respect to any Advance under Tranche 1 of Term Loan C, commencing on November 1, 2013 and on the first day of each month thereafter, repay to the Agent for the account of each Term Loan C Lender according to its Term Loan C Percentage, an amount equal to 1/36th of the aggregate principal amount of the Advances under Tranche 1 of Term Loan C outstanding on the last day of the Tranche 1 Funding Period (which installments shall be reduced as a result of the application of prepayments in accordance with Section 4.7 of this Agreement). Notwithstanding the foregoing, the outstanding principal balance of the Advances under Tranche 1 of Term Loan C shall be paid in full on the Term Loan C Maturity Date.

(d) (ii) The Borrower shall, with respect to any Advance under Tranche 2 of Term Loan C, commencing on May 1, 2014 and on the first day of each month thereafter, repay to the Agent for the account of each Term Loan C Lender according to its Term Loan C Percentage, an amount equal to 1/30th of the aggregate principal amount of the Advances under Tranche 2 of Term Loan C outstanding on the last day of the Tranche 2 Funding Period (which installments shall be reduced as a result of the application of prepayments in accordance with Section 4.7 of this Agreement). Notwithstanding the foregoing, the outstanding principal balance of the Advances under Tranche 2 of Term Loan C shall be paid in full on the Term Loan C Maturity Date.

(e) Whenever any payment under this Section 4.3 shall become due on a day that is not a Business Day, the date for payment thereunder shall be extended to the next Business Day.

4.4 Requests for Term Loan C Advances. The Borrower may request an Advance of Term Loan C only by delivery to the Agent of a Request for Term Loan C Advance executed by an Authorized Signer for the Borrower, subject to the following and Section 4.11 hereof:

(a) each such Request for Term Loan C Advance shall include (i) a report of the documented cost of all In-Use Revenue Generating Rental Equipment and (ii) the other information required on the Request for Term Loan C Advance, including without limitation:

(i) the proposed date of such Term Loan C Advance, which must be a Business Day; and

(ii) whether such Term Loan C Credit Advance is to be a Base Rate Advance or a Eurodollar-based Advance, and, except in the case of a Base Rate Advance, the first Eurodollar-Interest Period applicable thereto, provided, however, that the initial Term Loan C Advance made under this Agreement shall be a Base Rate Advance, which may then be converted into a Eurodollar-based Advance in compliance with this Agreement;

(b) each such Request for Term Loan C Advance shall be delivered to the Agent by 12:00 p.m. (Detroit time) three (3) Business Days prior to the proposed date of the Term Loan C Advance, except in the case of a Base Rate Advance, for which the Request for Term Loan C Advance must be delivered by 12:00 p.m. (Detroit time) on the proposed date for such Term Loan C Advance;

(c) each Term Loan C Advance shall not exceed eighty percent (80%) of the documented cost of In-Use Revenue Generating Rental Equipment, and any In-Use Revenue Generating Rental Equipment used in the calculation of a Term Loan C Advance shall not have been used in the calculation of a previous Term Loan Advance (whether a Term Loan A Advance, Term Loan B Advance or Term Loan C Advance);

(d) in the case of a Base Rate Advance, the principal amount of the initial funding of such Advance, as opposed to any refunding or conversion thereof, shall be at least Twenty Five Thousand Dollars ($25,000) or the remainder available under Tranche 1 or Tranche 2, as applicable, if less than Twenty Five Thousand Dollars ($25,000);

(e) in the case of a Eurodollar-based Advance, the principal amount of such Advance, plus the amount of any other outstanding Term Loan C Advance to be then combined therewith having the same Eurodollar-Interest Period, if any, shall be at least Fifty Thousand Dollars ($50,000) (or a larger integral multiple of Ten Thousand Dollars ($10,000)) or the remainder available under Tranche 1 or Tranche 2, as applicable, if less than Fifty Thousand Dollars ($50,000);

(f) a Request for Term Loan C Advance, once delivered to the Agent, shall not be revocable by the Borrower and shall constitute a certification by the Borrower as of the date thereof that:

(ii) all conditions to the making of Term Loan C Advances set forth in this Agreement have been satisfied, and shall remain satisfied to the date of such Term Loan C Advance (both before and immediately after giving effect to such Term Loan C Advance);

(iii) there is no Default or Event of Default in existence, and none will exist upon the making of such Term Loan C Advance (both before and immediately after giving effect to such Term Loan C Advance); and

(iv) the representations and warranties of the Credit Parties contained in this Agreement and the other Loan Documents are true and correct in all material respects and shall be true and correct in all material respects as of the date of the making of such Term Loan C Advance (both before and immediately after giving effect to such Term Loan C Advance), other than any representation or warranty that expressly speaks only as of a different date;

The Agent, acting on behalf of the Term Loan C Lenders, may also, at its option, lend under this Section 4.4 upon the telephone or email request of an Authorized Signer of the Borrower to make such requests and, in the event the Agent, acting on behalf of the Term Loan C Lenders, makes any such Advance upon a telephone or email request, an Authorized Signer shall fax or deliver by electronic file to the Agent, on the same day as such telephone or email

request, an executed Request for Term Loan C Advance. The Borrower hereby authorizes the Agent to disburse Advances under this Section 4.4 pursuant to the telephone or email instructions of any person purporting to be an Authorized Signer. Notwithstanding the foregoing, the Borrower acknowledges that the Borrower shall bear all risk of loss resulting from disbursements made upon any telephone or email request. Each telephone or email request for an Advance from an Authorized Signer for the Borrower shall constitute a certification of the matters set forth in the Request for Term Loan C Advance form as of the date of such requested Advance.

4.5 Term Loan Rate Requests; Refundings and Conversions of Advances of Term Loans. On the Effective Date, the Applicable Interest Rate for all Term Loan Advances shall be the Base Rate. Thereafter, the Borrower may refund all or any portion of any Advance of any or all Term Loans as a Term Loan Advance with a like Eurodollar-Interest Period or convert each such Advance of such Term Loan to an Advance with a different Eurodollar-Interest Period, but only after delivery to the Agent of a Term Loan Rate Request executed in connection with such Term Loan by an Authorized Signer and subject to the terms hereof and to the following and Section 4.11 hereof:

(a) each Term Loan Rate Request shall set forth the information required on the Term Loan Rate Request form with respect to such Term Loan, including without limitation:

(i) whether the Term Loan Advance being refunded or converted is a Term Loan A Advance, a Term Loan B Advance or a Term Loan C Advance;

(ii) whether the Term Loan Advance is a refunding or conversion of an outstanding Term Loan Advance;

(iii) in the case of a refunding or conversion of an outstanding Term Loan Advance, the proposed date of such refunding or conversion, which must be a Business Day; and

(iv) whether such Term Loan Advance (or any portion thereof) is to be a Base Rate Advance or a Eurodollar-based Advance, and, in the case of a Eurodollar-based Advance, the Eurodollar-Interest Period(s) applicable thereto.

(b) each such Term Loan Rate Request shall be delivered to the Agent (i) by 12:00 p.m. (Detroit time) three (3) Business Days prior to the proposed date of the refunding or conversion of a Eurodollar-based Advance or (ii) by 1:00 p.m. (Detroit time) on the proposed date of the refunding or conversion of a Base Rate Advance;

(c) the principal amount of such Term Loan A Advance, Term Loan B Advance or Term Loan C Advance, as applicable, plus the amount of any other Term Loan A Advance, Term Loan B Advance or Term Loan C Advance, respectively, to be then combined therewith having the same Applicable Interest Rate and Eurodollar-Interest Period, if any, shall be (i) in the case of a Base Rate Advance, at least Twenty Five Thousand Dollars ($25,000), or the remaining principal balance outstanding under the applicable Term Loan, whichever is less, and (ii) in the case of a Eurodollar-based Advance, at least Fifty Thousand Dollars ($50,000) or the remaining principal balance outstanding under the applicable Term Loan, whichever is less, or in each case a larger integral multiple of Ten Thousand Dollars ($10,000);

(d) no Term Loan Advance shall have a Eurodollar-Interest Period ending after the Term Loan A Maturity Date, the Term Loan B Maturity Date or the Term Loan C Maturity Date, as applicable, and, notwithstanding any provision hereof to the contrary, the Borrower shall select Eurodollar-Interest Periods (or the Base Rate) for sufficient portions of the Term Loans such that the Borrower may make the required principal payments hereunder on a timely basis and otherwise in accordance with Section 4.6 below;

(e) (i) at no time shall there be more than two (2) Eurodollar-Interest Periods in effect for Advances of Term Loan A, (ii) at no time shall there be more than two (2) Eurodollar-Interest Periods in effect for Advances of Term Loan B, and (iii) at no time shall there be more than four (4) Eurodollar-Interest Periods in effect for Advances of Term Loan C; and

(f) a Term Loan Rate Request, once delivered to the Agent, shall not be revocable by the Borrower.

4.6 Base Rate Advance in Absence of Election or Upon Default. In the event the Borrower shall fail with respect to any Eurodollar-based Advance of a Term Loan to timely exercise their option to refund or convert such Advance in accordance with Section 4.5 hereof (and such Advance has not been paid in full on the last day of the Eurodollar-Interest Period applicable thereto according to the terms hereof), or, if on the last day of the applicable Eurodollar-Interest Period, a Default or Event of Default shall exist, then, on the last day of the applicable Eurodollar-Interest Period, the principal amount of such Advance which has not been prepaid shall be automatically converted to a Base Rate Advance and the Agent shall thereafter promptly notify the Borrower thereof. All accrued and unpaid interest on any Advance converted to a Base Rate Advance under this Section 4.6 shall be due and payable in full on the date such Advance is converted.

4.7 Interest Payments; Default Interest

(a) (i) Interest on the unpaid principal of all Base Rate Advances of Term Loan A or Term Loan B from time to time outstanding shall accrue until paid at a per annum interest rate equal to the Base Rate, and shall be payable in immediately available funds monthly in arrears commencing on November 1, 2012 and on the first day of each month thereafter.

(ii) Interest on the unpaid principal of each Base Rate Advance of Term Loan C from time to time outstanding shall accrue until paid at a per annum interest rate equal to the Base Rate, and shall be payable in immediately available funds monthly in arrears commencing on the first day of the first full month immediately following the date of such Term Loan C Advance, and on the first day of each month thereafter.

(iii) Whenever any payment under this Section 4.7 shall become due on a day that is not a Business Day, the date for payment shall be extended to the next Business Day. Interest accruing at the Base Rate shall be computed on the basis of a 360 day year and assessed for the actual number of days elapsed, and in such computation effect shall be given to any change in the interest rate resulting from a change in the Base Rate on the date of such change in the Base Rate.

(b) Interest on the unpaid principal of each Eurodollar-based Advance of the Term Loans having a related Eurodollar-Interest Period of three (3) months or less shall accrue at its applicable Eurodollar-based Rate and shall be payable in immediately available funds on the last day of the Eurodollar-Interest Period applicable thereto. Interest shall be payable in immediately available funds on each Eurodollar-based Advance of the Term Loans outstanding from time to time having a Eurodollar-Interest Period of six (6) months or longer, at intervals of three (3) months after the first day of the applicable Eurodollar-Interest Period, and shall also be payable on the last day of the Eurodollar-Interest Period applicable thereto. Interest accruing at the Eurodollar-based Rate shall be computed on the basis of a 360-day year and assessed for the actual number of days elapsed from the first day of the Eurodollar-Interest Period applicable thereto to, but not including, the last day thereof.

(c) Notwithstanding anything to the contrary in Section 4.7(a) or (b) hereof, all accrued and unpaid interest on any Term Loan Advance refunded or converted pursuant to Section 4.5 hereof shall be due and payable in full on the date such Term Loan Advance is refunded or converted.

(d) In the case of any Event of Default under Section 9.1(i), immediately upon the occurrence thereof, and in the case of any other Event of Default, upon notice from the Majority Term Loan A Lenders with respect to Term Loan A, the Majority Term Loan B Lenders with respect to Term Loan B or the Majority Term Loan C Lenders with respect to Term Loan C, interest shall be payable on demand on the principal amount of all Advances of Term Loan A, Term Loan B or Term Loan C from time to time outstanding, as applicable, at a per annum rate equal to the Applicable Interest Rate in respect of each such Advance, plus, in the case of Eurodollar-based Advances, five percent (5%) for the remainder of the then existing Eurodollar-Interest Period, if any, and at all other such times and for all Base Rate Advances, at a per annum rate equal to the Base Rate plus five percent (5%).

4.8 Optional Prepayment of Term Loans.

(a) Subject to clause (b) hereof, the Borrower (at its option), may prepay all or any portion of the outstanding principal of any Term Loan Advance bearing interest at the Base Rate at any time, and may prepay all or any portion of the outstanding principal of any Term Loan bearing interest at the Eurodollar-based Rate upon one (1) Business Day's notice to the Agent by wire, telecopy or by telephone (confirmed by wire or telecopy), with accrued interest on the principal being prepaid to the date of such prepayment. Any prepayment of a portion of a Term Loan as to which the Applicable Interest Rate is the Base Rate shall be without premium or penalty and any prepayment of a portion of a Term Loan as to which the Applicable Interest Rate is the Eurodollar-based Rate shall be without premium or penalty, except to the extent set forth in Section 11.1.

(b) Each partial prepayment of a Term Loan shall be applied to all installments of such Term Loan due thereunder in the inverse order of their maturities to all such principal payments as follows: first to that portion of such Term Loan outstanding as a Base Rate Advance, second to that portion of such Term Loan outstanding as Eurodollar-based Advances which have Eurodollar-Interest Periods ending on the date of payment, and last to any remaining Advances of such Term Loan being carried at the Eurodollar-based Rate.

(c) All prepayments of Term Loan A, Term Loan B or Term Loan C shall be made to the Agent for distribution ratably to the applicable Term Loan A Lenders, Term Loan B Lenders or Term Loan C Lenders in accordance with their respective Term Loan Percentages.

4.9 Use of Proceeds. Proceeds of the Term Loans shall be used by the Borrower to finance leases of In-Use Rental Equipment by the Borrower.

4.10 Term Loan C Fees.

(a) On the Effective Date, the Borrower shall have paid to Agent, for distribution to the Term Loan C Lenders, pro rata in accordance with their respective Term Loan C Percentages, a nonrefundable fee on account of Tranche 1 in the amount of Fifteen Thousand Dollars ($15,000);

(b) On October 12, 2013, the Borrower shall have paid to Agent, for distribution to the Term Loan C Lenders, pro rata in accordance with their respective Term Loan C Percentages, an additional nonrefundable fee on account of Tranche 2 in the amount of Fifteen Thousand Dollars ($15,000);

(c) From the Effective Date to the Term Loan C Maturity Date, the Borrower shall pay to the Agent for distribution to the Term Loan C Lenders pro rata in accordance with their respective Term Loan C Percentages, a nonrefundable Term Loan C Commitment Fee quarterly in arrears commencing November 1, 2012, and on the first day of each February, May, August and November thereafter (in respect of the prior three months or any portion thereof). The Term Loan C Commitment Fee payable to each Term Loan C Lender shall be in an amount equal to one quarter of one percent (0.25%) per annum of the difference between the aggregate principal amount of Term Loan C and the average outstanding principal balance of Term Loan C during the applicable quarter; and

(d) If, at any time from the Effective Date to the Term Loan C Maturity Date, Borrower shall consummate an Initial Public Offering or another Person shall acquire all or substantially all of the assets of Borrower, or of a division or line of business of Borrower, or all or substantially all of the Equity Interests of Borrower, then, on the date of consummation of such Initial Public Offering or acquisition, the Borrower shall pay to Agent, for distribution to the Term Loan C Lenders, pro rata in accordance with their respective Term Loan C Percentages, a nonrefundable fee in an amount equal to one percent (1.00%) of the Term Loan C Commitment.

4.11 Eurodollar-based Rate Amendment. Notwithstanding anything in this Agreement to the contrary, the Lenders shall not make any Eurodollar-based Advances and the Eurodollar-based Rate shall not be an available Applicable Interest Rate with respect to any Term Loan Advance unless and until Agent shall have received a duly executed Eurodollar-based Rate Amendment.

5. CONDITIONS.

The obligations of the Lenders to make Advances or loans pursuant to this Agreement and the obligation of the Issuing Lender to issue Letters of Credit are subject to the following conditions:

5.1 Conditions of Initial Advances. The obligations of the Lenders to make initial Advances or loans pursuant to this Agreement and the obligation of the Issuing Lender to issue initial Letters of Credit, in each case, on the Effective Date only, are subject to the following conditions:

(a) Notes, this Agreement and the other Loan Documents. The Borrower shall have executed and delivered to the Agent for the account of each Lender requesting Notes, the Swing Line Note, the Revolving Credit Notes and/or the Term Notes, as applicable; the Borrower shall have executed and delivered this Agreement; and each Credit Party shall have executed and delivered the other Loan Documents to which such Credit Party is required to be a party (including all schedules and other documents to be delivered pursuant hereto); and such Notes (if any), this Agreement and the other Loan Documents shall be in full force and effect.

(b) Corporate Authority. The Agent shall have received, with a counterpart thereof for each Lender, from each Credit Party, a certificate of its Secretary or Assistant Secretary dated as of the Effective Date as to:

(i) corporate resolutions (or the equivalent) of each Credit Party authorizing the transactions contemplated by this Agreement and the other Loan Documents approval of this Agreement and the other Loan Documents, in each case to which such Credit Party is party, and authorizing the execution and delivery of this Agreement and the other Loan Documents, and in the case of the Borrower, authorizing the execution and delivery of requests for Advances and the issuance of Letters of Credit hereunder,

(ii) the incumbency and signature of the officers or other authorized persons of such Credit Party executing any Loan Document and in the case of the Borrower, the officers who are authorized to execute any Requests for Advance, or requests for the issuance of Letters of Credit,

(iii) a certificate of good standing or continued existence (or the equivalent thereof) from the state of its incorporation or formation, and from every state or other jurisdiction where such Credit Party is qualified to do business, which jurisdictions are listed on Schedule 5.1(b)(iii) attached hereto, and

(iv) copies of such Credit Party's articles of incorporation and bylaws or other constitutional documents, as in effect on the Effective Date.

(c) Collateral Documents and other Loan Documents. The Agent shall have received the following documents, each in form and substance satisfactory to the Agent and fully executed by each party thereto:

(i) The Security Agreement, in form and substance acceptable to the Agent, fully executed and delivered by the Credit Parties and dated as of the Effective Date.

(ii) (A) Certified copies of uniform commercial code requests for information, or a similar search report certified by a party acceptable to the Agent, dated a date reasonably prior to the Effective Date, listing all effective financing statements in the jurisdiction noted on Schedule 5.1(c)(ii) which name any Credit Party (under their present names or under any previous names used within five (5) years prior to the date hereof) as debtors, together with (x) copies of such financing statements, and (y) authorized Uniform Commercial Code (Form UCC-3) Termination Statements, if any, necessary to release all Liens and other rights of any Person in any Collateral described in the Collateral Documents previously granted by any Person (other than Liens permitted by Section 8.2 of this Agreement) and (B) intellectual property search reports results from the United States Patent and Trademark Office and the United States Copyright Office for the Credit Parties dated a date reasonably prior to the Effective Date.

(iii) Any documents (including, without limitation, financing statements, amendments to financing statements and assignments of financing statements, stock powers executed in blank and any endorsements) requested by the Agent and reasonably required to be provided in connection with the Collateral Documents to create, in favor of the Agent (for and on behalf of the Lenders), a first priority perfected security interest in the Collateral thereunder shall have been filed, registered or recorded, or shall have been delivered to the Agent in proper form for filing, registration or recordation.

(d) Insurance. The Agent shall have received evidence reasonably satisfactory to it that the Credit Parties have obtained the insurance policies required by Section 7.5 hereof and that such insurance policies are in full force and effect.

(e) Compliance with Certain Documents and Agreements. Each Credit Party shall have each performed and complied in all material respects with all agreements and conditions contained in this Agreement and the other Loan Documents, to the extent required to be performed or complied with by such Credit Party. No Person (other than the Agent, Lenders and Issuing Lender) party to this Agreement or any other Loan Document shall be in material default in the performance or compliance with any of the terms or provisions of this Agreement or the other Loan Documents or shall be in material default in the performance or compliance with any of the material terms or material provisions of, in each case to which such Person is a party.

(f) Payment of Fees. The Borrower shall have paid to Agent any fees, costs or expenses due and outstanding to the Agent or the Lenders as of the Effective Date, including, without limitation, reasonable fees, disbursements and other charges of counsel (for the sake of clarity, including, without limitation, counsel of Square 1 Bank).

(g) Financial Statements. The Borrower shall have delivered to the Lenders and the Agent, in form and substance satisfactory to the Agent audited financial statements of the Borrower for the Fiscal Year ending December 31, 2011 and presented in accordance with GAAP, and the quarterly financial statements prepared by the Borrower through the fiscal quarter ending June 30, 2012 and monthly projections of the Borrower through December 31, 2012 in form acceptable to the Agent.

(h) Appraisals; Audits; Due Diligence. The Agent and Lenders shall have received, in each case in form and substance satisfactory to the Agent, (a) an audit of all accounts receivable and equipment of the Borrower and its respective Subsidiaries, (b) appraisals of all fixed assets of the Borrower and its respective Subsidiaries, and (c) such other reports or due diligence materials as the Agent and the Majority Lenders may reasonably request.

(i) Governmental and Other Approvals. The Agent shall have received copies of all authorizations, consents, approvals, licenses, qualifications or formal exemptions, filings, declarations and registrations with, any court, governmental agency or regulatory authority or any securities exchange or any other person or party (whether or not governmental) received by any Credit Party in connection with the transactions contemplated by the Loan Documents to occur on the Effective Date.

(j) Closing Certificate. The Agent shall have received, with a signed counterpart for each Lender, a certificate of a Responsible Officer of the Borrower dated the Effective Date (or, if different, the date of the initial Advance hereunder), stating that to the best of his or her respective knowledge after due inquiry, (a) the conditions set forth in this Section 5 have been satisfied to the extent required to be satisfied by any Credit Party; (b) the representations and warranties made by the Credit Parties in this Agreement or any of the other Loan Documents, as applicable, are true and correct in all material respects; (c) no Default or Event of Default shall have occurred and be continuing; (d) since June 30, 2012, nothing shall have occurred which has had, or could reasonably be expected to have, a material adverse change on the business, results of operations, conditions, property or prospects (financial or otherwise) of the Borrower or any other Credit Party.

(k) Customer Identification Forms. The Agent shall have received completed customer identification forms (forms to be provided by the Agent to the Borrower) from the Borrower and each Guarantor.

5.2 Continuing Conditions. The obligations of each Lender to make Advances (including the initial Advance) under this Agreement and the obligation of the Issuing Lender to issue any Letters of Credit shall be subject to the continuing conditions that:

(a) No Default or Event of Default shall exist as of the date of the Advance or the request for the Letter of Credit, as the case may be; and

(b) Each of the representations and warranties contained in this Agreement and in each of the other Loan Documents shall be true and correct in all material respects as of the date of the Advance or Letter of Credit (as the case may be) as if made on and as of such date (other than any representation or warranty that expressly speaks only as of a different date).

6. REPRESENTATIONS AND WARRANTIES.

The Borrower represents and warrants to the Agent, the Lenders, the Swing Line Lender and the Issuing Lender as follows:

6.1 Corporate Authority. Each Credit Party is a corporation (or other business entity) duly organized and existing in good standing under the laws of the state or jurisdiction of its incorporation or formation, as applicable, and each Credit Party is duly qualified and authorized to do business as a foreign corporation in each jurisdiction where the character of its assets or the nature of its activities makes such qualification and authorization necessary except where failure to be so qualified or be in good standing could not reasonably be expected to have a Material Adverse Effect. Each Credit Party has all requisite corporate, limited liability or partnership power and authority to own all its property (whether real, personal, tangible or intangible or of any kind whatsoever) and to carry on its business.

6.2 Due Authorization. Execution, delivery and performance of this Agreement, and the other Loan Documents, to which each Credit Party is party, and the issuance of the Notes by the Borrower (if requested) are within such Person's corporate, limited liability or partnership power, have been duly authorized, are not in contravention of any law applicable to such Credit Party or the terms of such Credit Party's organizational documents and, except as have been previously obtained or as referred to in Section 6.10, below, do not require the consent or approval of any governmental body, agency or authority or any other third party except to the extent that such consent or approval is not material to the transactions contemplated by the Loan Documents.

6.3 Good Title; Leases; Assets; No Liens .

(a) Each Credit Party, to the extent applicable, has good and valid title (or, in the case of real property, good and marketable title) to all assets owned by it, subject only to the Liens permitted under section 8.2 hereof, and each Credit Party has a valid leasehold or interest as a lessee or a licensee in all of its leased real property;

(b) Schedule 6.3(b) hereof identifies all of the real property owned or leased, as lessee thereunder, by the Credit Parties on the Effective Date, including all warehouse or bailee locations;

(c) The Credit Parties will collectively own or collectively have a valid leasehold interest in all assets that were owned or leased (as lessee) by the Credit Parties immediately prior to the Effective Date to the extent that such assets are necessary for the continued operation of the Credit Parties' businesses in substantially the manner as such businesses were operated immediately prior to the Effective Date;

(d) Each Credit Party owns or has a valid leasehold interest in all real property necessary for its continued operations and, to the best knowledge of the Borrower, no material condemnation, eminent domain or expropriation action has been commenced or threatened against any such owned or leased real property; and

(e) There are no Liens on and no financing statements on file with respect to any of the assets owned by the Credit Parties, except for the Liens permitted pursuant to Section 8.2 of this Agreement.

6.4 Taxes. Except as set forth on Schedule 6.4 hereof, each Credit Party has filed on or before their respective due dates or within the applicable grace periods, all United States federal, state, local and other tax returns which are required to be filed or has obtained extensions for filing such tax returns and is not delinquent in filing such returns in accordance with such extensions and has paid all material taxes which have become due pursuant to

those returns or pursuant to any assessments received by any such Credit Party, as the case may be, to the extent such taxes have become due, except to the extent such taxes are being contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate provision has been made on the books of such Credit Party as may be required by GAAP.

6.5 No Defaults. No Credit Party is in default under or with respect to any agreement, instrument or undertaking to which is a party or by which it or any of its property is bound which would cause or would reasonably be expected to cause a Material Adverse Effect.

6.6 Enforceability of Agreement and Loan Documents. This Agreement and each of the other Loan Documents to which any Credit Party is a party (including without limitation, each Request for Advance), have each been duly executed and delivered by its duly authorized officers and constitute the valid and binding obligations of such Credit Party, enforceable against such Credit Party in accordance with their respective terms, except as enforcement thereof may be limited by applicable bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium or similar laws affecting the enforcement of creditor's rights, generally and by general principles of equity (regardless of whether enforcement is considered in a proceeding in law or equity).

6.7 Compliance with Laws. (a) Except as disclosed on Schedule 6.7, each Credit Party has complied with all applicable federal, state and local laws, ordinances, codes, rules, regulations and guidelines (including consent decrees and administrative orders) including but not limited to Hazardous Material Laws, and is in compliance with any Requirement of Law, except to the extent that failure to comply therewith could not reasonably be expected to have a Material Adverse Effect; and (b) neither the extension of credit made pursuant to this Agreement or the use of the proceeds thereof by the Credit Parties will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto, or The United and Strengthening America by providing appropriate Tools Required to Intercept and Obstruct Terrorism ("USA Patriot Act") Act of 2001, Public Law 10756, October 26, 2001 or Executive Order 13224 of September 23, 2001 issued by the President of the United States (66 Fed. Reg. 49049 (2001)).

6.8 Non-contravention. The execution, delivery and performance of this Agreement and the other Loan Documents (including each Request for Advance) to which each Credit Party is a party are not in contravention of the terms of any indenture, agreement or undertaking to which such Credit Party is a party or by which it or its properties are bound where such violation could reasonably be expected to have a Material Adverse Effect.

6.9 Litigation. Except as set forth on Schedule 6.9 hereof, there is no suit, action, proceeding, including, without limitation, any bankruptcy proceeding or governmental investigation pending against or to the knowledge of the Borrower, threatened against any Credit Party (other than any suit, action or proceeding in which a Credit Party is the plaintiff and in which no counterclaim or cross-claim against such Credit Party has been filed), or any judgment, decree, injunction, rule, or order of any court, government, department, commission, agency, instrumentality or arbitrator outstanding against any Credit Party, nor is any Credit Party in violation of any applicable law, regulation, ordinance, order, injunction, decree or requirement of any governmental body or court which could in any of the foregoing events reasonably be expected to have a Material Adverse Effect.

6.10 Consents, Approvals and Filings, Etc. Except as set forth on Schedule 6.10 hereof, no material authorization, consent, approval, license, qualification or formal exemption from, nor any filing, declaration or registration with, any court, governmental agency or regulatory authority or any securities exchange or any other Person (whether or not governmental) is required in connection with (a) the execution, delivery and performance: (i) by any Credit Party of this Agreement and any of the other Loan Documents to which such Credit Party is a party or (ii) by the Credit Parties of the grant of Liens granted, conveyed or otherwise established (or to be granted, conveyed or otherwise established) by or under this Agreement or the other Loan Documents, as applicable, and (b) otherwise necessary to the operation of its business, except in each case for (x) such matters which have been previously obtained, and (y) such filings to be made concurrently herewith or promptly following the Effective Date as are required by the Collateral Documents to perfect Liens in favor of the Agent. All such material authorizations, consents, approvals, licenses, qualifications, exemptions, filings, declarations and registrations which have previously been obtained or made, as the case may be, are in full force and effect and, to the best knowledge of the Borrower, are not the subject of any attack or threatened attack (in each case in any material respect) by appeal or direct proceeding or otherwise.

6.11 Agreements Affecting Financial Condition. No Credit Party is party to any agreement or instrument or subject to any charter or other corporate restriction which could reasonably be expected to have a Material Adverse Effect.

6.12 No Investment Company or Margin Stock. No Credit Party is an "investment company" within the meaning of the Investment Company Act of 1940, as amended. No Credit Party is engaged principally, or as one of its important activities, directly or indirectly, in the business of extending credit for the purpose of purchasing or carrying margin stock. None of the proceeds of any of the Advances will be used by any Credit Party to purchase or carry margin stock. Terms for which meanings are provided in Regulation U of the Board of Governors of the Federal Reserve System or any regulations substituted therefore, as from time to time in effect, are used in this paragraph with such meanings.

6.13 ERISA. No Credit Party maintains or contributes to any Pension Plan subject to Title IV of ERISA, except as set forth on Schedule 6.13 hereto or otherwise disclosed to the Agent in writing. There is no accumulated funding deficiency within the meaning of Section 412 of the Internal Revenue Code or Section 302 of ERISA, or any outstanding liability with respect to any Pension Plans owed to the PBGC other than future premiums due and owing pursuant to Section 4007 of ERISA, and no "reportable event" as defined in Section 4043(c) of ERISA has occurred with respect to any Pension Plan other than an event for which the notice requirement has been waived by the PBGC. None of the Credit Parties has engaged in a prohibited transaction with respect to any Pension Plan, other than a prohibited transaction for which an exemption is available and has been obtained, which could subject such Credit Parties to a material tax or penalty imposed by Section 4975 of the Internal Revenue Code or Section 502(i) of ERISA. Each Pension Plan is being maintained and funded in accordance with its terms and is in material compliance with the requirements of the Internal Revenue Code and ERISA. No Credit Party has had a complete or partial withdrawal from any Multiemployer Plan that has resulted or could reasonably be expected to have resulted in any Withdrawal Liability and, except as notified to the Agent in writing following the Effective Date, no such Multiemployer Plan is in reorganization (within the meaning of Section 4241 of ERISA) or insolvent (within the meaning of Section 4245 of ERISA).

6.14 Conditions Affecting Business or Properties. Neither the respective businesses nor the properties of any Credit Party is affected by any fire, explosion, accident, strike, lockout or other dispute, drought, storm, hail, earthquake, embargo, Act of God, or other casualty (except to the extent such event is covered by insurance sufficient to ensure that upon application of the proceeds thereof, no Material Adverse Effect could reasonably be expected to occur) which could reasonably be expected to have a Material Adverse Effect.

6.15 Environmental and Safety Matters. Except as set forth in Schedules 6.9, 6.10 and 6.15:

(a) all facilities and property owned or leased by the Credit Parties are in compliance with all Hazardous Material Laws;

(b) to the best knowledge of the Borrower, there have been no unresolved and outstanding past, and there are no pending or threatened:

(i) claims, complaints, notices or requests for information received by any Credit Party with respect to any alleged violation of any Hazardous Material Law, or

(ii) written complaints, notices or inquiries to any Credit Party regarding potential liability of any Credit Parties under any Hazardous Material Law; and

(c) to the best knowledge of the Borrower, no conditions exist at, on or under any property now or previously owned or leased by any Credit Party which, with the passage of time, or the giving of notice or both, are reasonably likely to give rise to liability under any Hazardous Material Law or create a significant adverse effect on the value of the property.

6.16 Subsidiaries. Except as disclosed on Schedule 6.16 hereto as of the Effective Date, and thereafter, except as disclosed to the Agent in writing from time to time, no Credit Party has any Subsidiaries.

6.17 Management Agreements. Schedule 6.17 attached hereto is an accurate and complete list of all management and significant employment agreements in effect on or as of the Effective Date to which any Credit Party is a party or is bound.

6.18 Material Contracts. Schedule 6.18 attached hereto is an accurate and complete list of all Material Contracts in effect on or as of the Effective Date to which any Credit Party is a party or is bound.

6.19 Franchises, Patents, Copyrights, Tradenames, etc. The Credit Parties possess all franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in respect of the foregoing, adequate for the conduct of their business substantially as now conducted without known conflict with any rights of others. Schedule 6.19 contains a true and accurate list of all trade names and any and all other names used by any Credit Party during the five-year period ending as of the Effective Date.

6.20 Capital Structure. Schedule 6.20 attached hereto sets forth all issued and outstanding Equity Interests of each Credit Party, including the number of authorized, issued and outstanding Equity Interests of each Credit Party, the par value of such Equity Interests and the holders of such Equity Interests, all on and as of the Effective Date. All issued and outstanding Equity Interests of each Credit Party are duly authorized and validly issued, fully paid, nonassessable, free and clear of all Liens (except for the benefit of the Agent) and such Equity Interests were issued in compliance with all applicable state, federal and foreign laws concerning the issuance of securities. Except as disclosed on Schedule 6.20, there are no preemptive or other outstanding rights, options, warrants, conversion rights or similar agreements or understandings for the purchase or acquisition from any Credit Party, of any Equity Interests of any Credit Party.

6.21 Accuracy of Information. (a) The audited financial statements for the Fiscal Year ended December 31, 2011, furnished to the Agent and the Lenders prior to the Effective Date fairly present in all material respects the financial condition of the Borrower and its respective Subsidiaries and the results of their operations for the periods covered thereby, and have been prepared in accordance with GAAP. The projections and the other pro forma financial information delivered to the Agent prior to the Effective Date are based upon good faith estimates and assumptions believed by management of the Borrower to be accurate and reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein.

(b) Since June 30, 2012, there has been no material adverse change in the business, operations, condition, property or prospects (financial or otherwise) of the Credit Parties, taken as a whole.

(c) To the best knowledge of the Credit Parties, as of the Effective Date, (i) the Credit Parties do not have any material contingent obligations (including any liability for taxes) not disclosed by or reserved against in the opening balance sheet to be delivered hereunder and (ii) there are no unrealized or anticipated losses from any present commitment of the Credit Parties which contingent obligations and losses in the aggregate could reasonably be expected to have a Material Adverse Effect.

6.22 Solvency. After giving effect to the consummation of the transactions contemplated by this Agreement and other Loan Documents, each Credit Party will be solvent, able to pay its indebtedness as it matures and will have capital sufficient to carry on its businesses and all business in which it is about to engage. This Agreement is being executed and delivered by the Borrower to the Agent and the Lenders in good faith and in exchange for fair, equivalent consideration. The Credit Parties do not intend to nor does management of the Credit Parties believe the Credit Parties will incur debts beyond their ability to pay as they mature. The Credit Parties do not contemplate filing a petition in bankruptcy or for an arrangement or reorganization under the Bankruptcy Code or any similar law of any jurisdiction now or hereafter in effect relating to any Credit Party, nor does any Credit Party have any knowledge of any threatened bankruptcy or insolvency proceedings against a Credit Party.

6.23 Employee Matters. There are no strikes, slowdowns, work stoppages, unfair labor practice complaints, grievances, arbitration proceedings or controversies pending or, to the best knowledge of the Borrower, threatened against any Credit Party by any employees of any Credit Party, other than non-material employee grievances or controversies arising in the ordinary course of business. Set forth on Schedule 6.23 are all union contracts or agreements to which any Credit Party is party as of the Effective Date and the related expiration dates of each such contract.

6.24 No Misrepresentation. Neither this Agreement nor any other Loan Document, certificate, information or report furnished or to be furnished by or on behalf of a Credit Party to the Agent or any Lender in connection with any of the transactions contemplated hereby or thereby, contains a misstatement of material fact, or omits to state a material fact required to be stated in order to make the statements contained herein or therein, taken as a whole, not misleading in the light of the circumstances under which such statements were made. There is no fact, other than information known to the public generally, known to any Credit Party after diligent inquiry, that could reasonably be expect to have a Material Adverse Effect that has not expressly been disclosed to the Agent in writing.

6.25 Inbound Licenses. Except as disclosed on Schedule 6.25 hereto, the Borrower is not a party to, nor is bound by, any license or other agreement that prohibits or otherwise restricts the Borrower from granting a security interest in the Borrower's interest in such license or agreement or any other property.

6.26 Corporate Documents and Corporate Existence. As to each Credit Party, (a) it is an organization as described on Schedule 1.3 hereto and has provided the Agent and the Lenders with complete and correct copies of its articles of incorporation, by-laws and all other applicable charter and other organizational documents, and, if applicable, a good standing certificate and (b) its correct legal name, business address, type of organization and jurisdiction of organization, tax identification number and other relevant identification numbers are set forth on Schedule 1.3 hereto.

6.27 Healthcare Matters. Without limiting the generality of any other representation or warranty made in this Agreement, Borrower hereby represents and warrants that the following statements are true, complete and correct as of the Effective Date, and Borrower hereby covenants and agrees to notify Lenders within three (3) Business Days (but in any event prior to Borrowers submitting any requests for Advances) following the occurrence of any facts, events or circumstances, whether threatened, existing or pending, that would make any of the following representations and warranties untrue, incomplete or incorrect (together with such supporting data and information as shall be necessary to fully explain to Lender the scope and nature of the fact, event or circumstance), and shall provide to Lenders within two (2) Business Days of any Lender's request, such additional information as any Lender shall request regarding such disclosure:

(a) Borrower and each Subsidiary has provided to Agent copies of all participation agreements required by Agent with HMOs, insurers, Third-Party Payors, and preferred provider organizations with respect to the business operations of Borrower and each Subsidiary. Borrower and each Subsidiary is in compliance in all material respects with contracts with Account Debtors and is entitled to reimbursement under such contracts.

(b) (i) Borrower and each Subsidiary has timely filed or caused to be timely filed, all cost reports and other reports of every kind whatsoever required by a Third-Party Payor Program, to have been filed or made with respect to the business operations of Borrower or such Subsidiary. There are no claims, actions or appeals pending (and neither Borrower nor any Subsidiary has filed any claims or reports which should result in any such claims, actions or appeals) before any Governmental Authority pertaining to Borrower's or such Subsidiary's business operations, including, without limitation, any intermediary or carrier, the Provider Reimbursement Review Board or the Administrator of CMS, with respect to any state or federal Medicare or Medicaid cost reports or claims filed by Borrower or such Subsidiary, or any disallowance by any Governmental Authority in connection with any audit of such cost reports; which claims, actions or appeals, individually or in the aggregate, exceeds One Hundred Thousand Dollars ($100,000) or could reasonably be expected to have a Material Adverse Effect;

(i) Borrower and each Subsidiary has obtained all necessary accreditations to operate its business as now conducted, and currently is in compliance with all statutory and regulatory requirements applicable to it, the failure of which would have a Material Adverse Effect;

(ii) Neither Borrower nor any Subsidiary is currently or has in the past been subject to: (1) any state or local governmental investigation, inspection or inquiry related to any license or licensure standards applicable to Borrower or such Subsidiary; (2) any federal, state, local governmental or private payor civil or criminal investigations, inquiries or audits involving and/or related to any federal, state or private payor healthcare fraud and abuse provisions or contractual prohibition of healthcare fraud and abuse; or (3) any federal, state or private payor inquiry, investigation, inspection or audit regarding Borrower or any Subsidiary or their activities, including, without limitation, any federal, state or private payor inquiry or investigation of any Person having "ownership, financial or control interest" in Borrower or any Subsidiary (as that term is defined in 42 C.F.R. § 420.201 et seq.) involving and/or related to healthcare fraud and abuse, false claims under 31 U.S.C. §§ 3729–3731 or any similar contractual prohibition, or any qui tam action brought pursuant to 31 U.S.C. § 3729 et seq.;

(iii) No director, officer, shareholder, employee or Person with a "direct or indirect ownership interest" (as that phrase is defined in 42 C.F.R. § 420.201) in Borrower or any Subsidiary: (1) has had a civil monetary penalty assessed against him or her pursuant to 42 U.S.C. § 1320a-7a; (2) has been excluded from participation in a Federal Health Care Program (as that term is defined in 42 U.S.C. § 1320a-7b); (3) has been convicted (as that term is defined in 42 C.F.R. § 1001.2) of any of those offenses described in 42 U.S.C. § 1320a-7b or 18 U.S.C. §§ 669, 1035, 1347 or 1518, including without limitation any of the following categories of offenses: (A) criminal offenses relating to the delivery of an item or service under any Federal Health Care Program (as that term is defined in 42 U.S.C. § 1320a-7b) or healthcare benefit program (as that term is defined in 18 U.S.C. § 24b); (B) criminal offenses under federal or state law relating to patient neglect or abuse in connection with the delivery of a healthcare item or service; (C) criminal offenses under federal or state law relating to fraud and abuse, theft, embezzlement, false statements to third parties, money laundering, kickbacks, breach of fiduciary responsibility or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in a program operated by or financed in whole or in part by any federal, state or local governmental agency; (D) federal or state laws relating to the interference with or obstruction of any investigations into any criminal offenses described in (1) through (3) above; or (E) criminal offenses under federal or state law relating to the unlawful manufacturing, distribution, prescription or dispensing of a controlled substance; or (4) has been involved or named in a U.S. Attorney complaint made or any other action taken pursuant to the False Claims Act under 31 U.S.C. §§ 3729–3731 or qui tam action brought pursuant to 31 U.S.C. § 3729 et seq.;

(iv) Borrower and each Subsidiary is and shall continue to be in compliance with all applicable laws relating to its relationships with physicians;

(v) Borrower and each Subsidiary, and their employees and contractors, in the exercise of their duties on behalf of Borrower or any Subsidiary, is and shall continue to be in compliance with all laws, rules, regulations, orders, decrees and directions of any Governmental Authority (including, without limitation, the Social Security Act, as amended, the rules and regulations promulgated by CMS), and any state laws applicable to the collections on Accounts, any contracts relating thereto or any other Collateral, or otherwise applicable to its business and properties, a violation of which could materially adversely affect its ability to collect on its Accounts or repay the Indebtedness;

(vi) All persons providing professional healthcare services for or on behalf of Borrower or any Subsidiary (either as an employee or independent contractor) are appropriately licensed in every jurisdiction in which they hold themselves out as professional health care providers; and

(vii) None of Borrower's nor any Subsidiary's state and local licenses, permits, registrations, certifications and other approvals relating to providing healthcare services and other services provided by Borrower or such Subsidiary have been suspended, revoked, limited or denied renewal at any time.

(c) Borrower has (i) each Healthcare Permit and other rights from, and have made all declarations and filings with, all applicable Governmental Authorities, all self regulatory authorities and all courts and other tribunals necessary to engage in the ownership, management and operation of the assets of Borrower, and (ii) no knowledge that any Governmental Authority is considering limiting, suspending or revoking any Healthcare Permit. All such Healthcare Permits are valid and in full force and effect and Borrower is in material compliance with the terms and conditions of all such Healthcare Permits, except where failure to be in such compliance or for a Healthcare Permit to be valid and in full force and effect would not have a Material Adverse Effect.

(d) To the extent that and for so long as Borrower or any Subsidiary is a "covered entity" or "business associate" as either such term is defined under the requirements and implementing regulations at 45 Code of Federal Regulations ("C.F.R.") Parts 160–64 for the Administrative Simplification provisions of Title II, Subtitle F of HIPAA, Borrower and each Subsidiary (i) has undertaken or will promptly undertake all necessary surveys, audits, inventories, reviews, analyses and/or assessments (including any necessary risk assessments) of all areas of its business and operations required by HIPAA and/or that could be adversely affected by the failure of Borrower or such Subsidiary to be HIPAA Compliant; (ii) has developed a detailed plan and time line for becoming HIPAA Compliant (a "HIPAA Compliance Plan"); and (iii) has implemented those provisions of such HIPAA Compliance Plan in all material respects necessary to ensure that Borrower and each Subsidiary becomes HIPAA Compliant.

7. AFFIRMATIVE COVENANTS.

The Borrower covenants and agrees, so long as any Lender has any commitment to extend credit hereunder, or any of the Indebtedness remains outstanding and unpaid, that it will, and, as applicable, it will cause each of its Subsidiaries to:

7.1 Financial Statements. Furnish to the Agent, in form and detail satisfactory to the Agent, with sufficient copies for each Lender, the following documents:

(a) as soon as available, but in any event within one hundred fifty (150) days after the end of each Fiscal Year, a copy of the audited Consolidated and Consolidating financial statements of the Borrower and its Consolidated Subsidiaries as at the end of such Fiscal Year and the related audited Consolidated and Consolidating statements of income, balance sheets, stockholders equity, and cash flows of the Borrower and its Consolidated Subsidiaries for such Fiscal Year or partial Fiscal Year and underlying assumptions, setting forth in each case in comparative form the figures for the previous Fiscal Year, certified as being fairly stated in all material respects by BDO USA LLP or by another independent, nationally recognized certified public accounting firm reasonably satisfactory to the Agent; and

(b) as soon as available, but in any event within thirty (30) days after the end of each month (including the last month of each fiscal quarter and each Fiscal Year, which, for such months, shall be a Borrower-prepared draft) subject to standard audit adjustments, commencing with the first full month after the Effective Date, the Borrower prepared unaudited Consolidated and Consolidating balance sheets of the Borrower and its Consolidated Subsidiaries as at the end of such month and the related unaudited statements of income, stockholders equity and cash flows of the Borrower and its Consolidated Subsidiaries for the portion of the Fiscal Year through the end of such fiscal month, setting forth in each case in comparative form (i) the figures for the corresponding periods in the previous year and (ii) the figures for the relevant period set forth in the projections delivered for such year pursuant to Section 7.2(e), and certified by a Responsible Officer of the Borrower as being fairly stated in all material respects,

all such financial statements to be complete and correct in all material respects and to be prepared in reasonable detail and in accordance with GAAP throughout the periods reflected therein and with prior periods (except as approved by a Responsible Officer and disclosed therein), provided however that the financial statements delivered pursuant to clauses (a) and (b) hereof will not be required to include footnotes and will be subject to change from audit and year-end adjustments.

7.2 Certificates; Other Information. Furnish to the Agent, in form and detail acceptable to the Agent, with sufficient copies for each Lender, the following documents:

(a) Concurrently with the delivery of the financial statements described in Sections 7.1(a) for each fiscal year end, and 7.1(b) for each month end, a Covenant Compliance Report (or, in the case of the Borrower prepared financial statements for the last fiscal quarter of each fiscal year, a draft Covenant Compliance Certificate) duly executed by a Responsible Officer of the Borrower;

(b) Within thirty (30) days after and as of the most recent month-end or more frequently as reasonably requested by the Agent or the Majority Revolving Credit Lenders, a Borrowing Base Certificate executed by a Responsible Officer of the Borrower;

(c) Promptly upon receipt thereof, copies of all significant reports submitted by the Credit Parties' firm(s) of certified public accountants in connection with each annual, interim or special audit or review of any type of the financial statements or related internal control systems of the Credit Parties made by such accountants, including any comment letter submitted by such accountants to management in connection with their services;

(d) Any financial reports, statements, press releases, other material information or written notices delivered to the holders of the Subordinated Debt pursuant to any applicable Subordinated Debt Documents (to the extent not otherwise required hereunder), as and when delivered to such Persons;

(e) Within thirty (30) days after the end of each Fiscal Year, projections for the Credit Parties for the next succeeding Fiscal Year, on a quarterly basis and for the following Fiscal Year on an annual basis, including a balance sheet, as at the end of each relevant period and for the period commencing at the beginning of the Fiscal Year and ending on the last day of such relevant period, such projections certified by a Responsible Officer of the Borrower as being (i) based on reasonable estimates and assumptions taking into account all facts and information known (or reasonably available to any Credit Party) by such Responsible Officer of the Borrower and (ii) approved by the Board of Directors of the Borrower;

(f) Within thirty (30) days after and as of the end of each month, including the last month of each Fiscal Year, or more frequently as requested by the Agent or the Majority Revolving Credit Lenders (i) the monthly aging of the accounts receivable and accounts payable of the Credit Parties and (ii) a report of Borrower's In-Use Revenue Generating Rental Equipment;

(g) Immediately upon Borrower's receipt thereof, (x) notice of any investigation or audit, or pending or threatened proceedings relating to, any violation by Borrower of any Healthcare Law, including, (i) any investigation or audit or proceeding involving violation of any of the Medicare and/or Medicaid fraud and abuse provisions and (ii) any criminal or civil investigation initiated, claim filed or disclosure required by the Office of Inspector General, the Department of Justice, CMS or any other Governmental Authority; which investigation, audit, or proceedings, individually or in the aggregate, exceeds One Hundred Thousand Dollars ($100,000) or could reasonably be expected to have a Material Adverse Effect; and (y) notice of any written recommendation from any Governmental Authority or other regulatory body that Borrower should have its licensure, provider or supplier number or accreditation suspended, revoked or limited in any way, or have its eligibility to participate in Medicare, Medicaid or any other government program to accept assignments or rights to reimbursement under Medicaid, Medicare or any other government program regulations suspended, revoked or limited in any way;

(h) Any additional information as required by any Loan Document, and such additional schedules, certificates and reports respecting all or any of the Collateral, the items or amounts received by the Credit Parties in full or partial payment thereof, and any goods (the sale or lease of which shall have given rise to any of the Collateral) possession of which has been obtained by the Credit Parties, all to such extent as the Agent may reasonably request from time to time, any such schedule, certificate or report to be certified as true and correct in all material respects by a Responsible Officer of the applicable Credit Party and shall be in such form and detail as the Agent may reasonably specify; and

(i) Such additional financial and/or other information as the Agent or any Lender may from time to time reasonably request, promptly following such request.

7.3 Payment of Obligations. Pay, discharge or otherwise satisfy, at or before maturity or before they become delinquent, as the case may be, all of its material obligations of whatever nature, including without limitation all assessments, governmental charges, claims for labor, supplies, rent or other obligations, except where the amount or validity thereof is currently being appropriately contested in good faith and reserves in conformity with GAAP with respect thereto have been provided on the books of the Credit Parties.

7.4 Conduct of Business and Maintenance of Existence; Compliance with Laws.

(a) Continue to engage in their respective business and operations substantially as conducted immediately prior to the Effective Date;

(b) Preserve, renew and keep in full force and effect its existence and maintain its qualifications to do business in each jurisdiction where such qualifications are necessary for its operations, except as otherwise permitted pursuant to Section 8.4;

(c) Take all action it deems necessary in its reasonable business judgment to maintain all rights, privileges, licenses and franchises necessary for the normal conduct of its business except where the failure to so maintain such rights, privileges or franchises could not, either singly or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(d) Comply with all Contractual Obligations and Requirements of Law, except to the extent that failure to comply therewith could not, either singly or in the aggregate, reasonably be expected to have a Material Adverse Effect; and

(e) (i) Continue to be a Person whose property or interests in property is not 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)) (the "Order"), (ii) not engage in the transactions prohibited by Section 2 of that Order or become associated with Persons such that a violation of Section 2 of the Order would arise, and (iii) not become a Person on the list of Specially Designated National and Blocked Persons, or (iv) otherwise not become subject to the limitation of any OFAC regulation or executive order.

7.5 Maintenance of Property; Insurance. (a) Keep all material property it deems, in its reasonable business judgment, useful and necessary in its business in working order (ordinary wear and tear excepted); (b) maintain insurance coverage with financially sound and reputable insurance companies on physical assets and against other business risks in such amounts and of such types as are customarily carried by companies similar in size and nature (including without limitation casualty and public liability and property damage insurance), and in the event of acquisition of additional property, real or personal, or of the incurrence of additional risks of any nature, increase such insurance coverage in such manner and to such extent as prudent business judgment and present practice or any applicable Requirements of Law would dictate; (c) in the case of all insurance policies covering any Collateral, such insurance policies shall provide that the loss payable thereunder shall be payable to the applicable Credit Party, and to the Agent (as mortgagee, or, in the case of personal property interests, lender loss payee) as their respective interests may appear; (d) in the case of all public liability insurance policies, such policies shall list the Agent as an additional insured, as the Agent may reasonably request; and (e) if requested by the Agent, certificates evidencing such policies, including all endorsements thereto, to be deposited with the Agent, such certificates being in form and substance reasonably acceptable to the Agent.

7.6 Inspection of Property; Books and Records, Discussions. Permit the Agent and each Lender, through their authorized attorneys, accountants and representatives (a) at all reasonable times during normal business hours, upon the request of the Agent or such Lender, to examine each Credit Party's books, accounts, records, ledgers and assets and properties; (b) from time to time, during normal business hours, upon the request of the Agent, to conduct full or partial collateral audits of the Accounts and Inventory of the Credit Parties and appraisals of all or a portion of the fixed assets (including real property) of the Credit Parties, such audits and appraisals to be completed by an appraiser as may be selected by the Agent, with all reasonable costs and expenses of such audits to be reimbursed by the Credit Parties, provided that so long as no Event of Default or Default exists, the Borrower shall not be required to reimburse the Agent for such audits or appraisals more frequently than twice

each Fiscal Year; (c) during normal business hours and at their own risk, to enter onto the real property owned or leased by any Credit Party to conduct inspections, investigations or other reviews of such real property; and (d) at reasonable times during normal business hours and at reasonable intervals, to visit all of the Credit Parties' offices, discuss each Credit Party's respective financial matters with their respective officers, as applicable, and, by this provision, the Borrower authorizes, and will cause each of their respective Subsidiaries to authorize, its independent certified or chartered public accountants to discuss the finances and affairs of any Credit Party and examine any of such Credit Party's books, reports or records held by such accountants.

7.7 Notices. Promptly give written notice to the Agent of:

(a) the occurrence of any Default or Event of Default of which any Credit Party has knowledge;

(b) any (i) litigation or proceeding existing at any time between any Credit Party and any Governmental Authority or other third party, or any investigation of any Credit Party conducted by any Governmental Authority, which in any case if adversely determined would have a Material Adverse Effect or (ii) any material adverse change in the financial condition of any Credit Party since the date of the last audited financial statements delivered pursuant to Section 7.1(a) hereof;

(c) the occurrence of any event which any Credit Party believes could reasonably be expected to have a Material Adverse Effect, promptly after concluding that such event could reasonably be expected to have such a Material Adverse Effect;

(d) promptly after becoming aware thereof, the taking by the Internal Revenue Service or any foreign taxing jurisdiction of a written tax position (or any such tax position taken by any Credit Party in a filing with the Internal Revenue Service or any foreign taxing jurisdiction) which could reasonably be expected to have a Material Adverse Effect, setting forth the details of such position and the financial impact thereof;

(e) (i) all jurisdictions in which any Credit Party proposes to become qualified after the Effective Date to transact business, (ii) the acquisition or creation of any new Subsidiaries, (iii) any material change after the Effective Date in the authorized and issued Equity Interests of any Credit Party or any other material amendment to any Credit Party's charter, by-laws or other organizational documents, such notice, in each case, to identify the applicable jurisdictions, capital structures or amendments as applicable, provided that such notice shall be given not less than ten (10) Business Days prior to the proposed effectiveness of such changes, acquisition or creation, as the case may be (or such shorter period to which the Agent may consent);

(f) not less than fifteen (15) Business Days (or such other shorter period to which the Agent may agree) prior to the proposed effective date thereof, any proposed material amendments, restatements or other modifications to any Subordinated Debt Documents; and

(g) any default or event of default by any Person under any Subordinated Debt Document, concurrently with delivery or promptly after receipt (as the case may be) of any notice of default or event of default under the applicable document, as the case may be.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and, in the case of notices referred to in clauses (a), (b), (c), (d) and (g) hereof stating what action the applicable Credit Party has taken or proposes to take with respect thereto.

7.8 Hazardous Material Laws.

(a) Use and operate all of its facilities and properties in material compliance with all applicable Hazardous Material Laws, keep all material required permits, approvals, certificates, licenses and other authorizations required under such Hazardous Material Laws in effect and remain in compliance therewith, and handle all Hazardous Materials in material compliance with all applicable Hazardous Material Laws;

(b) (i) Promptly notify the Agent and provide copies upon receipt of all written claims, complaints, notices or inquiries received by any Credit Party relating to its facilities and properties or compliance with Hazardous Material Laws which, if adversely determined, could reasonably be expected to have a Material Adverse Effect and (ii) promptly cure and have dismissed with prejudice to the reasonable satisfaction of the Agent and the Majority Lenders any material actions and proceedings relating to compliance with Hazardous Material Laws to which any Credit Party is named a party, other than such actions or proceedings being contested in good faith and with the establishment of reasonable reserves;

(c) To the extent necessary to comply in all material respects with Hazardous Material Laws, remediate or monitor contamination arising from a release or disposal of Hazardous Material, which solely, or together with other releases or disposals of Hazardous Materials could reasonably be expected to have a Material Adverse Effect;

(d) Provide such information and certifications which the Agent or any Lender may reasonably request from time to time to evidence compliance with this Section 7.8.

7.9 Financial Covenants.

(a) Debt Service Coverage Ratio. Borrower and its Subsidiaries shall maintain at all times a Debt Service Coverage Ratio of at least 1.20 to 1.00.

(b) Liquidity Ratio. Borrower shall maintain at all times a Liquidity Ratio of at least 1.50 to 1.00.

(c) Senior Leverage Ratio. Commencing with the date of the first Term Loan C Advance to Borrower, Borrower and its Subsidiaries shall maintain at all times a Senior Leverage Ratio of no more than 2.75 to 1.00.

7.10 Governmental and Other Approvals. Apply for, obtain and/or maintain in effect, as applicable, all authorizations, consents, approvals, licenses, qualifications, exemptions, filings, declarations and registrations (whether with any court, governmental agency, regulatory authority, securities exchange or otherwise) which are necessary or reasonably requested by the Agent in connection with the execution, delivery and performance by any Credit Party of, as applicable, this Agreement, the other Loan Documents, the Subordinated Debt Documents, or any other documents or instruments to be executed and/or delivered by any Credit Party, as applicable in connection therewith or herewith, except where the failure to so apply for, obtain or maintain could not reasonably be expected to have a Material Adverse Effect.

7.11 Compliance with ERISA; ERISA Notices.

(a) Comply in all material respects with all material requirements imposed by ERISA and the Internal Revenue Code, including, but not limited to, the minimum funding requirements for any Pension Plan, except to the extent that any noncompliance could not reasonably be expected to have a Material Adverse Effect.

(b) Promptly notify the Agent upon the occurrence of any of the following events in writing: (i) the termination, other than a standard termination, as defined in ERISA, of any Pension Plan subject to Subtitle C of Title IV of ERISA by any Credit Party; (ii) the appointment of a trustee by a United States District Court to administer any Pension Plan subject to Title IV of ERISA; (iii) the commencement by the PBGC, of any proceeding to terminate any Pension Plan subject to Title IV of ERISA; (iv) the failure of any Credit Party to make any payment in respect of any Pension Plan required under Section 412 of the Internal Revenue Code or Section 302 of ERISA; (v) the withdrawal of any Credit Party from any Multiemployer Plan if any Credit Party reasonably believes that such withdrawal would give rise to the imposition of Withdrawal Liability with respect thereto; or (vi) the occurrence of (x) a “reportable event” which is required to be reported by a Credit Party under Section 4043 of ERISA other than any event for which the reporting requirement has been waived by the PBGC or (y) a “prohibited transaction” as defined in Section 406 of ERISA or Section 4975 of the Internal Revenue Code other than a transaction for which a statutory exemption is available or an administrative exemption has been obtained.

7.12 Defense of Collateral. Defend the Collateral from any Liens other than Liens permitted by Section 8.2.

7.13 Future Subsidiaries; Additional Collateral.

(a) With respect to each Person which becomes a Domestic Subsidiary of the Borrower (directly or indirectly) subsequent to the Effective Date, whether by Permitted Acquisition or otherwise, cause such new Domestic Subsidiary to execute and deliver to the Agent, for and on behalf of each of the Lenders (unless waived by the Agent):

(i) within thirty (30) days after the date such Person becomes a Domestic Subsidiary (or such longer time period as the Agent may determine), a Guaranty, or in the event that a Guaranty already exists, a joinder agreement to the Guaranty whereby such Domestic Subsidiary becomes obligated as a Guarantor under the Guaranty; and

(ii) within thirty (30) days after the date such Person becomes a Domestic Subsidiary (or such longer time period as the Agent may determine), a joinder agreement to the Security Agreement whereby such Domestic Subsidiary grants a Lien over its assets (other than Equity Interests which should be governed by (b) of this Section 7.13) as set forth in the Security Agreement, and such Domestic Subsidiary shall take such additional actions as may be necessary to ensure a valid first priority perfected Lien over such assets of such Domestic Subsidiary, subject only to the other Liens permitted pursuant to Section 8.2 of this Agreement;

(iii) within the time period specified in and to the extent required under clause (c) of this Section 7.13, a Mortgage, Collateral Access Agreements and/or other documents required to be delivered in connection therewith;

(b) With respect to the Equity Interests of each Person which becomes (whether by Permitted Acquisition or otherwise) (i) a Domestic Subsidiary subsequent to the Effective Date, cause the Credit Party that holds such Equity Interests to execute and deliver such Pledge Agreements, and take such actions as may be necessary to ensure a valid first priority perfected Lien over one hundred percent (100%) of the Equity Interests of such Domestic Subsidiary held by a Credit Party, such Pledge Agreements to be executed and delivered (unless waived by the Agent) within thirty (30) days after the date such Person becomes a Domestic Subsidiary (or such longer time period as the Agent may determine); and (ii) a Foreign Subsidiary subsequent to the Effective Date, the Equity Interests of which is held directly by the Borrower or one of its Domestic Subsidiaries, cause the Credit Party that holds such Equity Interests to execute and deliver such Pledge Agreements and take such actions as may be necessary to ensure a valid first priority perfected Lien over sixty-five percent (65%) of the Equity Interests of such Subsidiary, such Pledge Agreements to be executed and delivered (unless waived by the Agent) within thirty (30) days after the date such Person becomes a Foreign Subsidiary (or such longer time period as the Agent may determine); and

(c) (i) With respect to the acquisition of a fee interest in real property by any Credit Party after the Effective Date (whether by Permitted Acquisition or otherwise), not later than thirty (30) days after the acquisition is consummated or the owner of such property becomes a Domestic Subsidiary (or such longer time period as the Agent may determine), such Credit Party shall execute or cause to be executed (unless waived by the Agent), a Mortgage (or an amendment to an existing mortgage, where appropriate) covering such real property, together with such additional real estate documentation, environmental reports, title policies and surveys as may be reasonably required by the Agent; and (ii) with respect to the acquisition of any leasehold interest in real property by any Credit Party after the Effective Date (whether by Permitted Acquisition or otherwise), not later than thirty (30) days after the acquisition is consummated or the owner of the applicable leasehold interest becomes a Domestic Subsidiary (or such longer time period as the Agent may determine), the applicable Credit Party shall deliver to the Agent a copy of the applicable lease agreement and shall execute or cause to be executed, at the Agent's option, unless otherwise waived by the Agent, a Collateral Access Agreement in form and substance reasonably acceptable to the Agent together with such other documentation as may be reasonably required by the Agent;

in each case in form reasonably satisfactory to the Agent, in its reasonable discretion, together with such supporting documentation, including without limitation corporate authority items, certificates and opinions of counsel, as reasonably required by the Agent. Upon the Agent's request, Credit Parties shall take, or cause to be taken, such additional steps as are necessary or advisable under applicable law to perfect and ensure the validity and priority of the Liens granted under this Section 7.13.

7.14 Accounts. Borrower shall maintain its primary depository, operating and investment accounts with Comerica Bank. The balance of Borrower's depository, operating and/or investment accounts shall be maintained with Square 1 Bank, provided that Borrower shall use its best efforts to maintain with Square 1 Bank fifty percent (50%) (and, in any case, shall maintain not less than forty percent (40%), to be measured monthly on a rolling two (2) months basis) of all amounts in Borrower's accounts.

7.15 Medicare/Medical Accounts. Without limiting the foregoing Section 7.14, Borrower shall cause all Medicare and Medical payments owing to Borrower to be wire transferred or sent via ACH directly to Borrower's operating account held at Comerica Bank (the "Blocked Account") to which such payments are, as of the Effective Date, being directed and/or remitted. Comerica Bank hereby disclaims any right or interest (including any security interest or right of off set (or set-off)) in or to such Blocked Account. If at any time, such payments are no longer wire transferred or sent via ACH directly to the Blocked Account, Borrower shall cause all Medicare and/or Medical payments to be mailed or delivered to a post office box designated by Comerica Bank, and Borrower shall enter into a lockbox agreement with Comerica Bank on Comerica Bank's standard form with respect to such payments. No other amounts shall be directed or remitted, by or for the benefit of Borrower, to the Blocked Account. All items or amounts which are remitted to the Blocked Account shall, on a daily basis, be swept to Borrower's primary operating account held at Comerica Bank (the "Operating Account"), and Borrower shall cause all payments other than those directed or remitted to the Blocked Account, to be directed or remitted to such Operating Account; provided, however, that prior to an Event of Default, the Borrower may, subject to Section 9.1(m) of this Agreement, revoke the instructions given by Borrower pursuant to the last sentence of this Section 7.15 for any reason by providing written instruction to the relationship manager responsible for Borrower's accounts (such written instruction, including any amendment or modification, a "Revocation Order").

7.16 Use of Proceeds. Use all Advances of the Revolving Credit as set forth in Section 2.11 hereof and the proceeds of the Term Loans as set forth in Section 4.9 hereof. The Borrower shall not use any portion of the proceeds of any such advances for the purpose of purchasing or carrying any "margin stock" (as defined in Regulation U of the Board of Governors of the Federal Reserve System) in any manner which violates the provisions of Regulation T, U or X of said Board of Governors or for any other purpose in violation of any applicable statute or regulation.

7.17 Healthcare Laws; Participation Agreements. Borrower will (i) maintain in full force and effect, and free from restrictions, probations, conditions or known conflicts all Permits necessary under Healthcare Laws to continue to receive reimbursement under all Third-Party Payor Programs in which Borrower participates as of the date of this Agreement, and (ii) provide to Lenders upon request, an accurate, complete and current list of all participation agreements with Third-Party Payors with respect to the business of Borrower (collectively, "Participation Agreements"). Borrower will at all times comply with all requirements, contracts, conditions and stipulations applicable to Borrower in order to maintain in good standing and without default or limitation all such Participation Agreements.

7.18 Consent of Inbound Licensors. Prior to entering into or becoming bound by any material license or agreement (in which the aggregate value is at least Two Hundred Fifty Thousand Dollars ($250,000)), the Borrower shall provide written notice to Agent of the material terms of such license or agreement with a description of its likely impact on the Borrower's business or financial condition.

7.19 Post-Closing Conditions. On or before November 12, 2012 (or such later date as may be approved by Agent), deliver or cause to be delivered to Agent (a) a true, complete and accurate copy of a fully executed lease agreement and (b) a fully executed Collateral Access Agreement, with respect to the real property leased by the Borrower located at Cardinal Park I, 1125 E. Collins Boulevard, Suite 200, Richardson, Texas 75081.

7.20 Further Assurances and Information.

(a) Take such actions as the Agent or Majority Lenders may from time to time reasonably request to establish and maintain first priority perfected security interests in and Liens on all of the Collateral, subject only to those Liens permitted under Section 8.2 hereof, including executing and delivering such additional pledges, assignments, mortgages, lien instruments or other security instruments covering any or all of the Credit Parties' assets as the Agent may reasonably require, such documentation to be in form and substance reasonably acceptable to the Agent, and prepared at the expense of the Borrower.

(b) Execute and deliver or cause to be executed and delivered to the Agent within a reasonable time following the Agent's request, and at the expense of the Borrower, such other documents or instruments as the Agent may reasonably require to effectuate more fully the purposes of this Agreement or the other Loan Documents.

(c) Provide the Agent and the Lenders with any other information required by Section 326 of the USA Patriot Act or necessary for the Agent and the Lenders to verify the identity of any Credit Party as required by Section 326 of the USA Patriot Act.

8. NEGATIVE COVENANTS.

The Borrower covenants and agrees that, so long as any Lender has any commitment to extend credit hereunder, or any of the Indebtedness remains outstanding and unpaid, it will not, and, as applicable, it will not permit any of its Subsidiaries to:

8.1 Limitation on Debt. Create, incur, assume or suffer to exist any Debt, except:

(a) Indebtedness of any Credit Party to the Agent and the Lenders under this Agreement and/or the other Loan Documents;

(b) any Debt existing on the Effective Date and set forth in Schedule 8.1 attached hereto and any renewals or refinancing of such Debt (provided that (i) the aggregate principal amount of such renewed or refinanced Debt shall not exceed the aggregate principal amount of the original Debt outstanding on the Effective Date (less any principal payments and the amount of any commitment reductions made thereon on or prior to such renewal or refinancing), (ii) the renewal or refinancing of such Debt shall be on substantially the same or better terms as in effect with respect to such Debt on the Effective Date, and shall otherwise be in compliance with this Agreement, and (iii) at the time of such renewal or refinancing no Default or Event of Default has occurred and is continuing or would result from the renewal or refinancing of such Debt;

(c) any Debt of the Borrower or any of its Subsidiaries incurred to finance the acquisition of fixed or capital assets, whether pursuant to a loan or a Capitalized Lease provided that both at the time of and immediately after giving effect to the incurrence thereof (i) no Default or Event of Default shall have occurred and be continuing, and (ii) the aggregate amount of all such Debt at any one time outstanding (including, without limitation, any Debt of the type described in this clause (c) which is set forth on Schedule 8.1 hereof) shall not exceed $250,000, and any renewals or refinancings of such Debt on terms substantially the same or better than those in effect at the time of the original incurrence of such Debt;

(d) Subordinated Debt;

(e) Debt under any Hedging Transactions, provided that such transaction is entered into for risk management purposes and not for speculative purposes;

(f) Debt arising from judgments or decrees not deemed to be a Default or Event of Default under subsection (g) of Section 9.1;

(g) Debt owing to a Person that is a Credit Party, but only to the extent permitted under Section 8.7 hereof; and

(h) additional unsecured Debt not otherwise described above, provided that both at the time of and immediately after giving effect to the incurrence thereof (i) no Default or Event of Default shall have occurred and be continuing or result therefrom and (ii) the aggregate amount of all such Debt shall not exceed $100,000 at any one time outstanding.

8.2 Limitation on Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, except for:

(a) Permitted Liens;

(b) Liens securing Debt permitted by Section 8.1(c), provided that (i) such Liens are created upon fixed or capital assets acquired by the applicable Credit Party after the date of this Agreement (including without limitation by virtue of a loan or a Capitalized Lease), (ii) any such Lien is created solely for the purpose of securing indebtedness representing or incurred to finance the cost of the acquisition of the item of property subject thereto, (iii) the principal amount of the Debt secured by any such Lien shall at no time exceed 100% of the sum of the purchase price or cost of the applicable property, equipment or improvements and the related costs and charges imposed by the vendors thereof and (iv) the Lien does not cover any property other than the fixed or capital asset acquired; provided, however, that no such Lien shall be created over any owned real property of any Credit Party for which the Agent has received a Mortgage or for which such Credit Party is required to execute a Mortgage pursuant to the terms of this Agreement;

(c) Liens created pursuant to the Loan Documents; and

(d) other Liens, existing on the Effective Date, set forth on Schedule 8.2 (excluding Liens to be satisfied with the proceeds of the Advances) and renewals, refinancings and extensions thereof on substantially the same or better terms as in effect on the Effective Date and otherwise in compliance with this Agreement.

Regardless of the provisions of this Section 8.2, no Lien over the Equity Interests of the Borrower or any Subsidiary of the Borrower (except for those Liens for the benefit of the Agent and the Lenders) shall be permitted under the terms of this Agreement.

8.3 Acquisitions. Except for Permitted Acquisitions and acquisitions permitted under Section 8.7, if any, purchase or otherwise acquire or become obligated for the purchase of all or substantially all or any material portion of the assets or business interests or a division or other business unit of any Person, or any Equity Interest of any Person, or any business or going concern.

8.4 Limitation on Mergers, Dissolution or Sale of Assets. Enter into any merger or consolidation or convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets (including, without limitation, Equity Interests, receivables and leasehold interests), whether now owned or hereafter acquired or liquidate, wind up or dissolve, except:

(a) Inventory leased or sold in the ordinary course of business;

(b) obsolete, damaged, uneconomic or worn out machinery or equipment, or machinery or equipment no longer used or useful in the conduct of the applicable Credit Party's business, in each case not financed with proceeds of Term Loan Advances;

(c) Permitted Acquisitions;

(d) mergers or consolidations of any Subsidiary of the Borrower with or into the Borrower or any Guarantor so long as the Borrower or such Guarantor shall be the continuing or surviving entity; provided that at the time of each such merger or consolidation, both before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or result from such merger or consolidation;

(e) any Subsidiary of the Borrower may liquidate or dissolve into the Borrower or a Guarantor if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower, so long as no Default or Event of Default has occurred and is continuing or would result therefrom;

(f) sales or transfers, including without limitation upon voluntary liquidation from any Credit Party to the Borrower or a Guarantor, provided that the Borrower or Guarantor takes such actions as the Agent may reasonably request to ensure the perfection and priority of the Liens in favor of the Lenders over such transferred assets;

(g) Asset Sales (exclusive of asset sales permitted pursuant to all other subsections of this Section 8.4) in which the sales price is at least equal to the fair market value of the assets sold and the consideration received is cash or cash equivalents or Debt of any Credit Party being assumed by the purchaser, provided that the aggregate amount of such Asset Sales does not exceed $250,000 in any Fiscal Year and no Default or Event of Default has occurred and is continuing at the time of each such sale (both before and after giving effect to such Asset Sale), and (ii) other Asset Sales approved by the Majority Lenders in their sole discretion;

(h) the sale or disposition of Permitted Investments and other cash equivalents in the ordinary course of business for the purpose of conducting Borrower's day-to-day operations, so long as such transfer would not be prohibited by any other provision of this Agreement; and

(i) dispositions of owned or leased vehicles in the ordinary course of business.

The Lenders hereby consent and agree to the release by the Agent of any and all Liens on the property sold or otherwise disposed of in compliance with this Section 8.4.

8.5 Restricted Payments. Declare or make any distributions, dividend, payment or other distribution of assets, properties, cash, rights, obligations or securities (collectively, "Distributions") on account of any of its Equity Interests, as applicable, or purchase, redeem or otherwise acquire for value any of its Equity Interests, as applicable, or any warrants, rights or options to acquire any of its Equity Interests, now or hereafter outstanding (collectively, "Purchases"), except that:

(a) each Credit Party may pay cash Distributions to the Borrower;

(b) each Credit Party may declare and make Distributions payable in the Equity Interests of such Credit Party, provided that the issuance of such Equity Interests does not otherwise violate the terms of this Agreement and no Default or Event of Default has occurred and is continuing at the time of making such Distribution or would result from the making of such Distribution; and

(c) Borrower may repurchase stock from former employees, consultants or directors of Borrower under the terms of applicable repurchase agreements (i) in an aggregate amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000) in any fiscal year, provided that no Event of Default has occurred, is continuing or would exist after giving effect to the repurchases, or (ii) in any amount where the consideration for the repurchase is the cancellation of indebtedness owed by such former employees to Borrower regardless of whether an Event of Default exists.

8.6 Limitation on Investments, Loans and Advances. Make or allow to remain outstanding any Investment (whether such investment shall be of the character of investment in shares of stock, evidences of indebtedness or other securities or otherwise) in, or any loans or advances to, any Person other than:

(a) Permitted Investments;

(b) Investments existing on the Effective Date and listed on Schedule 8.6 hereof;

(c) sales on open account in the ordinary course of business;

(d) intercompany loans or intercompany Investments made by any Credit Party to or in any Guarantor or the Borrower; provided that, in the case of any intercompany loans or intercompany Investments made by the Borrower in any Guarantor, the aggregate amount from time to time outstanding in respect thereof shall not exceed $250,000; and provided, further, that in each case, no Default or Event of Default shall have occurred and be continuing at the time of making such intercompany loan or intercompany Investment or result from such intercompany loan or intercompany Investment being made and that any intercompany loans shall be evidenced by and funded under an Intercompany Note pledged to the Agent under the appropriate Collateral Documents;

(e) Investments in respect of Hedging Transactions provided that such transaction is entered into for risk management purposes and not for speculative purposes;

(f) loans and advances to employees, officers and directors of any Credit Party for moving, entertainment, travel and other similar expenses in the ordinary course of business not to exceed $250,000 in the aggregate at any time outstanding;

(g) Permitted Acquisitions and Investments in any Person acquired pursuant to a Permitted Acquisition;

(h) Investments constituting deposits made in connection with the purchase of goods or services in the ordinary course of business in an aggregate amount for such deposits not to exceed $100,000 at any one time outstanding;

(i) joint ventures or strategic alliances in the ordinary course of Borrower's business consisting of the non-exclusive licensing of technology, the development of technology or the providing of technical support, provided that any cash Investments by Borrower do not exceed Two Hundred Fifty Thousand Dollars ($250,000) in the aggregate in any Fiscal Year; and

(j) other Investments not described above provided that both at the time of and immediately after giving effect to any such Investment (i) no Default or Event of Default shall have occurred and be continuing or shall result from the making of such Investment and (ii) the aggregate amount of all such Investments shall not exceed $100,000 at any time outstanding.

In valuing any Investments for the purpose of applying the limitations set forth in this Section 8.6 (except as otherwise expressly provided herein), such Investment shall be taken at the original cost thereof, without allowance for any subsequent write-offs or appreciation or depreciation, but less any amount repaid or recovered on account of capital or principal.

8.7 Transactions with Affiliates. Except as set forth in Schedule 8.7, enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of property or the rendering of any service, with any Affiliates of the Credit Parties except: (a) transactions with Affiliates that are the Borrower or Guarantors; (b) transactions otherwise permitted under this Agreement; and (c) transactions in the ordinary course of a Credit Party's business and upon fair and reasonable terms no less favorable to such Credit Party than it would obtain in a comparable arms length transaction from unrelated third parties.

8.8 Sale-Leaseback Transactions. Enter into any arrangement with any Person providing for the leasing by a Credit Party of real or personal property which has been or is to be sold or transferred by such Credit Party to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of such Credit Party, as the case may be, provided that if, at the time that a Credit Party acquires fixed or capital assets, such Credit Party intends to sell to and then lease such assets from another Person pursuant to a financing arrangement that would be permitted under Section 8.1(c), such transaction will not constitute a violation of this Section 8.8 so long as such transaction is consummated within sixty (60) days following the acquisition of such assets.

8.9 Limitations on Other Restrictions. Except for this Agreement or any other Loan Document, enter into any agreement, document or instrument which would (i) restrict the ability of any Subsidiary of the Borrower to

pay or make dividends or distributions in cash or kind to the Borrower or any Guarantor, to make loans, advances or other payments of whatever nature to any Credit Party, or to make transfers or distributions of all or any part of its assets to any Credit Party; or (ii) restrict or prevent any Credit Party from granting the Agent on behalf of Lenders Liens upon, security interests in and pledges of their respective assets, except to the extent such restrictions exist in documents creating Liens permitted by Section 9.2(b) hereunder.

8.10 Prepayment of Debt. Make any prepayment (whether optional or mandatory), repurchase, redemption, defeasance or any other payment in respect of any Subordinated Debt except to the extent permitted under the applicable Subordinated Debt Documents and Subordination Agreements.

8.11 Amendment of Subordinated Debt Documents. Amend, modify or otherwise alter (or suffer to be amended, modified or altered) the Subordinated Debt Documents except as permitted in the applicable Subordinated Debt Documents and Subordination Agreements, or if no such restrictions exist in the applicable Subordinated Debt Documents or Subordination Agreements, without the prior written consent of the Agent.

8.12 Modification of Certain Agreements. Make, permit or consent to any amendment or other modification to the constitutional documents of any Credit Party or any Material Contract except to the extent that any such amendment or modification (i) does not violate the terms and conditions of this Agreement or any of the other Loan Documents, (ii) does not materially adversely affect the interest of the Lenders as creditors and/or secured parties under any Loan Document and (iii) could not reasonably be expected to have a Material Adverse Effect.

8.13 Management Fees. Pay or otherwise advance, directly or indirectly, any management, consulting or other fees to an Affiliate.

8.14 Fiscal Year. Permit the Fiscal Year of any Credit Party to end on a day other than December 31.

9. DEFAULTS.

9.1 Events of Default. The occurrence of any of the following events shall constitute an Event of Default hereunder:

(a) non-payment when due of (i) the principal or interest on the Indebtedness under the Revolving Credit (including the Swing Line) and any of the Term Loans or (ii) any Reimbursement Obligation or (iii) any Fees;

(b) non-payment of any other amounts due and owing by the Borrower under this Agreement or by any Credit Party under any of the other Loan Documents to which it is a party, other than as set forth in subsection (a) above;

(c) default in the observance or performance of any of the conditions, covenants or agreements of the Borrower set forth in Sections 7.1, 7.2, 7.4(a) and (e), 7.5, 7.6, 7.7, 7.9, 7.13, 7.14, 7.15, 7.16, 7.17, 7.18, 7.19 or Article 8 in its entirety, provided that an Event of Default arising from a breach of Sections 7.1 or 7.2 shall be deemed to have been cured upon delivery of the required item; and provided further that any Event of Default arising solely due to a breach of Section 7.7(a) shall be deemed cured upon the earlier of (x) the giving of the notice required by Section 7.7(a) and (y) the date upon which the Default or Event of Default giving rise to the notice obligation is cured or waived;

(d) default in the observance or performance of any of the other conditions, covenants or agreements set forth in this Agreement or any of the other Loan Documents by any Credit Party and continuance thereof for a period of ten (10) consecutive days;

(e) any representation or warranty made by any Credit Party herein or in any certificate, instrument or other document submitted pursuant hereto proves untrue or misleading in any material adverse respect when made;

(f) (i) default by any Credit Party in the payment of any indebtedness for borrowed money, whether under a direct obligation or guaranty (other than Indebtedness hereunder) of any Credit Party in excess of Two Hundred Fifty Thousand Dollars ($250,000) (or the equivalent thereof in any currency other than Dollars) individually or in the aggregate when due and continuance thereof beyond any applicable period of cure and or (ii) failure to comply with the terms of any other obligation of any Credit Party with respect to any indebtedness for borrowed money (other than Indebtedness hereunder) in excess of Two Hundred Fifty Thousand Dollars ($250,000) (or the equivalent thereof in any currency other than Dollars) individually or in the aggregate, which continues beyond any applicable period of cure and which would permit the holder or holders thereto to accelerate such other indebtedness for borrowed money, or require the prepayment, repurchase, redemption or defeasance of such indebtedness;

(g) the rendering of any judgment(s) (not covered by adequate insurance from a solvent carrier which is defending such action without reservation of rights) for the payment of money in excess of the sum of Two Hundred Fifty Thousand Dollars ($250,000) (or the equivalent thereof in any currency other than Dollars) individually or in the aggregate against any Credit Party, and such judgments shall remain unpaid, unvacated, unbonded or unstayed by appeal or otherwise for a period of thirty (30) consecutive days from the date of its entry;

(h) the occurrence of (i) a "reportable event", as defined in ERISA, which is determined by the PBGC to constitute grounds for a distress termination of any Pension Plan subject to Title IV of ERISA maintained or contributed to by or on behalf of any Credit Party for the benefit of any of its employees or for the appointment by the appropriate United States District Court of a trustee to administer such Pension Plan and such reportable event is not corrected and such determination is not revoked within sixty (60) days after notice thereof has been given to the plan administrator of such Pension Plan (without limiting any of the Agent's or any Lender's other rights or remedies hereunder), or (ii) the termination or the institution of proceedings by the PBGC to terminate any such Pension Plan, or (iii) the appointment of a trustee by the appropriate United States District Court to administer any such Pension Plan, or (iv) the reorganization (within the meaning of Section 4241 of ERISA) or insolvency (within the meaning of Section 4245 of ERISA) of any Multiemployer Plan, or receipt of notice from any Multiemployer Plan that it is in reorganization or insolvency, or the complete or partial withdrawal by any Credit Party from any Multiemployer Plan, which in the case of any of the foregoing, could reasonably be expected to have a Material Adverse Effect;

(i) except as expressly permitted under this Agreement, any Credit Party shall be dissolved (other than a dissolution of a Subsidiary of the Borrower which is not a Guarantor or the Borrower) or liquidated (or any judgment, order or decree therefor shall be entered) except as otherwise permitted herein; or if a creditors' committee shall have been appointed for the business of any Credit Party; or if any Credit Party shall have made a general assignment for the benefit of creditors or shall have been adjudicated bankrupt and if not an adjudication based on a filing by a Credit Party, it shall not have been dismissed within thirty (30) days, or shall have filed a voluntary petition in bankruptcy or for reorganization or to effect a plan or arrangement with creditors or shall fail to pay its debts generally as such debts become due in the ordinary course of business (except as contested in good faith and for which adequate reserves are made in such party's financial statements); or shall file an answer to a creditor's petition or other petition filed against it, admitting the material allegations thereof for an adjudication in bankruptcy or for reorganization; or shall have applied for or permitted the appointment of a receiver or trustee or custodian for any of its property or assets; or such receiver, trustee or custodian shall have been appointed for any of its property or assets (otherwise than upon application or consent of a Credit Party) and shall not have been removed within thirty (30) days; or if an order shall be entered approving any petition for reorganization of any Credit Party and shall not have been reversed or dismissed within thirty (30) days;

(j) a Change of Control;

(k) the validity, binding effect or enforceability of any subordination provisions relating to any Subordinated Debt shall be contested by any Person party thereto (other than any Lender, the Agent, Issuing Lender or Swing Line Lender), or such subordination provisions shall fail to be enforceable by the Agent and the Lenders in accordance with the terms thereof, or the Indebtedness shall for any reason not have the priority contemplated by this Agreement or such subordination provisions;

(l) any Loan Document shall at any time for any reason cease to be in full force and effect (other than in accordance with the terms thereof or the terms of any other Loan Document), as applicable, or the validity, binding effect or enforceability thereof shall be contested by any party thereto (other than any Lender, the Agent, Issuing Lender or Swing Line Lender), or any Person shall deny that it has any or further liability or obligation under any Loan Document, or any such Loan Document shall be terminated (other than in accordance with the terms thereof or the terms of any other Loan Document), invalidated, revoked or set aside or in any way cease to give or provide to the Lenders and the Agent the benefits purported to be created thereby, or any Loan Document purporting to grant a Lien to secure any Indebtedness shall, at any time after the delivery of such Loan Document, fail to create a valid and enforceable Lien on any Collateral purported to be covered thereby or such Lien shall fail to cease to be a perfected Lien with the priority required in the relevant Loan Document;

(m) the issuance by the Borrower of a Revocation Order; or

(n) the occurrence of any circumstance or circumstances that could reasonably be expected to have a Material Adverse Effect, as determined by the Majority Lenders.

9.2 Exercise of Remedies. If an Event of Default has occurred and is continuing hereunder: (a) the Agent may, and shall, upon being directed to do so by the Majority Lenders, declare the Commitments terminated; (b) the Agent may, and shall, upon being directed to do so by the Majority Lenders, declare the entire unpaid principal Indebtedness, including the Notes, immediately due and payable, without presentment, notice or demand, all of which are hereby expressly waived by the Borrower; (c) upon the occurrence of any Event of Default specified in Section 9.1(i) and notwithstanding the lack of any declaration by the Agent under preceding clauses (a) or (b), the entire unpaid principal Indebtedness shall become automatically and immediately due and payable, and the Commitments shall be automatically and immediately terminated; (d) the Agent shall, upon being directed to do so by the Majority Revolving Credit Lenders, demand immediate delivery of cash collateral, and the Borrower agrees to deliver such cash collateral upon demand, in an amount equal to 105% the maximum amount that may be available to be drawn at any time prior to the stated expiry of all outstanding Letters of Credit, for deposit into an account controlled by the Agent; (e) the Agent may, and shall, upon being directed to do so by the Majority Lenders, notify the Borrower or any Credit Party that interest shall be payable on demand on all Indebtedness (other than Revolving Credit Advances, Swing Line Advances and Term Loan Advances with respect to which Sections 2.6 and 4.7 hereof shall govern) owing from time to time to the Agent or any Lender, at a per annum rate equal to the then applicable Base Rate plus five percent (5%); and (f) the Agent may, and shall, upon being directed to do so by the Majority Lenders or the Lenders, as applicable (subject to the terms hereof), exercise any remedy permitted by this Agreement, the other Loan Documents or law.

9.3 Rights Cumulative. No delay or failure of the Agent and/or Lenders in exercising any right, power or privilege hereunder shall affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof, or the exercise of any other power, right or privilege. The rights of the Agent and Lenders under this Agreement are cumulative and not exclusive of any right or remedies which Lenders would otherwise have.

9.4 Waiver by the Borrower of Certain Laws. To the extent permitted by applicable law, the Borrower hereby agrees to waive, and does hereby absolutely and irrevocably waive and relinquish the benefit and advantage of any valuation, stay, appraisement, extension or redemption laws now existing or which may hereafter exist, which, but for this provision, might be applicable to any sale made under the judgment, order or decree of any court, on any claim for interest on the Notes, or any security interest or mortgage contemplated by or granted under or in connection with this Agreement. These waivers have been voluntarily given, with full knowledge of the consequences thereof.

9.5 Waiver of Defaults. No Event of Default shall be waived by the Lenders except in a writing signed by an officer of the Agent in accordance with Section 13.9 hereof. No single or partial exercise of any right, power or privilege hereunder, nor any delay in the exercise thereof, shall preclude other or further exercise of their rights by the Agent or the Lenders. No waiver of any Event of Default shall extend to any other or further Event of Default. No forbearance on the part of the Agent or the Lenders in enforcing any of their rights shall constitute a waiver of any of their rights. The Borrower expressly agrees that this Section may not be waived or modified by the Lenders or the Agent by course of performance, estoppel or otherwise.

9.6 Set Off. Upon the occurrence and during the continuance of any Event of Default, each Lender may at any time and from time to time, without notice to the Borrower but subject to the provisions of Section 10.3 hereof (any requirement for such notice being expressly waived by the Borrower), setoff and apply against any and all of the obligations of the Borrower now or hereafter existing under this Agreement, whether owing to such Lender, any Affiliate of such Lender or any other Lender or the Agent, any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender to or for the credit or the account of the Borrower and any property of the Borrower from time to time in possession of such Lender, irrespective of whether or not such deposits held or indebtedness owing by such Lender may be contingent and unmatured and regardless of whether any Collateral then held by the Agent or any Lender is adequate to cover the Indebtedness. Promptly following any such setoff, such Lender shall give written notice to the Agent and the Borrower of the occurrence thereof. The Borrower hereby grants to the Lenders and the Agent a lien on and security interest in all such deposits, indebtedness and property as collateral security for the payment and performance of all of the obligations of the Borrower under this Agreement. The rights of each Lender under this Section 9.6 are in addition to the other rights and remedies (including, without limitation, other rights of setoff) which such Lender may have.

10. PAYMENTS, RECOVERIES AND COLLECTIONS.

10.1 Payment Procedure.

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise provided herein, all payments made by the Borrower of principal, interest or fees hereunder shall be made without setoff or counterclaim on the date specified for payment under this Agreement and must be received by the Agent not later than 1:00 p.m. (Detroit time) on the date such payment is required or intended to be made in Dollars in immediately available funds to the Agent at the Agent's office located at 411 West Lafayette, 7th Floor, MC 3289, Detroit, Michigan 48226, for the ratable benefit of the Revolving Credit Lenders in the case of payments in respect of the Revolving Credit and any Letter of Credit Obligations, for the ratable benefit of the Term Loan A Lenders in the case of payments in respect of Term Loan A, for the ratable benefit of the Term Loan B Lenders in case of payments in respect of Term Loan B and for the ratable benefit of the Term Loan C Lenders in case of payments in respect of Term Loan C. Any payment received by the Agent after 1:00 p.m. (Detroit time) shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. Upon receipt of each such payment, the Agent shall make prompt payment to each applicable Lender, or, in respect of Eurodollar-based Advances, such Lender's Eurodollar Lending Office, in like funds and currencies, of all amounts received by it for the account of such Lender.

(b) Unless the Agent shall have been notified in writing by the Borrower at least two (2) Business Days prior to the date on which any payment to be made by the Borrower is due that the Borrower does not intend to remit such payment, the Agent may, in its sole discretion and without obligation to do so, assume that the Borrower has remitted such payment when so due and the Agent may, in reliance upon such assumption, make available to each Revolving Credit Lender or Term Loan Lender, as the case may be, on such payment date an amount equal to such Lender's share of such assumed payment. If the Borrower has not in fact remitted such payment to the Agent, each Lender shall forthwith on demand repay to the Agent the amount of such assumed payment made available or transferred to such Lender, together with the interest thereon, in respect of each day from and including the date such amount was made available by the Agent to such Lender to the date such amount is repaid to the Agent at a rate per annum equal to the Federal Funds Effective Rate for the first two (2) Business Days that such amount remains unpaid, and thereafter at a rate of interest then applicable to such Revolving Credit Advances.

(c) Subject to the definition of "Interest Period" in Section 1 of this Agreement, whenever any payment to be made hereunder shall otherwise be due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing interest, if any, in connection with such payment.

(d) All payments to be made by the Borrower under this Agreement or any of the Notes (including without limitation payments under the Swing Line and/or Swing Line Note) shall be made without setoff or counterclaim, as aforesaid, and, subject to full compliance by each Lender (and each assignee and participant pursuant to Section 13.7) with Section 13.12, without deduction for or on account of any present or future

withholding or other taxes of any nature imposed by any Governmental Authority or of any political subdivision thereof or any federation or organization of which such Governmental Authority may at the time of payment be a member (other than any Excluded Taxes), unless the Borrower is compelled by law to make payment subject to such tax. In such event, the Borrower shall:

(i) pay to the Agent for the Agent's own account and/or, as the case may be, for the account of the Lenders such additional amounts as may be necessary to ensure that the Agent and/or such Lender or Lenders (including the Swing Line Lender) receive a net amount equal to the full amount which would have been receivable had payment not been made subject to such tax; and

(ii) remit such tax to the relevant taxing authorities according to applicable law, and send to the Agent or the applicable Lender or Lenders (including the Swing Line Lender), as the case may be, such certificates or certified copy receipts as the Agent or such Lender or Lenders shall reasonably require as proof of the payment by the Borrower of any such taxes payable by the Borrower.

As used herein, the terms "tax", "taxes" and "taxation" include all taxes, levies, imposts, duties, fees, deductions and withholdings or similar charges together with interest (and any taxes payable upon the amounts paid or payable pursuant to this Section 10.1(d)) thereon.

The Borrower shall be reimbursed by the applicable Lender for any payment made by the Borrower under this Section 10.1(d) if the applicable Lender is not in compliance with its obligations under Section 13.12 at the time of the Borrower's payment.

10.2 Application of Proceeds of Collateral. Notwithstanding anything to the contrary in this Agreement, in the case of any Event of Default under Section 9.1(i), immediately following the occurrence thereof, and in the case of any other Event of Default: (a) upon the termination of the Commitments, (b) the acceleration of any Indebtedness arising under this Agreement, (c) at the Agent's option, or (d) upon the request of the Majority Lenders after the commencement of any remedies hereunder, the Agent shall apply the proceeds of any Collateral, together with any offsets, voluntary payments by any Credit Party or others and any other sums received or collected in respect of the Indebtedness first, to pay all incurred and unpaid fees and expenses of the Agent under the Loan Documents and any protective advances made by the Agent with respect to the Collateral under or pursuant to the terms of any Loan Document, next, to pay any fees and expenses owed to the Issuing Lender hereunder, next, to the Indebtedness under the Revolving Credit (including the Swing Line and any Reimbursement Obligations) and Term Loan A, Term Loan B and Term Loan C, on a pro rata basis, next to any obligations owing by any Credit Party under any Hedging Agreements on a pro rata basis, next, to any other Indebtedness on a pro rata basis, and then, if there is any excess, to the Credit Parties, as the case may be.

10.3 Pro-rata Recovery. If any Lender shall obtain any payment or other recovery (whether voluntary, involuntary, by application of setoff or otherwise) on account of principal of, or interest on, any of the Advances made by it, or the participations in Letter of Credit Obligations or Swing Line Advances held by it in excess of its pro rata share of payments then or thereafter obtained by all Lenders upon principal of and interest on all such Indebtedness, such Lender shall purchase from the other Lenders such participations in the Revolving Credit, Term Loan A, Term Loan B, Term Loan C, and/or the Letter of Credit Obligation held by them as shall be necessary to cause such purchasing Lender to share the excess payment or other recovery ratably in accordance with the applicable Percentages of the Lenders; provided, however, that if all or any portion of the excess payment or other recovery is thereafter recovered from such purchasing holder, the purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest.

10.4 Treatment of a Defaulting Lender; Reallocation of Defaulting Lender's Fronting Exposure.

(a) The obligation of any Lender to make any Advance hereunder shall not be affected by the failure of any other Lender to make any Advance under this Agreement, and no Lender shall have any liability to the Borrower or any of their Subsidiaries, the Agent, any other Lender, or any other Person for another Lender's failure to make any loan or Advance hereunder.

(b) If any Lender shall become a Defaulting Lender, then such Defaulting Lender's right to vote in respect of any amendment, consent or waiver of the terms of this Agreement or such other Loan Documents, or to direct or approve any action or inaction by the Agent shall be subject to the restrictions set forth in Section 13.9.

(c) To the extent and for so long as a Lender remains a Defaulting Lender and notwithstanding the provisions of Section 10.3 hereof, the Agent shall be entitled, without limitation, (i) to withhold or setoff and to apply in satisfaction of those obligations for payment (and any related interest) in respect of which the Defaulting Lender shall be delinquent or otherwise in default to the Agent or any Lender (or to hold as cash collateral for such delinquent obligations or any future defaults) the amounts otherwise payable to such Defaulting Lender under this Agreement or any other Loan Document, (ii) if the amount of Advances made by such Defaulting Lender is less than its Percentage requires, apply payments of principal made by the Borrower amongst the Non-Defaulting Lenders on a pro rata basis until all outstanding Advances are held by all Lenders according to their respective Percentages and (iii) to bring an action or other proceeding, in law or equity, against such Defaulting Lender in a court of competent jurisdiction to recover the delinquent amounts, and any related interest. Performance by the Borrower of their respective obligations under this Agreement and the other Loan Documents shall not be excused or otherwise modified as a result of the operation of this Section, except to the extent expressly set forth herein. Furthermore, the rights and remedies of the Borrower, the Agent, the Issuing Lender, the Swing Line Lender and the other Lenders against a Defaulting Lender under this section shall be in addition to any other rights and remedies such parties may have against the Defaulting Lender under this Agreement or any of the other Loan Documents, applicable law or otherwise, and the Borrower waive no rights or remedies against any Defaulting Lender.

(d) If any Lender shall become a Defaulting Lender, then, for so long as such Lender remains a Defaulting Lender, any Fronting Exposure shall be reallocated by the Agent at the request of the Swing Line Lender and/or the Issuing Lender among the Non-Defaulting Lenders in accordance with their respective Percentages of the Revolving Credit, but only to the extent that the sum of the aggregate principal amount of all Revolving Credit Advances made by each Non-Defaulting Lender, plus such Non-Defaulting Lender's Percentage of the aggregate outstanding principal amount of Swing Line Advances and Letter of Credit Obligations prior to giving effect to such reallocation plus such Non-Defaulting Lender's Percentage of the Fronting Exposure to be reallocated does not exceed such Non-Defaulting Lender's Percentage of the Revolving Credit Aggregate Commitment, and only so long as no Default or Event of Default has occurred and is continuing on the date of such reallocation.

11. CHANGES IN LAW OR CIRCUMSTANCES; INCREASED COSTS.

11.1 Reimbursement of Prepayment Costs. If (i) the Borrower makes any payment of principal with respect to any Eurodollar-based Advance or Quoted Rate Advance on any day other than the last day of the Interest Period applicable thereto (whether voluntarily, pursuant to any mandatory provisions hereof, by acceleration, or otherwise); (ii) the Borrower converts or refunds (or attempts to convert or refund) any such Advance on any day other than the last day of the Interest Period applicable thereto (except as described in Section 2.5(e)); (iii) the Borrower fails to borrow, refund or convert any Eurodollar-based Advance or Quoted Rate Advance after notice has been given by the Borrower to the Agent in accordance with the terms hereof requesting such Advance; or (iv) or if the Borrower fails to make any payment of principal in respect of a Eurodollar-based Advance or Quoted Rate Advance when due, the Borrower shall reimburse the Agent for itself and/or on behalf of any Lender, as the case may be, within ten (10) Business Days of written demand therefor for any resulting loss, cost or expense incurred (excluding the loss of any Applicable Margin) by the Agent and Lenders, as the case may be, as a result thereof, including, without limitation, any such loss, cost or expense incurred in obtaining, liquidating, employing or redeploying deposits from third parties, whether or not the Agent and Lenders, as the case may be, shall have funded or committed to fund such Advance. The amount payable hereunder by the Borrower to the Agent for itself and/or on behalf of any Lender, as the case may be, shall be deemed to equal an amount equal to the excess, if any, of (a) the amount of interest which would have accrued on the amount so prepaid, or not so borrowed, refunded or converted, for the period from the date of such prepayment or of such failure to borrow, refund or convert, through the last day of the relevant Interest Period, at the applicable rate of interest for said Advance(s) provided under this Agreement, over (b) the amount of interest (as reasonably determined by the Agent and Lenders, as the case may be) which would have accrued to the Agent and Lenders, as the case may be, on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank eurocurrency market. Calculation of any amounts payable to any Lender under this paragraph shall be made as though such Lender shall have actually funded or committed to fund the relevant Advance through the purchase of an underlying deposit in an amount equal to the

amount of such Advance and having a maturity comparable to the relevant Interest Period; provided, however, that any Lender may fund any Eurodollar-based Advance or Quoted Rate Advance, as the case may be, in any manner it deems fit and the foregoing assumptions shall be utilized only for the purpose of the calculation of amounts payable under this paragraph. Upon the written request of the Borrower, the Agent and Lenders shall deliver to the Borrower a certificate setting forth the basis for determining such losses, costs and expenses, which certificate shall be conclusively presumed correct, absent manifest error.

11.2 Eurodollar Lending Office. For any Eurodollar Advance, if the Agent or a Lender, as applicable, shall designate a Eurodollar Lending Office which maintains books separate from those of the rest of the Agent or such Lender, the Agent or such Lender, as the case may be, shall have the option of maintaining and carrying the relevant Advance on the books of such Eurodollar Lending Office.

11.3 Circumstances Affecting LIBOR Rate Availability. If the Agent or the Majority Lenders (after consultation with the Agent) shall determine in good faith that, by reason of circumstances affecting the foreign exchange and interbank markets generally, deposits in eurodollars in the applicable amounts are not being offered to the Agent or such Lenders at the applicable LIBOR Rate, then the Agent shall forthwith give notice thereof to the Borrower. Thereafter, until the Agent notifies the Borrower that such circumstances no longer exist, (i) the obligation of Lenders to make Advances which bear interest at or by reference to the LIBOR Rate, and the right of the Borrower to convert an Advance to or refund an Advance as an Advance which bear interest at or by reference to the LIBOR Rate shall be suspended, (ii) effective upon the last day of each Eurodollar-Interest Period related to any existing Eurodollar-based Advance, each such Eurodollar-based Advance shall automatically be converted into an Advance which bears interest at or by reference to the Base Rate (without regard to the satisfaction of any conditions to conversion contained elsewhere herein), and (iii) effective immediately following such notice, each Advance which bears interest at or by reference to the Daily Adjusting LIBOR Rate shall automatically be converted into an Advance which bears interest at or by reference to the Base Rate (without regard to the satisfaction of any conditions to conversion contained elsewhere herein).

11.4 Laws Affecting LIBOR Rate Availability. If any Change in Law shall make it unlawful or impossible for any of the Lenders (or any of their respective Eurodollar Lending Offices) to honor its obligations hereunder to make or maintain any Advance which bears interest at or by reference to the LIBOR Rate, such Lender shall forthwith give notice thereof to the Borrower and to the Agent. Thereafter, (a) the obligations of the applicable Lenders to make Advances which bear interest at or by reference to the LIBOR Rate and the right of the Borrower to convert an Advance into or refund an Advance as an Advance which bears interest at or by reference to the LIBOR Rate shall be suspended and thereafter only the Base Rate shall be available, and (b) if any of the Lenders may not lawfully continue to maintain an Advance which bears interest at or by reference to the LIBOR Rate, the applicable Advance shall immediately be converted to an Advance which bears interest at or by reference to the Base Rate.

11.5 Increased Cost of Advances Carried at the LIBOR Rate. If any Change in Law shall:

(a) subject any of the Lenders (or any of their respective Eurodollar Lending Offices) to any tax, duty or other charge with respect to any Advance (except for any withholding taxes which are covered by Section 10.1(d) hereof) or shall change the basis of taxation of payments to any of the Lenders (or any of their respective Eurodollar Lending Offices) of the principal of or interest on any Advance or any other amounts due under this Agreement in respect thereof (except for changes in any Excluded Taxes); or

(b) impose, modify or deem applicable any reserve (including, without limitation, any imposed by the Board of Governors of the Federal Reserve System), special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any of the Lenders (or any of their respective Eurodollar Lending Offices) or shall impose on any of the Lenders (or any of their respective Eurodollar Lending Offices) or the foreign exchange and interbank markets any other condition affecting any Advance;

and the result of any of the foregoing matters is to increase the costs to any of the Lenders of maintaining any part of the Indebtedness hereunder as an Advance which bears interest at or by reference to the LIBOR Rate or to reduce the amount of any sum received or receivable by any of the Lenders under this Agreement in respect of an Advance which bears interest at or by reference to the LIBOR Rate, then such Lender shall promptly notify the Agent, and the Agent shall promptly notify the Borrower of such fact and demand compensation therefor and, within ten (10)

Business Days after such notice, the Borrower agrees to pay to such Lender or Lenders such additional amount or amounts as will compensate such Lender or Lenders for such increased cost or reduction, provided that each Lender agrees to take any reasonable action, to the extent such action could be taken without cost or administrative or other burden or restriction to such Lender, to mitigate or eliminate such cost or reduction, within a reasonable time after becoming aware of the foregoing matters. The Agent will promptly notify the Borrower of any event of which it has knowledge which will entitle Lenders to compensation pursuant to this Section, or which will cause the Borrower to incur additional liability under Section 11.1 hereof, provided that the Agent shall incur no liability whatsoever to the Lenders or the Borrower in the event it fails to do so. A certificate of the Agent (or such Lender, if applicable) setting forth the basis for determining such additional amount or amounts necessary to compensate such Lender or Lenders shall accompany such demand and shall be conclusively presumed to be correct absent manifest error.

11.6 Capital Adequacy and Other Increased Costs. If any Change in Law affects or would affect the amount of capital required to be maintained by such Lender or the Agent (or any corporation controlling such Lender or the Agent) and such Lender or the Agent, as the case may be, determines that the amount of such capital is increased by, or based upon the existence of such Lender's or the Agent's obligations or Advances hereunder, the effect of such Change in Law is to result in such an increase, and such increase has the effect of reducing the rate of return on such Lender's or the Agent's (or such controlling corporation's) capital as a consequence of such obligations or Advances hereunder to a level below that which such Lender or the Agent (or such controlling corporation) could have achieved but for such circumstances (taking into consideration its policies with respect to capital adequacy) by an amount deemed by such Lender or the Agent to be material (collectively, "Increased Costs"), then the Agent or such Lender shall notify the Borrower, and thereafter the Borrower shall pay to such Lender or the Agent, as the case may be, within ten (10) Business Days of written demand therefor from such Lender or the Agent, additional amounts sufficient to compensate such Lender or the Agent (or such controlling corporation) for any increase in the amount of capital and reduced rate of return which such Lender or the Agent reasonably determines to be allocable to the existence of such Lender's or the Agent's obligations or Advances hereunder. A statement setting forth the amount of such compensation, the methodology for the calculation and the calculation thereof which shall also be prepared in good faith and in reasonable detail by such Lender or the Agent, as the case may be, shall be submitted by such Lender or by the Agent to the Borrower, reasonably promptly after becoming aware of any event described in this Section 11.6 and shall be conclusively presumed to be correct, absent manifest error.

11.7 Right of Lenders to Fund through Branches and Affiliates. Each Lender (including without limitation the Swing Line Lender) may, if it so elects, fulfill its commitment as to any Advance hereunder by designating a branch or Affiliate of such Lender to make such Advance; provided that (a) such Lender shall remain solely responsible for the performances of its obligations hereunder and (b) no such designation shall result in any material increased costs to the Borrower.

12. AGENT.

12.1 Appointment of the Agent. Each Lender and the holder of each Note (if issued) irrevocably appoints and authorizes the Agent to act on behalf of such Lender or holder under this Agreement and the other Loan Documents and to exercise such powers hereunder and thereunder as are specifically delegated to the Agent by the terms hereof and thereof, together with such powers as may be reasonably incidental thereto, including without limitation the power to execute or authorize the execution of financing or similar statements or notices, and other documents. In performing its functions and duties under this Agreement, the Agent shall act solely as agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for any Credit Party.

12.2 Deposit Account with the Agent or any Lender. The Borrower authorizes the Agent and each Lender, in the Agent's or such Lender's sole discretion, upon notice to the Borrower to charge its general deposit account(s), if any, maintained with the Agent or such Lender for the amount of any principal, interest, or other amounts or costs due under this Agreement when the same become due and payable under the terms of this Agreement or the Notes.

12.3 Scope of the Agent's Duties. The Agent shall have no duties or responsibilities except those expressly set forth herein, and shall not, by reason of this Agreement or otherwise, have a fiduciary relationship with

any Lender (and no implied covenants or other obligations shall be read into this Agreement against the Agent). None of the Agent, its Affiliates nor any of their respective directors, officers, employees or agents shall be liable to any Lender for any action taken or omitted to be taken by it or them under this Agreement or any document executed pursuant hereto, or in connection herewith or therewith with the consent or at the request of the Majority Lenders (or all of the Lenders for those acts requiring consent of all of the Lenders) (except for its or their own willful misconduct or gross negligence), nor be responsible for or have any duties to ascertain, inquire into or verify (a) any recitals or warranties made by the Credit Parties or any Affiliate of the Credit Parties, or any officer thereof contained herein or therein, (b) the effectiveness, enforceability, validity or due execution of this Agreement or any document executed pursuant hereto or any security thereunder, (c) the performance by the Credit Parties of their respective obligations hereunder or thereunder, or (d) the satisfaction of any condition hereunder or thereunder, including without limitation in connection with the making of any Advance or the issuance of any Letter of Credit. The Agent and its Affiliates shall be entitled to rely upon any certificate, notice, document or other communication (including any cable, telegraph, telex, facsimile transmission or oral communication) believed by it to be genuine and correct and to have been sent or given by or on behalf of a proper person. The Agent may treat the payee of any Note as the holder thereof. The Agent may employ agents and may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable to the Lenders (except as to money or property received by them or their authorized agents), for the negligence or misconduct of any such agent selected by it with reasonable care or for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

12.4 Successor Agent. The Agent may resign as such at any time upon at least thirty (30) days prior notice to the Borrower and each of the Lenders. If the Agent at any time shall resign or if the office of the Agent shall become vacant for any other reason, Majority Lenders shall, by written instrument, appoint successor agent(s) ("Successor Agent") satisfactory to such Majority Lenders and, so long as no Default or Event of Default has occurred and is continuing, to the Borrower (which approval shall not be unreasonably withheld or delayed); provided, however that any such successor Agent shall be a bank or a trust company or other financial institution which maintains an office in the United States, or a commercial bank organized under the laws of the United States or any state thereof, or any Affiliate of such bank or trust company or other financial institution which is engaged in the banking business, and shall have a combined capital and surplus of at least $500,000,000. Such Successor Agent shall thereupon become the Agent hereunder, as applicable, and the Agent shall deliver or cause to be delivered to any successor agent such documents of transfer and assignment as such Successor Agent may reasonably request. If a Successor Agent is not so appointed or does not accept such appointment before the resigning Agent's resignation becomes effective, the resigning Agent may appoint a temporary successor to act until such appointment by the Majority Lenders and, if applicable, the Borrower, is made and accepted, or if no such temporary successor is appointed as provided above by the resigning Agent, the Majority Lenders shall thereafter perform all of the duties of the resigning Agent hereunder until such appointment by the Majority Lenders and, if applicable, the Borrower, is made and accepted. Such Successor Agent shall succeed to all of the rights and obligations of the resigning Agent as if originally named. The resigning Agent shall duly assign, transfer and deliver to such Successor Agent all moneys at the time held by the resigning Agent hereunder after deducting therefrom its expenses for which it is entitled to be reimbursed hereunder. Upon such succession of any such Successor Agent, the resigning Agent shall be discharged from its duties and obligations, in its capacity as the Agent hereunder, except for its gross negligence or willful misconduct arising prior to its resignation hereunder, and the provisions of this Article 12 shall continue in effect for the benefit of the resigning Agent in respect of any actions taken or omitted to be taken by it while it was acting as the Agent.

12.5 Credit Decisions. Each Lender acknowledges that it has, independently of the Agent and each other Lender and based on the financial statements of the Borrower and such other documents, information and investigations as it has deemed appropriate, made its own credit decision to extend credit hereunder from time to time. Each Lender also acknowledges that it will, independently of the Agent and each other Lender and based on such other documents, information and investigations as it shall deem appropriate at any time, continue to make its own credit decisions as to exercising or not exercising from time to time any rights and privileges available to it under this Agreement, any Loan Document or any other document executed pursuant hereto.

12.6 Authority of the Agent to Enforce This Agreement. Each Lender, subject to the terms and conditions of this Agreement, grants the Agent full power and authority as attorney-in-fact to institute and maintain actions, suits or proceedings for the collection and enforcement of any Indebtedness outstanding under this

Agreement or any other Loan Document and to file such proofs of debt or other documents as may be necessary to have the claims of the Lenders allowed in any proceeding relative to any Credit Party, or their respective creditors or affecting their respective properties, and to take such other actions which the Agent considers to be necessary or desirable for the protection, collection and enforcement of the Notes, this Agreement or the other Loan Documents.

12.7 Indemnification of the Agent. The Lenders agree (which agreement shall survive the expiration or termination of this Agreement) to indemnify the Agent and its Affiliates (to the extent not reimbursed by the Borrower, but without limiting any obligation of the Borrower to make such reimbursement), ratably according to their respective Weighted Percentages, from and against any and all claims, damages, losses, liabilities, costs or expenses of any kind or nature whatsoever (including, without limitation, reasonable fees and expenses of house and outside counsel) which may be imposed on, incurred by, or asserted against the Agent and its Affiliates in any way relating to or arising out of this Agreement, any of the other Loan Documents or the transactions contemplated hereby or any action taken or omitted by the Agent and its Affiliates under this Agreement or any of the Loan Documents; provided, however, that no Lender shall be liable for any portion of such claims, damages, losses, liabilities, costs or expenses resulting from the Agent's or its Affiliate's gross negligence or willful misconduct. Without limitation of the foregoing, each Lender agrees to reimburse the Agent and its Affiliates promptly upon demand for its ratable share of any reasonable out-of-pocket expenses (including, without limitation, reasonable fees and expenses of house and outside counsel) incurred by the Agent and its Affiliates in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement or any of the other Loan Documents, to the extent that the Agent and its Affiliates are not reimbursed for such expenses by the Borrower, but without limiting the obligation of the Borrower to make such reimbursement. Each Lender agrees to reimburse the Agent and its Affiliates promptly upon demand for its ratable share of any amounts owing to the Agent and its Affiliates by the Lenders pursuant to this Section, provided that, if the Agent or its Affiliates are subsequently reimbursed by the Borrower for such amounts, they shall refund to the Lenders on a pro rata basis the amount of any excess reimbursement. If the indemnity furnished to the Agent and its Affiliates under this Section shall become impaired as determined in the Agent's reasonable judgment or the Agent shall elect in its sole discretion to have such indemnity confirmed by the Lenders (as to specific matters or otherwise), the Agent shall give notice thereof to each Lender and, until such additional indemnity is provided or such existing indemnity is confirmed, the Agent may cease, or not commence, to take any action. Any amounts paid by the Lenders hereunder to the Agent or its Affiliates shall be deemed to constitute part of the Indebtedness hereunder.

12.8 Knowledge of Default. It is expressly understood and agreed that the Agent shall be entitled to assume that no Default or Event of Default has occurred and is continuing, unless the officers of the Agent immediately responsible for matters concerning this Agreement shall have received a written notice from a Lender or the Borrower specifying such Default or Event of Default and stating that such notice is a "notice of default". Upon receiving such a notice, the Agent shall promptly notify each Lender of such Default or Event of Default and provide each Lender with a copy of such notice and shall endeavor to provide such notice to the Lenders within three (3) Business Days (but without any liability whatsoever in the event of its failure to do so). The Agent shall also furnish the Lenders, promptly upon receipt, with copies of all other notices or other information required to be provided by the Borrower hereunder.

12.9 The Agent's Authorization; Action by Lenders. Except as otherwise expressly provided herein, whenever the Agent is authorized and empowered hereunder on behalf of the Lenders to give any approval or consent, or to make any request, or to take any other action on behalf of the Lenders (including without limitation the exercise of any right or remedy hereunder or under the other Loan Documents), the Agent shall be required to give such approval or consent, or to make such request or to take such other action only when so requested in writing by the Majority Lenders or the Lenders, as applicable hereunder. Action that may be taken by the Majority Lenders, any other specified Percentage of the Lenders or all of the Lenders, as the case may be (as provided for hereunder) may be taken (i) pursuant to a vote of the requisite percentages of the Lenders as required hereunder at a meeting (which may be held by telephone conference call), provided that the Agent exercises good faith, diligent efforts to give all of the Lenders reasonable advance notice of the meeting, or (ii) pursuant to the written consent of the requisite percentages of the Lenders as required hereunder, provided that all of the Lenders are given reasonable advance notice of the requests for such consent.

12.10 Enforcement Actions by the Agent. Except as otherwise expressly provided under this Agreement or in any of the other Loan Documents and subject to the terms hereof, the Agent will take such action, assert such rights and pursue such remedies under this Agreement and the other Loan Documents as the Majority Lenders or all of the Lenders, as the case may be (as provided for hereunder), shall direct; provided, however, that the Agent shall not be required to act or omit to act if, in the reasonable judgment of the Agent, such action or omission may expose the Agent to personal liability for which the Agent has not been satisfactorily indemnified hereunder or is contrary to this Agreement, any of the Loan Documents or applicable law. Except as expressly provided above or elsewhere in this Agreement or the other Loan Documents, no Lender (other than the Agent, acting in its capacity as agent) shall be entitled to take any enforcement action of any kind under this Agreement or any of the other Loan Documents.

12.11 Collateral Matters.

(a) The Agent is authorized on behalf of all the Lenders, without the necessity of any notice to or further consent from the Lenders, from time to time to take any action with respect to any Collateral or the Collateral Documents which may be necessary to perfect and maintain a perfected security interest in and Liens upon the Collateral granted pursuant to the Loan Documents.

(b) The Lenders irrevocably authorize the Agent, in its reasonable discretion, to the full extent set forth in Section 13.9(d) hereof, (1) to release or terminate any Lien granted to or held by the Agent upon any Collateral (a) upon termination of the Commitments and payment in full of all Indebtedness payable under this Agreement and under any other Loan Document; (b) constituting property (including, without limitation, Equity Interests in any Person) sold or to be sold or disposed of as part of or in connection with any disposition (whether by sale, by merger or by any other form of transaction and including the property of any Subsidiary that is disposed of as permitted hereby) permitted in accordance with the terms of this Agreement; (c) constituting property in which a Credit Party owned no interest at the time the Lien was granted or at any time thereafter; or (d) if approved, authorized or ratified in writing by the Majority Lenders, or all the Lenders, as the case may be, as provided in Section 13.9; (2) to subordinate the Lien granted to or held by the Agent on any Collateral to any other holder of a Lien on such Collateral which is permitted by Section 8.2(b) hereof; and (3) if all of the Equity Interests held by the Credit Parties in any Person are sold or otherwise transferred to any transferee other than the Borrower or a Subsidiary of the Borrower as part of or in connection with any disposition (whether by sale, by merger or by any other form of transaction) permitted in accordance with the terms of this Agreement, to release such Person from all of its obligations under the Loan Documents (including, without limitation, under any Guaranty). Upon request by the Agent at any time, the Lenders will confirm in writing the Agent's authority to release particular types or items of Collateral pursuant to this Section 12.11(b).

12.12 The Agents in their Individual Capacities. Comerica Bank and its Affiliates, successors and assigns shall each have the same rights and powers hereunder as any other Lender and may exercise or refrain from exercising the same as though such Lender were not the Agent. Comerica Bank and its Affiliates may (without having to account therefor to any Lender) accept deposits from, lend money to, and generally engage in any kind of banking, trust, financial advisory or other business with the Credit Parties as if such Lender were not acting as the Agent hereunder, and may accept fees and other consideration therefor without having to account for the same to the Lenders.

12.13 The Agent's Fees. Until the Indebtedness has been repaid and discharged in full and no commitment to extend any credit hereunder is outstanding, the Borrower shall pay to the Agent, as applicable, any agency or other fee(s) set forth (or to be set forth from time to time) in the applicable Fee Letter on the terms set forth therein. The agency fees referred to in this Section 12.13 shall not be refundable under any circumstances.

12.14 Documentation Agent or other Titles. Any Lender identified on the facing page or signature page of this Agreement or in any amendment hereto or as designated with consent of the Agent in any assignment agreement as Lead Arranger, Documentation Agent, Syndications Agent or any similar titles, shall not have any right, power, obligation, liability, responsibility or duty under this Agreement as a result of such title other than those applicable to all Lenders as such. Without limiting the foregoing, the Lenders so identified shall not have or be deemed to have any fiduciary relationship with any Lender as a result of such title. Each Lender acknowledges that it has not relied, and will not rely, on the Lender so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

12.15 No Reliance on the Agent's Customer Identification Program.

(a) Each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on the Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the USA Patriot Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with the Borrower or any of its Subsidiaries, any of their respective Affiliates or agents, the Loan Documents or the transactions hereunder: (i) any identify verification procedures, (ii) any record keeping, (iii) any comparisons with government lists, (iv) any customer notices or (v) any other procedures required under the CIP Regulations or such other laws.

(b) Each Lender or assignee or participant of a Lender that is not organized under the laws of the United States or a state thereof (and is not excepted from the certification requirement contained in Section 313 of the USA Patriot Act and the applicable regulations because it is both (i) an affiliate of a depository institution or foreign bank that maintains a physical presence in the United States or foreign country, and (ii) subject to supervision by a banking authority regulating such affiliated depository institution or foreign bank) shall deliver to the Agent the certification, or, if applicable, recertification, certifying that such Lender is not a "shell" and certifying to other matters as required by Section 313 of the USA Patriot Act and the applicable regulations: (x) within 10 days after the Effective Date, and (y) at such other times as are required under the USA Patriot Act.

13. MISCELLANEOUS.

13.1 Accounting Principles. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, it shall be done, unless otherwise specified herein, in accordance with GAAP.

13.2 Choice of Law and Venue.

(a) THE VALIDITY OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT), THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF AND THEREOF, AND THE RIGHTS OF THE PARTIES HERETO AND THERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD FOR PRINCIPLES OF CONFLICTS OF LAWS.

(b) THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, PROVIDED, HOWEVER, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. BORROWERS AND AGENT WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 13.2.

13.3 Interest. In the event the obligation of the Borrower to pay interest on the principal balance of the Notes or on any other amounts outstanding hereunder or under the other Loan Documents is or becomes in excess of the maximum interest rate which the Borrower is permitted by law to contract or agree to pay, giving due

consideration to the execution date of this Agreement, then, in that event, the rate of interest applicable thereto with respect to such Lender's applicable Percentages shall be deemed to be immediately reduced to such maximum rate and all previous payments in excess of the maximum rate shall be deemed to have been payments in reduction of principal and not of interest.

13.4 Closing Costs and Other Costs; Indemnification.

(a) The Borrower shall pay or reimburse (i) the Agent and each of the Lenders and their respective Affiliates for payment of, on demand, all reasonable costs and expenses, including, by way of description and not limitation, reasonable in-house and outside attorney fees and advances, appraisal and accounting fees, lien search fees, and required travel costs, incurred by the Agent and each of the Lenders and their respective Affiliates in connection with the commitment, consummation and closing of the loans contemplated hereby (less, in the case of the Agent, any good faith deposit received by Agent from the Borrower prior to the Effective Date), or in connection with the administration or enforcement of this Agreement or the other Loan Documents (including the obtaining of legal advice regarding the rights and responsibilities of the parties hereto) or any refinancing or restructuring of the loans or Advances provided under this Agreement or the other Loan Documents, or any amendment or modification thereof requested by the Borrower, and (ii) the Agent and its Affiliates and each of the Lenders and their respective Affiliates, as the case may be, for all stamp and other taxes and duties payable or determined to be payable in connection with the execution, delivery, filing or recording of this Agreement and the other Loan Documents and the consummation of the transactions contemplated hereby, and any and all liabilities with respect to or resulting from any delay in paying or omitting to pay such taxes or duties. Furthermore, all reasonable costs and expenses, including without limitation attorney fees, incurred by the Agent and its Affiliates and, after the occurrence and during the continuance of an Event of Default, by the Lenders in revising, preserving, protecting, exercising or enforcing any of its or any of the Lenders' rights against the Borrower or any other Credit Party, or otherwise incurred by the Agent and its Affiliates and the Lenders in connection with any Event of Default or the enforcement of the loans (whether incurred through negotiations, legal proceedings or otherwise), including by way of description and not limitation, such charges in any court or bankruptcy proceedings or arising out of any claim or action by any person against the Agent, its Affiliates, or any Lender which would not have been asserted were it not for the Agent's or such Affiliate's or Lender's relationship with the Borrower hereunder or otherwise, shall also be paid by the Borrower. All of said amounts required to be paid by the Borrower hereunder and not paid forthwith upon demand, as aforesaid, shall bear interest, from the date incurred to the date payment is received by the Agent, at the Base Rate, plus three percent (3%).

(b) The Borrower agrees to indemnify and hold the Agent and each of the Lenders (and their respective Affiliates) harmless from all loss, cost, damage, liability or expenses, including reasonable house and outside attorneys' fees and disbursements (but without duplication of such fees and disbursements for the same services), incurred by the Agent and each of the Lenders by reason of an Event of Default, or enforcing the obligations of any Credit Party under this Agreement or any of the other Loan Documents, as applicable, or in the prosecution or defense of any action or proceeding concerning any matter growing out of or connected with this Agreement or any of the Loan Documents, excluding, however, any loss, cost, damage, liability or expenses to the extent arising as a result of the gross negligence or willful misconduct of the party seeking to be indemnified under this Section 13.4(b).

(c) The Borrower agrees to defend, indemnify and hold harmless the Agent and each Lender (and their respective Affiliates), and their respective employees, agents, officers and directors from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature (including without limitation, reasonable attorneys and consultants fees, investigation and laboratory fees, environmental studies required by the Agent or any Lender in connection with the violation of Hazardous Material Laws), court costs and litigation expenses, arising out of or related to (i) the presence, use, disposal, release or threatened release of any Hazardous Materials on, from or affecting any premises owned or occupied by any Credit Party in violation of or the non-compliance with applicable Hazardous Material Laws, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (iii) any lawsuit or other proceeding brought or threatened, settlement reached or governmental order or decree relating to such Hazardous Materials, and/or (iv) complying or coming into compliance with all Hazardous Material Laws (including the cost of any remediation or monitoring required in connection therewith) or any other Requirement of Law; provided, however, that the Borrower shall have no obligations under this Section 13.4(c) with

respect to claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses to the extent arising as a result of the gross negligence or willful misconduct of the Agent or such Lender, as the case may be. The obligations of the Borrower under this Section 13.4(c) shall be in addition to any and all other obligations and liabilities the Borrower may have to the Agent or any of the Lenders at common law or pursuant to any other agreement.

13.5 Notices.

(a) Except as expressly provided otherwise in this Agreement (and except as provided in clause (b) below), all notices and other communications provided to any party hereto under this Agreement or any other Loan Document shall be in writing and shall be given by personal delivery, by mail, by reputable overnight courier or by facsimile and addressed or delivered to it at its address set forth on Schedule 13.5 or at such other address as may be designated by such party in a notice to the other parties that complies as to delivery with the terms of this Section 13.5 or posted to an E-System set up by or at the direction of the Agent (as set forth below). Any notice, if personally delivered or if mailed and properly addressed with postage prepaid and sent by registered or certified mail, shall be deemed given when received or when delivery is refused; any notice, if given to a reputable overnight courier and properly addressed, shall be deemed given two (2) Business Days after the date on which it was sent, unless it is actually received sooner by the named addressee; and any notice, if transmitted by facsimile, shall be deemed given when received. The Agent may, but, except as specifically provided herein, shall not be required to, take any action on the basis of any notice given to it by telephone, but the giver of any such notice shall promptly confirm such notice in writing or by facsimile, and such notice will not be deemed to have been received until such confirmation is deemed received in accordance with the provisions of this Section set forth above. If such telephonic notice conflicts with any such confirmation, the terms of such telephonic notice shall control. Any notice given by the Agent or any Lender to the Borrower shall be deemed to be a notice to all of the Credit Parties.

(b) Notices and other communications provided to the Agent and the Lenders party hereto under this Agreement or any other Loan Document may be delivered or furnished by electronic communication (including email and Internet or intranet websites) pursuant to procedures approved by the Agent. The Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications (including email and any E-System) pursuant to procedures approved by it. Unless otherwise agreed to in a writing by and among the parties to a particular communication, (i) notices and other communications sent to an email address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, return email, or other written acknowledgment) and (ii) notices and other communications posted to any E-System shall be deemed received upon the deemed receipt by the intended recipient at its email address as described in the foregoing clause (i) of notification that such notice or other communication is available and identifying the website address therefore.

13.6 Further Action. The Borrower, from time to time, upon written request of the Agent will make, execute, acknowledge and deliver or cause to be made, executed, acknowledged and delivered, all such further and additional instruments, and take all such further action as may reasonably be required to carry out the intent and purpose of this Agreement or the Loan Documents, and to provide for Advances under and payment of the Notes, according to the intent and purpose herein and therein expressed.

13.7 Successors and Assigns; Participations; Assignments.

(a) This Agreement shall be binding upon and shall inure to the benefit of the Borrower and the Lenders and their respective successors and assigns.

(b) The foregoing shall not authorize any assignment by the Borrower of its rights or duties hereunder, and, except as otherwise provided herein, no such assignment shall be made (or be effective) without the prior written approval of the Lenders.

(c) No Lenders may at any time assign or grant participations in such Lender's rights and obligations hereunder and under the other Loan Documents except (i) by way of assignment to any Eligible Assignee in accordance with clause (d) of this Section, (ii) by way of a participation in accordance with the provisions of clause (e) of this Section or (iii) by way of a pledge or assignment of a security interest subject to the restrictions of clause (f) of this Section (and any other attempted assignment or transfer by any Lender shall be deemed to be null and void).

(d) Each assignment by a Lender of all or any portion of its rights and obligations hereunder and under the other Loan Documents, shall be subject to the following terms and conditions:

(i) each such assignment shall be in a minimum amount of the lesser of (x) Five Million Dollars ($5,000,000) or such lesser amount as the Agent shall agree and (y) the entire remaining amount of assigning Lender's aggregate interest in the Revolving Credit (and participations in any outstanding Letters of Credit) and the Term Loans; provided however that, after giving effect to such assignment, in no event shall the entire remaining amount (if any) of assigning Lender's aggregate interest in the Revolving Credit (and participations in any outstanding Letters of Credit) and the Term Loans be less than $5,000,000; and

(ii) the parties to any assignment shall execute and deliver to the Agent an Assignment Agreement substantially (as determined by the Agent) in the form attached hereto as Exhibit H (with appropriate insertions acceptable to the Agent), together with a processing and recordation fee in the amount, if any, required as set forth in the Assignment Agreement.

Until the Assignment Agreement becomes effective in accordance with its terms and is recorded in the Register maintained by the Agent under clause (g) of this Section 13.7, and the Agent has confirmed that the assignment satisfies the requirements of this Section 13.7, the Borrower and the Agent shall be entitled to continue to deal solely and directly with the assigning Lender in connection with the interest so assigned. From and after the effective date of each Assignment Agreement that satisfies the requirements of this Section 13.7, the assignee thereunder shall be deemed to be a party to this Agreement, such assignee shall have the rights and obligations of a Lender under this Agreement and the other Loan Documents (including without limitation the right to receive fees payable hereunder in respect of the period following such assignment) and the assigning Lender shall relinquish its rights and be released from its obligations under this Agreement and the other Loan Documents.

Upon request, the Borrower shall execute and deliver to the Agent, new Note(s) payable to the order of the assignee in an amount equal to the amount assigned to the assigning Lender pursuant to such Assignment Agreement, and with respect to the portion of the Indebtedness retained by the assigning Lender, to the extent applicable, new Note(s) payable to the order of the assigning Lender in an amount equal to the amount retained by such Lender hereunder. The Agent, the Lenders and the Borrower acknowledges and agrees that any such new Note(s) shall be given in renewal and replacement of the Notes issued to the assigning lender prior to such assignment and shall not effect or constitute a novation or discharge of the Indebtedness evidenced by such prior Note, and each such new Note may contain a provision confirming such agreement.

(e) The Borrower and the Agent acknowledge that each of the Lenders may at any time and from time to time, subject to the terms and conditions hereof, grant participations in such Lender's rights and obligations hereunder and under the other Loan Documents to any Person (other than a natural person or to the Borrower or any of the Borrower's Affiliates or Subsidiaries); provided that any participation permitted hereunder shall comply with all applicable laws and shall be subject to a participation agreement that incorporates the following restrictions:

(i) such Lender shall remain the holder of its Notes hereunder (if such Notes are issued), notwithstanding any such participation;

(ii) a participant shall not reassign or transfer, or grant any sub-participations in its participation interest hereunder or any part thereof;

(iii) such Lender shall retain the sole right and responsibility to enforce the obligations of the Credit Parties relating to the Notes and the other Loan Documents, including, without limitation, the right to proceed against any Guarantors, or cause the Agent to do so (subject to the terms and conditions hereof), and the right to approve any amendment, modification or waiver of any provision of this Agreement without the consent of the participant (unless such participant is an Affiliate of such Lender), except for those matters requiring the consent of each of the Lenders under Section 13.9(b) (provided that a

participant may exercise approval rights over such matters only on an indirect basis, acting through such Lender and the Credit Parties, the Agent and the other Lenders may continue to deal directly with such Lender in connection with such Lender's rights and duties hereunder). Notwithstanding the foregoing, however, in the case of any participation granted by any Lender hereunder, the participant shall not have any rights under this Agreement or any of the other Loan Documents against the Agent, any other Lender or any Credit Party; provided, however that the participant may have rights against such Lender in respect of such participation as may be set forth in the applicable participation agreement and all amounts payable by the Credit Parties hereunder shall be determined as if such Lender had not sold such participation. Each such participant shall be entitled to the benefits of Article 11 of this Agreement to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to clause (d) of this Section, provided that no participant shall be entitled to receive any greater amount pursuant to such the provisions of Article 11 than the issuing Lender would have been entitled to receive in respect of the amount of the participation transferred by such issuing Lender to such participant had no such transfer occurred and each such participant shall also be entitled to the benefits of Section 9.6 hereof as though it were a Lender, provided that such participant agrees to be subject to Section 10.3 hereof as though it were a Lender; and

(iv) each participant shall provide the relevant tax form required under Section 13.12.

(f) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including its Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledge or assignee for such Lender as a party hereto.

(g) The Borrower hereby designates the Agent, and Agent agrees to serve, as the Borrower's non-fiduciary agent solely for purposes of this Section 13.7(g) and to maintain at its principal office in the United States a copy of each Assignment Agreement delivered to it and a register (the "Register") for the recordation of the names and addresses of the Lenders, the Percentages of such Lenders and the principal amount of each type of Advance owing to each such Lender from time to time. The entries in the Register shall be conclusive evidence, absent manifest error, and the Borrower, the Agent, and the Lenders may treat each Person whose name is recorded in the Register as the owner of the Advances recorded therein for all purposes of this Agreement. The Register shall be available for inspection by the Borrower or any Lender (but only with respect to any entry relating to such Lender's Percentages and the principal amounts owing to such Lender) upon reasonable notice to the Agent and a copy of such information shall be provided to any such party on their prior written request. The Agent shall give prompt written notice to the Borrower of the making of any entry in the Register or any change in such entry.

(h) The Borrower authorizes each Lender to disclose to any prospective assignee or participant which has satisfied the requirements hereunder, any and all financial information in such Lender's possession concerning the Credit Parties which has been delivered to such Lender pursuant to this Agreement, provided that each such prospective assignee or participant shall execute a confidentiality agreement consistent with the terms of Section 13.10 hereof or shall otherwise agree to be bound by the terms thereof.

(i) Nothing in this Agreement, the Notes or the other Loan Documents, expressed or implied, is intended to or shall confer on any Person other than the respective parties hereto and thereto and their successors and assignees and participants permitted hereunder and thereunder any benefit or any legal or equitable right, remedy or other claim under this Agreement, the Notes or the other Loan Documents.

13.8 Counterparts. This Agreement may be executed in several counterparts, and each executed copy shall constitute an original instrument, but such counterparts shall together constitute but one and the same instrument.

13.9 Amendment and Waiver.

(a) No amendment or waiver of any provision of this Agreement or any other Loan Document, nor consent to any departure by any Credit Party therefrom, shall in any event be effective unless the same shall be in writing and signed by the Agent and the Majority Lenders (or by the Agent at the written request of the Majority

Lenders) or, if this Agreement expressly so requires with respect to the subject matter thereof, by all Lenders (and, with respect to any amendments to this Agreement or the other Loan Documents, by any Credit Party or the Guarantors that are signatories thereto), and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. All references in this Agreement to "Lenders" or "the Lenders" shall refer to all Lenders, unless expressly stated to refer to Majority Lenders (or the like).

(b) Notwithstanding anything to the contrary herein,

(i) no amendment, waiver or consent shall increase the stated amount of any Lender's commitment hereunder without such Lender's consent;

(ii) no amendment, waiver or consent shall, unless in writing and signed by the Lender or Lenders holding Indebtedness directly affected thereby, do any of the following:

(A) reduce the principal of, or interest on, any outstanding Indebtedness or any Fees or other amounts payable hereunder,

(B) postpone any date fixed for any payment of principal of, or interest on, any outstanding Indebtedness or any Fees or other amounts payable hereunder,

(C) change any of the provisions of this Section 13.9 or the definitions of "Majority Lenders", "Majority Revolving Credit Lenders", "Majority Term Loan A Lenders", "Majority Term Loan B Lenders," "Majority Term Loan C Lenders," or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender; provided that changes to the definition of "Majority Lenders" may be made with the consent of only the Majority Lenders to include the Lenders holding any additional credit facilities that are added to this Agreement with the approval of the appropriate Lenders, and,

(D) any modifications to the definitions of "Borrowing Base," "Eligible Accounts" and "Eligible Foreign Accounts";

(iii) no amendment, waiver or consent shall, unless in writing and signed by all Lenders, do any of the following:

(A) except as expressly permitted hereunder or under the Collateral Documents, release all or substantially all of the Collateral (provided that neither the Agent nor any Lender shall be prohibited thereby from proposing or participating in a consensual or nonconsensual debtor-in-possession or similar financing), or release any material guaranty provided by any Person in favor of the Agent and the Lenders, provided however that the Agent shall be entitled, without notice to or any further action or consent of the Lenders, to release any Collateral which any Credit Party is permitted to sell, assign or otherwise transfer in compliance with this Agreement or the other Loan Documents or release any guaranty to the extent expressly permitted in this Agreement or any of the other Loan Documents (whether in connection with the sale, transfer or other disposition of the applicable Guarantor or otherwise),

(B) increase the maximum duration of Interest Periods permitted hereunder; or

(C) modify Sections 10.2 or 10.3 hereof;

(iv) any amendment, waiver or consent that will (A) reduce the principal of, or interest on, the Swing Line Note, (B) postpone any date fixed for any payment of principal of, or interest on, the Swing Line Note or (C) otherwise affect the rights and duties of the Swing Line Lender under this Agreement or any other Loan Document, shall require the written concurrence of the Swing Line Lender;

(v) any amendment, waiver or consent that will affect the rights or duties of Issuing Lender under this Agreement or any of the other Loan Documents, shall require the written concurrence of the Issuing Lender; and

(vi) any amendment, waiver, or consent that will affect the rights or duties of the Agent under this Agreement or any other Loan Document, shall require the written concurrence of the Agent.

(c) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove of any amendment, consent, waiver or any other modification to any Loan Document (and all amendments, consents, waivers and other modifications may be effected without the consent of the Defaulting Lenders), except that the foregoing shall not permit, in each case without such Defaulting Lender's consent, (i) an increase in such Defaulting Lender's stated commitment amounts, (ii) the waiver, forgiveness or reduction of the principal amount of any Indebtedness owing to such Defaulting Lender (unless all other Lenders affected thereby are treated similarly), (iii) the extension of the final maturity date(s) of such Defaulting Lenders' portion of any of the Indebtedness or the extension of any commitment to extend credit of such Defaulting Lender, or (iv) any other modification which requires the consent of all Lenders or the Lender(s) affected thereby which affects such Defaulting Lender more adversely than the other affected Lenders (other than a modification which results in a reduction of such Defaulting Lender's Percentage of the Commitments or repayment of any amounts owing to such Defaulting Lender on a non pro-rata basis).

(d) The Agent shall, upon the written request of the Borrower, execute and deliver to the Credit Parties such documents as may be necessary to evidence (1) the release of any Lien granted to or held by the Agent upon any Collateral: (a) upon termination of the Commitments and payment in full of all Indebtedness payable under this Agreement and under any other Loan Document; (b) which constitutes property (including, without limitation, Equity Interests in any Person) sold or to be sold or disposed of as part of or in connection with any disposition (whether by sale, by merger or by any other form of transaction and including the property of any Subsidiary that is disposed of as permitted hereby) permitted in accordance with the terms of this Agreement; (c) which constitutes property in which a Credit Party owned no interest at the time the Lien was granted or at any time thereafter; or (d) if approved, authorized or ratified in writing by the Majority Lenders, or all the Lenders, as the case may be, as provided in this Section 13.9; or (2) the release of any Person from its obligations under the Loan Documents (including without limitation the Guaranty) if all of the Equity Interests of such Person that were held by a Credit Party are sold or otherwise transferred to any transferee other than the Borrower or a Subsidiary of the Borrower as part of or in connection with any disposition (whether by sale, by merger or by any other form of transaction) permitted in accordance with the terms of this Agreement; provided that (i) the Agent shall not be required to execute any such release or subordination agreement under clauses (1) or (2) above on terms which, in the Agent's opinion, would expose the Agent to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty or such release shall not in any manner discharge, affect or impair the Indebtedness or any Liens upon any Collateral retained by any Credit Party, including (without limitation) the proceeds of the sale or other disposition, all of which shall constitute and remain part of the Collateral.

(e) Notwithstanding anything to the contrary herein the Agent may, with the consent of the Borrower only, amend, modify or supplement this Agreement or any of the other Loan Documents to cure any ambiguity, omission, mistake, defect or inconsistency.

13.10 Confidentiality. Each Lender agrees that it will not disclose without the prior consent of the Borrower (other than to its employees, its Subsidiaries, another Lender, an Affiliate of a Lender or to its auditors, counsel or representatives) any information with respect to the Credit Parties which is furnished pursuant to this Agreement or any of the other Loan Documents; provided that any Lender may disclose any such information (a) as

has become generally available to the public or has been lawfully obtained by such Lender from any third party under no duty of confidentiality to any Credit Party, (b) as may be required or appropriate in any report, statement or testimony submitted to, or in respect to any inquiry, by, any municipal, state or federal regulatory body having or claiming to have jurisdiction over such Lender, including the Board of Governors of the Federal Reserve System of the United States, the Office of the Comptroller of the Currency or the Federal Deposit Insurance Corporation or similar organizations (whether in the United States or elsewhere) or their successors, (c) as may be required or appropriate in respect to any summons or subpoena or in connection with any litigation, (d) in order to comply with any law, order, regulation, ruling or other requirement of law applicable to such Lender, and (e) to any prospective assignee or participant in accordance with Section 13.7(f) hereof.

13.11 Substitution or Removal of Lenders.

(a) With respect to any Lender (i) whose obligation to make Eurodollar-based Advances has been suspended pursuant to Section 11.3 or 11.4, (ii) that has demanded compensation under Sections 3.4(c), 11.5 or 11.6, (iii) that has become a Defaulting Lender or (iv) that has failed to consent to a requested amendment, waiver or modification to any Loan Document as to which the Majority Lenders have already consented (in each case, an "Affected Lender"), then the Agent or the Borrower may, at the Borrower's sole expense, require the Affected Lender to sell and assign all of its interests, rights and obligations under this Agreement, including, without limitation, its Commitments, to an assignee (which may be one or more of the Lenders) (such assignee shall be referred to herein as the "Purchasing Lender" or "Purchasing Lenders") within two (2) Business Days after receiving notice from the Borrower requiring it to do so, for an aggregate price equal to the sum of the portion of all Advances made by it, interest and fees accrued for its account through but excluding the date of such payment, and all other amounts payable to it hereunder, from the Purchasing Lender(s) (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts, including without limitation, if demanded by the Affected Lender, the amount of any compensation that due to the Affected Lender under Sections 3.4(c), 11.1, 11.5 and 11.6 to but excluding said date), payable (in immediately available funds) in cash. The Affected Lender, as assignor, such Purchasing Lender, as assignee, the Borrower and the Agent, shall enter into an Assignment Agreement pursuant to Section 13.7 hereof, whereupon such Purchasing Lender shall be a Lender party to this Agreement, shall be deemed to be an assignee hereunder and shall have all the rights and obligations of a Lender with a Revolving Credit Percentage equal to its ratable share of the then applicable Revolving Credit Aggregate Commitment and the applicable Percentages of the Term Loans of the Affected Lender, provided, however, that if the Affected Lender does not execute such Assignment Agreement within (2) Business Days of receipt thereof, the Agent may execute the Assignment Agreement as the Affected Lender's attorney-in-fact. Each of the Lenders hereby irrevocably constitutes and appoints the Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full power and authority in the name of such Lender or in its own name to execute and deliver the Assignment Agreement while such Lender is an Affected Lender hereunder (such power of attorney to be deemed coupled with an interest and irrevocable). In connection with any assignment pursuant to this Section 13.11, the Borrower or the Purchasing Lender shall pay to the Agent the administrative fee for processing such assignment referred to in Section 13.7.

(b) If any Lender is an Affected Lender of the type described in Section 13.11(a)(iii) and (iv) (any such Lender, a "Non-Compliant Lender"), the Borrower may, with the prior written consent of the Agent, and notwithstanding Section 10.3 of this Agreement or any other provisions requiring pro rata payments to the Lenders, elect to reduce any Commitments by an amount equal to the Non-Compliant Lender's Percentage of the Commitment of such Non-Compliant Lender and repay such Non-Compliant Lender an amount equal the principal amount of all Advances owing to it, all interest and fees accrued for its account through but excluding the date of such repayment, and all other amounts payable to it hereunder (including without limitation, if demanded by the Non-Compliant Lender, the amount of any compensation due to the Non-Compliant Lender under Sections 3.4(c), 11.1, 11.5 and 11.6 to but excluding said date), payable (in immediately available funds) in cash, so long as, after giving effect to the termination of Commitments and the repayments described in this clause (b), any Fronting Exposure of such Non-Compliant Lender shall be reallocated among the Lenders that are not Non-Compliant Lenders in accordance with their respective Revolving Credit Percentages, but only to the extent that the sum of the aggregate principal amount of all Revolving Credit Advances made by each such Lender, plus such Lender's Percentage of the aggregate outstanding principal amount of Swing Line Advances and Letter of Credit Obligations prior to giving effect to such reallocation plus such Lender's Percentage of the Fronting Exposure to be reallocated does not exceed such Lender's Percentage of the Revolving Credit Aggregate Commitment, and with respect to any

portion of the Fronting Exposure that may not be reallocated, the Borrower shall deliver to the Agent, for the benefit of the Issuing Lender and/or Swing Line Lender, as applicable, cash collateral or other security satisfactory to the Agent, with respect any such remaining Fronting Exposure.

(c) If any Lender is a Non-Compliant Lender, the Borrower may, notwithstanding Section 10.3 of this Agreement or any other provisions requiring pro rata payments to the Lenders, elect to repay all amounts owing to such a Non-Compliant Lender in connection with the Term Loans, so long as (i) no Default or Event of Default exists at the time of such repayment and (ii) after giving effect to any reduction in the Revolving Credit Aggregate Commitment, payments on the Revolving Credit under clause (b) above and payments on the Term Loans under this clause (c), the Borrower shall have availability, on the date of the repayment, to borrow additional Revolving Credit Advances under the Revolving Credit Aggregate Commitment of at least Two Hundred Fifty Thousand Dollars ($250,000) (after taking into account the sum on such date of the outstanding principal amount of all Revolving Credit Advances, Swing Line Advances and Letter of Credit Obligations).

13.12 Withholding Taxes.

(a) Each Lender that is not a "United States person," within the meaning of Section 7701(a)(30) of the Internal Revenue Code (each, a "Non-U.S. Lender") that, at any of the following times, is entitled to an exemption from United States withholding tax or, after a change in any Requirement of Law, is subject to such withholding tax at a reduced rate under an applicable tax treaty, shall (w) on or prior to the date such Lender becomes a Non-U.S. Lender hereunder, (x) on or prior to the date on which any such form or certification expires or becomes obsolete (to the extent such Lender has actual knowledge thereof, or is so advised in writing by the Borrower), (y) after the occurrence of any event requiring a change in the most recent form of certification previously delivered by it pursuant to this clause (a) (to the extent such Lender has actual knowledge thereof, or is so advised in writing by the Borrower) and (z) from time to time if reasonably requested by the Borrower or Agent, provide Agent and the Borrower with such properly completed and executed documentation prescribed by applicable law as will permit payments to such Lender to be made without withholding, or at a reduced rate of withholding, as the case may be. Without limiting the generality of the foregoing, each Non-U.S. Lender shall deliver originals of the following (in such number as shall be reasonably requested by the recipient), as applicable: (A) Forms W-8ECI (claiming exemption from U.S. withholding tax because the income is effectively connected with a U.S. trade or business), W-8BEN (claiming exemption from, or a reduction of, U.S. withholding tax under an income tax treaty) and/or W-8IMY or any successor forms, (B) in the case of a Non-U.S. Lender claiming exemption under Sections 871(h) or 881(c) of the Internal Revenue Code, Form W-8BEN (claiming exemption from U.S. withholding tax under the portfolio interest exemption) or any successor form and a certificate that such Non-U.S. Lender is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (2) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code or (3) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Internal Revenue Code or (C) any other applicable document prescribed by the Internal Revenue Service certifying as to the entitlement of such Non-U.S. Lender to such exemption from United States withholding tax or such reduced rate with respect to all payments to be made to such Non-U.S. Lender under the Loan Documents, all as reasonably requested by the Borrower or the Agent. Unless the Borrower and the Agent have received forms or other documents satisfactory to them indicating that payments under any Loan Document to or for a Non-U.S. Lender are not subject to United States withholding tax or are subject to such tax at a rate reduced by an applicable tax treaty, the Agent may (and shall, if directed to do so by the Borrower) withhold amounts required to be withheld by applicable requirements of law from such payments at the applicable statutory rate.

(b) Each Lender that is a "United States person," within the meaning of Section 7701(a)(30) of the Code (each a "U.S. Lender") shall (A) on or prior to the date such Lender becomes a "U.S. Lender" hereunder, (B) on or prior to the date on which any such form or certification expires or becomes obsolete (to the extent such Lender has actual knowledge thereof, or is so advised in writing by Borrower), (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (b) (to the extent such Lender has actual knowledge thereof, or is so advised in writing by the Borrower) and (D) from time to time if requested by the Borrower or Agent, provide Agent and the Borrower with two completed originals of Form W-9 (certifying that such U.S. Lender Party is entitled to an exemption from U.S. backup withholding tax) or any successor form.

(c) If a payment made to a Non-U.S. Lender would be subject to United States federal withholding tax imposed by FATCA if such Non-U.S. Lender fails to comply with the applicable reporting requirements of FATCA, such Non-U.S. Lender shall deliver to the Agent and the Borrower any documentation under any requirement of law or reasonably requested by any Agent or the Borrower sufficient for the Agent or the Borrower to comply with their obligations under FATCA and to determine that such Non-U.S. Lender has complied with such applicable reporting requirements.

(d) Promptly upon notice from the Agent of any determination by the Internal Revenue Service that any payments previously made to such Lender hereunder were subject to United States income tax withholding when made (or subject to withholding at a higher rate than that applied to such payments), such Lender shall pay to the Agent the excess of the aggregate amount required to be withheld from such payments over the aggregate amount (if any) actually withheld by the Agent, provided that, following any such payment, such Lender shall retain all of its rights and remedies against the Borrower with respect thereto.

13.13 Taxes and Fees. Should any stamp, documentary or other tax (other than any tax resulting from a Lender's failure to comply with Section 13.12 or any Excluded Taxes), or recording or filing fee become payable in respect of this Agreement or any of the other Loan Documents or any amendment, modification or supplement hereof or thereof, the Borrower agrees to pay the same, together with any interest or penalties thereon arising from the Borrower's actions or omissions, and agrees to hold the Agent and the Lenders harmless with respect thereto provided, however, that the Borrower shall not be responsible for any such interest or penalties which were incurred prior to the date that notice is given to the Credit Parties of such tax, fees or other charges. Notwithstanding the foregoing, nothing contained in this Section 13.13 shall affect or reduce the rights of any Lender or the Agent under Section 11.5 hereof.

13.14 WAIVER OF JURY TRIAL. TO THE EXTENT PERMITTED BY LAW, BORROWER, LENDERS AND AGENT HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN OR THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. BORROWERS, LENDERS AND AGENT REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

13.15 Judicial Reference.

(a) In the event the jury trial waiver set forth above is not enforceable, the parties elect to proceed under this Judicial Reference Provision.

(b) With the exception of the items specified in clause (c), below, any controversy, dispute or claim (each, a "Claim") between the parties arising out of or relating to this Agreement or any other Loan Document will be resolved by a reference proceeding in California in accordance with the provisions of Section 638 et seq. of the California Code of Civil Procedure ("CCP"), or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to the reference proceeding. Except as otherwise provided in the Agreement, venue for the reference proceeding will be in the state or federal court in the county or district where venue is otherwise appropriate under applicable law (the "Court").

(c) The matters that shall not be subject to a reference are the following: (i) foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including, without limitation, set-off), (iii) appointment of a receiver and (iv) temporary, provisional or ancillary remedies (including, without limitation, writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). This Agreement does not limit the right of any party to exercise or oppose any of the rights and remedies described in clauses (i) and (ii) or to seek or oppose from a court of competent jurisdiction any of the items described in clauses (iii) and (iv). The exercise of, or opposition to, any of those items does not waive the right of any party to a reference pursuant to this reference provision as provided herein.

(d) The referee shall be a retired judge or justice selected by mutual written agreement of the parties. If the parties do not agree within ten (10) days of a written request to do so by any party, then, upon request of any party, the referee shall be selected by the Presiding Judge of the Court (or his or her representative). A request for appointment of a referee may be heard on an ex parte or expedited basis, and the parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP § 170.6, each party shall have one peremptory challenge to the referee selected by the Presiding Judge of the Court (or his or her representative).

(e) The parties agree that time is of the essence in conducting the reference proceedings. Accordingly, the referee shall be requested, subject to change in the time periods specified herein for good cause shown, to (a) set the matter for a status and trial-setting conference within fifteen (15) days after the date of selection of the referee, (b) if practicable, try all issues of law or fact within one hundred twenty (120) days after the date of the conference and (c) report a statement of decision within twenty (20) days after the matter has been submitted for decision.

(f) The referee will have power to expand or limit the amount and duration of discovery. The referee may set or extend discovery deadlines or cutoffs for good cause, including a party's failure to provide requested discovery for any reason whatsoever. Unless otherwise ordered, no party shall be entitled to "priority" in conducting discovery, depositions may be taken by either party upon seven (7) days written notice, and all other discovery shall be responded to within fifteen (15) days after service. All disputes relating to discovery which cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding.

(g) Except as expressly set forth herein, the referee shall determine the manner in which the reference proceeding is conducted including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee, and the referee will be provided a courtesy copy of the transcript. The party making such a request shall have the obligation to arrange for and pay the court reporter. Subject to the referee's power to award costs to the prevailing party, the parties will equally share the cost of the referee and the court reporter at trial.

(h) The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision at the close of the reference proceeding which disposes of all claims of the parties that are the subject of the reference. Pursuant to CCP § 644, such decision shall be entered by the Court as a judgment or an order in the same manner as if the action had been tried by the Court and any such decision will be final, binding and conclusive. The parties reserve the right to appeal from the final judgment or order or from any appealable decision or order entered by the referee. The parties reserve the right to findings of fact, conclusions of laws, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.

(i) If the enabling legislation which provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or Justice, in accordance with the California Arbitration Act § 1280 through § 1294.2 of the CCP as amended from time to time. The limitations with respect to discovery set forth above shall apply to any such arbitration proceeding.

(j) THE PARTIES RECOGNIZE AND AGREE THAT ALL DISPUTES RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR OWN CHOICE, EACH PARTY KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF ALL PARTIES, AGREES THAT THIS REFERENCE PROVISION WILL APPLY TO ANY CONTROVERSY, DISPUTE OR CLAIM BETWEEN OR AMONG THEM WHICH ARISES OUT OF OR IS RELATED TO, THIS AGREEMENT OR THE LOAN DOCUMENTS.

13.16 USA Patriot Act Notice. Pursuant to Section 326 of the USA Patriot Act, the Agent and the Lenders hereby notify the Credit Parties that if they or any of their Subsidiaries open an account, including any loan, deposit account, treasury management account, or other extension of credit with the Agent or any Lender, the Agent or the applicable Lender will request the applicable Person's name, tax identification number, business address and other information necessary to identify such Person (and may request such Person's organizational documents or other identifying documents) to the extent necessary for the Agent and the applicable Lender to comply with the USA Patriot Act.

13.17 Complete Agreement; Conflicts. This Agreement, the Notes (if issued), any Requests for Revolving Credit Advance, Requests for Swing Line Advance and Term Loan Rate Requests, and the Loan Documents contain the entire agreement of the parties hereto, superseding all prior agreements, discussions and understandings relating to the subject matter hereof, and none of the parties shall be bound by anything not expressed in writing. In the event of any conflict between the terms of this Agreement and the other Loan Documents, this Agreement shall govern.

13.18 Severability. In case any one or more of the obligations of the Credit Parties under this Agreement, the Notes or any of the other Loan Documents shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining obligations of the Credit Parties shall not in any way be affected or impaired thereby, and such invalidity, illegality or unenforceability in one jurisdiction shall not affect the validity, legality or enforceability of the obligations of the Credit Parties under this Agreement, the Notes or any of the other Loan Documents in any other jurisdiction.

13.19 Table of Contents and Headings; Section References. The table of contents and the headings of the various subdivisions hereof are for convenience of reference only and shall in no way modify or affect any of the terms or provisions hereof and references herein to "sections," "subsections," "clauses," "paragraphs," "subparagraphs," "exhibits" and "schedules" shall be to sections, subsections, clauses, paragraphs, subparagraphs, exhibits and schedules, respectively, of this Agreement unless otherwise specifically provided herein or unless the context otherwise clearly indicates.

13.20 Construction of Certain Provisions. If any provision of this Agreement or any of the Loan Documents refers to any action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person, whether or not expressly specified in such provision.

13.21 Independence of Covenants. Each covenant hereunder shall be given independent effect (subject to any exceptions stated in such covenant) so that if a particular action or condition is not permitted by any such covenant (taking into account any such stated exception), the fact that it would be permitted by an exception to, or would be otherwise within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default.

13.22 Electronic Transmissions.

(a) Each of the Agent, the Credit Parties, the Lenders, and each of their Affiliates is authorized (but not required) to transmit, post or otherwise make or communicate, in its sole discretion, Electronic Transmissions in connection with any Loan Document and the transactions contemplated therein. The Borrower and each other Credit Party hereby acknowledges and agrees that the use of Electronic Transmissions is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse and each indicates it assumes and accepts such risks by hereby authorizing the transmission of Electronic Transmissions.

(b) All uses of an E-System shall be governed by and subject to, in addition to Section 13.5 and this Section 13.22, separate terms and conditions posted or referenced in such E-System and related contractual obligations executed by the Agent, the Credit Parties and the Lenders in connection with the use of such E-System.

(c) All E-Systems and Electronic Transmissions shall be provided "as is" and "as available". None of the Agent or any of its Affiliates, nor the Borrower or any of its respective Affiliates warrants the accuracy,

adequacy or completeness of any E-Systems or Electronic Transmission, and each disclaims all liability for errors or omissions therein. No warranty of any kind is made by the Agent or any of its Affiliates, or the Borrower or any of its respective Affiliates in connection with any E-Systems or Electronic Transmission, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects. The Agent, the Borrower and its Subsidiaries, and the Lenders agree that the Agent has no responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Electronic Transmission or otherwise required for any E-System. The Agent and the Lenders agree that the Borrower has no responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Electronic Transmission or otherwise required for any E-System.

13.23 Advertisements. The Agent and the Lenders may disclose the names of the Credit Parties and the existence of the Indebtedness in general advertisements and trade publications.

13.24 Reliance on and Survival of Provisions. All terms, covenants, agreements, representations and warranties of the Credit Parties to any of the Loan Documents made herein or in any of the Loan Documents or in any certificate, report, financial statement or other document furnished by or on behalf of any Credit Party in connection with this Agreement or any of the Loan Documents shall be deemed to have been relied upon by the Lenders, notwithstanding any investigation heretofore or hereafter made by any Lender or on such Lender's behalf, and those covenants and agreements of the Borrower set forth in Section 13.4 hereof (together with any other indemnities of any Credit Party contained elsewhere in this Agreement or in any of the other Loan Documents) and of Lenders set forth in Section 12.7 hereof shall survive the repayment in full of the Indebtedness and the termination of any commitment to extend credit.

13.25 Amendment and Restatement. On the Effective Date, the Prior Credit Agreement shall be amended, restated and superseded in its entirety. The parties hereto acknowledge and agree that (i) this Agreement, the Notes, and the other Loan Documents executed and delivered in connection herewith do not constitute a novation, payment and reborrowing, or termination of the "Obligations" (as defined in the Prior Credit Agreement) under the Prior Credit Agreement as in effect prior to the Effective Date; (ii) such "Obligations" are in all respects continuing with only the terms thereof being modified as provided in this Agreement; (iii) the Liens as granted under the Loan Documents securing payment of such "Obligations" are in all respects continuing and in full force and effect and secure the payment of the Indebtedness (as defined in this Agreement) and are hereby fully ratified and affirmed; and (iv) upon the effectiveness of this Agreement all Existing Advances will be part of the Advances hereunder on the terms and conditions set forth in this Agreement. Without limitation of the foregoing, Borrower hereby fully and unconditionally ratifies and affirms all Loan Documents and agrees that all collateral granted thereunder shall from and after the date hereof secure all Indebtedness hereunder.

(b) Notwithstanding the modifications effected by this Agreement of the representations, warranties and covenants of Borrower contained in the Prior Credit Agreement, Borrower acknowledges and agrees that any causes of action or other rights created in favor of any Lender and its successors arising out of the representations and warranties of Borrower contained in or delivered (including representations and warranties delivered in connection with the making of the loans or other extensions of credit thereunder) in connection with the Prior Credit Agreement shall survive the execution and delivery of this Agreement; provided, however, that it is understood and agreed that Borrower's monetary obligations under the Prior Credit Agreement in respect of the advances and letters of credit thereunder are evidenced by this Agreement as provided herein. All indemnification obligations of the Borrower pursuant to the Prior Credit Agreement (including any arising from a breach of the representations thereunder) shall survive the amendment and restatement of the Prior Credit Agreement pursuant to this Agreement.

(c) On and after the Effective Date, (i) each reference in the Loan Documents to the "Agreement", "thereunder", "thereof" or similar words referring to the Credit Agreement shall mean and be a reference to this Agreement and (ii) each reference in the Loan Documents to a "Note" shall mean and be a Note as defined in this Agreement.

(d) On the Effective Date, each Lender shall have (i) Percentages equal to the applicable percentages set forth in Schedule 1.2 hereto, (ii) Advances of the Revolving Credit (and participation in Swing Line Advances in its Percentage of all such Advances (and Swing Line Advances) outstanding on the Effective Date, (iii) the Term Loan A in an amount equal to its Percentage of the Equipment Line of Credit (as defined in the Prior Credit

Agreement), and (iv) the Term Loan B in an amount equal to its Percentage of the Term Loan (as defined in the Prior Credit Agreement) on the Effective Date. To facilitate the foregoing, each Lender which as a result of the adjustments of Percentages evidenced by Schedule 1.2 hereto is to have a greater principal amount of Advances of the Revolving Credit or Term Loans outstanding than such Lender had outstanding under Revolving Credit or Term Loans under the Prior Credit Agreement immediately prior to the Effective Date, shall deliver to the Agent immediately available funds to cover such Advances (and the Agent shall, to the extent of the funds so received, disburse funds to each Lender which, as a result of the adjustment of the Percentages, is to have a lesser principal amount of Advances outstanding than such Lender had under the Prior Credit Agreement). The Lenders agree that all interest and fees accrued under the Prior Credit Agreement shall constitute the property of the Lenders which were parties to the Prior Credit Agreement and shall be distributed (to the extent received from the Borrower) to such Lenders on the basis of the Percentages in effect under the Prior Credit Agreement. Furthermore, it is acknowledged and agreed that all fees paid under the Prior Credit Agreement shall not be recalculated, redistributed or reallocated by Agent among the Lenders.

[Signatures Follow On Succeeding Page]

WITNESS the due execution hereof as of the day and year first above written.

COMERICA BANK, as Agent

By: /s/ Evan Huckabay

Its: Vice President

INOGEN, INC.

By: /s/ Alison Bauerlein

Its: CFO

COMERICA BANK,
as a Lender, as Issuing Lender and as Swing Line Lender

By: /s/ Evan Huckabay

Its: Vice President

SQUARE 1 BANK,
as a Lender

By: /s/ Ben Pattison

Its: AVP – Venture Banking

Exhibit 10.16

Execution Copy

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (the "**Agreement**") dated as of October 12, 2012, is entered into by and among the Borrower (as defined below), such other entities which from time to time become parties hereto (collectively, including the Borrower, the "**Debtors**" and each, individually, a "**Debtor**") and Comerica Bank ("**Comerica**"), as administrative agent for and on behalf of the Lenders (as defined below) (in such capacity, the "**Agent**"). The addresses for the Debtors and the Agent, as of the date hereof, are set forth on the signature pages attached hereto.

R E C I T A L S:

A. Inogen, Inc. (the "**Borrower**") has entered into that certain Amended and Restated Revolving Credit and Term Loan Agreement dated as of October 12, 2012 (as amended, supplemented, amended and restated or otherwise modified from time to time the "**Credit Agreement**") with each of the financial institutions from time to time signatory thereto (collectively, including their respective successors and assigns, the "**Lenders**") and the Agent pursuant to which the Lenders have agreed, subject to the satisfaction of certain terms and conditions, to extend or to continue to extend financial accommodations to the Borrower, as provided therein.

B. Pursuant to the Credit Agreement, the Lenders have required that each of the Debtors grant (or cause to be granted) certain Liens to the Agent, for the benefit of the Lenders, all to secure the obligations of the Borrower or any Debtor under the Credit Agreement or any related Loan Document (including any Guaranty).

C. The Debtors have directly and indirectly benefited and will directly and indirectly benefit from the transactions evidenced by and contemplated in the Credit Agreement and the other Loan Documents.

D. The Agent is acting as Agent for the Lenders pursuant to the terms and conditions of **Section 12** of the Credit Agreement.

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

ARTICLE 1
Definitions

Section 1.1 Definitions. As used in this Agreement, capitalized terms not otherwise defined herein have the meanings provided for such terms in the Credit Agreement. References to "Sections," "subsections," "Exhibits" and "Schedules" shall be to Sections, subsections, Exhibits and Schedules, respectively, of this Agreement unless otherwise specifically provided. All references to statutes and regulations shall include any amendments of the same and any successor statutes and regulations. References to particular sections of the UCC should be read to refer also to parallel sections of the Uniform Commercial Code as enacted in each state or other jurisdiction which may be applicable to the grant and perfection of the Liens held by the Agent for the benefit of the Lenders pursuant to this Agreement.

The following terms have the meanings indicated below, all such definitions to be equally applicable to the singular and plural forms of the terms defined:

"**Account**" means any "account," as such term is defined in Article or Chapter 9 of the UCC, now owned or hereafter acquired by a Debtor, and, in any event, shall include, without limitation, each of the following, whether now owned or hereafter acquired by such Debtor: (a) all rights of such Debtor to payment for goods sold or leased or services rendered, whether or not earned by performance, (b) all accounts receivable of such Debtor, (c) all rights of such Debtor to receive any payment of money or other form of consideration, (d) all security pledged, assigned or granted to or held by such Debtor to secure any of the foregoing, (e) all guaranties of, or indemnifications with respect to, any of the foregoing, and (f) all rights of such Debtor as an unpaid seller of goods or services, including, but not limited to, all rights of stoppage in transit, replevin, reclamation and resale.

"**Chattel Paper**" means any "chattel paper," as such term is defined in Article or Chapter 9 of the UCC, now owned or hereafter acquired by a Debtor, and shall include both electronic Chattel Paper and tangible Chattel Paper.

"**Collateral**" has the meaning specified in **Section 2.1** of this Agreement.

"**Collateral Compliance Report**" shall mean a report in the form attached hereto as ***Exhibit C***.

"**Computer Records**" means any computer records now owned or hereafter acquired by any Debtor.

"**Copyright Collateral**" shall mean all Copyrights and Copyright Licenses of the Debtors.

"**Copyright Licenses**" shall mean all license agreements with any other Person in connection with any of the Copyrights or such other Person's copyrights, whether a Debtor is a licensor or a licensee under any such license agreement, including, without limitation, the license agreements listed on ***Schedule 1.1*** hereto and made a part hereof, subject, in each case, to the terms of such license agreements and the right to prepare for sale, sell and advertise for sale, all inventory now or hereafter covered by such licenses.

"**Copyrights**" shall mean all copyrights and mask works, whether or not registered, and all applications for registration of all copyrights and mask works, including, but not limited to all copyrights and mask works, and all applications for registration of all copyrights and mask works identified on ***Schedule 1.1*** attached hereto and made a part hereof, and including without limitation (a) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof; (b) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all Copyright Licenses entered into in connection therewith, and damages and payments for past or future infringements thereof); and (c) all rights corresponding thereto and all modifications, adaptations, translations, enhancements and derivative works, renewals thereof, and all other rights of any kind whatsoever of a Debtor accruing thereunder or pertaining thereto.

"**Deposit Account**" shall mean a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property, investment accounts or accounts evidenced by an instrument.

"**Document**" means any "document," as such term is defined in Article or Chapter 9 of the UCC, now owned or hereafter acquired by any Debtor, including, without limitation, all documents of title and all receipts covering, evidencing or representing goods now owned or hereafter acquired by a Debtor.

"**Equipment**" means any "equipment," as such term is defined in Article or Chapter 9 of the UCC, now owned or hereafter acquired by a Debtor and, in any event, shall include, without limitation, all machinery, equipment, furniture, trade fixtures, tractors, trailers, rolling stock, vessels, aircraft and Vehicles now owned or hereafter acquired by such Debtor and any and all additions, substitutions and replacements of any of the foregoing, wherever located, together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto.

"**General Intangibles**" means any "general intangibles," as such term is defined in Article or Chapter 9 of the UCC, now owned or hereafter acquired by a Debtor and, in any event, shall include, without limitation, each of the following, whether now owned or hereafter acquired by such Debtor: (a) all of such Debtor's Intellectual Property Collateral; (b) all of such Debtor's books, records, data, plans, manuals, computer software, computer tapes, computer disks, computer programs, source codes, object codes and all rights of such Debtor to retrieve data and other information from third parties; (c) all of such Debtor's contract rights, commercial tort claims, partnership interests, membership interests, joint venture interests, securities, deposit accounts, investment accounts and certificates of deposit; (d) all rights of such Debtor to payment under chattel paper, documents, instruments and similar agreements; (e) letters of credit, letters of credit rights supporting obligations and rights to payment for

money or funds advanced or sold of such Debtor; (f) all tax refunds and tax refund claims of such Debtor; (g) all choses in action and causes of action of such Debtor (whether arising in contract, tort or otherwise and whether or not currently in litigation) and all judgments in favor of such Debtor; (h) all rights and claims of such Debtor under warranties and indemnities, (i) all health care receivables; and (j) all rights of such Debtor under any insurance, surety or similar contract or arrangement.

"**Governmental Authority**" shall mean any nation or government, any state, province or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"**Instrument**" shall mean any "instrument," as such term is defined in Article or Chapter 9 of the UCC, now owned or hereafter acquired by any Debtor, and, in any event, shall include all promissory notes (including without limitation, any Intercompany Notes held by such Debtor), drafts, bills of exchange and trade acceptances, whether now owned or hereafter acquired.

"**Insurance Proceeds**" shall have the meaning set forth in **Section 4.4** of this Agreement.

"**Intellectual Property Collateral**" shall mean Patents, Patent Licenses, Copyrights, Copyright Licenses, Trademarks, Trademark Licenses, trade secrets, registrations, goodwill, franchises, permits, proprietary information, customer lists, designs, inventions and all other intellectual property and proprietary rights, including without limitation those described on ***Schedule 1.1*** attached hereto and incorporated herein by reference.

"**Inventory**" means any "inventory," as such term is defined in Article or Chapter 9 of the UCC, now owned or hereafter acquired by a Debtor, and, in any event, shall include, without limitation, each of the following, whether now owned or hereafter acquired by such Debtor: (a) all goods and other personal property of such Debtor that are held for sale or lease or to be furnished under any contract of service; (b) all raw materials, work-in-process, finished goods, supplies and materials of such Debtor; (c) all wrapping, packaging, advertising and shipping materials of such Debtor; (d) all goods that have been returned to, repossessed by or stopped in transit by such Debtor; and (e) all Documents evidencing any of the foregoing.

"**Investment Property**" means any "investment property" as such term is defined in Article or Chapter 9 of the UCC, now owned or hereafter acquired by a Debtor, and in any event, shall include without limitation all shares of stock and other equity, partnership or membership interests constituting securities, of the Domestic Subsidiaries of such Debtor from time to time owned or acquired by such Debtor in any manner (including, without limitation, the Pledged Shares), and the certificates and all dividends, cash, instruments, rights and other property from time to time received, receivable or otherwise distributed or distributable in respect of or in exchange for any or all of such shares, but excluding any shares of stock or other equity, partnership or membership interests in any Foreign Subsidiaries of such Debtor.

"**Patent Collateral**" shall mean all Patents and Patent Licenses of the Debtors.

"**Patent Licenses**" shall mean all license agreements with any other Person in connection with any of the Patents or such other Person's patents, whether a Debtor is a licensor or a licensee under any such license agreement, including, without limitation, the license agreements listed on ***Schedule 1.1*** hereto and made a part hereof, subject, in each case, to the terms of such license agreements and the right to prepare for sale, sell and advertise for sale, all inventory now or hereafter covered by such licenses.

"**Patents**" shall mean all letters patent, patent applications and patentable inventions, including, without limitation, all patents and patent applications identified on ***Schedule 1.1*** attached hereto and made a part hereof, and including without limitation, (a) all inventions and improvements described and claimed therein, and patentable inventions, (b) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof, (c) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all Patent Licenses entered into in

connection therewith, and damages and payments for past or future infringements thereof), and (d) all rights corresponding thereto and all reissues, divisions, continuations, continuations-in-part, substitutes, renewals, and extensions thereof, all improvements thereon, and all other rights of any kind whatsoever of a Debtor accruing thereunder or pertaining thereto.

"**Permitted Liens**" means Liens permitted under **Section 8.2** of the Credit Agreement

"**Pledged Shares**" means the shares of capital stock or other equity, partnership or membership interests described on ***Schedule 1.2*** attached hereto and incorporated herein by reference, and all other shares of capital stock or other equity, partnership or membership interests (other than in an entity which is a Foreign Subsidiary) acquired by any Debtor after the date hereof.

"**Proceeds**" means any "proceeds," as such term is defined in Article or Chapter 9 of the UCC and, in any event, shall include, but not be limited to, (a) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to a Debtor from time to time with respect to any of the Collateral, (b) any and all payments (in any form whatsoever) made or due and payable to a Debtor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any Governmental Authority (or any Person acting, or purporting to act, for or on behalf of any Governmental Authority), and (c) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

"**Records**" are defined in **Section 3.2** of this Agreement.

"**Software**" means all (i) computer programs and supporting information provided in connection with a transaction relating to the program, and (ii) computer programs embedded in goods and any supporting information provided in connection with a transaction relating to the program whether or not the program is associated with the goods in such a manner that it customarily is considered part of the goods, and whether or not, by becoming the owner of the goods, a Person acquires a right to use the program in connection with the goods, and whether or not the program is embedded in goods that consist solely of the medium in which the program is embedded.

"**Trademark Collateral**" shall mean all Trademarks and Trademark Licenses of the Debtors.

"**Trademark Licenses**" shall mean all license agreements with any other Person in connection with any of the Trademarks or such other Person's names or trademarks, whether a Debtor is a licensor or a licensee under any such license agreement, including, without limitation, the license agreements listed on ***Schedule 1.1*** hereto and made a part hereof, subject, in each case, to the terms of such license agreements, and the right to prepare for sale, and to sell and advertise for sale, all inventory now or hereafter covered by such licenses.

"**Trademarks**" shall mean all trademarks, service marks, trade names, trade dress or other indicia of trade origin, trademark and service mark registrations, and applications for trademark or service mark registrations, and any renewals thereof, including, without limitation, each registration and application identified on ***Schedule 1.1*** attached hereto and made a part hereof, and including without limitation (a) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof, (b) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all Trademark Licenses entered into in connection therewith, and damages and payments for past or future infringements thereof) and (c) all rights corresponding thereto and all other rights of any kind whatsoever of a Debtor accruing thereunder or pertaining thereto, together in each case with the goodwill of the business connected with the use of, and symbolized by, each such trademark, service mark, trade name, trade dress or other indicia of trade origin.

"**UCC**" means the Uniform Commercial Code as in effect in the State of California; provided, that if, by applicable law, the perfection or effect of perfection or non-perfection of the security interest created hereunder in any Collateral is governed by the Uniform Commercial Code as in effect on or after the date hereof in any other jurisdiction, "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or the effect of perfection or non-perfection.

"Vehicles" means all cars, trucks, trailers, construction and earth moving equipment and other vehicles covered by a certificate of title law of any state and all tires and other appurtenances to any of the foregoing.

ARTICLE 2
Security Interest

Section 2.1 Grant of Security Interest. As collateral security for the prompt payment and performance in full when due of the Indebtedness (whether at stated maturity, by acceleration or otherwise), each Debtor hereby pledges, assigns, transfers and conveys to the Agent as collateral, and grants the Agent a continuing Lien on and security interest in, all of such Debtor's right, title and interest in and to the following, whether now owned or hereafter arising or acquired and wherever located (collectively, the "**Collateral**"):

(a) all Accounts;

(b) all Chattel Paper;

(c) all General Intangibles;

(d) all Equipment;

(e) all Inventory;

(f) all Documents;

(g) all Instruments;

(h) all Deposit Accounts and any other cash collateral, deposit or investment accounts, including all cash collateral, deposit or investment accounts established or maintained pursuant to the terms of this Agreement or the other Loan Documents;

(i) all Computer Records and Software, whether relating to the foregoing Collateral or otherwise, but in the case of such Software, subject to the rights of any non-affiliated licensee of software;

(j) all Investment Property; and

(k) the Proceeds, in cash or otherwise, of any of the property described in the foregoing clauses (a) through (j) and all Liens, security, rights, remedies and claims of such Debtor with respect thereto (provided that the grant of a security interest in Proceeds set forth is in this subsection (k) shall not be deemed to give the applicable Debtor any right to dispose of any of the Collateral, except as may otherwise be permitted pursuant to the terms of the Credit Agreement);

provided, however, that "Collateral" shall not include (a) the Blocked Account or (b) rights under or with respect to any General Intangible, license, permit or authorization to the extent any such General Intangible, license, permit or authorization, by its terms or by law, prohibits the assignment of, or the granting of a Lien over the rights of a grantor thereunder or which would be invalid or unenforceable upon any such assignment or grant (the "**Restricted Assets**"), provided that (A) the Proceeds of any Restricted Asset shall continue to be deemed to be "Collateral", and (B) this provision shall not limit the grant of any Lien on or assignment of any Restricted Asset to the extent that the UCC or any other applicable law provides that such grant of Lien or assignment is effective irrespective of any prohibitions to such grant provided in any Restricted Asset (or the underlying documents related thereto). Concurrently with any such Restricted Asset being entered into or arising after the date hereof, the applicable Debtor shall be obligated to obtain any waiver or consent (in form and substance acceptable to the Agent) necessary to allow such Restricted Asset to constitute Collateral hereunder if the failure of such Debtor to have such Restricted Asset would have a Material Adverse Effect.

Section 2.2 Debtors Remain Liable. Notwithstanding anything to the contrary contained herein, (a) the Debtors shall remain liable under the contracts, agreements, documents and instruments included in the Collateral to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by the Agent or any Lender of any of their respective rights or remedies hereunder shall not release the Debtors from any of their duties or obligations under the contracts, agreements, documents and instruments included in the Collateral, and (c) neither the Agent nor any of the Lenders shall have any indebtedness, liability or obligation (by assumption or otherwise) under any of the contracts, agreements, documents and instruments included in the Collateral by reason of this Agreement, and none of them shall be obligated to perform any of the obligations or duties of the Debtors thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

ARTICLE 3
Representations and Warranties

To induce the Agent to enter into this Agreement and the Agent and the Lenders to enter into the Credit Agreement, each Debtor represents and warrants to the Agent and to each Lender as follows, each such representation and warranty being a continuing representation and warranty, surviving until termination of this Agreement in accordance with the provisions of **Section 7.12** of this Agreement:

Section 3.1 Title. Such Debtor is, and with respect to Collateral acquired after the date hereof such Debtor will be, the legal and beneficial owner of the Collateral free and clear of any Lien or other encumbrance, except for the Permitted Liens, provided that, other than the Lien established under this Agreement, no Lien on any Pledged Shares shall constitute a Permitted Lien.

Section 3.2 Change in Form or Jurisdiction; Successor by Merger; Location of Books and Records. As of the date hereof, each Debtor (a) is duly organized and validly existing as a corporation (or other business organization) under the laws of its jurisdiction of organization; (b) is formed in the jurisdiction of organization and has the registration number and tax identification number set forth on ***Schedule 3.2*** attached hereto; (c) has not changed its respective corporate form or its jurisdiction of organization at any time during the five years immediately prior to the date hereof, except as set forth on such ***Schedule 3.2***; (d) except as set forth on such ***Schedule 3.2*** attached hereto, no Debtor has, at any time during the five years immediately prior to the date hereof, become the successor by merger, consolidation, acquisition, change in form, nature or jurisdiction of organization or otherwise of any other Person, and (e) keeps true and accurate books and records regarding the Collateral (the "**Records**") in the office indicated on such ***Schedule 3.2***.

Section 3.3 Representations and Warranties Regarding Certain Types of Collateral.

(a) **Location of Inventory and Equipment.** As of the date hereof, (i) all Inventory (except Inventory in transit) and Equipment (except trailers, rolling stock, vessels, aircraft and Vehicles) of each Debtor are located at the places specified on ***Schedule 3.3(a)*** attached hereto, (ii) the name and address of the landlord leasing any location to any Debtor is identified on such ***Schedule 3.3(a)***, and (iii) the name of and address of each bailee or warehouseman which holds any Collateral and the location of such Collateral is identified on such ***Schedule 3.3(a)***.

(b) **Account Information.** As of the date hereof, all Deposit Accounts, cash collateral accounts or investment accounts of each Debtor (except for those Deposit Accounts located with the Agent) are located at Square 1 Bank. ***Schedule 3.3(b)*** attached hereto sets forth, with respect to each such account, the type of account and the account number.

(c) **Documents.** As of the date hereof, except as set forth on ***Schedule 3.3(c)***, none of the Inventory or Equipment of such Debtor (other than trailers, rolling stock, vessels, aircraft and Vehicles) is evidenced by a Document (including, without limitation, a negotiable document of title).

(d) **Intellectual Property.** Set forth on ***Schedule 1.1*** (the same may be amended from time to time) is a true and correct list of the registered Patents, Patent Licenses, registered Trademarks, Trademark

Licenses, registered Copyrights and Copyright Licenses owned by the Debtors (including, in the case of the Patents, Trademarks and Copyrights, the applicable name, date of registration (or of application if registration not completed) and application or registration number).

Section 3.4 Pledged Shares.

(a) **Duly Authorized and Validly Issued**. The Pledged Shares that are shares of a corporation have been duly authorized and validly issued and are fully paid and nonassessable, and the Pledged Shares that are membership interests or partnership units (if any) have been validly granted, under the laws of the jurisdiction of organization of the issuers thereof, and, to the extent applicable, are fully paid and nonassessable. No such membership or partnership interests constitute "securities" within the meaning of Article 8 of the UCC, and each Debtor covenants and agrees not to allow any such membership or partnership interest to become "securities" for purposes of Article 8 of the UCC.

(b) **Valid Title; No Liens; No Restrictions.** Each Debtor is the legal and beneficial owner of the Pledged Shares, free and clear of any Lien (other than the Liens created by this Agreement), and such Debtor has not sold, granted any option with respect to, assigned, transferred or otherwise disposed of any of its rights or interest in or to the Pledged Shares. None of the Pledged Shares are subject to any contractual or other restrictions upon the pledge or other transfer of such Pledged Shares, other than those imposed by securities laws generally. No issuer of Pledged Shares is party to any agreement granting "control" (as defined in Section 8-106 of the UCC) of such Debtor's Pledged Shares to any third party. All such Pledged Shares are held by each Debtor directly and not through any securities intermediary.

(c) **Description of Pledged Shares; Ownership.** The Pledged Shares constitute the percentage of the issued and outstanding shares of stock, partnership units or membership interests of the issuers thereof indicated on ***Schedule 1.2*** (as the same may be amended from time to time) and such Schedule contains a description of all shares of capital stock, membership interests and other equity interests of or in any Subsidiaries owned by such Debtor.

Section 3.5 Intellectual Property.

(a) **Filings and Recordation.** Each Debtor has made all necessary filings and recordations to protect and maintain its interest in the Trademarks, Patents and Copyrights set forth on ***Schedule 1.1*** (as the same may be amended from time to time), including, without limitation, all necessary filings and recordings, and payments of all maintenance fees, in the United States Patent and Trademark Office and United States Copyright Office to the extent such Trademarks, Patents and Copyrights are material to such Debtor's business. Also set forth on ***Schedule 1.1*** (as the same may be amended from time to time) is a complete and accurate list of all of the material Trademark Licenses, Patent Licenses and Copyright Licenses owned by the Debtors as of the date hereof.

(b) **Trademarks and Trademark Licenses Valid.** (i) Each Trademark of the Debtors set forth on ***Schedule 1.1*** (as the same may be amended from time to time) is subsisting and has not been adjudged invalid, unregisterable or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid, registrable and enforceable, (ii) each of the Trademark Licenses set forth on ***Schedule 1.1*** (as the same may be amended from time to time) is validly subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid and enforceable, and (iii) the Debtors have notified the Agent in writing of all uses of any material item of Trademark Collateral of which any Debtor is aware which could reasonably be expected to lead to such item becoming invalid or unenforceable, including unauthorized uses by third parties and uses which were not supported by the goodwill of the business connected with such Collateral.

(c) **Patents and Patent Licenses Valid.** (i) Each Patent of the Debtors set forth on ***Schedule 1.1*** (as the same may be amended from time to time) is subsisting and has not been adjudged invalid,

unpatentable or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid, patentable and enforceable except as otherwise set forth on ***Schedule 1.1*** (as the same may be amended from time to time), (ii) each of the Patent Licenses set forth on ***Schedule 1.1*** (as the same may be amended from time to time) is validly subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid and enforceable, and (iii) the Debtors have notified the Agent in writing of all uses of any item of Patent Collateral material to any Debtor's business of which any Debtor is aware which could reasonably be expected to lead to such item becoming invalid or unenforceable.

(d) **Copyright and Copyright Licenses Valid.** (i) Each Copyright of the Debtors set forth on ***Schedule 1.1*** (as the same may be amended from time to time) is subsisting and has not been adjudged invalid, uncopyrightable or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid, copyrightable and enforceable, (ii) each of the Copyright Licenses set forth on ***Schedule 1.1*** (as the same may be amended from time to time) is validly subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and, to the Debtors' knowledge, is valid and enforceable, and (iii) the Debtors have notified the Agent in writing of all uses of any item of Copyright Collateral material to any Debtor's business of which any Debtor is aware which could reasonably be expected to lead to such item becoming invalid or unenforceable.

(e) **No Assignment.** The Debtors have not made a previous assignment, sale, transfer or agreement constituting a present or future assignment, sale, transfer or encumbrance of any of the Intellectual Property Collateral, except with respect to non-exclusive licenses granted in the ordinary course of business or as permitted by this Agreement or the Loan Documents. No Debtor has granted any license, shop right, release, covenant not to sue, or non-assertion assurance to any Person with respect to any part of the Intellectual Property Collateral, except as set forth on ***Schedule 1.1*** or as otherwise disclosed to the Agent in writing.

(f) **Products Marked.** Each Debtor has marked its products with the trademark registration symbol, copyright notices, the numbers of all appropriate patents, the common law trademark symbol or the designation "patent pending," as the case may be, to the extent that such Debtor, in good faith, believes is reasonably and commercially practicable.

(g) **Other Rights.** Except for the Trademark Licenses, Patent Licenses and Copyright Licenses listed on ***Schedule 1.1*** hereto under which a Debtor is a licensee, no Debtor has knowledge of the existence of any right or any claim (other than as provided by this Agreement) that is likely to be made under or against any item of Intellectual Property Collateral contained on ***Schedule 1.1*** to the extent such claim could reasonably be expected to have a Material Adverse Effect.

(h) **No Claims.** Except as set forth on ***Schedule 1.1*** or as otherwise disclosed to the Agent in writing, no claim has been made and is continuing or, to any Debtor's knowledge, threatened that the use by any Debtor of any item of Intellectual Property Collateral is invalid or unenforceable or that the use by any Debtor of any Intellectual Property Collateral does or may violate the rights of any Person. To the Debtors' knowledge, there is no infringement or unauthorized use of any item of Intellectual Property Collateral contained on ***Schedule 1.1*** or as otherwise disclosed to the Agent in writing.

(i) **No Consent.** No consent of any party (other than such Debtor) to any Patent License, Copyright License or Trademark License constituting Intellectual Property Collateral is required, or purports to be required, to be obtained by or on behalf of such Debtor in connection with the execution, delivery and performance of this Agreement that has not been obtained. Each Patent License, Copyright License and Trademark License constituting Intellectual Property Collateral is in full force and effect and constitutes a valid and legally enforceable obligation of the applicable Debtor and (to the knowledge of the Debtors) each other party thereto except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditor's rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law). No consent or authorization of, filing

with or other act by or in respect of any Governmental Authority is required in connection with the execution, delivery, performance, validity or enforceability of any of the Patent Licenses, Copyright Licenses or Trademark Licenses by any party thereto other than those which have been duly obtained, made or performed and are in full force and effect. Neither the Debtors nor (to the knowledge of any Debtor) any other party to any Patent License, Copyright License or Trademark License constituting Collateral is in default in the performance or observance of any of the terms thereof, except for such defaults as would not reasonably be expected, in the aggregate, to have a material adverse effect on the value of the Intellectual Property Collateral. To the knowledge of such Debtor, the right, title and interest of the applicable Debtor in, to and under each Patent License, Copyright License and Trademark License constituting Intellectual Property Collateral is not subject to any defense, offset, counterclaim or claim.

Section 3.6 Priority. No financing statement, security agreement or other Lien instrument covering all or any part of the Collateral is on file in any public office with respect to any outstanding obligation of such Debtor except (i) as may have been filed in favor of the Agent pursuant to this Agreement and the other Loan Documents and (ii) financing statements filed to perfect Permitted Liens (which shall not, in any event, grant a Lien over the Pledged Shares).

Section 3.7 Perfection. Upon (a) the filing of Uniform Commercial Code financing statements in the jurisdictions listed on ***Schedule 3.7*** attached hereto, and (b) the recording of this Agreement in the United States Patent and Trademark Office and the United States Copyright Office, the security interest in favor of the Agent created herein will constitute a valid and perfected Lien upon and security interest in the Collateral which may be created and perfected either under the UCC by filing financing statements or by a filing with the United States Patent and Trademark Office and the United States Copyright Office.

ARTICLE 4
Covenants

Each Debtor covenants and agrees with the Agent, until termination of this Agreement in accordance with the provisions of **Section 7.12** hereof, as follows:

Section 4.1 Covenants Regarding Certain Kinds of Collateral

(a) **Promissory Notes and Tangible Chattel Paper.** If Debtors, now or at any time hereafter, collectively hold or acquire any promissory notes or tangible Chattel Paper for which the principal amount thereof or the obligations evidenced thereunder are, in the aggregate, in excess of $100,000 , the applicable Debtors shall promptly notify the Agent in writing thereof and forthwith endorse, assign and deliver the same to the Agent, accompanied by such instruments of transfer or assignment duly executed in blank as the Agent may from time to time reasonably specify, and cause all such Chattel Paper to bear a legend reasonably acceptable to the Agent indicating that the Agent has a security interest in such Chattel Paper.

(b) **Electronic Chattel Paper and Transferable Records**. If Debtors, now or at any time hereafter, collectively hold or acquire an interest in any electronic Chattel Paper or any "transferable record," as that term is defined in the federal Electronic Signatures in Global and National Commerce Act, or in the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, worth, in the aggregate, in excess of $100,000, the applicable Debtors shall promptly notify the Agent thereof and, at the request and option of the Agent, shall take such action as the Agent may reasonably request to vest in the Agent control, under Section 9-105 of the UCC, of such electronic chattel paper or control under the federal Electronic Signatures in Global and National Commerce Act, or the Uniform Electronic Transactions Act, as so in effect in such jurisdiction, of such transferable record.

(c) **Letter-of-Credit Rights**. If Debtors, now or at any time hereafter, collectively are or become beneficiaries under letters of credit, with an aggregate face amount in excess of $100,000, the applicable Debtors shall promptly notify the Agent thereof and, at the request of the Agent, the applicable Debtors shall, pursuant to an agreement in form and substance reasonably satisfactory to the Agent either arrange (i) for the issuer and any confirmer of such letters of credit to consent to an assignment to the Agent of the proceeds of the letters of credit or (ii) for the Agent to become the transferee beneficiary of the letters of credit, together with, in each case, any such

other actions as reasonably requested by the Agent to perfect its first priority Lien in such letter of credit rights. The applicable Debtor shall retain the proceeds of the applicable letters of credit until a Default or Event of Default has occurred and is continuing whereupon the proceeds are to be delivered to the Agent and applied as set forth in the Credit Agreement.

(d) **Commercial Tort Claims**. If Debtors, now or at any time hereafter, collectively hold or acquire any commercial tort claims, which, the reasonably estimated value of which are in aggregate excess of $100,000, the applicable Debtors shall immediately notify the Agent in a writing signed by such Debtors of the particulars thereof and grant to the Agent in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to the Agent.

(e) **Pledged Shares.** All certificates or instruments representing or evidencing the Pledged Shares or any Debtor's rights therein shall be delivered to the Agent promptly upon Debtor gaining any rights therein, in suitable form for transfer by delivery or accompanied by duly executed stock powers or instruments of transfer or assignments in blank, all in form and substance reasonably acceptable to the Agent.

(f) **Equipment and Inventory**

(i) **Location.** Each Debtor shall keep the Equipment (other than Vehicles) and Inventory (other than Inventory in transit) which is in such Debtor's possession or in the possession of any bailee or warehouseman at any of the locations specified on ***Schedule 3.3(a)*** attached hereto or as otherwise disclosed in writing to the Agent from time to time, subject to compliance with the other provisions of this Agreement, including subsection (ii) below.

(ii) **Landlord Consents and Bailee's Waivers.** Each Debtor shall provide, as applicable, a bailee's waiver or landlord consent, in form and substance acceptable to the Agent, for each non-Debtor owned location of Collateral disclosed on ***Schedule 3.3(a)*** or otherwise disclosed to the Agent in writing, promptly after leasing such location, and shall take all other actions required by the Agent to perfect the Agent's security interest in the Equipment and Inventory with the priority required by this Agreement.

(iii) **Maintenance.** Each Debtor shall maintain the Equipment and Inventory in such condition as may be specified by the terms of the Credit Agreement.

(g) **Intellectual Property.**

(i) **Trademarks.** Each Debtor agrees to take all necessary steps, including, without limitation, in the United States Patent and Trademark Office or in any court, to (x) defend, enforce, preserve the validity and ownership of, and maintain each Trademark registration and each Trademark License identified on ***Schedule 1.1*** hereto, and (y) pursue each trademark application now or hereafter identified on ***Schedule 1.1*** hereto, including, without limitation, the filing of responses to office actions issued by the United States Patent and Trademark Office, the filing of applications for renewal, the filing of affidavits under Sections 8 and 15 of the United States Trademark Act, and the participation in opposition, cancellation, infringement and misappropriation proceedings, except, in each case in which the Debtors have determined, using their commercially reasonable judgment, that any of the foregoing is not of material economic value to them. Each Debtor agrees to take corresponding steps with respect to each new or acquired Trademark registration, Trademark application or any rights obtained under any Trademark License, in each case, which it is now or later becomes entitled, except in each case in which such Debtor has determined, using its commercially reasonable judgment, that any of the foregoing is not of material economic value to it. Any expenses incurred in connection with such activities shall be borne by the Debtors.

(ii) **Patents.** Each Debtor agrees to take all necessary steps, including, without limitation, in the United States Patent and Trademark Office or in any court, to (x) defend, enforce, preserve the validity and ownership of, and maintain each Patent and each Patent License identified on ***Schedule 1.1*** hereto, and (y) pursue each patent application, now or hereafter identified on ***Schedule 1.1*** hereto, including, without limitation, the filing of divisional, continuation, continuation-in-part and substitute applications, the filing of applications for reissue, renewal or extensions, the payment of maintenance fees, and the participation in interference, reexamination, opposition, infringement and misappropriation proceedings, except in each case in which the Debtors have determined, using their commercially reasonable judgment, that any of the foregoing is not of material economic value to them. Each Debtor agrees to take corresponding steps with respect to each new or acquired Patent, patent application, or any rights obtained under any Patent License, in each case, which it is now or later becomes entitled, except in each case in which the Debtors have determined, using their commercially reasonable judgment, that any of the foregoing is not of material economic value to them. Any expenses incurred in connection with such activities shall be borne by the Debtors.

(iii) **Copyrights.** Each Debtor agrees to take all necessary steps, including, without limitation, in the United States Copyright Office or in any court, to (x) defend, enforce, and preserve the validity and ownership of each Copyright and each Copyright License identified on ***Schedule 1.1*** hereto, and (y) pursue each Copyright and mask work application, now or hereafter identified on ***Schedule 1.1*** hereto, including, without limitation, the payment of applicable fees, and the participation in infringement and misappropriation proceedings, except in each case in which the Debtors have determined, using their commercially reasonable judgment, that any of the foregoing is not of material economic value to them. Each Debtor agrees to take corresponding steps with respect to each new or acquired Copyright, Copyright and mask work application, or any rights obtained under any Copyright License, in each case, which it is now or later becomes entitled, except in each case in which the Debtors have determined, using their commercially reasonable judgment, that any of the foregoing is not of material economic value to them. Any expenses incurred in connection with such activities shall be borne by the Debtors.

(iv) **No Abandonment.** The Debtors shall not abandon any Trademark, Patent, Copyright or any pending Trademark, Copyright, mask work or Patent application, without the written consent of the Agent, unless the Debtors shall have previously determined, using their commercially reasonable judgment, that such use or the pursuit or maintenance of such Trademark registration, Patent, Copyright registration or pending Trademark, Copyright, mask work or Patent application is not of material economic value to it, in which case, the Debtors shall give notice of any such abandonment to the Agent promptly in writing after the determination to abandon such Intellectual Property Collateral is made.

(v) **No Infringement.** In the event that a Debtor becomes aware that any item of the Intellectual Property Collateral which such Debtor has determined, using its commercially reasonable judgment, to be material to its business is infringed or misappropriated by a third party, such Debtor shall promptly notify the Agent promptly and in writing, in reasonable detail, and shall take such actions as such Debtor or the Agent deems reasonably appropriate under the circumstances to protect such Intellectual Property Collateral, including, without limitation, suing for infringement or misappropriation and for an injunction against such infringement or misappropriation. Any expense incurred in connection with such activities shall be borne by the Debtors. Each Debtor will advise the Agent promptly and in writing, in reasonable detail, of any adverse determination or the institution of any proceeding (including, without limitation, the institution of any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court) regarding any material item of the Intellectual Property Collateral.

(h) **Accounts and Contracts.** Each Debtor shall, in accordance with its usual business practices in effect from time to time, endeavor to collect or cause to be collected from each account debtor under its Accounts, as and when due, any and all amounts owing under such Accounts. So long as no Default or Event of Default has occurred and is continuing and except as otherwise provided in **Section 6.3**, each Debtor shall have the right to collect and receive payments on its Accounts, and to use and expend the same in its operations in each case in compliance with the terms of the Credit Agreement.

(i) **Vehicles; Aircraft and Vessels.** Notwithstanding any other provision of this Agreement, no Debtor shall be required to make any filings as may be necessary to perfect the Agent's Lien on its Vehicles, aircraft and vessels, unless (i) a Default or an Event of Default has occurred and is continuing, whereupon the Agent may require such filings be made or (ii) such Debtor, either singly, or together with the other Debtors, owns Vehicles, aircraft and vessels (other than Vehicles provided for use by such Debtor's executive employees) which have a fair market value of at least $100,000, in aggregate amount, whereupon the applicable Debtors shall provide prompt notice to the Agent, and the Agent, at its option, may require the applicable Debtors to execute such agreements and make such filings as may be necessary to perfect the Agent's Lien for the benefit of the Lenders and ensure the priority thereof on the applicable Vehicles, aircraft and vessels.

(j) **Life Insurance Policies.** If any Debtor, now or any time hereafter, is the beneficiary of a "key man life insurance policy", it shall promptly notify the Agent thereof, provide the Agent with a true and correct list of the Persons insured, the name and address of the insurance company providing the coverage, the amount of such insurance and the policy number, and, unless otherwise waived by the Agent in writing, take such actions as Agent may deem necessary or the Agent shall deem reasonably desirable to collaterally assign policy to the Agent for the benefit of the Lenders.

(k) **Deposit Accounts.** Each Debtor agrees to promptly notify the Agent in writing of all Deposit Accounts, cash collateral accounts or investments accounts opened at Square 1 Bank after the date hereof. No Debtor shall maintain any Deposit Account, cash collateral account or investment account with any institution other than Comerica Bank or Square 1 Bank, in accordance with **Section 7.14** of the Credit Agreement.

Section 4.2 Encumbrances. Each Debtor shall not create, permit or suffer to exist, and shall defend the Collateral against any Lien (other than the Permitted Liens, provided that no Lien, other than the Lien created hereunder, shall exist over the Pledged Shares) or any restriction upon the pledge or other transfer thereof (other than as specifically permitted in the Credit Agreement), and shall defend such Debtor's title to and other rights in the Collateral and the Agent's pledge and collateral assignment of and security interest in the Collateral against the claims and demands of all Persons. Except to the extent permitted by the Credit Agreement or in connection with any release of Collateral under **Section 7.13** hereof (but only to the extent of any Collateral so released), such Debtor shall do nothing to impair the rights of the Agent in the Collateral.

Section 4.3 Disposition of Collateral. Except as otherwise permitted under the Credit Agreement, no Debtor shall enter into or consummate any transfer or other disposition of Collateral.

Section 4.4 Insurance. The Collateral pledged by such Debtor or the Debtors will be insured (to the extent such Collateral is insurable) with insurance coverage in such amounts and of such types as are required by the terms of the Credit Agreement. In the case of all such insurance policies, each such Debtor shall designate the Agent, as mortgagee or lender loss payee and such policies shall provide that any loss be payable to the Agent, as mortgagee or lender loss payee, as its interests may appear. Further, upon the request of the Agent, each such Debtor shall deliver certificates evidencing such policies, including all endorsements thereon and those required hereunder, to the Agent; and each such Debtor assigns to the Agent, as additional security hereunder, all its rights to receive proceeds of insurance with respect to the Collateral. All such insurance shall, by its terms, provide that the applicable carrier shall, prior to any cancellation before the expiration date thereof, mail thirty (30) days' prior written notice to the Agent of such cancellation. Each Debtor further shall provide the Agent upon request with evidence reasonably satisfactory to the Agent that each such Debtor is at all times in compliance with this

paragraph. Upon the occurrence and during the continuance of a Default or an Event of Default, the Agent may, at its option, act as each such Debtor's attorney-in-fact in obtaining, adjusting, settling and compromising such insurance and endorsing any drafts. Upon such Debtor's failure to insure the Collateral as required in this covenant, the Agent may, at its option, procure such insurance and its costs therefor shall be charged to such Debtor, payable on demand, with interest at the highest rate set forth in the Credit Agreement and added to the Indebtedness secured hereby. The disposition of proceeds payable to such Debtor of any insurance on the Collateral (the "**Insurance Proceeds**") shall be governed by the following:

(a) provided that no Default or Event of Default has occurred and is continuing hereunder, (i) if the amount of Insurance Proceeds in respect of any loss or casualty does not exceed One Hundred Thousand Dollars ($100,000), such Debtor shall be entitled, in the event of such loss or casualty, to receive all such Insurance Proceeds and to apply the same toward the replacement of the Collateral affected thereby or to the purchase of other assets to be used in such Debtor's business (provided that such assets shall be subjected to a first priority Lien in favor of the Agent and such repurchase of assets shall occur within 180 days of such Debtor receiving the Insurance Proceeds); and (ii) if the amount of Insurance Proceeds in respect of any loss or casualty exceeds One Hundred Thousand Dollars ($100,000), such Insurance Proceeds shall be paid to and received by the Agent, for release to such Debtor for the replacement of the Collateral affected thereby or to the purchase of other assets to be used in such Debtor's business (provided that such assets shall be subjected to a first priority Lien in favor of the Agent); or, upon written request of such Debtor (accompanied by reasonable supporting documentation), for such other use or purpose as approved by the Agent in its reasonable discretion, it being understood and agreed in connection with any release of funds under this subparagraph (ii), that the Agent may impose reasonable and customary conditions on the disbursement of such Insurance Proceeds; provided further that if such proceeds are not, as applicable, used by the Debtors to repurchase assets or released by the Agent to the Debtors under this clause (a) within 180 days, or if at any time prior to the end of such 180 day period, a Default or Event of Default has occurred, such proceeds shall be applied to the Indebtedness in accordance with clause (b) below; and

(b) if a Default or Event of Default has occurred or is continuing and is not waived as provided in the Credit Agreement, all Insurance Proceeds in respect of any loss or casualty shall be paid to and received by the Agent, to be applied by the Agent against the Indebtedness in the manner specified in the Credit Agreement.

Section 4.5 Corporate Changes; Books and Records; Inspection Rights. (a) No Debtor shall change its respective name, identity, corporate structure or jurisdiction of organization, or identification number in any manner that might make any financing statement filed in connection with this Agreement seriously misleading within the meaning of Section 9-506 of the UCC unless such Debtor shall have given the Agent thirty (30) days prior written notice with respect to any change in such Debtor's corporate structure, jurisdiction of organization, name or identity and shall have taken all action deemed reasonably necessary by the Agent under the circumstances to protect its Liens and the perfection and priority thereof, (b) each Debtor shall keep the Records at the location specified on ***Schedule 3.2*** as the location of such books and records or as otherwise specified in writing to the Agent and (c) the Debtors shall permit the Agent, the Lenders, and their respective agents and representatives to conduct inspections, discussion and audits of the Collateral in accordance with the terms of the Credit Agreement.

Section 4.6 Notification of Lien; Continuing Disclosure. (a) Each Debtor shall promptly notify the Agent in writing of any Lien, encumbrance or claim (other than a Permitted Lien, to the extent not otherwise subject to any notice requirements under the Credit Agreement) that has attached to or been made or asserted against any of the Collateral upon becoming aware of the existence of such Lien, encumbrance or claim; and (b) concurrently with delivery of the Covenant Compliance Report for each fiscal year, Debtors shall execute and deliver to the Agent a Collateral Compliance Report in the form attached hereto as ***Exhibit C***.

Section 4.7 Covenants Regarding Pledged Shares

(a) **Voting Rights and Distributions**.

(i) So long as no Default or Event of Default shall have occurred and be continuing (both before and after giving effect to any of the actions or other matters described in clauses (A) or (B) of this subparagraph):

(A) Each Debtor shall be entitled to exercise any and all voting and other consensual rights (including, without limitation, the right to give consents, waivers and ratifications) pertaining to any of the Pledged Shares or any part thereof; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken without the prior written consent of the Agent which would violate any provision of this Agreement or the Credit Agreement; and

(B) Except as otherwise provided by the Credit Agreement, such Debtor shall be entitled to receive and retain any and all dividends, distributions and interest paid in respect to any of the Pledged Shares.

(ii) Upon the occurrence and during the continuance of a Default or an Event of Default:

(A) The Agent may, without notice to such Debtor, transfer or register in the name of the Agent or any of its nominees, for the equal and ratable benefit of the Lenders, any or all of the Pledged Shares and the Proceeds thereof (in cash or otherwise) held by the Agent hereunder, and the Agent or its nominee may thereafter, after delivery of notice to such Debtor, exercise all voting and corporate rights at any meeting of any corporation issuing any of the Pledged Shares and any and all rights of conversion, exchange, subscription or any other rights, privileges or options pertaining to any of the Pledged Shares as if the Agent were the absolute owner thereof, including, without limitation, the right to exchange, at its discretion, any and all of the Pledged Shares upon the merger, consolidation, reorganization, recapitalization or other readjustment of any corporation issuing any of such Pledged Shares or upon the exercise by any such issuer or the Agent of any right, privilege or option pertaining to any of the Pledged Shares, and in connection therewith, to deposit and deliver any and all of the Pledged Shares with any committee, depositary, transfer agent, registrar or other designated agency upon such terms and conditions as the Agent may determine, all without liability except to account for property actually received by it, but the Agent shall have no duty to exercise any of the aforesaid rights, privileges or options, and the Agent shall not be responsible for any failure to do so or delay in so doing.

(B) All rights of such Debtor to exercise the voting and other consensual rights which it would otherwise be entitled to exercise pursuant to **Section 4.7(a)(i)(A)** and to receive the dividends, interest and other distributions which it would otherwise be authorized to receive and retain pursuant to **Section 4.7(a)(i)(B)** shall be suspended until such Default or Event of Default shall no longer exist, and all such rights shall, until such Default or Event of Default shall no longer exist, thereupon become vested in the Agent which shall thereupon have the sole right to exercise such voting and other consensual rights and to receive, hold and dispose of as Pledged Shares such dividends, interest and other distributions.

(C) All dividends, interest and other distributions which are received by such Debtor contrary to the provisions of this **Section 4.7(a)(ii)** shall be received in trust for the benefit of the Agent, shall be segregated from other funds of such Debtor and shall be forthwith paid over to the Agent as Collateral in the same form as so received (with any necessary endorsement).

(D) Each Debtor shall execute and deliver (or cause to be executed and delivered) to the Agent all such proxies and other instruments as the Agent may reasonably

request for the purpose of enabling the Agent to exercise the voting and other rights which it is entitled to exercise pursuant to this **Section 4.7(a)(ii)** and to receive the dividends, interest and other distributions which it is entitled to receive and retain pursuant to this **Section 4.7(a)(ii)**. The foregoing shall not in any way limit the Agent's power and authority granted pursuant to the other provisions of this Agreement.

(b) **Possession; Reasonable Care.** Regardless of whether a Default or an Event of Default has occurred or is continuing, the Agent shall have the right to hold in its possession all Pledged Shares pledged, assigned or transferred hereunder and from time to time constituting a portion of the Collateral. The Agent may appoint one or more agents (which in no case shall be a Debtor or an affiliate of a Debtor) to hold physical custody, for the account of the Agent, of any or all of the Collateral. The Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which the Agent accords its own property, it being understood that the Agent shall not have any responsibility for (i) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Collateral, whether or not the Agent has or is deemed to have knowledge of such matters, or (ii) taking any necessary steps to preserve rights against any parties with respect to any Collateral, except, subject to the terms hereof, upon the written instructions of the Lenders. Following the occurrence and continuance of an Event of Default, the Agent shall be entitled to take ownership of the Collateral in accordance with the UCC.

Section 4.8 New Subsidiaries; Additional Collateral

(a) With respect to each Person which becomes a Subsidiary of a Debtor subsequent to the date hereof, execute and deliver such joinders or security agreements or other pledge documents as are required by the Credit Agreement, within the time periods set forth therein.

(b) Each Debtor agrees that, (i) except with the written consent of the Agent, it will not permit any Domestic Subsidiary (whether now existing or formed after the date hereof) to issue to such Debtor or any of such Debtor's other Subsidiaries any shares of stock, membership interests, partnership units, notes or other securities or instruments (including without limitation the Pledged Shares) in addition to or in substitution for any of the Collateral, unless, concurrently with each issuance thereof, any and all such shares of stock, membership interests, partnership units, notes or instruments are encumbered in favor of the Agent under this Agreement or otherwise (it being understood and agreed that all such shares of stock, membership interests, partnership units, notes or instruments issued to such Debtor shall, without further action by such Debtor or the Agent, be automatically encumbered by this Agreement as Pledged Shares) and (ii) it will promptly following the issuance thereof deliver to the Agent (A) an amendment, duly executed by such Debtor, in substantially the form of ***Exhibit A*** hereto in respect of such shares of stock, membership interests, partnership units, notes or instruments issued to such Debtor or (B) if reasonably required by the Lenders, a new stock pledge, duly executed by the applicable Debtor, in substantially the form of this Agreement (a "**New Pledge**"), in respect of such shares of stock, membership interests, partnership units, notes or instruments issued to any Debtor granting to the Agent, for the benefit of the Lenders, a first priority security interest, pledge and Lien thereon, together in each case with all certificates, notes or other instruments representing or evidencing the same, together with such other documentation as the Agent may reasonably request. Such Debtor hereby (x) authorizes the Agent to attach each such amendment to this Agreement, (y) agrees that all such shares of stock, membership interests, partnership units, notes or instruments listed in any such amendment delivered to the Agent shall for all purposes hereunder constitute Pledged Shares, and (z) is deemed to have made, upon the delivery of each such amendment, the representations and warranties contained in **Section 3.4** of this Agreement with respect to the Collateral covered thereby.

(c) With respect to any Intellectual Property Collateral owned, licensed or otherwise acquired by any Debtor after the date hereof, and with respect to any Patent, Trademark or Copyright which is not registered or filed with the U.S. Patent and Trademark Office and/or the U.S. Copyright Office at

the time such Collateral is pledged by a Debtor to the Agent pursuant to this Security Agreement, and which is subsequently registered or filed by such Debtor in the appropriate office, such Debtor shall promptly after the acquisition or registration thereof execute or cause to be executed and delivered to the Agent, (i) an amendment, duly executed by such Debtor, in substantially the form of ***Exhibit A*** hereto, in respect of such additional or newly registered collateral or (ii) at the Agent's option, a new security agreement, duly executed by the applicable Debtor, in substantially the form of this Agreement, in respect of such additional or newly registered collateral, granting to the Agent, for the benefit of the Lenders, a first priority security interest, pledge and Lien thereon (subject only to the Permitted Liens), together in each case with all certificates, notes or other instruments representing or evidencing the same, and shall, upon the Agent's request, execute or cause to be executed any financing statement or other document (including without limitation, filings required by the U.S. Patent and Trademark Office and/or the U.S. Copyright Office in connection with any such additional or newly registered collateral) granting or otherwise evidencing a Lien over such new Intellectual Property Collateral. Each Debtor hereby (x) authorizes the Agent to attach each amendment to this Agreement, (y) agrees that all such additional collateral listed in any amendment delivered to the Agent shall for all purposes hereunder constitute Collateral, and (z) is deemed to have made, upon the delivery of each such Amendment, the representations and warranties contained in **Section 3.3(d)** and **Section 3.5** of this Agreement with respect to the Collateral covered thereby.

Section 4.9 Further Assurances (a) At any time and from time to time, upon the request of the Agent, and at the sole expense of the Debtors, each Debtor shall promptly execute and deliver all such further agreements, documents and instruments and take such further action as the Agent may reasonably deem necessary or appropriate to (i) preserve, ensure the priority, effectiveness and validity of and perfect the Agent's security interest in and pledge and collateral assignment of the Collateral (including causing the Agent's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition of the Agent's ability to enforce its security interest in such Collateral), unless such actions are specifically waived under the terms of this Agreement and the other Loan Documents, (ii) carry out the provisions and purposes of this Agreement and (iii) to enable the Agent to exercise and enforce its rights and remedies hereunder with respect to any of the Collateral. Except as otherwise expressly permitted by the terms of the Credit Agreement relating to disposition of assets and except for Permitted Liens (except for Pledged Shares, over which the only Lien shall be that Lien established under this Agreement), each Debtor agrees to maintain and preserve the Agent's security interest in and pledge and collateral assignment of the Collateral hereunder and the priority thereof.

(b) Each Debtor hereby irrevocably authorizes the Agent at any time and from time to time to file in any filing office in any jurisdiction any initial financing statements and amendments thereto that (i) indicate any or all of the Collateral upon which the Debtors have granted a Lien, and (ii) provide any other information required by Part 5 of Article 9 of the UCC, including organizational information and in the case of a fixture filing or a filing for Collateral consisting of as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. Each Debtor agrees to furnish any such information required by the preceding paragraph to the Agent promptly upon request.

ARTICLE 5
Rights of the Agent

Section 5.1 Power of Attorney. Each Debtor hereby irrevocably constitutes and appoints the Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the name of such Debtor or in its own name, to take, after the occurrence and during the continuance of an Event of Default, any and all actions, and to execute any and all documents and instruments which the Agent at any time and from time to time deems necessary, to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, such Debtor hereby gives the Agent the power and right on behalf of such Debtor and in its own name to do any of the following after the occurrence and during the continuance of an Event of Default, without notice to or the consent of such Debtor:

(a) to demand, sue for, collect or receive, in the name of such Debtor or in its own name, any money or property at any time payable or receivable on account of or in exchange for any of the

Collateral and, in connection therewith, endorse checks, notes, drafts, acceptances, money orders, documents of title or any other instruments for the payment of money under the Collateral or any policy of insurance;

(b) to pay or discharge taxes, Liens (other than Permitted Liens) or other encumbrances levied or placed on or threatened against the Collateral;

(c) (i) to direct account debtors and any other parties liable for any payment under any of the Collateral to make payment of any and all monies due and to become due thereunder directly to the Agent or as the Agent shall direct; (ii) to receive payment of and receipt for any and all monies, claims and other amounts due and to become due at any time in respect of or arising out of any Collateral; (iii) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, proxies, stock powers, verifications and notices in connection with accounts and other documents relating to the Collateral; (iv) to commence and prosecute any suit, action or proceeding at law or in equity in any court of competent jurisdiction to collect the Collateral or any part thereof and to enforce any other right in respect of any Collateral; (v) to defend any suit, action or proceeding brought against such Debtor with respect to any Collateral; (vi) to settle, compromise or adjust any suit, action or proceeding described above and, in connection therewith, to give such discharges or releases as the Agent may deem appropriate; (vii) to exchange any of the Collateral for other property upon any merger, consolidation, reorganization, recapitalization or other readjustment of the issuer thereof and, in connection therewith, deposit any of the Collateral with any committee, depositary, transfer agent, registrar or other designated agency upon such terms as the Agent may determine; (viii) to add or release any guarantor, indorser, surety or other party to any of the Collateral; (ix) to renew, extend or otherwise change the terms and conditions of any of the Collateral; (x) to make, settle, compromise or adjust any claim under or pertaining to any of the Collateral (including claims under any policy of insurance); (xi) subject to any pre-existing rights or licenses, to assign any Patent, Copyright or Trademark constituting Intellectual Property Collateral (along with the goodwill of the business to which any such Patent, Copyright or Trademark pertains), for such term or terms, on such conditions and in such manner, as the Agent shall in its sole discretion determine, and (xii) to sell, transfer, pledge, convey, make any agreement with respect to, or otherwise deal with, any of the Collateral as fully and completely as though the Agent were the absolute owner thereof for all purposes, and to do, at the Agent's option and such Debtor's expense, at any time, or from time to time, all acts and things which the Agent deems necessary to protect, preserve, maintain, or realize upon the Collateral and the Agent's security interest therein.

This power of attorney is a power coupled with an interest and shall be irrevocable. The Agent shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges and options expressly or implicitly granted to the Agent in this Agreement, and shall not be liable for any failure to do so or any delay in doing so. This power of attorney is conferred on the Agent solely to protect, preserve, maintain and realize upon its security interest in the Collateral. The Agent shall not be responsible for any decline in the value of the Collateral and shall not be required to take any steps to preserve rights against prior parties or to protect, preserve or maintain any Lien given to secure the Collateral.

Section 5.2 Setoff. In addition to and not in limitation of any rights of any Lenders under applicable law, the Agent and each Lender shall, upon the occurrence and continuance of an Event of Default, without notice or demand of any kind, have the right to appropriate and apply to the payment of the Indebtedness owing to it (whether or not then due) any and all balances, credits, deposits, accounts or moneys of Debtors then or thereafter on deposit with such Lenders; provided, however, that any such amount so applied by any Lender on any of the Indebtedness owing to it shall be subject to the provisions of the Credit Agreement.

Section 5.3 Assignment by the Agent. The Agent may at any time assign or otherwise transfer all or any portion of its rights and obligations as Agent under this Agreement and the other Loan Documents (including, without limitation, the Indebtedness) to any other Person, to the extent permitted by, and upon the conditions contained in, the Credit Agreement and such Person shall thereupon become vested with all the benefits and obligations thereof granted to the Agent herein or otherwise.

Section 5.4 Performance by the Agent. If any Debtor shall fail to perform any covenant or agreement contained in this Agreement, the Agent may (but shall not be obligated to) perform or attempt to perform such covenant or agreement on behalf of the Debtors, in which case Agent shall exercise good faith and make diligent efforts to give Debtors prompt prior written notice of such performance or attempted performance. In such event, the Debtors shall, at the request of the Agent, promptly pay any reasonable amount expended by the Agent in connection with such performance or attempted performance to the Agent, together with interest thereon at the interest rate set forth in the Credit Agreement, from and including the date of such expenditure to but excluding the date such expenditure is paid in full. Notwithstanding the foregoing, it is expressly agreed that the Agent shall not have any liability or responsibility for the performance (or non-performance) of any obligation of the Debtors under this Agreement.

Section 5.5 Certain Costs and Expenses. The Debtors shall pay or reimburse the Agent within five (5) Business Days after demand for all reasonable costs and expenses (including reasonable attorney's and paralegal fees) incurred by it in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Agreement or any other Loan Document during the existence of an Event of Default or after acceleration of any of the Indebtedness (including in connection with any "workout" or restructuring regarding the Indebtedness, and including in any insolvency proceeding or appellate proceeding). The agreements in this **Section 5.5** shall survive the payment in full of the Indebtedness. Notwithstanding the foregoing, the reimbursement of any fees and expenses incurred by the Lenders shall be governed by the terms and conditions of the Credit Agreement.

Section 5.6 Indemnification. The Debtors shall indemnify, defend and hold the Agent, and each Lender and each of their respective officers, directors, employees, counsel, agents and attorneys-in-fact (each, an "**Indemnified Person**") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses and disbursements (including reasonable attorneys' and paralegals' fees) of any kind or nature whatsoever which may at any time (including at any time following repayment of the Indebtedness and the termination, resignation or replacement of the Agent or replacement of any Lender) be imposed on, incurred by or asserted against any such Indemnified Person in any way relating to or arising out of this Agreement or any other Loan Document or any document relating to or arising out of or referred to in this Agreement or any other Loan Document, or the transactions contemplated hereby, or any action taken or omitted by any such Indemnified Person under or in connection with any of the foregoing, including with respect to any investigation, litigation or proceeding (including any bankruptcy proceeding or appellate proceeding) related to or arising out of this Agreement or the Indebtedness or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto (all the foregoing, collectively, the "**Indemnified Liabilities**"); provided, that the Debtors shall have no obligation under this **Section 5.6** to any Indemnified Person with respect to Indemnified Liabilities to the extent resulting from the gross negligence or willful misconduct of such Indemnified Person. The agreements in this **Section 5.6** shall survive payment of all other Indebtedness.

ARTICLE 6
Default

Section 6.1 Rights and Remedies. If an Event of Default shall have occurred and be continuing, the Agent shall have the following rights and remedies subject to the direction and/or consent of the Lenders as required under the Credit Agreement:

(a) The Agent may exercise any of the rights and remedies set forth in this Agreement (including, without limitation, **Article 5** hereof), in the Credit Agreement, or in any other Loan Document, or by applicable law.

(b) In addition to all other rights and remedies granted to the Agent in this Agreement, the Credit Agreement or by applicable law, the Agent shall have all of the rights and remedies of a secured party under the UCC (whether or not the UCC applies to the affected Collateral) and the Agent may also, without previous demand or notice except as specified below or in the Credit Agreement, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of the Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Agent may, in its reasonable discretion,

deem commercially reasonable or otherwise as may be permitted by law. Without limiting the generality of the foregoing, the Agent may (i) without demand or notice to the Debtors (except as required under the Credit Agreement or applicable law), collect, receive or take possession of the Collateral or any part thereof, and for that purpose the Agent (and/or its Agents, servicers or other independent contractors) may enter upon any premises on which the Collateral is located and remove the Collateral therefrom or render it inoperable, and/or (ii) sell, lease or otherwise dispose of the Collateral, or any part thereof, in one or more parcels at public or private sale or sales, at the Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Agent may, in its reasonable discretion, deem commercially reasonable or otherwise as may be permitted by law. The Agent and, subject to the terms of the Credit Agreement, each of the Lenders shall have the right at any public sale or sales, and, to the extent permitted by applicable law, at any private sale or sales, to bid (which bid may be, in whole or in part, in the form of cancellation of indebtedness) and become a purchaser of the Collateral or any part thereof free of any right of redemption on the part of the Debtors, which right of redemption is hereby expressly waived and released by the Debtors to the extent permitted by applicable law. The Agent may require the Debtors to assemble the Collateral and make it available to the Agent at any place designated by the Agent to allow the Agent to take possession or dispose of such Collateral. The Debtors agree that the Agent shall not be obligated to give more than five (5) days prior written notice of the time and place of any public sale or of the time after which any private sale may take place and that such notice shall constitute reasonable notice of such matters. The foregoing shall not require notice if none is required by applicable law. The Agent shall not be obligated to make any sale of Collateral if, in the exercise of its reasonable discretion, it shall determine not to do so, regardless of the fact that notice of sale of Collateral may have been given. The Agent may, without notice or publication (except as required by applicable law), adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. The Debtors shall be liable for all reasonable expenses of retaking, holding, preparing for sale or the like, and all reasonable attorneys' fees, legal expenses and other costs and expenses incurred by the Agent in connection with the collection of the Indebtedness and the enforcement of the Agent's rights under this Agreement and the Credit Agreement. The Debtors shall, to the extent permitted by applicable law, remain liable for any deficiency if the proceeds of any such sale or other disposition of the Collateral (conducted in conformity with this clause (ii) and applicable law) applied to the Indebtedness are insufficient to pay the Indebtedness in full. The Agent shall apply the proceeds from the sale of the Collateral hereunder against the Indebtedness in such order and manner as provided in the Credit Agreement.

(c) The Agent may cause any or all of the Collateral held by it to be transferred into the name of the Agent or the name or names of the Agent's nominee or nominees.

(d) The Agent may exercise any and all rights and remedies of the Debtors under or in respect of the Collateral, including, without limitation, any and all rights of the Debtors to demand or otherwise require payment of any amount under, or performance of any provision of any of the Collateral and any and all voting rights and corporate powers in respect of the Collateral.

(e) On any sale of the Collateral, the Agent is hereby authorized to comply with any limitation or restriction with which compliance is necessary (based on a reasoned opinion of the Agent's counsel) in order to avoid any violation of applicable law or in order to obtain any required approval of the purchaser or purchasers by any applicable Governmental Authority.

(f) The Agent may direct account debtors and any other parties liable for any payment under any of the Collateral to make payment of any and all monies due and to become due thereunder directly to the Agent or as the Agent shall direct.

(g) In the event of any sale, assignment or other disposition of the Intellectual Property Collateral, the goodwill of the business connected with and symbolized by any Collateral subject to such disposition shall be included, and the Debtors shall supply to the Agent or its designee the

Debtors' know-how and expertise related to the Intellectual Property Collateral subject to such disposition, and the Debtors' notebooks, studies, reports, records, documents and things embodying the same or relating to the inventions, processes or ideas covered by and to the manufacture of any products under or in connection with the Intellectual Property Collateral subject to such disposition.

(h) For purposes of enabling the Agent to exercise its rights and remedies under this **Section 6.1** and enabling the Agent and its successors and assigns to enjoy the full benefits of the Collateral, the Debtors hereby grant to the Agent an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to the Debtors) to use, assign, license or sublicense any of the Intellectual Property Collateral, Computer Records or Software (including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and all computer programs used for the completion or printout thereof), exercisable upon the occurrence and during the continuance of a Default or an Event of Default (and thereafter if Agent succeeds to any of the Collateral pursuant to an enforcement proceeding or voluntary arrangement with Debtors), except as may be prohibited by any licensing agreement relating to such Computer Records or Software. This license shall also inure to the benefit of all successors, assigns, transferees of and purchasers from the Agent.

Section 6.2 Private Sales.

(a) In view of the fact that applicable securities laws may impose certain restrictions on the method by which a sale of the Pledged Shares may be effected after an Event of Default, Debtors agree that upon the occurrence and during the continuance of an Event of Default, the Agent may from time to time attempt to sell all or any part of the Pledged Shares by a private sale in the nature of a private placement, restricting the bidders and prospective purchasers to those who will represent and agree that they are "accredited investors" within the meaning of Regulation D promulgated pursuant to the Securities Act of 1933, as amended (the "**Securities Act**"), and are purchasing for investment only and not for distribution. In so doing, the Agent may solicit offers for the Pledged Shares, or any part thereof, from a limited number of investors who might be interested in purchasing the Pledged Shares. Without limiting the methods or manner of disposition which could be determined to be commercially reasonable, if the Agent hires a firm of regional or national reputation that is engaged in the business of rendering investment banking and brokerage services to solicit such offers and facilitate the sale of the Pledged Shares, then the Agent's acceptance of the highest offer (including its own offer, or the offer of any of the Lenders at any such sale) obtained through such efforts of such firm shall be deemed to be a commercially reasonable method of disposition of such Pledged Shares. The Agent shall not be under any obligation to delay a sale of any of the Pledged Shares for the period of time necessary to permit the issuer of such securities to register such securities under the laws of any jurisdiction outside the United States, under the Securities Act or under any applicable state securities laws, even if such issuer would agree to do so.

(b) The Debtors further agree to do or cause to be done, to the extent that the Debtors may do so under applicable law, all such other reasonable acts and things as may be necessary to make such sales or resales of any portion or all of the Collateral valid and binding and in compliance with any and all applicable laws, regulations, orders, writs, injunctions, decrees or awards of any and all courts, arbitrators or governmental instrumentalities, domestic or foreign, having jurisdiction over any such sale or sales, all at the Debtors' expense.

Section 6.3 Establishment of Cash Collateral Account; and Lock Box.

(a) Notwithstanding anything to the contrary in this Agreement, in the case of any Event of Default under **Section 9.1(i)** of the Credit Agreement, immediately following the occurrence thereof, and in the case of any other Event of Default, (w) upon the termination of any commitments to extend credit under the Credit Agreement, (x) upon the acceleration of any Indebtedness arising under the Credit Agreement, (y) at the option of Agent or (z) upon the request of the Majority Lenders after

the commencement of any remedies hereunder, there shall be established by each Debtor with the Agent, for the benefit of the Lenders in the name of the Agent, a segregated non-interest bearing cash collateral account (the "**Cash Collateral Account**") bearing a designation clearly indicating that the funds deposited therein are held for the benefit of the Agent and the Lenders; provided, however, that the Cash Collateral Account may be an interest-bearing account with a commercial bank (including Comerica or any other Lender which is a commercial bank) if determined by the Agent, in its reasonable discretion, to be practicable, invested by the Agent in its sole discretion, but without any liability for losses or the failure to achieve any particular rate of return. Furthermore, in connection with the establishment of a Cash Collateral Account under the first sentence of this **Section 6.3** (and on the terms and within the time periods provided thereunder), (i) each Debtor agrees to establish and maintain (and the Agent, acting at the request of the Lenders, may establish and maintain) at such Debtor's sole expense a United States Post Office lock box (the "**Lock Box**"), to which the Agent shall have exclusive access and control. Each Debtor expressly authorizes the Agent, from time to time, to remove the contents from the Lock Box for disposition in accordance with this Agreement; and (ii) each Debtor shall notify all account debtors that all payments made to such Debtor (a) other than by electronic funds transfer, shall be remitted, for the credit of such Debtor, to the Lock Box, and such Debtor shall include a like statement on all invoices, and (b) by electronic funds transfer, shall be remitted to the Cash Collateral Account, and such Debtor shall include a like statement on all invoices. Each Debtor agrees to execute all documents and authorizations as reasonably required by the Agent to establish and maintain the Lock Box and the Cash Collateral Account. It is acknowledged by the parties hereto that any lockbox presently maintained or subsequently established by a Debtor with the Agent may be used, subject to the terms hereof, to satisfy the requirements set forth in the first sentence of this **Section 6.3**.

(b) Notwithstanding anything to the contrary in this Agreement, in the case of any Event of Default under **Section 9.1(i)** of the Credit Agreement, immediately following the occurrence thereof, and in the case of any other Event of Default, (w) upon the termination of any commitments to extend credit under the Credit Agreement, (x) upon the acceleration of any Indebtedness arising under the Credit Agreement, (y) at the option of Agent or (z) upon the request of the Majority Lenders after the commencement of any remedies hereunder, any and all cash (including amounts received by electronic funds transfer), checks, drafts and other instruments for the payment of money received by each Debtor at any time, in full or partial payment of any of the Collateral consisting of Accounts or Inventory, shall forthwith upon receipt be transmitted and delivered to the Agent, properly endorsed, where required, so that such items may be collected by the Agent. Any such amounts and other items received by a Debtor shall not be commingled with any other of such Debtor's funds or property, but will be held separate and apart from such Debtor's own funds or property, and upon express trust for the benefit of the Agent until delivery is made to the Agent. All items or amounts which are remitted to a Lock Box or otherwise delivered by or for the benefit of a Debtor to the Agent on account of partial or full payment of, or any other amount payable with respect to, any of the Collateral shall, at the Agent's option, be applied to any of the Indebtedness, whether then due or not, in the order and manner set forth in the Credit Agreement. No Debtor shall have any right whatsoever to withdraw any funds so deposited. Each Debtor further grants to the Agent a first security interest in and Lien on all funds on deposit in such account. Each Debtor hereby irrevocably authorizes and directs the Agent to endorse all items received for deposit to the Cash Collateral Account, notwithstanding the inclusion on any such item of a restrictive notation, e.g., "paid in full", "balance of account", or other restriction.

Section 6.4 Default Under Credit Agreement. Subject to any applicable notice and cure provisions contained in the Credit Agreement, the occurrence of any Event of Default (as defined in the Credit Agreement), including without limit a breach of any of the provisions of this Agreement, shall be deemed to be an Event of Default under this Agreement. This **Section 6.4** shall not limit the Events of Default set forth in the Credit Agreement.

ARTICLE 7
Miscellaneous

Section 7.1 No Waiver; Cumulative Remedies. No failure on the part of the Agent to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies provided for in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

Section 7.2 Successors and Assigns. Subject to the terms and conditions of the Credit Agreement, this Agreement shall be binding upon and inure to the benefit of the Debtors and the Agent and their respective heirs, successors and assigns, except that the Debtors may not assign any of their rights or obligations under this Agreement without the prior written consent of the Agent.

Section 7.3 AMENDMENT; ENTIRE AGREEMENT. THIS AGREEMENT AND THE CREDIT AGREEMENT REFERRED TO HEREIN EMBODY THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES HERETO AND SUPERSEDES ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES HERETO. The provisions of this Agreement may be amended or waived only by an instrument in writing signed by the parties hereto.

Section 7.4 Notices. All notices, requests, consents, approvals, waivers and other communications hereunder shall be in writing (including, by facsimile transmission) and mailed, faxed or delivered to the address or facsimile number specified for notices on signature pages hereto; or, as directed to the Debtors or the Agent, to such other address or number as shall be designated by such party in a written notice to the other. All such notices, requests and communications shall, when sent by overnight delivery, or faxed, be effective when delivered for overnight (next business day) delivery, or transmitted in legible form by facsimile machine (with electronic confirmation of receipt), respectively, or if mailed, upon the third Business Day after the date deposited into the U.S. mail, or if otherwise delivered, upon delivery; except that notices to the Agent shall not be effective until actually received by the Agent.

Section 7.5 GOVERNING LAW; SUBMISSION TO JURISDICTION; SERVICE OF PROCESS.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD FOR PRINCIPLES OF CONFLICTS OF LAWS.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF CALIFORNIA OR OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE DEBTORS AND THE AGENT CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. EACH OF THE DEBTORS AND THE AGENT IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT OR ANY LOAN DOCUMENT.

Section 7.6 Headings. The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

Section 7.7 Survival of Representations and Warranties. All representations and warranties made in this Agreement or in any certificate delivered pursuant hereto shall survive the execution and delivery of this Agreement, and no investigation by the Agent shall affect the representations and warranties or the right of the Agent or the Lenders to rely upon them.

Section 7.8 Counterparts. 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.

Section 7.9 Waiver of Bond. In the event the Agent seeks to take possession of any or all of the Collateral by judicial process, the Debtors hereby irrevocably waive any bonds and any surety or security relating thereto that may be required by applicable law as an incident to such possession, and waives any demand for possession prior to the commencement of any such suit or action.

Section 7.10 Severability. Any provision of this Agreement which is determined by a court of competent jurisdiction to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7.11 Construction. Each Debtor and the Agent acknowledge that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review this Agreement with its legal counsel and that this Agreement shall be construed as if jointly drafted by the Debtors and the Agent.

Section 7.12 Termination; Reinstatement. If all of the Indebtedness (other than contingent liabilities pursuant to any indemnity, including without limitation **Section 5.5** and **Section 5.6** hereof, for claims which have not been asserted, or which have not yet accrued) shall have been paid and performed in full (in cash) and all commitments to extend credit or other credit accommodations under the Credit Agreement have been terminated, the Agent shall, upon the written request of the Debtors, execute and deliver to the Debtors a proper instrument or instruments acknowledging the release and termination of the security interests created by this Agreement, and shall duly assign and deliver to the Debtors (without recourse and without any representation or warranty) such of the Collateral as may be in the possession of the Agent and has not previously been sold or otherwise applied pursuant to this Agreement; provided however that, the effectiveness of this Agreement shall continue or be reinstated, as the case may be, in the event: (a) that any payment received or credit given by the Agent or the Lenders, or any of them, is returned, disgorged, rescinded or required to be recontributed to any party as an avoidable preference, impermissible setoff, fraudulent conveyance, restoration of capital or otherwise under any applicable state, federal, or local law of any jurisdiction, including laws pertaining to bankruptcy or insolvency, and this Agreement shall thereafter be enforceable against the Debtors as if such returned, disgorged, recontributed or rescinded payment or credit has not been received or given by the Agent or the Lenders, and whether or not the Agent or any Lender relied upon such payment or credit or changed its position as a consequence thereof or (b) that any liability is imposed, or sought to be imposed against the Agent or the Lenders, or any of them, relating to the environmental condition of any of property mortgaged or pledged to the Agent on behalf of the Lenders by any Debtor, the Borrower or other party as collateral (in whole or part) for any indebtedness or obligation evidenced or secured by this Agreement, whether such condition is known or unknown, now exists or subsequently arises (excluding only conditions which arise after acquisition by the Agent or any Lender of any such property, in lieu of foreclosure or otherwise, due to the wrongful act or omission of the Agent or such Lenders, or any person other than the Borrower, the Subsidiaries, or any Affiliates of the Borrower or the Subsidiaries), and this Agreement shall thereafter be enforceable against the Debtors to the extent of all such liabilities, costs and expenses (including reasonable attorneys' fees) incurred by the Agent or Lenders as the direct or indirect result of any such environmental condition but only for which the Borrower is obligated to the Agent and the Lenders pursuant to the Credit Agreement. For purposes of this Agreement "environmental condition" includes, without limitation, conditions existing with respect to the surface or ground water, drinking water supply, land surface or subsurface strata and the ambient air.

Section 7.13 Release of Collateral. The Agent shall, upon the written request of the Debtors, execute and deliver to the Debtors a proper instrument or instruments acknowledging the release of the security interest and Liens established hereby on any Collateral (other than the Pledged Shares): (a) if the sale or other disposition of

such Collateral is permitted under the terms of the Credit Agreement and, at the time of such proposed release, both before and after giving effect thereto, no Default or Event of Default has occurred and is continuing, (b) if the sale or other disposition of such Collateral is not permitted under the terms of the Credit Agreement, provided that the requisite Lenders under the Credit Agreement shall have consented to such sale or disposition in accordance with the terms thereof, or (c) if such release has been approved by the requisite Lenders in accordance with **Section 13.9** of the Credit Agreement.

Section 7.14 WAIVER OF JURY TRIAL. EACH DEBTOR AND THE AGENT ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED UNDER CERTAIN CIRCUMSTANCES. TO THE EXTENT PERMITTED BY LAW, EACH DEBTOR AND THE AGENT, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF ALL PARTIES, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OTHER DOCUMENT, INSTRUMENT OR AGREEMENT BETWEEN THE DEBTORS AND THE AGENT.

(a) In the event that the jury trial waiver contained in this **Section 7.14** is not enforceable, the parties elect to proceed as follows:

(b) With the exception of the items specified in clause (c), below, any controversy, dispute or claim (each, a "Claim") between the parties arising out of or relating to this Agreement or any other Loan Document will be resolved by a reference proceeding in California in accordance with the provisions of Section 638 et seq. of the California Code of Civil Procedure ("CCP"), or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to the reference proceeding. Except as otherwise provided in the Agreement, venue for the reference proceeding will be in the state or federal court in the county or district where venue is otherwise appropriate under applicable law (the "Court").

(c) The matters that shall not be subject to a reference are the following: (i) foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including, without limitation, set-off), (iii) appointment of a receiver and (iv) temporary, provisional or ancillary remedies (including, without limitation, writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). This Section does not limit the right of any party to exercise or oppose any of the rights and remedies described in clauses (i) and (ii) or to seek or oppose from a court of competent jurisdiction any of the items described in clauses (iii) and (iv). The exercise of, or opposition to, any of those items does not waive the right of any party to a reference pursuant to this Section.

(d) The referee shall be a retired judge or justice selected by mutual written agreement of the parties. If the parties do not agree within ten (10) days of a written request to do so by any party, then, upon request of any party, the referee shall be selected by the Presiding Judge of the Court (or his or her representative). A request for appointment of a referee may be heard on an ex parte or expedited basis, and the parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP § 170.6, each party shall have one peremptory challenge to the referee selected by the Presiding Judge of the Court (or his or her representative).

(e) The parties agree that time is of the essence in conducting the reference proceedings. Accordingly, the referee shall be requested, subject to change in the time periods specified herein for good cause shown, to (a) set the matter for a status and trial-setting conference within fifteen (15) days after the date of selection of the referee, (b) if practicable, try all issues of law or fact within one hundred twenty (120) days after the date of the conference and (c) report a statement of decision within twenty (20) days after the matter has been submitted for decision.

(f) The referee will have power to expand or limit the amount and duration of discovery. The referee may set or extend discovery deadlines or cutoffs for good cause, including a party's failure to

provide requested discovery for any reason whatsoever. Unless otherwise ordered, no party shall be entitled to "priority" in conducting discovery, depositions may be taken by either party upon seven (7) days written notice, and all other discovery shall be responded to within fifteen (15) days after service. All disputes relating to discovery which cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding.

(g) Except as expressly set forth in this Section, the referee shall determine the manner in which the reference proceeding is conducted including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee, and the referee will be provided a courtesy copy of the transcript. The party making such a request shall have the obligation to arrange for and pay the court reporter. Subject to the referee's power to award costs to the prevailing party, the parties will equally share the cost of the referee and the court reporter at trial.

(h) The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision at the close of the reference proceeding which disposes of all claims of the parties that are the subject of the reference. Pursuant to CCP § 644, such decision shall be entered by the Court as a judgment or an order in the same manner as if the action had been tried by the Court and any such decision will be final, binding and conclusive. The parties reserve the right to appeal from the final judgment or order or from any appealable decision or order entered by the referee. The parties reserve the right to findings of fact, conclusions of laws, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.

(i) If the enabling legislation which provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or Justice, in accordance with the California Arbitration Act § 1280 through § 1294.2 of the CCP as amended from time to time. The limitations with respect to discovery set forth above shall apply to any such arbitration proceeding.

THE PARTIES RECOGNIZE AND AGREE THAT ALL DISPUTES RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR OWN CHOICE, EACH PARTY KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF ALL PARTIES, AGREES THAT THIS REFERENCE PROVISION WILL APPLY TO ANY CONTROVERSY, DISPUTE OR CLAIM BETWEEN OR AMONG THEM WHICH ARISES OUT OF OR IS RELATED TO THE AGREEMENT.

Section 7.15 Consistent Application. The rights and duties created by this Agreement shall, in all cases, be interpreted consistently with, and shall be in addition to (and not in lieu of), the rights and duties created by the Credit Agreement or the other Loan Documents. In the event that any provision of this Agreement shall be inconsistent with any provision of the Credit Agreement, such provision of the Credit Agreement shall govern.

Section 7.16 Continuing Lien. The security interest granted under this Security Agreement shall be a continuing security interest in every respect (whether or not the outstanding balance of the Indebtedness is from time to time temporarily reduced to zero) and the Agent's security interest in the Collateral as granted herein shall continue in full force and effect for the entire duration that the Credit Agreement remains in effect and until all of the Indebtedness are repaid and discharged in full, and no commitment (whether optional or obligatory) to extend any credit under the Credit Agreement remain outstanding.

Section 7.17 Amendment and Restatement. This Agreement amends, restates and replaces in its entirety the security agreement included in the Prior Credit Agreement (the "Prior Security Agreement"), and nothing contained herein shall be deemed to alter or impair the liens and security interest established by the Prior Security Agreement, which liens and security interest remain in full force and effect with all priorities unchanged.

(Remainder of page intentionally left blank.)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first written above.

DEBTORS:

INOGEN, INC.

By: /s/ Alison Bauerlein

Name: Alison Bauerlein

Title CFO

Address for Notices:
326 Bollay Dr.
Goleta, Ca 93117
Fax No.:
Telephone No.:
Attention:

AGENT:

COMERICA BANK, as Agent

By: /s/ Evan Huckabay

Name: Evan Huckabay

Title Vice President

Address for Notices:
411 West Lafayette
7th Floor
MC 3289
Detroit, Michigan 48226
Telephone No.: 313/222/9434
Attention:

EXHIBIT A
TO
SECURITY AGREEMENT

FORM OF AMENDMENT

This Amendment, dated , 20 , is delivered pursuant to **Section 4.8[(b)/(c)]** of the Security Agreement referred to below. The undersigned hereby agrees that this Amendment may be attached to the Security Agreement dated as of October 12, 2012, between the undersigned and Comerica Bank, as the Agent for the benefit of the Lenders referred to therein (the "**Security Agreement**"), and (a) [that the intellectual property listed on ***Schedule A***]/[that the shares of stock, membership interests, partnership units, notes or other instruments listed on ***Schedule A***] annexed hereto shall be and become part of the Collateral referred to in the Security Agreement and shall secure payment and performance of all Indebtedness as provided in the Security Agreement and (b) that ***Schedule A*** shall be deemed to amend [***Schedule 1.2***/***Schedule 1.1***] by supplementing the information provided on such Schedule with the information set forth on ***Schedule A***.

Capitalized terms used herein but not defined herein shall have the meanings therefor provided in the Security Agreement.

INOGEN, INC.

By: _____
Name: _____
Title _____

COMERICA BANK, as Agent

By: _____
Name: _____
Title _____

EXHIBIT B

JOINDER AGREEMENT
(Security Agreement)

THIS JOINDER AGREEMENT (the "**Joinder Agreement**") is dated as of , by , a ("**New Debtor**").

WHEREAS, pursuant to **Section 7.13** of that certain Amended and Restated Revolving Credit and Term Loan Agreement dated as of October 12, 2012 (as amended, restated or otherwise modified from time to time, the "**Credit Agreement**") by and among Inogen, Inc. (the "**Borrower**"), the financial institutions from time to time signatory thereto (the "**Lenders**") and Comerica Bank, as administrative agent for the Lenders (in such capacity, "**Agent**"), the New Debtor is required to execute and deliver a joinder agreement to the Security Agreement.

WHEREAS, in order to comply with the Credit Agreement, New Debtor executes and delivers this Joinder Agreement in accordance therewith.

NOW THEREFORE, as a further inducement to Lenders to continue to provide credit accommodations to the Borrower, New Debtor hereby covenants and agrees as follows:

A. All capitalized terms used herein shall have the meanings assigned to them in the Credit Agreement unless expressly defined to the contrary.

B. New Debtor hereby enters into this Joinder Agreement in order to comply with **Section 7.13** of the Credit Agreement and does so in consideration of the Advances made or to be made from time to time under the Credit Agreement and the other Loan Documents.

C. The Schedules attached to this Joinder Agreement are intended to supplement the Schedules to the Security Agreement with the respective information applicable to New Debtor.

D. New Debtor shall be considered, and deemed to be, for all purposes of the Credit Agreement, the Security Agreement and the other Loan Documents, a Debtor under the Security Agreement as fully as though New Debtor had executed and delivered the Security Agreement at the time originally executed and delivered under the Credit Agreement and hereby ratifies and confirms its obligations under the Security Agreement, all in accordance with the terms thereof and shall be deemed to have made each representation and warranty set forth in the Security Agreement.

E. No Default or Event of Default (each such term being defined in the Credit Agreement) has occurred and is continuing under the Credit Agreement.

F. This Joinder Agreement shall be governed by the laws of the State of California and shall be binding upon New Debtor and its successors and assigns.

IN WITNESS WHEREOF, the undersigned New Debtor has executed and delivered this Joinder Agreement as of , .

[NEW DEBTOR]

By: _____

Its: _____

Accepted:

COMERICA BANK, as Agent

By: _____

Its: _____

EXHIBIT C

FORM OF COLLATERAL COMPLIANCE CERTIFICATE

To: Comerica Bank as administrative agent (the "**Agent**") and the Lenders

Re: Security Agreement dated as of October 12, 2012 by and among Inogen, Inc. and such other entities which from time to time become parties thereto (each a "**Debtor**" and collectively, the "**Debtors**") and Agent, (as the same may be amended, restated or otherwise modified from time to time, the "**Security Agreement**"; capitalized terms not otherwise defined herein shall have the meanings set forth in the Security Agreement).

Reference is made to **Section 4.6** of the Security Agreement. The undersigned hereby represents and warrants to Agent and the Lenders, in consideration of the loans extended to Borrower, as follows:

1. Locations. No Debtor has any leased or owned location, or any Collateral located with a warehousemen or bailee, which has not been previously disclosed in writing to Agent, or is not set forth on ***Schedule 1*** attached hereto, which sets forth the information required by **Section 3.3(a)(ii)** and **Section 3.3(a)(iii)** of the Security Agreement, as applicable, for all previously undisclosed locations.

2. Deposit Accounts. No Debtor has any Deposit Accounts, cash collateral accounts or investment accounts (other than with Agent) which have not been previously disclosed in writing to Agent, or are not set forth on ***Schedule 2*** attached hereto, which sets forth the information required by **Section 3.3(b)** of the Security Agreement as to each previously undisclosed account.

3. Intellectual Property. No Debtor has any registered Patents, Patent Licenses, registered Trademarks, Trademark Licenses, registered Copyrights and Copyright Licenses which have not been previously disclosed in writing to Agent, or are not set forth on ***Schedule 3*** attached hereto, which sets forth the information required by **Section 3.3(d)** of the Security Agreement for such previously undisclosed Intellectual Property Collateral.

4. Pledged Shares. None of the Debtors, singly or collectively, hold any Pledged Shares which have not been previously disclosed to Agent in writing except as set forth on ***Schedule 4*** attached hereto, which sets forth the information required by **Section 3.4(c)** of the Security Agreement for such previously undisclosed Pledged Shares.

5. Promissory Notes; Tangible Chattel Paper. None of the Debtors, singly or collectively, have promissory notes or tangible Chattel Paper for which the principal amount or obligations evidenced thereunder are, in aggregate, in excess of $ which promissory notes and/or Chattel Paper have not been previously disclosed to Agent in writing, assigned and delivered to Agent in accordance with **Section 4.1(a)** of the Security Agreement, except as set forth on ***Schedule 5*** attached hereto.

6. Electronic Chattel Paper. None of the Debtors, singly or collectively, have electronic Chattel Paper or any "transferable record" evidencing obligations, in the aggregate, in excess of $, which have not previously been disclosed to Agent in writing, and over which Agent has not been granted control in accordance with **Section 4.1(b)** of the Security Agreement, except as set forth on ***Schedule 6*** attached hereto.

7. Letters of Credit. None of the Debtors, singly or collectively, are beneficiaries under letters of credit, with an aggregate face amount in excess of $, which have not previously been disclosed to Agent in writing, and over which Agent has not been granted a Lien in compliance with the terms of **Section 4.1(c)** of the Security Agreement, except as set forth on ***Schedule 7*** attached hereto.

8. Commercial Tort Claims. None of the Debtors, singly or collectively, have any commercial tort claims which, in the aggregate, are reasonably estimated to have a value in excess of $, which claims have not previously been disclosed to Agent in writing and over which Agent has not been granted a Lien in compliance with **Section 4.1(d)** of the Security Agreement, except as set forth on ***Schedule 8*** attached hereto.

9. Vehicles, Aircraft and Vessels. None of the Debtors, singly or collectively, own Vehicles (other than Vehicles used by executive employees), aircraft or vessels with a fair market value in excess of $ which have not been previously disclosed in writing to Agent, except as set forth on ***Schedule 9*** attached hereto.

10. Life Insurance. None of the Debtors are beneficiaries of any key man life insurance policies which have not been previously disclosed in writing to Agent, except as set forth on ***Schedule 10*** attached hereto.

IN WITNESS WHEREOF, the undersigned have executed this Collateral Compliance Report, as of this day of ,
.

INOGEN, INC.

By: _____

Its: _____

ROCKBRIDGE INVESTMENTS, L.P.
MULTI-PURPOSE COMMERCIAL BUILDING LEASE

THIS MULTI-PURPOSE COMMERCIAL BUILDING LEASE ("Lease") dated February 1, 2010, for reference purposes only, is made and entered into by and between the Landlord and the Tenant identified in the Basic Provisions set forth below. This Lease consists of the Basic Provisions together with the Attachments and Exhibits listed in Paragraph I of the Basic Provisions.

BASIC PROVISIONS

These Basic Provisions set forth certain information relevant and fundamental to the Standard Terms and Conditions upon which this Lease is made, and all information set forth in these Basic Provisions is subject to the provisions of the Standard Terms and Conditions of this Lease.

A. Landlord

(1) Name of Landlord: ROCKBRIDGE INVESTMENTS, L.P.
a California limited partnership

(2) Landlord's Trade Name: Santa Barbara Business Park

(3) Landlord's Address: c/o The Towbes Group, Inc.
21 E. Victoria Street, Suite 200
Santa Barbara, California 93101

(4) Landlord's Remit Address: P.O. Box 20130
Santa Barbara, California 93120

B. Tenant

(1) Name of Tenant(s): INOGEN, INC.
a Delaware corporation

(2) Tenant's Trade Name: Inogen

(3) Tenant's Mailing Address: 326 Bollay Drive
Goleta, California 93117

(4) Tenant's Billing Address: 326 Bollay Drive
Goleta, California 93117

C. Leased Premises (Article 1)

(1) Description of Premises (Section 1.1)

(a) The space or unit outlined on the Site Plan attached as Exhibit A known as 326 Bollay Drive, (herein, the "Premises"), located at 326 Bollay Drive, in the City of Goleta, County of Santa Barbara, State of California (herein the "Project").

(b) Landlord and Tenant mutually agree that the square footage measurement of the Premises consists of approximately 38,851 leasable square feet. The Project initially consists of approximately 194,202 square feet of leasable space.

(c) The Building in which the Premises are situated initially consists of approximately 38,851 square feet of leasable space.

Landlord's Initials _____ Tenant's Initials _____

(d) Tenant's proportionate share of Building Operating Expenses initially shall be one-hundred percent (100%).

(e) Tenant's proportionate share of Project Operating Expenses initially shall be twenty percent (20.0%).

(2) Parking (Section 1.3)

(a) Tenant shall have the right to (check each applicable item):

☐ (i) Exclusive use of ( ) spaces. *(Continued on Exhibit K attached hereto)*

☒ (ii) Non-exclusive use of common area parking not to exceed one hundred nine (109) parking spaces.

☐ (iii) Assigned space number(s) .

(b) Tenant's Employees (☐ may) (☒ may not) use any common area parking spaces situated on the Premises (☐ in addition to) (☒ other than) those assigned to Tenant pursuant to subparagraph (a), above.

(3) Preparation of Premises; Occupancy (Section 1.4)

☒ (a) No work shall be required by Landlord to prepare the Premises for occupancy by Tenant.

☐ (b) The Anticipated Completion Date for any work to be done by Landlord, as reflected on Exhibit B is , 20 .

☐ (c) The Anticipated Completion Date for any work to be done by Landlord, as reflected on Exhibit B is ( ) weeks from Landlord's receipt of Tenant's "approved final construction plan."

D. Term of Lease (Article 2)

(1) Commencement Date

☒ (a) October 1, 2010.

☐ (b) The earlier to occur of days following the day upon which Landlord has notified Tenant in writing that any work required of Landlord, as reflected on Exhibit B, is substantially completed.

(2) Term. A period of five (5) years and n/a(—-) full calendar months, measured from the first day of the first full calendar month of the Lease Term; the last day of the initial Term of this Lease shall be the last day of the sixtieth (60th) month of this Lease.

E. Rent (Article 3)

(1) Minimum Monthly Rent. The sum of $1.00 per square foot per month payable in monthly installments in the amount of $38,851 due on or before the first day of each month (Section 3.1). The Minimum Monthly Rent and reimbursement for Landlord's Common Area and Total Operating Costs (the "Rent Commencement Date") shall commence upon:

☐ the Commencement Date.

☒ November 1, 2010.

☐ Other (specify):

Landlord's Initials _____ Tenant's Initials _____

(2) Adjustment to Minimum Monthly Rent (Section 3.1)

☐ (a) To be made at ( )-year intervals in accordance with the provisions of Exhibit C. For the purpose of such adjustments, the Base Period shall be the month of , the Base Period index shall be , and the Comparison Period shall be the preceding the Adjustment Date. The Adjustment Date shall be:

☐ (i) The first day of , and the first day of every year thereafter.

☐ (ii) Other (specify):

☐ (b) Notwithstanding the above, the Minimum Monthly Rent shall have a minimum annual adjustment of percent (%) and a maximum annual adjustment of percent (%).

☒ (c) To be increased by three percent (3%) on the first day of the thirteenth (13th) full calendar month following the Commencement Date, and annually thereafter by three percent (3%).

(3) Percentage Rent. (Section 3.2)

☐ (a) In an amount equal to percent (%) of Tenant's "Gross Receipts" as defined in Exhibit D attached hereto and otherwise in the manner provided in Exhibit D.

☒ (b) Not applicable

(4) Late Processing Charge. (Section 3.4) The sum of ten percent (10%) of each delinquent payment.

(5) Prepaid Rent. Intentionally Omitted.

(6) Security Deposit. (Section 3.6) An amount equal to $50,506.30.

F. Landlord's Common Area and Operating Costs (Article 7)

Tenant shall reimburse Landlord for Tenant's proportionate share of Landlord's Total Operating Costs in the manner and to the extent provided in Article 7 of the Standard Terms and Conditions. *(Continued on Exhibit K attached hereto)*

G. Use by Tenant (Article 8)

Tenant shall use and occupy the Premises for general office and light manufacturing and for no other purpose.

H. Insurance (Article 13)

(1) Liability Insurance Required of Tenant. Tenant to provide his own liability insurance for bodily injury and property damage with single limit coverage in the amount of:

☒$1,000,000

☐ $

(2) Additional policy endorsements required from Tenant, with initial limits not less than those indicated below:

	YES	NO	AMOUNT
(a) Dram Shop Liability:	☐	☒	$
(b) Plate Glass Insurance:	☒	☐	100% replacement cost
(c) Boiler and Machinery Insurance	☐	☒	100% replacement cost

	YES	NO	AMOUNT
(d) Rent Continuation:	☒	☐	In the amount of the Minimum Monthly Rent due hereunder for no less than twelve (12) months
(e) Vandalism:	☒	☐	100% replacement cost
(f) Tenant Fire Insurance:	☒	☐	100% replacement cost

I. **Attachments and Exhibits: Tenant's Financial Statement(s)**

Landlord has delivered to Tenant, and Tenant hereby acknowledges receipt of, each of the following, which are incorporated into this Lease by reference (Landlord and Tenant to initial in applicable blank spaces):

Landlord	Tenant	
_____	_____	Standard Terms and Conditions
_____	_____	Attachment 1: Rules and Regulations
_____	_____	Exhibit A: Site Plan
_____	_____	Exhibit F: Real Estate Commissions
_____	_____	Exhibit G: Option to Renew
_____	_____	Exhibit H: Parking Allocation
_____	_____	Exhibit I: Sign Plan
_____	_____	Exhibit K: Supplemental Terms and Conditions
_____	_____	Exhibit L: Form of Estoppel Certificate
_____	_____	Exhibit M: Commencement Memorandum
_____	_____	Exhibit N: Prohibited Uses
_____	_____	Exhibit P: Nondisturbance Agreement

Tenant has delivered to Landlord Tenant's Financial Statements for the year end December 1, 2009.

IN WITNESS WHEREOF the parties hereto have executed this Lease on the date set forth opposite their respective names and respectively warrant that the persons executing this Lease are duty authorized and empowered to do so.

LANDLORD AND TENANT HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY 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 LANDLORD AND TENANT WITH RESPECT TO THE PREMISES.

Landlord's Initials _____ Tenant's Initials _____

LANDLORD:

Date: March 1, 2010

ROCKBRIDGE INVESTMENTS, L.P.
a California limited partnership

By: Michael Towbes Construction &
Development, Inc., General Partner

Federal ID# 77-0543095

By: /s/ Michael Towbes
Michael Towbes, President

TENANT:

Date: February 25, 2010

INOGEN, INC.
a Delaware corporation

By: /s/ Matthew S. Scribner

Its: Vice President of Operations

Federal ID# 33-0989359

By: /s/ Alison Perry

Its: VP Finance/CFO

NOTICE TO PERSON(S) OBTAINING SIGNATURES(S) OF TENANT:

If Tenant or Tenant's general partner is a corporation, the authorized officers must sign on behalf of the corporation and indicate the capacity in which they are signing. If Tenant or Tenant's general partner is a limited liability company, the authorized members or managers must sign on behalf of the company and indicate the capacity in which they are signing. In either case, a certified copy of a resolution of the board of directors, members, or managers, as the case may be, authorizing execution of this Lease by the person(s) signing it, must be attached to this Lease.

Landlord's Initials _____ Tenant's Initials _____

ROCKBRIDGE INVESTMENTS, L.P.
MULTI-PURPOSE COMMERCIAL BUILDING LEASE
STANDARD TERMS AND CONDITIONS

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THE SUBMISSION OF THIS DOCUMENT FOR EXAMINATION AND NEGOTIATION DOES NOT CONSTITUTE AN OFFER TO LEASE, OR A RESERVATION OF, OR OPTION FOR, THE PREMISES; THIS DOCUMENT BECOMES EFFECTIVE AND BINDING ONLY UPON EXECUTION AND DELIVERY HEREOF BY LANDLORD. NO ACT OR OMISSION OF ANY EMPLOYEE OR AGENT OF LANDLORD OR OF LANDLORD'S BROKER SHALL ALTER, CHANGE OR MODIFY ANY OF THE PROVISIONS HEREOF.

ROCKBRIDGE INVESTMENTS, L.P.
MULTI-PURPOSE COMMERCIAL BUILDING LEASE
STANDARD TERMS AND CONDITIONS

THESE STANDARD TERMS AND CONDITIONS constitute an integral part of this Multi-Purpose Commercial Building Lease. Each reference in the Standard Terms and Conditions to information set forth in the Basic Provisions of this Lease shall be construed to incorporate all of the information to which reference is made. Any conflict between these Standard Terms and Conditions and the information set forth in the Basic Provisions shall be controlled by the terms of these Standard Terms and Conditions.

1. LEASED PREMISES

1.1 Description of Premises. As used herein, the term "Premises" shall mean the store, office space, or other unit as are described in the Basic Provisions, the boundaries and location of which are designated on the attached Site Plan (Exhibit A), which said Premises are now existing or will be part of the building containing the Premises (the "Building") and are more fully described in Section C of the Basic Provisions. Unless the context otherwise requires, the Premises shall include that portion of the Building and other improvements presently situated or to be constructed in the location so outlined on said Site Plan, and all fixtures heretofore or hereafter to be installed by Landlord therein, but shall exclude the roof and the exterior surface of all exterior walls of such Building and improvements, except as specifically allowed hereunder. The Premises, the Building, the Common Areas (as defined below), the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project."

1.2 Common Areas. Subject to Article 6 of this Lease, Landlord shall make available at all times during the term of this Lease, such automobile parking and other common areas within the exterior boundaries of the land and Building of which the Premises are a part. The term "Common Area(s)" shall mean all the portions of the Building which are not specifically leased or specifically available for lease to tenants and which have at the time in question been designated and improved for common use by or for the benefit of more than one tenant or concessionaire of the Building, including any of the following (the specific recitation of which shall not be deemed to limit the definition of "Common Area"): the land and facilities utilized as parking areas; access and perimeter roads; truck passageways (which may be in whole or in part subsurface); arcades; landscaped areas; exterior walks; stairways; stairs; directory equipment; ramps; drinking fountains; toilets and other public facilities; and bus stations and taxi stands; but excluding any portion thereof when designated by Landlord for a noncommon use, provided any portion of the Building which was not included within the Common Area shall be so included when so designated and improved for common use. All of the Common Area shall be subject to the exclusive control and management of Landlord or such other persons or nominees as Landlord may have delegated or assigned to exercise such management or control, in whole or in part, in Landlord's place and stead. Tenant acknowledges that Landlord makes no representation or warranty whatsoever concerning the safety of the Common Area or the adequacy of any security system which is or may be instituted for the Common Area. In no event shall Tenant have the right to sell or solicit in any manner in the Common Area. As long as Tenant is not in default under this Lease, Tenant shall have the non-exclusive right to use in common with other Tenants of the Building the common areas and facilities included in the Building together with such easements for ingress and egress as are necessary for Tenant's use and occupancy of the Premises.

1.3 Parking Facilities. Tenant acknowledges and agrees that any parking spaces provided by Landlord in and around the Building or Premises are solely for the convenience of the customers of Tenant, its employees and of other tenants of the Building, and that no portion of any such parking facilities is reserved for Tenant, its employees or its customers unless otherwise specifically designated by Landlord in the Basic Provisions. Landlord expressly reserves the right to establish and enforce reasonable rules and regulations throughout the Term of this Lease concerning the use of the parking area, and Landlord shall be entitled to tow away vehicles parked in violation of such rules. Tenant agrees that Tenant and its employees will not park in the parking areas serving the Building except in that area, if any, specifically designated in writing by Landlord for that purpose.

1.4 Preparation of Premises; Occupancy.

1.4.1 If so provided in the Basic Provisions, Landlord agrees to perform any work identified in Exhibit B as Landlord's work, and to cause the Premises to be ready for occupancy by Tenant

Landlord's Initials _____ Tenant's Initials _____

on or before the Commencement Date set forth in the Basic Provisions. In the event Landlord is required to perform any work prior to Tenant's occupancy, the Premises shall be deemed ready for occupancy as of the date Landlord has notified Tenant in writing that Landlord has substantially completed all of the work required to be done by Landlord as reflected in Exhibit B, and the initial term of this Lease shall commence on the date of such notice unless a different date is specified in the Basic Provisions.

1.4.2 If for any reason Landlord cannot deliver possession of the Premises to Tenant on the Commencement Date, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom, but the Term of this Lease shall be extended until the Premises are ready for occupancy by Tenant; provided, however, that if Landlord is unable to deliver possession of the Premises to Tenant within ninety (90) days after the Commencement Date, Tenant may terminate this Lease by giving written notice to Landlord and thereupon both parties hereto shall be relieved and discharged of all liability hereunder.

1.5 Reserved Rights. After providing Tenant with twenty-four (24) hours prior notice, unless in the case of an emergency, Landlord reserves the right to enter the Premises for any reason upon reasonable notice to Tenant and/or to undertake the following, all without abatement of rent or liability to Tenant:

1.5.1 Inspect the Premises and/or the performance by Tenant of the terms and conditions hereof;

1.5.2 Make such alterations, repairs, improvements or additions to the Premises as required hereunder;

1.5.3 Install, use, maintain, repair, alter, relocate or replace any pipes, ducts, conduits, wires, equipment and other facilities in the Building;

1.5.4 Grant easements on the Project;

1.5.5 Dedicate for public use portions thereof and record covenants, conditions and restrictions ("CC&Rs") affecting the Project and/or amendments to existing CC&Rs which do not unreasonably interfere with Tenant's use of the Premises or impose additional material monetary obligations on Tenant;

1.5.6 Change the name of the Project;

1.5.7 Affix reasonable signs and displays as well as post and maintain any notice deemed necessary by Landlord for the protection of its interest (including, without limitation, notices of nonresponsibility);

1.5.8 Show the Premises to prospective tenants during the last six (6) months of the Term.

2. TERM OF LEASE

2.1 Initial Term. The initial term of the Lease (the "Term") shall begin on the Commencement Date specified in the Basic Provisions. Subject to extension or sooner termination as hereinafter provided, this Lease shall continue for the Term specified in the Basic Provisions. If the Term of this Lease begins on a day other than the first day of a calendar month, the initial Term of this Lease shall be adjusted to commence on the first day of the first full calendar month after the Commencement Date.

2.2 Possession. Tenant's possession of the Premises prior to the Commencement, if any, shall be subject to all the provisions of this Lease (except for the payment of Rent) and shall not advance the expiration date. Tenant shall upon demand acknowledge in writing the Possession Date in the form attached hereto as Exhibit M.

2.3 Rent Commencement Date . Unless otherwise specified in the Basic Provisions, the "Rent Commencement Date" shall be the same date as the Commencement Date. In the event the Commencement Data does not fall on the first (1st) day of a calendar month, Rent during any partial month shall be prorated on the basis of a thirty (30) day month, and shall be due and payable on or before the Commencement Date.

3. RENT

3.1 Minimum Monthly Rent.

3.1.1 Tenant agrees to pay to Landlord a Minimum Monthly Rent, initially in the amount set forth in the Basic Provisions, during each month of the Term of this Lease. Minimum Monthly Rent for a period constituting less than a full month shall be prorated on the basis of a thirty (30)-day month.

3.1.2 If so provided in the Basic Provisions, the Minimum Monthly Rent shall be adjusted at the times specified and in the manner provided in the Basic Provisions, and Tenant agrees to pay Landlord the Minimum Monthly Rent, as so adjusted, at the times and in the manner provided by this Lease.

3.1.3 Landlord shall have no obligation to notify Tenant of any increase in Minimum Monthly Rent, and Tenant's obligation to pay all Minimum Monthly Rent (and any increases) when due shall not be modified or altered by such lack of notice from Landlord. Acceptance of a payment of Rent that is less than the amount then due shall not be a waiver of Landlord's rights to the balance of such Rent, regardless of Landlord's endorsement of or deposit of any check so stating.

3.2 Intentionally Omitted.

3.3 Additional Rent. All sums other than Minimum Monthly Rent which Tenant is obligated to pay under this Lease, including late charges and interest as set forth in Section 3.4 below, shall be deemed to be additional rent due hereunder, whether or not such sums are designated "additional rent." The term "Rent" means the Minimum Monthly Rent and all additional amounts payable by Tenant under the Lease (including, but not limited to, late charges and interest). Acceptance of a payment of Rent that is less than the amount then due shall not be a waiver of Landlord's rights to the balance of such Rent, regardless of Landlord's endorsement of or deposit of any check so stating.

3.4 Time and Manner of Payment.

3.4.1 Tenant agrees that all Rent payable by Tenant hereunder shall be paid by Tenant to Landlord by check or certified funds not later than the close of business on the day on which first due, without any deduction, setoff, prior notice or demand. All Rents shall be paid in lawful money of the United States at such place as Landlord shall designate to Tenant from time to time in writing. Landlord agrees that Tenant may, at Tenant's risk, use United States mail for delivery of Rent. Landlord's receipt and deposit of any check shall not constitute satisfaction of Tenant's rental payment obligations until said check is paid in full by the bank upon which it is drawn.

3.4.2 Should Tenant fail to make any payment of Rent within five (5) business days of the date when such payment first becomes due, or should any check tendered in payment of Rent be returned to Landlord by Tenant's bank for any reason, then Tenant shall pay to Landlord, in addition to such Rental payment, a late processing charge in the amount specified in the Basic Provisions, which the parties agree is a reasonable estimate of the amount necessary to reimburse Landlord for the damages and additional costs not contemplated by this Lease that Landlord will incur as a result of the delinquent payment or returned check, including processing and accounting charges and late charges that may be imposed on Landlord by its lender. Notwithstanding the foregoing, Landlord shall not charge Tenant a late fee for the first late payment made by Tenant during the Term provided that Tenant pays the amount due within five (5) business days of the date it receives notice of non-payment from Landlord. If Tenant fails to make payment within said five (5)-business day period, the entire amount then due, including said late charge, shall thereafter bear interest at the then-current federal discount rate in San Francisco plus two percent (2%). Should Tenant fail to make payment of any Rental payment(s) due hereunder within five (5) business days of the date when such payment(s) first become due on three (3) occasions in any twelve (12) month period, Landlord, at its option, may require Tenant to prepay Rent on a quarterly basis thereafter. Moreover, in the event any of Tenant's checks are returned for insufficient funds or other reasons not the fault of Landlord, Tenant agrees to pay Landlord the sum of twenty-five dollars ($25.00) in addition to any Late Charge and Landlord shall have the right any time thereafter to require that all future payments due from Tenant under this Lease for the next one (1)-year period be made by money order or by certified or cashier's check.

Landlord's Initials _____ Tenant's Initials _____

3.4.3 Landlord will apply Tenant's payments first to accrued late charges and attorney's fees, second to accrued interest, then to Minimum Monthly Rent and Common Area Expenses, and any remaining amount to any other outstanding charges or costs.

3.5 Prepaid Rent. Tenant shall pay to Landlord upon execution of this Lease Prepaid Rent, if any, in the amount specified in the Basic Provisions, which shall be allocated toward the payment of rent for the months specified in the Basic Provisions. If Tenant is not in default of any of the provisions of this Lease, the Rent prepaid by Tenant for the last month of the term of this Lease, if any, shall be reduced by the amount so allocated in the Basic Provisions.

3.6 Security Deposit. Tenant shall deposit with Landlord upon execution of this Lease the amount specified in the Basic Provisions as a Security Deposit for the performance by Tenant of its obligation under this Lease. Tenant agrees that if Tenant defaults in its performance of this Lease, or in the payment of any sums owing to Landlord, or in the payment of any other sums required from Tenant under the provisions of this Lease, then Landlord may, but shall not be obligated to, use the Security Deposit, or any portion thereof, to cure such default or to compensate Landlord for any damage, including late charges and costs of enforcement, sustained by Landlord resulting from Tenant's default or nonpayment. If Landlord does so apply any portion of the Security Deposit, Tenant shall immediately pay Landlord sufficient cash to restore the Security Deposit to the amount of the then current Minimum Monthly Rent. If Tenant is not in default at the expiration or termination of this Lease, Landlord shall return the unexpended portion of the Security Deposit to Tenant, with interest at the then prevailing prime rate. Landlord's obligations with respect to the Security Deposit shall be those of debtor, and not of a trustee, and Landlord shall be entitled to commingle the Security Deposit with the general funds of Landlord.

4. INTENTION OF PARTIES

4.1 Negation of Partnership. Nothing in this Lease is intended, and no provision of this Lease shall be construed, to make Landlord a partner of or a joint venturer with Tenant, or associated in any other way with Tenant in the Tenant's operation of the Premises (other than the relationship of landlord and tenant), or to subject Landlord to any obligation, loss, charge or expense resulting from or attributable to Tenant's operation or use of the Premises.

4.2 Real Estate Commissions. Each party represents and warrants to the other that it has not utilized the services of any real estate broker or other person who could claim any fee or commission from the other (other than the person(s) identified on Exhibit F attached hereto) in connection with Tenant entering into this Lease. Tenant warrants to Landlord that Tenant's sole contact with Landlord or with the Premises in connection with this transaction has been directly with Landlord, Landlord's Broker and Tenant's Broker specified in Exhibit F, and that no other broker or finder can properly claim a right to a commission or a finder's fee based upon contacts between the claimant and Tenant. Subject to the foregoing, Tenant agrees to indemnify and hold Landlord harmless from any claims or liability, including reasonable attorneys' fees, in connection with a claim by any person for a real estate broker's commission, finder's fee or other compensation based upon any statement, representation or agreement of Tenant, and Landlord agrees to indemnify and hold Tenant harmless from any such claims or liability, including reasonable attorneys' fees, based upon any statement, representation or agreement of Landlord.

5. PROPERTY TAXES AND ASSESSMENTS

5.1 Personal Property Taxes. Tenant shall pay before delinquency all taxes assessed against any personal property and/or leasehold improvements of Tenant installed or located in or upon the Premises and that become payable during the term of this Lease. Tenant agrees to cooperate with Landlord to identify to the Assessor all Tenant improvements to the Premises.

5.2 Real Property Taxes.

5.2.1 In addition to all other Rent payable by Tenant hereunder, Tenant agrees to pay as additional Rent its proportionate share of Real Property Taxes levied and assessed against the Project. Real Property Taxes for any fractional portion of a calendar year included in the Lease Term shall be prorated on the basis of a 360-day year.

5.2.2 Each year, Landlord shall notify Tenant of its proportionate share of the Real Property Taxes payable by Tenant hereunder and Tenant shall pay Landlord the amount payable by Tenant at the time and in the manner provided by Article 7 of this Lease.

5.2.3 Tenant's proportionate share of Real Property Taxes shall be the ratio that the square footage of the Premises bears to the total leasable square footage of the Building and other improvements of which the Premises are a part, or if such Building and improvements are not separately assessed, the total leasable square footage of the buildings and improvements constituting the Project. Tenant's proportionate share on the Commencement Date is set forth in the Basic Provisions; said proportionate share is subject to adjustment periodically as of the time each installment of Real Property Taxes is due. Increases in Real Property Taxes resulting under Proposition 13 changes in ownership of the Premises are waived for the initial five (5) years of the Lease and Tenant shall have no obligation to pay any such increases.

5.2.4 Tenant shall pay to Landlord Tenant's proportionate share of the Real Property Taxes in each calendar year; provided, however, Landlord may, at its election, require that Tenant pay any increase in the assessed value of the Project based upon the value of the Tenant Improvements (as defined in the Exhibit B), if any, relative to the value of the other improvements on or to the other buildings in the Project, as reasonably determined by Landlord. Upon Tenant's request, Landlord shall endeavor to provide Tenant with a breakdown of Landlord's determination of Tenant's increased share of Real Property Taxes resulting from the Tenant Improvements.

5.3 Definition of Real Property Taxes. "Real Property Taxes" shall be the sum of the following: all real property taxes; possessory interest taxes; business or license taxes or fees; present or future Mello-Roos assessments; service payments in lieu of such taxes or fees; annual or periodic license or use fees; excise, transit and traffic charges; housing fund assessments, open space charges, childcare fees, school, sewer and parking fees or any other assessments, levies, fees, exactions or charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen (including fees "in-lieu" of any such tax or assessment) which are assessed, levied, charged, conferred or imposed by any public authority upon the Project (or any real property comprising any portion thereof) or its operations, together with all taxes, assessments or other fees imposed by any public authority upon or measured by any rent or other charges payable hereunder, including any gross receipts tax or excise tax levied by any governmental authority with respect to receipt of rental income, or, with respect to or by reason of the development, possession, any tax or assessment levied in connection with the leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion thereof; any documentary transfer taxes upon this transaction or any document to which Tenant is a party creating or transferring an interest in the Premises; together with any tax imposed in substitution, partially or totally, of any tax previously included within the aforesaid definition or any additional tax the nature of which was previously included within the aforesaid definition; together with any and all costs and expenses (including, without limitation, attorneys', administrative and expert witness fees and costs) of challenging any of the foregoing or seeking the reduction in or abatement, redemption or return of any of the foregoing, but only to the extent of any such reduction, abatement, redemption or return. All references to Real Property Taxes during a particular year shall be deemed to refer to taxes accrued during such year, including supplemental tax bills, regardless of when they are actually assessed and without regard to when such taxes are payable. The obligation of Tenant to pay for supplemental taxes effective during the Term shall survive the expiration or early termination of this Lease. Nothing contained in this Lease shall require Tenant to pay any franchise, corporate, estate or inheritance tax of Landlord, or any income, profits or revenue tax or charge upon the net income of Landlord or any documentary transfer tax.

6. LANDLORD'S MANAGEMENT OF PROJECT

6.1 Management of Common Area and Project. Provided that Tenant's access to and use of the Premises is not unreasonably hindered or prevented, (except for changes, alterations or modifications required by any federal, state, or local governmental or quasi-governmental body, or by law) the number of parking spaces available to Tenant is not unreasonably hindered or reduced (except for changes, reductions, alterations or modifications required by any federal, state, or local governmental or quasi-governmental body, or by law), and Tenant's proportionate share of Building Operating Expenses and Project Operating Expenses do not increase (except as provided in Section 6.2 below), Landlord shall have the right, in Landlord's sole discretion and expense, from time to time, to do the any of the following:

6.1.1 Make changes to the Common Area, including, without limitation, changes in the location, size, shape and number of driveways, entrances, exits, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscape areas, and walkways;

6.1.2 Close the Common Areas when and to the extent necessary for maintenance or renovation purposes or to prevent a dedication of any part thereof or the accrual of any rights therein in favor of the public or any third person;

6.1.3 Designate other land outside the boundaries of the Project to be part of the Common Area;

6.1.4 Install, use, maintain, repair, alter, relocate or replace any Common Area or to add additional buildings and improvements to the Common Area;

6.1.5 Use the Common Area while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof;

6.1.6 Remodel or renovate the buildings and improvements constituting the Project, and, in connection therewith, to install pipes, conduits, ducts and similar fixtures beneath or through the Premises, provided that such remodeling or renovation does not substantially change the size, dimension, configuration or nature of the Premises;

6.1.7 Do and perform such other acts and make such other changes in, to or with respect to the Common Area and the Project as Landlord may, in the exercise of sound business judgment, deem to be appropriate or prudent.

6.2 Tenant's Share. Landlord reserves the right to adjust Tenant's stated proportionate share ("Tenant Share") of Project Operating Expenses and/or Building Operating Expenses provided at least one of the follow conditions are met:

6.2.1 Where alterations to the Project or the Building result in changes in the Common Areas, the Building or the Project;

6.2.2 Tenant leases additional space within the Building or the Project.

6.3 Rules and Regulations. Landlord shall have the right from time to time to promulgate, amend and enforce against Tenant and all persons upon the Premises, reasonable rules and regulations for the safety, care and cleanliness of the Common Area, Premises and the Project or for the preservation of good order; provided, however, that all such rules and regulations shall apply substantially equally and without discrimination to all tenants of Landlord in the Project. Tenant agrees to conform to and abide by such rules and regulations, and a violation of any of them shall constitute a default by Tenant under this Lease. The current Rules and Regulations are attached to this Lease as Attachment 1.

7. COMMON AREA EXPENSE AND OPERATING COSTS

7.1 Common Area Expenses. Tenant shall pay monthly to Landlord Tenant's Share of the Building Operating Expenses and Tenant's Share of Project Operating Expenses in each calendar year.

7.2 Definition of Operating Expenses. "Common Area Expenses" shall mean collectively the "Building Operating Expenses" and the "Project Operating Expenses".

7.2.1 Building Operating Expenses. "Building Operating Expenses" shall include all reasonable and necessary expenses incurred by Landlord in the ownership, operation, maintenance, repair and management of the Building in which the Premises are located, including, but not limited to the following:

(i) Non-structural repairs to and maintenance of the roof (and roof membrane), skylights, exterior glass, exterior wiring, exterior electrical systems and exterior walls of the Building (including painting);

(ii) The costs relating to the insurance maintained by Landlord with respect to the Building, except for any deductible amounts in excess of $50,000 in the aggregate and earthquake insurance unless required by Landlord's lender;

(iii) Maintenance contracts for heating, ventilation and air-conditioning (HVAC) systems and elevators, if any;

(iv) Maintenance, monitoring and operation of the fire/life safety and sprinkler system;

(v) Capital improvements made to or capital assets acquired for the Building after the Commencement Date that are intended to reduce Building Operating Expenses or are reasonably necessary for the health and safety of the occupants of the Building or are required under any governmental law or regulation, which capital costs, or an allocable portion thereof, shall be amortized over their useful life as commercially reasonably determined by Landlord, together with interest on the unamortized balance at the rate of eight percent (8%) per annum;

(vi) Any other commercially reasonable maintenance costs incurred by Landlord related to the Building and not related to the Project as a whole.

7.2.2 Exclusions from Building Operating Expenses. Building Operating Expenses shall not include the following expenses:

(i) Replacement of or structural repairs to the roof or the exterior walls;

(ii) Repairs to the extent covered by insurance proceeds or warranties, or paid by Tenant or other third parties;

(iii) Alterations solely attributable to tenants of the Project other than Tenant;

(iv) Earthquake Insurance (unless required by Landlord's lender); and

(v) Any insurance deductible amounts in excess of $50,000 in the aggregate.

7.2.3 Project Operating Expenses. "Project Operating Expenses" shall include all reasonable and necessary expenses incurred by Landlord in the ownership, operation, maintenance, repair and management of the Project and/or the Common Area, including, but not limited to the following:

(i) Repair, maintenance, utility costs and landscaping of the Common Area, including, but not limited to, any and all costs of maintenance, repair and replacement of all parking areas (including bumpers, sweeping, and striping), loading and unloading areas, trash areas, common driveways, sidewalks, outdoor lighting, signs, directories, walkways, parkways, landscaping, irrigation systems, fences and gates and other costs which are allocable to the real property of which the Premises are a part;

(ii) The costs relating to the insurance maintained by Landlord with respect to the Project except for any deductible amounts in excess of $50,000 in the aggregate and earthquake insurance (unless required by Landlord's lender);

(iii) Trash collection, security services;

(iv) Capital improvements made to or capital assets acquired for the Project after the Commencement Date that are intended to reduce Project Operating Expenses or are reasonably necessary for the health and safety of the occupants of the Project or are required under any governmental law or regulation, which capital costs, or an allocable portion thereof, shall be amortized over their useful life as commercially reasonably determined by Landlord, together with interest on the unamortized balance at the rate of eight percent (8%) per annum;

(v) Real Property Taxes;

(vi) All costs and fees incurred by Landlord in connection with the management of this Lease and the Premises, including the cost of those services which are customarily performed by a property management services company, together with a management fee to Landlord for accounting and project management services relating to the Building(s) and the Project in an amount equal to four percent (4%) of the sum of the gross rents received by Landlord from all of the tenants in the Project;

(vii) Any other commercially reasonable maintenance costs incurred by Landlord related to the Project as a whole and not related solely to the Tenant or the Building in which the Premises are located.

7.2.4 Exclusions from Common Area Expenses. Notwithstanding anything in the definition of Common Area Expenses in the Lease to the contrary, Common Area Expenses shall not include the following, except to the extent specifically permitted by a specific exception to the following:

(i) Any ground lease rental;

(ii) Costs incurred by Landlord for the repair of damage to the Project, to the extent that Landlord is reimbursed by insurance proceeds;

(iii) Costs, including permit, license and inspection costs, incurred with respect to the installation of tenant or other occupants' improvements in the Project or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Project;

(iv) Depreciation, amortization and interest payments, except as provided herein and except on materials, tools, supplies and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party, where such depreciation, amortization and interest payments would otherwise have been included in the charge for such third party's services;

(v) Marketing costs, leasing commissions, attorneys' fees in connection with the negotiation and preparation of letters, deal memos, letters of intent, leases, subleases and/or assignments, space planning costs, and other costs and expenses incurred in connection with lease, sublease and/or assignment negotiations and transactions with present or prospective tenants or other occupants of the Project;

(vi) Costs incurred by Landlord due to the violation by Landlord or any other tenant of the terms and conditions of any lease of space in the Project;

(vii) Interest, principal, points and fees on debts or amortization on any mortgage or mortgages or any other debt instrument encumbering the Building or the Project (except as specifically permitted above);

(viii) Any compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord;

(ix) Advertising and promotional expenditures and costs of signs in or on the Building or Project identifying the owner of the Building or Project or other tenants' signs;

(x) Costs arising from Landlord's charitable or political contributions;

(xi) Costs for sculpture, paintings or other objects of art;

(xii) Costs associated with the operation of the business of the entity which constitutes Landlord as the same are distinguished from the costs of operation of the Project, including accounting and legal matters, costs of defending any lawsuits with any mortgagee (except as the actions of Tenant may be in issue), costs of selling, syndicating, financing, mortgaging or hypothecating any of Landlord's interest in the Project, costs of any disputes between Landlord and its employees (if any) not engaged in Project operation, disputes of Landlord with Project management, or outside fees paid in connection with disputes with other tenants;

(xiii) Costs of any "tap fees" or any sewer or water connection fees for the benefit of any particular tenant in the Project;

(xiv) Any expenses incurred by Landlord for use of any portions of the Project to accommodate events including, but not limited to shows, promotions, kiosks, displays, filming, photography, private events or parties, ceremonies, and advertising beyond the normal expenses otherwise attributable to providing Project services;

(xv) Any entertainment, dining or travel expenses for any purpose;

(xvi) Any flowers, gifts, balloons, etc. provided to any entity whatsoever, including, but not limited to, Tenant, other tenants, employees, vendors, contractors, prospective tenants and agents;

(xvii) Any "finders fees", brokerage commissions, job placement costs or job advertising cost;

(xviii) Any "above-standard" cleaning, including, but not limited to construction cleanup or special cleanings associated with parties/events and specific tenant requirements in excess of service provided to Tenant, including related trash collection, removal, hauling and dumping;

(xix) The cost of any magazine, newspaper, trade or other subscriptions;

(xx) The cost of any training or incentive programs, other than for tenant life safety information services;

(xxi) The cost of any "tenant relations" parties, events or promotion not consented to by an authorized representative of Tenant in writing;

(xxii) "In-house" legal fees;

(xxiii) Earthquake Insurance (unless required by Landlord's lender);

(xxiv) Any insurance deductible amounts in excess of $50,000 in the aggregate.

Landlord's Initials _____ Tenant's Initials _____

7.3 Payments by Tenant.

7.3.1 Tenant shall pay to Landlord as additional Rent on the first day of each full calendar month of the Term of this Lease, Tenant's monthly proportionate share of Landlord's Estimated Expenses (as defined below). If the Term of this Lease begins on a day other than the first day of a month, Tenant shall pay, in advance, its prorated share of the Landlord's Estimated Common Area Expenses for such partial month.

7.3.2 Estimated Common Area Expenses. "Estimated Expenses" for any particular year shall mean Landlord's estimate of Common Area Expenses and Real Property Taxes for a calendar year. Tenant shall pay Tenant's Share (as set forth in the Basic Provisions) of the Estimated Expenses with installments of Minimum Monthly Rent in monthly installments of one-twelfth (1/12th) thereof on the first day of each calendar month during such year. If at any time Landlord determines that Common Area Expenses and Real Property Taxes are projected to vary from the then Estimated Expenses, Landlord may, by written notice to Tenant, including a detailed explanation for such variance, revise such Estimated Expenses, and Tenant's monthly installments for the remainder of such year shall be adjusted so that by the end of such calendar year Tenant has paid to Landlord Tenant's Share of the revised Estimated Expenses for such year.

7.3.3 Adjustment. "Common Area Expenses and Real Property Taxes Adjustment" (or "Adjustment") shall mean the difference between Tenant's Share of Estimated Expenses and Tenant's Share of Common Area Expenses and Real Property Taxes for any calendar year. Total Common Area Costs for any portion of an accounting period not included within the term of this Lease shall be prorated on the basis of a 360-day year. After the end of each calendar year, Landlord shall deliver to Tenant a statement of Tenant's Share of Common Area Expenses and Real Property Taxes for such calendar year, accompanied by a computation of the Adjustment. If Tenant's Estimated Expense payments are less than Tenant's Share, then Tenant shall pay the difference within twenty (20) days after receipt of such statement. Tenant's obligation to pay such amount effective during the Term shall survive the termination of this Lease. If Tenant's payments exceed Tenant's Share, then Landlord shall credit such excess amount to the subsequent Rents due; provided, however, if Tenant is in default, Landlord may, but shall not be required to, credit such amount to Rent arrearages.

7.3.4 Accounting Period. The accounting period for determining Landlord's Total Operating Costs shall be the calendar year, except that the first accounting period may be prorated and shall commence on the date the Lease term commences and the last accounting period may also be prorated and shall end on the date the Lease term expires or terminates.

7.4 Books and Records. Landlord shall keep full and accurate books of account, records and other pertinent data regarding Common Area Expenses. Such books, records, and other pertinent data regarding such expenses shall be kept for a period of one (1) year after the close of each calendar year. Provided Tenant is not in default under this lease, Tenant shall have the right to review, audit, and copy all documents and information pertaining to Common Area expenses for a period of one (1) year following the receipt of Landlord's Common Area Expense statement. Tenant shall give Landlord no less than twenty (20) business days notice prior to commencing an audit, which shall take place during Landlord's normal business hours, and all documents shall remain at Landlord's place of business at all times. In no event, however, will Landlord or its property manager be required to keep separate accounting records for the components of Common Area Expenses or to create any ledgers or schedules not already in existence. Tenant shall have an auditor acceptable to Landlord to conduct such audit at Tenant's sole cost and expense, but in no event shall said auditor be compensated based on savings generated to Tenant as a result of such audit. In the event the audit reveals that there are amount due either Landlord or Tenant, then any amounts due shall be immediately paid by the appropriate party. Tenant shall pay for all costs of the audit unless Tenant's share of Operating Expenses, as determined by the audit, differs by more than five percent (5%) in favor of the Tenant, in which case Landlord shall bear the cost of the audit up to a maximum cost of $1,000.00 per year. In the event Landlord disputes the findings of such audit, Landlord and Tenant shall have thirty (30) days to resolve such dispute. If, however, Landlord and Tenant have not reached a consensus during such thirty (30) day period, Landlord and Tenant shall submit the dispute for resolution in accordance with the provisions of Article 43, below.

8. USE; LIMITATIONS ON USE

8.1 Tenant's Use of Premises. Tenant agrees that the Premises shall be used and occupied only for the Permitted Uses specified in the Basic Provisions, and for no other use. Tenant shall not use or

permit the Premises to be used for any other purpose or purposes or under any other trade name whatsoever without the prior written consent of Landlord, which consent may be withheld or granted at Landlord's sole and absolute discretion. Tenant's use of the Premises shall be in compliance with and subject to all applicable governmental laws, ordinances, statutes, orders and regulations and any CC&R's (including payments thereunder, if any) or any supplement thereto recorded in any official or public records with respect to the Project or any portion thereof. In the event Landlord desires to record CC&R's against the Project after the date of full execution of this Lease, Landlord shall, at its option, either (i) obtain Tenant's consent thereto, which consent shall not be unreasonably withheld (provided Tenant's material rights and obligations under the Lease are not impaired, but provided that any provisions of such CC&R's will require Tenant to pay reasonable assessments such as for common area maintenance and landscaping shall not be deemed to impair Tenant's material rights and obligations under this Lease), conditioned or delayed or (ii) elect not to obtain Tenant's consent thereto, in which event the provisions of this Lease shall prevail over any conflicting provisions of the CC&R's. Tenant further covenants and agrees that it will not use or suffer or permit any person or persons to use the Premises or any part thereof for conducting therein a second-hand store, auction, distress or fire sale or bankruptcy or going-out-of-business sale, or for any use or purpose in violation of the laws of the United States of America or the laws, ordinances, regulations and requirements of the State, County and City wherein the Premises are situated, including in violation of any of the permitted use restrictions outlined in Exhibit N. Tenant, at Tenant's sole cost and expense, shall comply with the rules and regulations attached hereto as Attachment 1, together with such additional rules and regulations as Landlord may from time to time prescribe. Tenant shall not commit waste; overload the floors or structure of the Building in which the Premises are located; subject the Premises, the Building, the Common Area or the Project to any use which would damage the same or increase the risk of loss or violate any insurance coverage; permit any unreasonable odors, smoke, dust, gas, substances, noise or vibrations to emanate from the Premises, take any action which would constitute a nuisance or would disturb, obstruct or endanger any other tenants, take any action which would abrogate any warranties; or use or allow the Premises to be used for any unlawful purpose. Tenant shall promptly comply with the reasonable requirements of any board of fire insurance underwriters or other similar body now or hereafter constituted. Tenant shall not do any act which shall in any way encumber the title of Landlord in and to the Premises, the Building or the Project. Tenant further covenants and agrees that during the term hereof the Premises, and every part thereof, shall be kept by Tenant in a first-class, clean and wholesome condition, free of any objectionable noises, odors or nuisances, and that all fire, safety, health and police regulations shall, in all respects and at all times, be fully complied with by Tenant.

8.2 Additional Limitation on Use. Tenant's use of the Premises shall be in accordance with the following requirements:

8.2.1 Insurance Hazards. Tenant shall neither engage in nor give permission to others to engage in any activity or conduct that will cause the cancellation of or an increase in the premium for any fire or liability insurance maintained by Landlord, and will pay any increase in the fire or liability insurance premiums attributable to Tenant's use of the Premises. Tenant shall, at Tenant's sole cost, comply with all recommendations of any insurance organization or company pertaining to Tenant's specific use of the Premises necessary for the maintenance of reasonable fire and public liability insurance covering the Project.

8.2.2 Compliance with Law. Tenant shall, at Tenant's sole cost and expense, comply with all of the requirements, ordinances and statutes of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises and the use and occupancy thereof, including any local rules or requirements limiting the hours of Tenant's operations. The judgment of any arbitrator or court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any such ordinances or statutes in the use of the Premises shall be conclusive of that fact as between Landlord and Tenant.

8.2.3 Waste; Nuisance. Tenant may not display, store or sell merchandise or allow carts, construction debris, trash, portable signs, devices or merchandise of any kind or any other objects to be stored or to remain outside of the Premises. Tenant shall not use, or suffer or permit any person or persons to use the Premises in any manner that will tend to create waste or a nuisance or tend to disturb other tenants of the Project. Tenant shall not place or authorize to have placed or affixed handbills or other advertising materials on automobiles or buildings within the Project, nor shall Tenant place or cause to be placed newspaper racks, advertisements or displays in the Common Area.

8.2.4 Trash and Rubbish Removal. Tenant agrees that all trash and rubbish of Tenant shall be deposited within the appropriate receptacles therefor and that there shall be no trash receptacles permitted or the Premises except such trash receptacles as may be provided or designated by Landlord. If applicable to Tenant's business, Tenant shall be responsible to purchase and maintain its own grease rendering drums (of a design approved by Landlord) and place them in an area designated therefor by Landlord. Tenant shall be solely responsible for clean up costs as a result of any leaking or spillage of its rendering drum or grease collection equipment, whether or not due to vandalism, and shall be solely responsible to arrange and pay for disposal of its grease by a licensed rendering service. Tenant shall, on its own behalf, provide and pay for as a portion of Common Area Expenses the regular removal and disposal of trash and rubbish located in its approved trash receptacles, the location of which shall be reasonably approved by Landlord. In the event Tenant fails to comply with Landlord's trash and rubbish removal procedures set forth above, Tenant shall be liable to Landlord for all costs or damage incurred by Landlord in facilitating trash removal and maintenance of a neat and clean Project. The foregoing notwithstanding, Tenant shall provide and pay for any special or additional trash disposal facilities, equipment or services necessitated by the nature of Tenant's business, including trash receptacle for disposal of perishable food items.

8.3 Intentionally Omitted.

8.4 No Representations by Landlord. Tenant agrees that neither Landlord nor any agent of Landlord has made any representation or warranty as to the conduct of Tenant's business or the suitability of the Premises for Tenant's intended purpose. Tenant further agrees that no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in the provisions of this Lease. Tenant will, prior to the delivery of possession of the Premises, inspect the Premises and the Project and become thoroughly acquainted with their condition and Tenant agrees to take the same "as is", and acknowledges that the taking of possession of the Premises by Tenant shall be conclusive evidence that the Premises and the Project were in good and satisfactory condition at the time such possession was so taken. Tenant acknowledges that: (a) it has been advised by Landlord and/or its brokers to satisfy itself with respect to the condition of the Premises (including the electrical, HVAC and fire sprinkler systems, security, environmental aspects, compliance with laws and regulations, including the Americans with Disabilities Act, and zoning) and the suitability of the Premises for Tenant's permitted use, and (b) Tenant has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefore as the same relate to Tenant's occupancy of the Premises. All understandings and agreements heretofore made between the parties hereto are merged in this Lease. Notwithstanding the foregoing, Landlord at Landlord's sole cost and expense, shall repair the roof over the manufacturing area prior to the Rent Commencement Date.

9. ALTERATIONS.

9.1 Trade Fixtures; Alterations. Tenant may install necessary trade fixtures, equipment and furniture in the Premises, provided that such items are installed and are removable without structural or material damage to the Premises, the Building in which the Premises are located, the Common Area or the Project, with the exception for cosmetic alterations under $10,000 per occurrence. Other than cosmetic alterations, the cost of which is less than $10,000 per occurrence for which no Landlord consent shall be required, Tenant shall not construct, nor allow to be constructed, any alterations or physical additions in, about or to the Premises without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed but which, however may be conditioned upon Tenant's compliance with Landlord's reasonable requirements regarding construction of improvements and alterations. Tenant shall submit plans and specifications to Landlord with Tenant's request for approval and shall reimburse Landlord for any commercially reasonable costs which Landlord may incur in connection with granting approval to Tenant for any such alterations and additions, including any commercially reasonable costs or expenses which Landlord may incur in electing to have outside architects and engineers review said matters, but in no event will Tenant be liable for costs in excess of $1,000.00. If Landlord does not respond to a written request from Tenant within ten (10) business days, then Landlord shall be deemed to disapprove such request. In the event Tenant makes any alterations to the Premises that trigger or give rise to a requirement that the Building or the Premises come into compliance with any governmental laws, ordinances, statutes, orders and/or regulations (such as ADA requirements), Tenant shall be fully responsible for complying, at its sole cost and expense, with same. Tenant shall file a notice of completion after completion of such work and provide Landlord with a copy thereof. Tenant shall provide Landlord with a set of "as-built" drawings for any such work. Tenant shall not commence any alterations to the Premises without first providing Landlord five (5) business days notice of the date Tenant intends to commence such work. Notwithstanding the foregoing, the terms outlined in Exhibit B, shall be observed as it pertains to Tenant's Alterations.

Landlord's Initials _____ Tenant's Initials _____

9.2 Damage; Removal. Tenant shall repair all damage to the Project, the Premises and/or the Building caused by the installation or removal of Tenant's fixtures, equipment, furniture and alterations. Landlord shall have the right upon providing Tenant with written notice at the time Landlord is notified of cosmetic changes, or consents to other alterations as provided in Section 9.1 above, to require tenant to remove on or before the expiration or termination of the Lease any or all trade fixtures, alterations, additions, improvements and partitions made or installed by Tenant after the Commencement Date and restore the Premises to its condition existing prior to the construction of any such items; provided, however, Landlord has the absolute right to require Tenant to have all or any portion of such items designated by Landlord to remain on the Premises, in which event they shall be and become the property of Landlord upon the termination of this Lease. All such removals and restoration shall be accomplished in a good and workmanlike manner and so as not to cause any damage to the Premises, the Building, the Common Area or the Project whatsoever.

9.3 Liens. Tenant shall promptly pay and discharge all claims for labor performed, supplies furnished and services rendered at the request of Tenant and shall keep the Premises free of all mechanics' and materialmen's liens in connection therewith. Tenant shall provide at least ten (10) days prior written notice to Landlord before any labor is performed, supplies furnished or services rendered on or at the Premises, and Landlord shall have the right to post on the Premises notices of non-responsibility. If any lien is filed, Tenant shall cause such lien to be released and removed within ten (10) days after the date of filing, and if Tenant fails to do so, Landlord may take such action as may be necessary to remove such lien and Tenant shall pay Landlord such amounts expended by Landlord, together with interest thereon at the Applicable Interest Rate from the date of expenditure.

9.4 Standard of Work. All work to be performed by or for Tenant pursuant hereto shall be performed diligently and in a first class, workmanlike manner, and in compliance with all applicable laws, ordinances, regulations and rules of any public authority having jurisdiction over the Premises and/or Tenant and Landlord's insurance carriers. Landlord shall have the right, but not the obligation, to inspect periodically the work on the Premises, and Landlord may require changes in the method or quality of the work.

10. UTILITIES; ESSENTIAL SERVICES; ACCESS

10.1 Utilities.

10.1.1 Tenant's Responsibilities. Tenant shall make all arrangements for and shall pay the charges when due for all water, gas and heat, light, power, telephone service, trash collection and all other services and utilities supplied to the Premises during the entire Term of this Lease, and shall promptly pay all connection and termination charges therefor. In the event the Premises is not separately metered, Tenant shall have the option, subject to Landlord's prior written consent and the terms of this Lease, to cause the Premises to be separately metered at Tenant's sole cost and expense. If Tenant does not elect to cause the Premises to be separately metered, Tenant shall pay a reasonable proration of utilities, as determined by Landlord. If Landlord determines that Tenant's usage of utility service to the Building is excessive, compared with the usage of other tenants of the Building, Landlord may charge Tenant separately for such excessive usage.

10.1.2 Extent of Landlord's Liability. The suspension or interruption in utility services to the Premises for reasons beyond the ability of Landlord to control shall not constitute a default by Landlord or entitle Tenant to any reduction or abatement of rent nor shall Landlord have any liability to Tenant therefore.

10.2 Essential Services. "Essential Services" shall mean and include such services provided by either Landlord, Landlord's agents, or a third party that is an integral part of Tenant's operations within the Premises, such that Tenant shall not be capable of conducting business therein without such service. Landlord shall not be liable to Tenant for interruption in or curtailment of Essential Services unless such interruption or curtailment is solely attributable to the negligence of Landlord. Notwithstanding the foregoing, no interruption or curtailment of Essential Services shall constitute constructive eviction or grounds for rental abatement unless such interruption or curtailment is attributable solely to the negligence of Landlord or its agents.

Landlord's Initials _____ Tenant's Initials _____

10.3 Access to the Premises. Tenant shall have access to the Premises twenty four (24) hours per day, three hundred sixty five (365) days per year, including normal business holidays. Access to the Premises shall be deemed available if a willing and able employee of Tenant can gain entrance to the Premises through a legal entryway.

11. TENANT'S PERSONAL PROPERTY

11.1 Installation of Property. Landlord shall have no interest in any removable equipment, furniture or trade fixtures owned by Tenant or installed in or upon the Premises solely at the cost and expense of Tenant (the "Tenant's Property"). Prior to creating or permitting the creation of any lien or security or reversionary interest in any removable personal property to be placed in or upon the Premises, Tenant shall obtain for the benefit of Landlord and shall deliver to Landlord the written agreement of the party holding such interest to make such repairs necessitated by the removal of such property and any damage resulting therefrom as may be necessary to restore the Premises to good condition and repair, excepting only reasonable wear and tear, in the event said property is thereafter removed from the Premises by said party, or by any agent or representative thereof or purchaser therefrom, pursuant to the exercise or enforcement of any rights incident to the interest so created, all without any cost or expense to Landlord.

11.2 Removal of Personal Property. Tenant shall have the right to remove at its own cost and expense upon the expiration of this Lease Tenant's Property. Prior to the close of business on the last day of the Lease Term, all such personal property shall be removed, and Tenant shall make such repairs necessitated by the removal of said property and any damage resulting therefrom as may be necessary to restore the Premises to good condition and repair, excepting only reasonable wear and tear. Any such property not so removed shall be deemed to have been abandoned or, at the option of Landlord, shall be removed and placed in storage for the account and at the cost and expense of Tenant.

11.3 Intentionally Omitted.

12. REPAIRS AND MAINTENANCE.

12.1 Tenant.

12.1.1 Tenant, at Tenant's sole cost and expense, shall keep and maintain the Premises, including all improvements constructed by Tenant therein, in good order, condition and repair including, but not limited to, the following:

(i) Interior surfaces of wall coverings;

(ii) Interior lobby areas; Loading docks, doors and ramps;

(iii) Floors, subfloors, carpeting and other floor coverings;

(iv) Doors, door frames, and door closures and locks;

(v) Interior windows, glass, and plate glass, excluding exterior glass cleaning or windows that break from the outside through no fault of Tenant, Tenant's agents, employees, or invitees;

(vi) Ceilings and ceiling systems;

(vii) HVAC distribution and thermostats within the Premises;

(viii) Interior electrical distribution and equipment, including lighting systems, switches and electrical panels;

(ix) Interior plumbing, and sprinkler systems, if any, installed therein;

(x) Electrical and mechanical systems and wiring;

(xi) Appliances and devices using or containing refrigerants;

(xii) Fixtures and equipment in good repair and in a clean and safe condition;

(xiii) Decorative wall, paint, signs and lighting equipment within the Premises; and

(xiv) Repair and/or replace any and all of the foregoing in a clean and safe condition, in good order, condition and repair.

12.1.2 Tenant shall keep the storefront and any parking area adjacent thereto clean and neat at all times, and shall remove immediately therefrom any litter, debris or other unsightly or offensive matter placed or deposited thereon by the agents or customers of Tenant.

12.1.3 Tenant shall as necessary, or when required by governmental authority, make modifications or replacements to the foregoing.

12.1.4 Prior to making any repairs required hereunder (except in the case of an emergency), Tenant shall notify Landlord in writing as to the nature and extent of such damage, and shall provide Landlord with an estimate of the cost and time required to complete such repairs. Without limiting the foregoing, Tenant shall, at Tenant's sole expense (i) immediately replace all broken glass in the Premises with glass equal to or in excess of the specification and quality of the original glass if caused by Tenant, Tenant's agents, employees, invitees or visitors; (ii) repair any area damaged by Tenant, Tenant's agents, employees, invitees and visitors, including any damage caused by any roof penetration, whether or not such roof penetration was approved by Landlord; and (iii) unless otherwise specified in this Lease, provide janitorial services for the interior of the Premises.

12.1.5 In the event Tenant fails, in the reasonable judgment of Landlord, to maintain the Premises in accordance with the obligations under the Lease, which failure continues at the end of ten (10) days following Tenant's receipt of written notice from Landlord (except with respect to an emergency in which case Landlord may act immediately) stating with particularity the nature of the failure, Landlord shall have the right, but shall not be obligated, to enter the Premises and perform such maintenance, repairs or refurbishing at Tenant's sole cost and expense (including a sum for overhead to Landlord).

12.1.6 Tenant shall maintain written records of maintenance and repairs, as required by any applicable law, ordinance or regulation, and shall use certified technicians to perform such maintenance and repairs, as so required.

12.1.7 Provided Landlord notifies Tenant in writing Tenant shall be required to deliver full and complete copies of all service or maintenance contracts entered into by Tenant for the Premises to Landlord within sixty (60) days after the Commencement Date.

12.1.8 Tenant hereby waives the right to make repairs at Landlord's expense under the provisions of any laws permitting repairs by a tenant at the expense of the landlord to the extent allowed by law, it being intended that Landlord and Tenant have by this Lease made specific provision for such repairs and have defined their respective obligations relating thereto.

12.2 Landlord.

12.2.1 Except as otherwise provided in this Lease, and subject to the following limitations, Landlord shall, at its sole cost and expense, repair damage to the structural components of the roof, the roof membrane, the foundation and exterior portions of exterior walls (excluding wall coverings, painting, glass and doors) of the Building; provided, however, if such damage is caused by an act or omission of Tenant, Tenant's employees, agents, invitees, subtenants, or contractors, then such repairs shall be at Tenant's sole expense. Notwithstanding the foregoing, Landlord shall not be required to make any repair resulting from any of the following conditions:

(i) Any alteration or modification to the Building or to mechanical equipment within the Building performed by, for or because of Tenant or to special equipment or systems installed by, for or because of Tenant;

(ii) The installation, use or operation of Tenant's property, fixtures and equipment;

(iii) The moving of Tenant's Property in or out of the Building or in and about the Premises;

(iv) Tenant's use or occupancy of the Premises in violation of Section 8 of this Lease or in the manner not contemplated by the parties at the time of the execution of this Lease;

(v) The acts or omissions of Tenant and Tenant's employees, agents, invitees, subtenants, licensees or contractors;

(vi) Fire and other casualty, except as provided by Section 13 of this Lease;

(vii) Condemnation, except as provided in Section 15 of this Lease.

13. INDEMNITY AND INSURANCE

13.1 Indemnification. Tenant hereby indemnifies and holds Landlord and Landlord's partners, employees, and agents (collectively the "Landlord Parties") harmless from and against any and all claims (except claims resulting from Landlord's gross negligence or willful misconduct) arising from any activity, work, or thing done, permitted or suffered by Tenant or its agents or employees in or about the Premises, and further Tenant shall indemnify and hold Landlord and the Landlord Parties harmless from and against any and all claims arising from any breach or default in the performance by Tenant of any obligation to be performed by Tenant under the terms of this Lease, or arising from any act or negligence of Tenant, or any of its agents, contractors, employees, or invitees, and from and against all costs, attorneys' fees, expenses and liabilities incurred in, or related to, any such claim or any action or proceeding brought thereon. In case any action or proceeding shall be brought against Landlord and/or the Landlord Parties by reason of any such claim, Tenant, upon notice from Landlord or the Landlord Parties, shall defend Landlord and the Landlord Parties at its own expense by counsel of Landlord's own choosing. Subject to the foregoing and to the second paragraph of this Section 13.1, Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises from any cause except as may be caused by the gross negligence or willful misconduct of Landlord, and Tenant hereby waives all claims with respect thereto against Landlord.

Landlord hereby indemnifies and holds Tenant harmless from and against any and all claims (except claims resulting from Tenant's gross negligence or willful misconduct) arising from any activity, work, or thing done, permitted or suffered by Landlord and its agents and employees in or about the Premises, and further Landlord shall indemnify and hold Tenant harmless from and against any and all claims arising from any breach or default in the performance by Landlord of any obligation to be performed by it under the terms of this Lease, or arising from any act or negligence of Landlord, or any of its agents, contractors, employees, or invitees, and from and against all costs, attorneys' fees, expenses and liabilities incurred in, or related to, any such claim or any action or proceeding brought thereon. In case any action or proceeding shall be brought against Tenant by reason of any such claim, Landlord, upon notice from Tenant, shall defend Tenant at its own expense by counsel of Tenant's own choosing.

13.2 Exemption of Landlord from Liability. Tenant hereby agrees that Landlord shall not be liable for injury or damage which may be sustained by the person, goods, wares, merchandise or property of Tenant, its employees, invitees or customers, or by any other person in or about the Premises caused by or resulting from fire, steam, electricity, gas, water or rain which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures of the same, whether the said damage or injury results from conditions arising upon the Premises or from other sources; provided, however, that notwithstanding the foregoing, Landlord shall not be relieved from liability with respect to such injury or damage resulting from Landlord's gross negligence or willful misconduct. The parties acknowledge and agree that Landlord shall not be liable to Tenant for any damages arising from any act or neglect of any other tenant of the Project, including such tenant's employees, agents, vendors and invitees.

Landlord's Initials _____ Tenant's Initials _____

13.3 Public Liability and Property Damage.

13.3.1 Insurance Coverage. Tenant agrees to maintain in force throughout the term hereof, at Tenant's sole cost and expense, such insurance, including liability insurance against liability to the public incident to the use of or resulting from any accident occurring in or about the Premises, of the types and with the initial limits of liability specified in the Basic Provisions. Said policies shall contain an "Additional Insured-Managers or Lessors of Premises Endorsement" and contain the "Amendment of the Pollution Exclusion Endorsement" for damages caused by heat, smoke or fumes from a hostile fire. The policy shall 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 Tenant's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance carried by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only.

13.3.2 Adjustments to Coverage. Tenant further agrees to review the amount of its insurance coverage with Landlord every three (3) years to the end that the protection coverage afforded thereby shall be in proportion to the initial protection coverage. If the parties are unable to agree upon the amount of said coverage prior to the expiration of each such three (3) year period, then the amount of coverage to be provided by Tenant's carrier shall be adjusted to the amounts of coverage recommended in writing by an insurance broker selected by Landlord.

13.3.3 Notification of Incidents. Tenant shall notify Landlord within twenty-four (24) hours of Tenant becoming aware of the occurrence of any accidents or incidents in the Premises, the Building, Common Areas or the Project which could give rise to a claim under any of the insurance policies required under this Article 13.

13.4 Tenant's Property Insurance. Tenant, at its own cost and expense, shall maintain on all of Tenant's Property a policy of standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, to the extent of at least one hundred percent (100%) of their replacement cash value. The proceeds of any such policy that become payable due to damage, loss or destruction of such property shall be used by Tenant for the repair or replacement thereof.

13.5 Proof of Insurance. Each policy of insurance required of Tenant by this Lease shall be a primary policy, issued by an insurance company licensed in the state where the Premises are located and shall maintain during the policy term a "General Policyholder's Rating" of at least B+, V, as set forth in the most current issue of "Best's Insurance Guide," or such other rating as may be reasonably satisfactory to Landlord. Each policy of insurance required of Tenant shall also contain an endorsement requiring thirty (30) days written notice from the insurer to Landlord before cancellation or change in the nature, scope or amount of coverage. Tenant shall not do or permit to be done anything which invalidates the required insurance policies. Tenant shall, prior to the Commencement Date, deliver to Landlord certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. Tenant shall, at least thirty (30) days prior to the expiration of such policies, furnish Landlord with evidence of renewals or "insurance binders" evidencing renewal thereof, or Landlord may order such insurance and charge the cost thereof to Tenant, which amount shall be payable by Tenant to Landlord upon demand.

13.6 Casualty Insurance. Landlord shall maintain casualty insurance on the Building in which the Premises is situated, and on all other buildings in the Project, if any, insuring against loss by fire and the perils covered by an extended coverage endorsement, in an amount not less than eighty percent (80%) of their full replacement cost and as otherwise required by any mortgage lender of the improvements comprising the Project.

13.7 Waiver of Subrogation. Landlord and Tenant each release the other, and their respective agents and representatives, from any claims for damage to any person or to the Premises and to the fixtures and personal property situated therein, to the extent resulting from or attributable to any risk insured under any insurance policies carried by the parties and in force at the time of the damage. Each party shall cause any insurer providing insurance to it pursuant to this Lease to waive all rights or recovery by way of subrogation against either party by virtue of the payment of any loss under such insurance. Such waiver shall be effective as long as such insurance is required under the provisions of this Lease.

Landlord's Initials _____ Tenant's Initials _____

14. DAMAGE AND DESTRUCTION.

14.1 Casualty. If the Premises or the Building(s) in which the Premises are located should be damaged, destroyed, or rendered inaccessible by fire or other casualty, Tenant shall give immediate written notice to Landlord. Within forty-five (45) days after receipt from Tenant of such written notice, Landlord shall notify Tenant in writing ("Landlord's Repair Estimate") whether the necessary repairs can reasonably be made within one hundred eighty (180) days.

14.1.1 Rent Abatement. If Tenant cannot access or is required to vacate all or a portion of the Premises due to the casualty, the Rent payable hereunder shall be abated proportionately on the basis of the size of the area of the Premises which is rendered inaccessible or which must be vacated due to such casualty (e.g., the number of square feet of floor area of the Premises that is vacated compared to the total square footage of the floor area of the Premises) from the Casualty Date; provided, however, such casualty was not caused by Tenant or Tenant's agents, contractors or invitees.

14.1.2 Less Than 180 Days. If Landlord's Repair Estimate indicates that rebuilding or repairs can reasonably be completed within one hundred eighty (180) days after the date on which the casualty occurred ("Casualty Date"), this Lease shall not terminate, and provided that insurance proceeds are available to fully repair the damage, Landlord shall repair the Premises, except that Landlord shall not be required to rebuild, repair or replace Tenant's property which may have been placed in, on or about the Premises by or for the benefit of Tenant. In the event that Landlord should fail to substantially complete such repairs within one hundred eighty (180) days after the Casualty Date (such period to be extended for delays caused by Tenant or because of any items of Force Majeure, as hereinafter defined), and Tenant has not re-occupied the Premises, Tenant shall have, as Tenant's exclusive remedy, the right, within ten (10) days after the expiration of such one hundred eighty (180) day period, to terminate this Lease by delivering written notice to Landlord, whereupon all rights hereunder shall cease and terminate thirty (30) days after Landlord's receipt of such notice.

14.1.3 Greater Than 180 Days. If Landlord's Repair Estimate indicates that rebuilding or repairs cannot be completed within one hundred eighty (180) days after the Casualty Date, either Landlord or Tenant may terminate this Lease by giving written notice within ten (10) days after the date of Landlord's Repair Estimate; and this Lease shall terminate and the Rent shall be abated from the date Tenant vacates the Premises. In the event that neither party elects to terminate this Lease, Landlord shall promptly commence and diligently pursue to completion the repairs to the Building or Premises, provided insurance proceeds are available to repair the damage (except that Landlord shall not be required to rebuild, repair or replace Tenant's property which may have been replaced in, on or about the Premises by or for the benefit of Tenant).

14.1.4 Changes in Zoning, Ordinances or Applicable Laws. Should then applicable laws or zoning ordinances preclude the restoration or replacement of the Premises in the manner hereinbefore provided, then Landlord shall have the right to terminate this Lease immediately upon verification hereof by giving written notice of termination to Tenant, and thereupon both parties hereto shall be released from all further liability hereunder, except that Tenant shall remain liable under the provisions of Articles 9, and 13, and Landlord shall remain liable under Articles 9, 13 and 43.

14.2 Tenant's Fault. In the event that the Premises or any portion of the Building are located is damaged as a result of the negligence or breach of this Lease by Tenant or any of Tenant's parties, Tenant shall not have the right to terminate the Lease as set forth above nor shall the Rent be reduced during the repair of such damage. In such event, Tenant shall be liable to Landlord for the cost of the repair caused thereby to the extent such cost is not covered by insurance proceeds from policies of insurance required to be maintained pursuant to the provisions of this Lease.

14.3 Uninsured Casualty. Subject to Section 7.2.2, any deductible amount payable under the property insurance or the Building(s) in which the Premises are located shall be an Operating Expense. In the event that the Premises or any portion of the Building(s) is damaged to the extent Tenant is unable to use the Premises and such damage is not covered by insurance proceeds received by Landlord or in the event that the holder of any indebtedness secured by the Premises requires that the insurance proceeds be applied to such indebtedness, then Landlord shall have the right, at Landlord's option, either to (i) repair

such damage as soon as reasonably possible at Landlord's expense or (ii) give written notice to Tenant within thirty (30) days after the date of the occurrence of such damage of Landlord's intention to terminate this Lease as of the date of the occurrence of such damage. In the event Landlord elects to terminate this Lease, Tenant shall have the right within ten (10) days after receipt of such notice to give written notice to Landlord of Tenant's intention to pay the cost of repair of such damage, in which event, following the securitization of Tenant's funding commitment in a form reasonably acceptable to Landlord, this Lease shall continue in full force and effect. Landlord shall make such repairs as soon as reasonably possible, and Tenant shall reimburse Landlord for such repairs within fifteen (15) days after receipt of an invoice from Landlord. If Tenant does not give such notice within the ten (10) day period, this Lease shall terminate automatically as of the Casualty Date.

14.4 Waiver. With respect to any damage or destruction which Landlord is obligated to repair or may elect to repair, Tenant waives all rights to terminate this Lease pursuant to rights otherwise presently or hereafter accorded by law to the extent that such termination by Tenant is inconsistent with the rights and obligations of the parties under this Lease.

14.5 Force Majeure. "Force Majeure," as used in this Section 14 only and shall not apply elsewhere unless otherwise specified, means delays resulting from causes beyond the reasonable control of Landlord, including, without limitation, any delay caused by any action, inaction, order, ruling, moratorium, regulation, statute, condition or other decision of any private party or governmental agency having jurisdiction over any portion of the Project, over the construction anticipated to occur thereon or over any uses thereof, or by delays in inspections or in issuing approvals by private parties or permits by governmental agencies, or by fire, flood, inclement weather, strikes, Iockouts or other labor or industrial disturbance (whether or not on the part of agents or employees of Landlord engaged in the construction of the Premises), civil disturbance, order of any government, court or regulatory body claiming jurisdiction or otherwise, act of public enemy, war, riot, sabotage, blockage, embargo, failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority, discovery of hazardous or toxic materials, earthquake, or other natural disaster, delays caused by any dispute resolution process, or any cause whatsoever beyond the reasonable control (excluding financial inability) of the party whose performance is required or any of its contractors or other representatives, whether or not similar to any of the causes hereinabove stated.

14.6 Substantial Destruction During Last Six (6) Months. In addition, in the event that the Premises or the Building(s) in which the Premises are located is destroyed or damaged to any substantial extent during the last six (6) months of the Term of this Lease, then notwithstanding anything contained in this Article 14, either party hereto shall have the option to terminate this Lease by giving written notice to the other of the exercise of such option within thirty (30) days after the exercising party becomes aware of such damage or destruction, in which event this Lease shall cease and terminate as of the date of such notice.

15. CONDEMNATION

15.1 Entire Leased Premises. Should title or possession of the whole of the Premises be taken by duly constituted authority in condemnation proceedings under the exercise of the right of eminent domain, or should a partial taking render the remaining portion of the Premises impractical for Tenant's intended use as contemplated in this Lease, then this Lease shall terminate upon the vesting of title or taking of possession.

15.2 Partial Taking.

15.2.1 Landlord shall have the right to terminate this Lease by giving thirty (30) days prior written notice to Tenant within thirty (30) days after the nature and extent of the taking is finally determined if any portion of the Premises or the Building and other improvements in which the Premises are situated is taken by eminent domain. If Landlord does not terminate this Lease as provided herein, then this Lease shall remain in full force and effect. In such event, Landlord shall promptly make any necessary repairs or restoration at the cost and expense of Landlord, and the Minimum Monthly Rent and Tenant's proportionate share of Landlord's Common Area Expenses from and after the date of the taking shall be reduced in the proportion that the area of the portion of the Premises taken bears to the total area of the Premises immediately prior to the date of such taking or conveyance.

15.2.2 Tenant waives the provisions of Section 1265.130 of the California Code of Civil Procedure permitting a petition by Tenant to the Superior Court to terminate this Lease in the event of a partial taking of the Premises.

Landlord's Initials _____ Tenant's Initials _____

15.3 Transfer Under Threat of Condemnation. Any sale or conveyance by Landlord to any person or entity having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking by eminent domain under this Article 15.

15.4 Awards and Damages. All payments made on account of any taking by eminent domain shall be made to and retained by Landlord, except that Tenant shall be entitled to make a separate claim to the condemning authority any award to Tenant specifically made by the condemning authority as a result of such separate action (a) for the reasonable removal and relocation costs of any removable property that Tenant has the right to remove, or for loss and damage to any such property that Tenant elects or is required not to remove; and/or (b) for Tenant's loss of goodwill.

15.5 Arbitration. Any dispute concerning the extent to which a taking by condemnation renders the Premises unsuitable for continued occupancy and use by Tenant shall be submitted to arbitration pursuant to Article 43 below.

16. ASSIGNING, SUBLETTING AND HYPOTHECATING

16.1 Landlord's Consent Required. Tenant shall not voluntarily or by operation of law assign, license, franchise, transfer, mortgage, hypothecate, or otherwise encumber all or any part of Tenant's interest in this Lease or in the Premises, and shall not sublet, franchise, change ownership or license all or any part of the Premises, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld, and any attempted assignment, license, franchise, transfer, mortgage, encumbrance, subletting or change of ownership without such consent shall be wholly void, shall confer no rights upon any third parties, and shall at the sole and exclusive option of Landlord terminate this Lease. Without in any way limiting Landlord's right to refuse to give such consent for any other reason or reasons, Landlord reserves the right to refuse to give such consent, and such refusal shall be deemed to be reasonable, if in Landlord's sole but commercially reasonable discretion and opinion:

16.1.1 The proposed new tenant's character, reputation, business, or use is not consistent with the character and quality of the Project;

16.1.2 The financial worth of the proposed new tenant is inadequate as determined by generally accepted industry standards to capitalize the business to be conducted in the Premises;

16.1.3 Intentionally omitted;

16.1.4 The intended use of the Premises by the proposed new tenant is illegal, conflicts with the Permitted Use, competes with then-existing uses in the Project or violates a then-existing exclusive or an exclusive which Landlord is then negotiating; and/or

16.1.5 The intended alteration of the Premises as a result of the proposed new tenant's use or other requirements is material or substantial.

16.2 Tenant's Application. In the event that Tenant desires at any time to assign this Lease or to sublet the Premises or any portion thereof, Tenant shall submit to Landlord, at least sixty (60) days prior to the proposed "effective date" of the assignment or sublease, in writing: (i) a notice of application to assign or sublease, setting forth the proposed effective date, which shall be no less than sixty (60) or more than one hundred eighty (180) days after the sending of such notice; (ii) the name of the proposed subtenant or assignee; (iii) the nature of the proposed subtenant's or assignee's business to be carried on in the Premises; (iv) the terms and provisions of the proposed sublease or assignment; (v) a current financial statement of the proposed subtenant or assignee; and (vi) such other information as Landlord may reasonably request.

16.3 Additional Terms Regarding Subletting. The following additional terms shall apply to any proposed sublease of the Premises by Tenant:

16.3.1 If Tenant sublets all or a portion of the Premises at a square foot rental rate in excess of Tenant's then-existing rental rate, Tenant and Landlord shall split any profits 50/50;

16.3.2 No proposed subtenant shall be an existing occupant of any space in the Project, or an Affiliate of any such occupant, unless such proposed subtenant, or its Affiliate, is expanding its existing space in the Project and is not otherwise competing with Landlord for any space in the Project (e.g., existing option to renew, pending negotiations, etc.). As used in this Section 16.3.2, an "Affiliate" means a corporation, partnership, limited liability company, or other business entity that directly or indirectly controls, is controlled by, or is under common control with such occupant. For this purpose, "control" shall mean the direct or indirect power to vote more than forty-nine percent (49%) of the voting securities of any entity or otherwise to direct the management of any entity.

16.3.3 Tenant shall have the right, without the prior written consent of Landlord, but upon prior written notice to Landlord as set forth below, to assign or sublet all or any portion of its interest in the sublease to an Affiliate (hereinafter defined) so long as (i) the Affiliate delivers to Landlord a written notice of the assignment and an assumption agreement whereby the Affiliate assumes and agrees, jointly and severally with Tenant, to perform, observe and abide by all of the terms, conditions, obligations and provisions of the Lease applicable to Tenant and (ii) the entity remains an Affiliate. No subletting or assignment by Tenant made pursuant to this Section shall relieve Tenant of any of its primary obligations under the Lease. As used herein, the term "Affiliate" of Tenant shall mean any other entity which, directly or indirectly, controls, is controlled by or is under common control with Tenant. For this purpose, "control" shall mean the direct or indirect power to vote more than forty-nine percent (49%) of the voting securities of any entity or otherwise to direct the management of any entity. Notwithstanding anything to the contrary in the Master Lease or the Lease, Tenant shall be permitted (without the consent of Landlord or the Master Lessor) to merge, consolidate with, or be acquired by, another entity and/or to sell substantially all of its assets, so long as the surviving entity or the purchaser(s) of substantially all of Tenant's assets assumes all obligations of Tenant under the Lease.

16.4 Recapture. If Tenant proposes to assign this Lease to a party which is not or which does not propose to operate a permitted use or is not qualified to do so, Landlord may, at its option, exercisable upon written notice to Tenant within thirty (30) days after Landlord's receipt of the notice from Tenant set forth in Section 16.2 above, elect to recapture the Premises and terminate this Lease. If Tenant proposes to sublease all or part of the Premises to a party which does intend to use the Premises for a permitted use, Landlord may, at its option, exercisable upon written notice to Tenant within thirty (30) days after Landlord's receipt of the notice from Tenant set forth in Section 16.2 above, elect to recapture such portion of the Premises as Tenant proposes to sublease and, upon such election by Landlord, this Lease shall terminate as to the portion of the Premises recaptured. In the event a portion only of the Premises is recaptured, the rent payable under this Lease and Tenant's proportionate share of building operating expenses shall be proportionately reduced. If Tenant shall, however, elect to rescind its notice of assignment or sublease, pursuant to written demand to Landlord given within fifteen (15) days after Tenant's receipt of Landlord's notice of recapture, then Landlord shall not have the said right of recapture with respect to the notice so rescinded.

The parties hereto acknowledge and agree that the provisions of this Article are a material inducement for Landlord's execution of this Lease and that Tenant's sole purpose for executing this Lease is to obtain possession of the Premises and not to engage in the business of leasing and/or subleasing of commercial space. The parties further acknowledge and agree that Landlord's recapture of the Premises, or any portion thereof, as hereinabove described, shall be deemed to be reasonable and shall not violate or conflict with the provisions of Section 16.1 concerning Landlord's reasonable refusal to consent to a proposed transfer.

If Landlord shall not elect to recapture pursuant to this Section 16.4, and if Landlord shall consent to the proposed assignment or sublease, then Tenant may thereafter enter into the proposed assignment or sublease, provided that (i) such assignment or sublease is executed within ninety (90) days after the date that Landlord shall grant its consent, and (ii) the terms and provisions of the executed assignment or sublease are materially or substantially the same as those presented to Landlord in the notice given by Tenant pursuant to Section 16.2 above.

Landlord's Initials _____ Tenant's Initials _____

BY PLACING THEIR INITIALS BELOW, LANDLORD AND TENANT CERTIFY THAT THIS SECTION 16.4 HAS BEEN FULLY AND FREELY NEGOTIATED.

LANDLORD TENANT

16.5 Fees for Review. In the event that Tenant shall request to assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, or shall sublet the Premises or any part hereof, Tenant shall pay to Landlord a non-refundable fee for Landlord's time and processing efforts and for expenses incurred by Landlord in connection with reviewing such transaction (including any administrative expenses for Landlord's property manager), the amount of such non-refundable fee to be the greater of one percent (1%) of Tenant's then existing Minimum Monthly Rent or Five Hundred Dollars ($500.00). In addition to such fee, Tenant shall pay to Landlord in the event Landlord retains the services of any attorney to review the transaction, all reasonable attorneys' fees incurred by Landlord in connection therewith, not to exceed One Thousand Dollars ($1,000.00). Tenant shall pay such nonreimbursable fee and such attorneys' fees to Landlord within fifteen (15) days after written request therefore and said nonreimbursable fee shall apply even if Landlord does not consent to the proposed transfer.

16.6 Collection. Any rental payments or other sums received from Tenant or any other person in connection with this Lease shall be conclusively presumed to have been paid by Tenant or on Tenant's behalf. Landlord shall have no obligation to accept any rental payments or other sum from any person other than Tenant unless (i) Landlord has been given prior written notice to the contrary by Tenant, and (ii) Landlord has consented to payment of such sums by such person other than Tenant. If this Lease be assigned to, or if the Premises or any part thereof be sublet or occupied by, anybody other than Tenant, Landlord may (but shall not be obligated to) collect rent from the assignee, subtenant or occupant and apply the net amount collected to the rent herein reserved and retain any excess rent so collected, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of Tenant's covenant set forth in the first sentence of Section 16.1 above, nor shall such assignment, subletting, occupancy or collection be deemed an acceptance by Landlord of the assignee, subtenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained.

16.7 Waiver. Notwithstanding any assignment or sublease, or any indulgences, waivers or extensions of time granted by Landlord to any assignee or sublessee, or any failure by Landlord to take action against any assignee or sublessee, Tenant agrees that Landlord may, at its option, proceed against Tenant without having taken action against or joined such assignee or sublessee, provided that Tenant shall have the benefit of any indulgences, waivers and extensions of time granted to any such assignee or sublessee. The subsequent acceptance of rent or other sums hereunder by Landlord shall not be deemed a waiver of any preceding default other than the failure of Tenant to pay the particular rental or other sums, or portion thereof so accepted, regardless of Landlord's knowledge of such preceding default at the time of acceptance of such rent or other sum.

16.8 Assumption of Obligations. Each assignee or transferee, other than Landlord, shall assume all obligations of the Tenant under this Lease and shall be and remain liable jointly and severally with Tenant for the payment of the rent and for the due performance of all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed, for the term of this Lease. No assignment shall be binding on Landlord unless such assignee shall deliver to Landlord an executed instrument in a form which contains a covenant of assumption by the assigner satisfactory in substance and form to Landlord (the "Assumption Document"). The failure or refusal of the assignee to execute the Assumption Document shall not release or discharge the assignee from its liability, and shall provide Landlord with an option to terminate said assignment.

16.9 No Release. No assignment or subletting shall affect the continuing primary liability of Tenant hereunder (which, following such assignment or subletting, shall be joint and several with the assignee or subtenant), and Tenant shall not be released from performing any of the terms, covenants and conditions of this Lease.

16.10 Implied Assignment. If the Tenant hereunder is a corporation or limited liability company which, under the then current laws of the state where the Project is situated, is not deemed a public corporation, limited liability company or is an unincorporated association or partnership, the transfer, assignment or hypothecation of any stock or interest in such corporation or limited liability company,

Landlord's Initials _____ Tenant's Initials _____

association or partnership in the aggregate in excess of forty-nine percent (49%) or more shall be deemed an assignment within the meaning and provisions of this Article 16. If Tenant shall select or appoint some person or entity other than Tenant to manage and control the business conducted in the Premises, and the result thereof shall be substantially similar to the result of a sublease or assignment, then such selection or appointment shall be deemed an assignment within the meaning and provisions of this Article 16.

16.11 Remedies Against Landlord. Tenant's remedy for any breach of this Article 16 by Landlord shall be limited to injunctive relief.

17. INTENTIONALLY OMITTED

18. DEFAULT

18.1 Events of Defaults. The occurrence of any of the following events shall, at Landlord's option, constitute an "Event of Default":

18.1.1 Intentionally omitted;

18.1.2 Failure to pay Rent on the date when due and the failure continuing for a period of five (5) business days after such payment is due;

18.1.3 Failure to perform Tenant's covenants and obligations hereunder (except default in the payment of Rent) where such failure continues for a period of thirty (30) days after written notice from Landlord; provided, however, if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, Tenant shall not be deemed to be in default if Tenant commences the cure within the thirty (30) day period and diligently and continuously prosecutes such cure to completion;

18.1.4 The making of a general assignment by Tenant for the benefit of creditors; the filing of a voluntary petition by Tenant or the filing of an involuntary petition by any of Tenant's creditors seeking the rehabilitation, liquidation or reorganization of Tenant under any law relating to bankruptcy, insolvency or other relief of debtors and, in the case of an involuntary action, the failure to remove or discharge the same within sixty (60) days of such filing; the appointment of a receiver or other custodian to take possession of substantially all of Tenant's assets or this leasehold; Tenant's insolvency or inability to pay Tenant's debts or failure generally to pay Tenant's debts when due; any court entering a decree or order directing the winding up or liquidation of Tenant or of substantially all of Tenant's assets; Tenant taking any action toward the dissolution or winding up of Tenant's affairs; the cessation or suspension of Tenant's use of the Premises or the attachment, execution or other judicial seizure of substantially all of Tenant's assets or this leasehold;

18.1.5 The making of any material misrepresentation or omission by Tenant or any successor in interest of Tenant in any materials delivered by or on behalf of Tenant to Landlord or Landlord's lender pursuant to this Lease;

18.1.6 The occurrence of an Event of Default set forth in Section 18.1.4 or 18.1.5 with respect to any guarantor of this Lease, if applicable;

18.1.7 The occurrence of an Event of Default as otherwise designated as an Event of Default in the Lease.

18.2 Remedies.

18.2.1 Termination. In the event of an occurrence of any Event of Default, per Section 18.1 of this Lease, and after any applicable cure period under California state law and as provided under this Lease, Landlord shall have the right to give a written termination notice to Tenant (which notice may be the notice given under Section 18.1 above, if applicable and which notice shall be in lieu of any notice required by the California Code of Civil Procedure Section 1161, et seq.) and, on the date specified in such notice, this Lease shall terminate unless on or before such date all arrears of Rent and all other sums payable by Tenant under this Lease and all costs and expenses incurred by or on behalf of Landlord hereunder shall have been paid by Tenant and all other Events of Default at the time existing shall have been fully remedied to the satisfaction of Landlord.

18.2.1(A) Repossession. Following termination, without prejudice to other remedies Landlord may have, Landlord may (i) peaceably re-enter the Premises upon voluntary surrender by Tenant or remove Tenant therefrom and any other persons occupying the Premises, using such legal proceedings as may be available; (ii) repossess the Premises or relet the Premises or any part thereof for such term (which may be for a term extending beyond the Term), at such rental and upon such other terms and conditions as Landlord in Landlord's sole and reasonable discretion shall determine, with the right to make reasonable alterations and repairs to the Premises; and (iii) remove all personal property therefrom.

18.2.1(B) Unpaid Rent. Landlord shall have all the rights and remedies of a landlord provided by applicable law, including the right to recover from Tenant: (i) the worth, at the time of award, of the unpaid Rent that had been earned at the time of termination; (ii) the worth, at the time of award, of the amount by which the unpaid Rent that would have been earned after the date of termination until the time of award exceeds the amount of loss of rent that Tenant 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 the loss of rent that Tenant proves could have been reasonably avoided; and (iv) any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's default. The phrase "worth, at the time of award," as used in (i) and (ii) above, shall be computed at the Applicable Interest Rate, as defined in Section 20, and as used in (iii) above, shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

18.2.2 Continuation. Even though an Event of Default may have occurred, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession; and Landlord may enforce all of Landlord's rights and remedies under this Lease, including the remedy described in California Civil Code Section 1951.4 ("lessor" may continue Lease in effect after "lessee's" breach and abandonment and recover rent as it becomes due, if "lessee" has the right to sublet or assign, subject only to reasonable limitations) to recover Rent as it becomes due. Landlord without terminating this Lease, may, during the period Tenant is in default, enter the Premises and relet the same or any portion thereof to third parties for Tenant's account, and Tenant shall be liable to Landlord for all costs Landlord incurs in reletting the Premises, including, without limitation, brokers' commissions, expenses of remodeling the Premises and like costs. Reletting may be for a period shorter or longer than the remaining Term. Tenant shall continue to pay the Rent on the date the same is due. No act by Landlord hereunder, including acts of maintenance, preservation or efforts to lease the Premises or the appointment of a receiver upon application of Landlord to protect Landlord's interest under this Lease, shall terminate this Lease unless Landlord notifies Tenant that Landlord elects to terminate this Lease. In the event that Landlord elects to relet the Premises, the rent that Landlord receives from reletting shall be applied to the payment of, first, any indebtedness from Tenant to Landlord other than Base Rent and Tenant's Share of Operating Expenses and Real Property Taxes; second, all costs, including maintenance, incurred by Landlord in reletting; and, third, Base Rent and Tenant's Share of Operating Expenses and Real Property Taxes under this Lease. After deducting the payments referred to above, any sum remaining from the rental Landlord receives from reletting shall be held by Landlord and applied in payment of future Rent as Rent becomes due under this Lease. In no event, and notwithstanding anything in Section 16 to the contrary, shall Tenant be entitled to any excess rent received by Landlord. If on the date Rent is due under this Lease, the rent received from the reletting is less than the Rent due on that date, Tenant shall pay to Landlord, in addition to the remaining Rent due, all costs, including maintenance, which Landlord incurred in reletting the Premises that remain after applying the rent received from reletting as provided hereinabove. So long as this Lease is not terminated, Landlord shall have the right to remedy any default of Tenant, to maintain or improve the Premises, to cause a receiver to be appointed to administer the Premises and new or existing subleases and to add to the Rent payable hereunder all of Landlord's reasonable costs in so doing, with interest at the Applicable Interest Rate from the date of such expenditure.

18.3 Cumulative. Each right and remedy of Landlord provided herein or now or hereafter existing at law, in equity, by statute or otherwise shall be cumulative and shall not preclude Landlord from exercising any other rights or remedies provided in this Lease or now or hereafter existing at law or in equity, by statute or otherwise. No payment by Tenant of a lesser amount than the Rent nor any endorsement on any check or letter accompanying any check or payment as Rent shall be deemed an accord and satisfaction of full payment of Rent; and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of such Rent or to pursue other remedies.

Landlord's Initials _____ Tenant's Initials _____

19. INTENTIONALLY OMITTED.

20. LANDLORD'S RIGHT TO CURE DEFAULTS

Landlord, at any time after Tenant commits a default in the performance of any of Tenant's obligations under this Lease, shall be entitled to cure such default, or to cause such default to be cured, at the sole cost and expense of Tenant provided Tenant fails to cure such default within the appropriate notice period set forth in Section 18.2. If, by reason of any said default by Tenant, Landlord incurs any expense or pays any sum, or performs any act requiring Landlord to incur any expense or to pay any sum, including reasonable fees and expenses paid or incurred by Landlord in order to prepare and post or deliver any notice permitted or required by the provisions of this Lease or otherwise permitted or contemplated by law, then the amount so paid or incurred by Landlord shall be immediately due and payable to Landlord by Tenant as additional rent. Tenant hereby authorizes Landlord to deduct said sums from any security deposit held by Landlord. If there is no security deposit, or if Landlord elects not to use any such security deposit, then such sums shall be paid by Tenant immediately upon demand by Landlord, and shall bear interest at the then existing federal reserve discount rate in San Francisco plus two percent (2%) per annum from the date of such demand until paid in full (the "Applicable Interest Rate").

21. WAIVER OF BREACH; ACCORD AND SATISFACTION

Any waiver by any party hereto of any breach by any party of any covenant or provision of this Lease shall be effective only if in writing and signed by the waiving party and shall not be, nor be construed to be, a waiver of any subsequent breach of the same or any other term or provision hereof. Landlord's receipt and deposit of a partial payment from Tenant of any sum due hereunder shall not constitute a waiver by Landlord of the right to require payment of the balance due, nor constitute an accord or satisfaction of Tenant's obligation, unless expressly agreed by Landlord in writing.

22. SUBORDINATION; ESTOPPEL

22.1 Subordination and Attornment. Tenant covenants and agrees that, within ten (10) days from Landlord's written request, it will execute without further consideration instruments reasonably requested by Landlord or Landlord's mortgagee subordinating this Lease in the manner requested by Landlord to all ground or underlying leases and to the lien of any mortgage and/or any deed of trust or other encumbrance which may now or hereafter affect the Premises and/or the Project, or any portion thereof, together with all renewals, modifications, consolidations, replacements or extensions thereof; provided that any lienor or encumbrancer relying on such subordination or such additional agreements will covenant with Tenant that this Lease shall remain in full force and effect, and Tenant shall not be disturbed in the event of sale, foreclosure or other actions so long as Tenant is not in default hereunder. Tenant agrees to attorn to the successor in interest of Landlord following any transfer of such interest either voluntarily or by operation of law and to recognize such successor as Landlord under this Lease. However, if Landlord or any such ground lessor or mortgagee so elects, this Lease shall be deemed prior in lien to any ground lease, mortgage, deed of trust or other encumbrance upon or including the Premises regardless of date of recording, and Tenant will execute a statement in writing to such effect at Landlord's request.

22.2 Assignment. In the event that any mortgagee or its respective successor in title shall succeed to the interest of Landlord hereunder, the liability of such mortgagee or successor shall exist only so long as it is the owner of the Premises or any interest therein, or is the tenant under any ground or underlying lease referred to in Section 22.1 above. No additional rent or any other charge shall be paid more than ten (10) days prior to the due date thereof and payments made in violation of this provision shall (except to the extent that such payments are actually received by a mortgagee) be a nullity as against any mortgagee and Tenant shall be liable for the amount of such payments to such mortgagee.

22.3 Conditions for Tenant's Termination. No act or failure to act on the part of Landlord which would entitle Tenant under the terms of this Lease, if any, or by law, to be relieved of Tenant's obligations hereunder or to terminate this Lease, shall result in a release or termination of such obligations or a termination of this Lease unless (i) Tenant shall have first given written notice of Landlord's act or failure to act to Landlord's mortgagees of record, if any, specifying the act or failure to act on the part of Landlord which could or would give basis to Tenant's rights, and (ii) such mortgagees, after receipt of such notice, have failed or refused to correct or cure the condition complained of within a "reasonable time" thereafter; but nothing contained in this Section 22.3 shall be deemed to impose any obligation on any such mortgagee to correct or cure any such condition. "Reasonable time" as used above means and includes a reasonable time to obtain possession of the mortgaged premises if the mortgagee elects to do so, and a reasonable time to correct or cure the condition if such condition is determined to exist.

Landlord's Initials _____ Tenant's Initials _____

22.4 Estoppel Certificates. Within ten (10) days after written request by Landlord, Tenant shall execute and deliver to Landlord an estoppel statement in the form of Exhibit L attached hereto and incorporated herein by this reference, or in such other form as Landlord may reasonably request, or as a prospective purchaser or encumbrancer of the Premises or Project may reasonably request. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises or of all or any portion of the Project. Tenant's failure to deliver such statement within ten (10) days of Landlord's written request therefor shall constitute the irrevocable, binding agreement of Tenant (i) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) that there are no uncured defaults in Landlord's performance hereunder, (iii) that not more than one monthly installment of the Minimum Monthly Rent has been paid in advance, and (iv) that any terms or conditions of such estoppel certificate as may be required by a prospective purchaser or encumbrancer of the Premises are satisfied and agreed to by the parties. Further, such failure to deliver such certificate (showing any exceptions to any of the statements of fact required thereby) shall constitute a material breach of this Lease.

23. SIGNS AND ADVERTISING

Tenant shall have the right, at Tenant's sole cost and expense, be entitled to place and maintain a sign to display its trade name at location(s) on the exterior of the Premises and the entry door of the Premises approved by Landlord, which sign shall conform to the requirements of Landlord and of all governmental authority(ies) having jurisdiction thereover as to size and format. In addition, Tenant shall, at Tenant's expense, be entitled to display its name and, if appropriate, the names of a reasonable number of its principals in any Building directory installed and maintained by Landlord for the purpose of identifying the identity and location of the tenants of the Building. Tenant shall remove all such signs and graphics prior to the termination of this Lease. Such installments and removes shall be made in such manner as to avoid injury or defacement of the Premises; and Tenant shall repair any injury or defacement, including without limitation, discoloration caused by such installation or removal. No other signs, advertisements, notices or other exterior decoration or personal property of Tenant shall be placed upon or displayed by Tenant on any part of the Building or the windows of the Premises, or upon or about the exterior of the Premises, without the prior written consent of Landlord.

24. RIGHTS RESERVED TO LANDLORD

24.1 Right of Entry. Landlord reserves to itself and shall at any and all times have the right, upon forty-eight (48) hours' prior notice to Tenant, to enter the Premises, at reasonable times, to inspect the same, to display the Premises to prospective purchasers or tenants, to post and maintain any notice deemed necessary by Landlord for the protection of its interest (including, without limitation, notices of nonresponsibility), to repair the Premises or any other portion of the Project, and to install, use, maintain and replace equipment, machinery, pipes, conduits and wiring throughout, beneath or above the Premises, which serve other parts of the Project, if any; all without being deemed guilty of any eviction of Tenant and without abatement of rent; and Landlord may, in order to carry out such purposes, erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, and keep and store upon the Premises all tools, materials and equipment necessary for such purposes, provided that the business of Tenant shall be interfered with as little as is reasonably practicable. With respect to the exercise of such rights and the carrying on of such activities by Landlord or any agent, contractor or employee of Landlord, except for their gross negligence or intentionally wrongful acts, Tenant hereby waives any claim for damages for any injury to property or person or any injury or inconvenience to or interference with Tenant's business, for any loss of occupancy or quiet enjoyment of the Premises, or for any other loss occasioned thereby; and Tenant hereby releases Landlord, its agents, contractors and employees, except for their gross negligence or intentionally wrongful acts, from any and all claims for such damages or loss. Landlord shall have the right to use any and all means which Landlord may deem proper to open doors to the Premises in an emergency in order to obtain entry, and any entry to the Premises obtained by Landlord by any of such means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, or an eviction of Tenant from, the Premises or any portion thereof, and any damages caused on account thereof shall be paid by Tenant. In addition, in an emergency situation Landlord shall only be required to give Tenant prior notice if and to the extent reasonable under the circumstances.

Landlord's Initials _____ Tenant's Initials _____

24.2 Additional Rights of Landlord. Landlord further reserves to itself and shall at any and all times have the right:

24.2.1 To change the street address of the Premises and/or the name or street address of the Project;

24.2.2 To install and maintain signs in the Project at such locations as Landlord shall deem advisable, other than within the Premises;

24.2.3 To decorate, remodel, alter or otherwise repair the Premises for reoccupancy during the last six (6) months of the term hereof if, during or prior to such time, Tenant has vacated the Premises;

24.2.4 To grant to anyone the exclusive right to conduct any business or render any service in the Project, provided such exclusive right shall not operate to unreasonably limit or exclude Tenant from the use expressly permitted by this Lease; and

24.2.5 To effect such other tenancies in the Project as Landlord in the exercise of its sole business judgment shall determine to best promote the interests of the Project. Tenant does not rely on the fact nor does Landlord represent that any specific tenant or number of tenants shall, or shall not, during the term of this Lease occupy any space in the Project.

25. SALE OR TRANSFER OF PREMISES; LANDLORD'S RIGHT TO MORTGAGE

25.1 Sale or Transfer by Landlord. If Landlord sells or transfers all or any portion of the Premises, or the Building, improvements and land of which the Premises are a part, then Landlord, on consummation of the sale or transfer, shall be released from any liability thereafter accruing under the Lease. If any security deposit or prepaid rent has been paid by Tenant, Landlord shall transfer the security deposit or prepaid rent to Landlord's successor and on such transfer Landlord shall be discharged from any further liability with respect thereto.

25.2 Landlord's Right to Mortgage. Landlord shall have the right to cause this Lease to be and become and remain subject and subordinate to any mortgages or deeds of trust which may hereafter be executed covering the Project or the Premises, the real property thereunder, or any portion thereof, for the full amount of all advances made or to be made thereunder and without regard to the time of character of such advance, together with interest thereon, and subject to all the terms and provisions thereof; provided that Landlord or the holder of the security interest will recognize Tenant's rights under this Lease.

26. SURRENDER; WAIVER OF REDEMPTION; HOLDING OVER

26.1 Surrender of Premises. Tenant shall have no obligation to remove any alterations, additions, improvements, or changes made to the Premises after the Commencement Date, unless specifically stated in Landlord's consent to such alterations, additions, improvements, or changes, at the expiration or early termination of the Lease. Tenant shall have no right or obligation to remove any of Landlord's Work or any other alterations, additions, improvements, or changes made by or on behalf of Landlord at the Premises. Tenant shall surrender to Landlord the Premises and all alterations and additions thereto broom clean and in good order, repair and condition (except for ordinary wear and tear). Tenant shall remove all personal property and trade fixtures prior to the expiration of the Term, including any signs, notices and displays placed by Tenant. Tenant shall perform all reasonably necessary restoration, including, without limitation, restoration made reasonably necessary by the removal of Tenant's personal property or trade fixtures prior to the expiration or termination of this Lease. Tenant shall have no obligation to change the character of or possible uses for the Building. Landlord can elect to retain or dispose of, in any manner, any alterations, utility installations, trade fixtures or personal property that Tenant does not remove from the Premises on expiration or termination of the Lease term as allowed or required by this Lease. Title to any such alterations, utility installations, trade fixtures or personal property that Landlord elects to retain or dispose of on expiration of the Lease term shall automatically vest in Landlord. Tenant waives all claims against Landlord for any damage to Tenant resulting from Landlord's retention or disposition of any such alterations, utility installations, trade fixtures or personal property. Tenant shall be liable to Landlord for Landlord's costs for storing, removing and disposing of any alterations, utility installations, trade fixtures or personal property and shall indemnify and hold Landlord harmless from the claim of any third party to an interest in such alterations, utility installations, trade fixtures or personal property.

Landlord's Initials _____ Tenant's Initials _____

26.2 Holding Over. Tenant shall have no legal right to holdover. If Tenant holds over the Premises or any part thereof after expiration of the term of this Lease, such holding over shall, at Landlord's option, constitute a month-to-month tenancy, at a rent equal to one hundred twenty-five percent (125%) of the Minimum Monthly Rent in effect immediately prior to such holding over and shall otherwise be on all the other terms and conditions of this Lease. Landlord's acceptance of any payment provided hereunder shall not be construed as Landlord's permission for Tenant to hold over. Acceptance of rent by Landlord following expiration or termination shall not constitute a renewal of this Lease or extension of the Lease term except as specifically set forth above. If Tenant fails to surrender the Premises upon expiration or earlier termination of this Lease, Tenant shall indemnify and hold Landlord harmless from and against all loss or liability resulting or arising out of Tenant's failure to surrender the premises, including, but not limited to, any amounts required to be paid to any tenant or prospective tenant who was to have occupied the Premises after the expiration or earlier termination of this Lease and any related attorney's fees and brokerage commissions.

27. HAZARDOUS MATERIALS

27.1 Definitions.

27.1.1 Hazardous Material. Hazardous Material means any substance:

(i) the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy, or common law; or

(ii) which is or becomes defined as a "hazardous waste", "hazardous substance", "hazardous materials", "toxic substances", pollutant, or contaminant under any federal, state, or local statue, regulation, rule, or ordinance or amendments thereto including, without limitation, the Federal Water Pollution Control Act (33 U.S.C. Section 1251, et seq.), Resource Conversation & Recovery Act (42 U.S.C. Section 6901 et seq.), Safe Drinking Water Act (42 U.S.C. Section 300(f) et seq.), Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), the Clean Air Act (42 U.S.C. Section 7401 et seq.), Comprehensive Environmental Response of Compensation and Liability Act (42 U.S.C. Section 9601 et seq.), California Health & Safety Code (Sections 25100 et seq. and 39000 et seq.), California Water Code (Section 13000 et seq.), and other comparable state laws relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of Hazardous Materials; or

(iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency, or instrumentality of the United States, the State of California or any political subdivision thereof.

27.1.2 Environmental Requirements. Environmental Requirements means all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all government agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states, and political subdivisions thereof and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including, without limitation: (a) all requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of Hazardous Materials, chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials or wastes whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, or land, relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials, or wastes, whether solid, liquid, or gaseous in nature; and (b) all requirements pertaining to the protection of the health and safety of employees or the public.

27.1.3 Environmental Damages. Environmental Damages means all claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs, and expenses of investigation and defense of any claim, whether or not such claim is untimely defeated, and of any good faith settlement of judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorneys' fees and disbursements and consultants' fees, any of which are incurred at any time as a result of Tenant's use,

storage, or disposal of Hazardous Materials on the Premises or the existence of a violation of Environmental Requirements on the Premises, and including without limitation: (a) damages for personal injury, or injury to property or natural resources occurring upon or off of the Premises, foreseeable or unforeseeable, including, without limitation, lost profits, consequential damages, the cost of demolition and rebuilding of any improvements on real property, interest and penalties including but not limited to claims brought by or on behalf of employees of Tenant with respect to which Tenant waives any immunity to which it may be entitled under any industrial or worker's compensation laws; (b) fees incurred for the services of attorneys, consultants, contractors, experts, and laboratories and all other costs incurred in connection with the investigation or remediation of such Hazardous Materials in violation of Environmental Requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration, or monitoring work required by any federal, state, or local governmental agency or political subdivision, or reasonably necessary to make full economic use of the Premises or any other property in a manner consistent with its current use or otherwise expended in connection with such conditions, and including without limitation any attorneys' fees, costs, and expenses incurred in enforcing this Lease or collection of any sums due hereunder; (c) liability to any third person or government agency to indemnify such person or agency for costs expended in connection with the items referenced above; and (d) diminution in the value of the Premises, and damages for the loss of business and restriction on the use of or adverse impact on the marketing of rentable or usable space or of any amenity of the Premises.

27.2 Prohibited Uses. Tenant shall not cause or give permission for the use (except for minimal quantities of any substance which technically could be considered a Hazardous Material unless (i) such substance is of a type normally used by Tenant, (ii) Tenant complies with all legal requirements applicable to such Hazardous Material) and any substances, materials or wastes subject to regulation under legal requirements from time to time in effect concerning hazardous, toxic or radioactive materials, on or about the Premises, and Tenant shall have received Landlord's prior written reasonable consent.

27.3 Obligation to Indemnify, Defend, and Hold Harmless. Tenant and its successors, assigns and guarantors, agreed to indemnity, defend, reimburse, and hold harmless (a) Landlord and its agents, successors and assigns, (b) any other person who acquires a portion of the Premises in any manner, including but not limited to the purchase, at a foreclosure sale or otherwise through the exercise of the rights and remedies of Landlord under this agreement, and (c) the directors, officers, shareholders, employees, partners, agents, contractors, subcontractors, experts, licensees, affiliates, lessees, mortgagees, trustees, heirs, devisees, successors, assigns, and invitees of such persons, from and against any and all Environmental Damages arising from the presence of Hazardous Materials used, stored, disposed of or brought upon, about, or beneath the Premises by Tenant, or Tenant's agents, contractors, vendors or invitees (collectively the "Tenant Parties") or any such Hazardous Materials migrating from the Premises, or arising in any manner as a result of the Tenant Parties' violation of any Environmental Requirements and the Tenant Parties' activities thereon, unless to the extent such Environmental Damages exist as a direct result of the negligence or willful misconduct of Landlord.

Tenant's obligation hereunder shall include, but not be limited to, the burden and expense of defending all claims, suits, and administrative proceedings (with counsel reasonably approved by Landlord), conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against such indemnified persons and to remediate the Premises pursuant to Section 27.4 below. Landlord at its sole expense may employ additional counsel of its choice to associate with counsel representing Tenant. Notwithstanding anything contained herein to the contrary, Tenant shall in no event be held liable or responsible (including without limitation, for the removal or encapsulation thereof) for any Hazardous Materials migrating from the Premises or existing in or upon the Premises prior to the date Tenant accepts possession of the same.

Tenant's obligations hereunder shall survive the expiration or earlier termination of this Lease, the discharge of all other obligations owned by the parties to each other, and any transfer of title to the Premises (whether by sale, foreclosure, deed in lieu of foreclosure or otherwise).

The obligations of Tenant under this paragraph shall not apply to any Environmental Damages, the violation of and Environmental Requirements or the presence of any Hazardous Material to the extent that such condition or event arose or existed prior to the effective date of this Lease, migrated onto the Premises prior to or after the effective date of this Lease through no violation of Environmental Requirements by Tenant or its agents, or was not caused by Tenant, Tenant's agents, employees or invitees. As a result of any pre-existing Environmental Damages or the presence of any Hazardous Materials prior to the date

Tenant accepts possession of the Premises, in the event any legal requirement or governmental entity requires the Premises to be inspected, tested or surveyed for the presence of any Hazardous Materials prior to or during Tenant's occupancy of the Premises, Landlord, at its sole cost and expense, shall perform such required activities.

27.4 Obligation to Remediate. Pursuant to Section 27.3 of the Lease, Tenant shall, upon demand of Landlord, and at its sole cost and expense, promptly take all actions to remediate the Premises which are required by any federal, state, or local government agency or political subdivision or which are reasonably necessary to mitigate Environmental Damages for which Tenant is obligated above. Such actions shall include, but not be limited to, the investigation of the environmental condition of the Premises, the preparation of any feasibility studies, reports, or remedial plans, and the performance of any cleanup, remediation, containment, operations, maintenance, monitoring, or restoration work, whether on or off the Premises. Tenant shall further take all actions necessary to restore the Premises to a substantially similar condition existing prior to Tenant's introduction of Hazardous Material upon, about or beneath the Premises, notwithstanding any lesser standards of remediation allowed under applicable law or governmental policies. All such work shall be performed by one or more contractors, selected by Tenant and reasonably approved in advance and in writing by Landlord. Tenant shall proceed continuously and diligently with such investigatory and remedial actions, provided that in all cases such actions shall be in accordance with all applicable requirements of government entities. Any such actions shall be performed in a good, safe, and workmanlike manner and shall minimize any impact on the businesses conducted on the Premises and/or those businesses conducted at the Project. Tenant shall pay all costs in connection with such investigatory and remedial activities, including but not limited to all power and utility costs, and any and all taxes or fees that may be applicable to such activities. Tenant shall promptly provide to Landlord copies of testing results and reports that are generated in connection with the above activities and that are submitted to any government entity. Promptly upon completion of such investigation and remediation, Tenant shall permanently seal or cap all monitoring wells and test holes to industrial standards in compliance with applicable federal, state, and local laws and regulations, remove all associated equipment, and restore the Premises which shall include, without limitation, the repair of any surface damage, including paving, caused by such investigation or remediation hereunder. Within thirty (30) days of demand therefor, Tenant shall provide Landlord with a bond, letter of credit, or similar financial assurance evidencing that the necessary funds are available to perform the obligation established by this paragraph.

27.5 Notification. If Tenant shall become aware of or receives notice of any actual, alleged, suspected, or threatened violation of Environmental Requirements, or liability of Tenant for Environmental Damages in connection with the Premises or past or present activities of any person thereon, including but not limited to notice or other communication concerning any actual or threatened investigation, inquiry, lawsuit, claim, citation, directive, summons, proceeding, complaint, notice, order, writ, or injunction, relating to same, then Tenant shall deliver to Landlord, within ten (10) days of the receipt of such notice or communication by Tenant, a written description of said violation, liability, correcting information, or actual threatened event or condition, together with copies of any documents evidencing same. Receipt of such notice shall not be deemed to create any obligation on the part of Landlord to defend or otherwise respond to any such notification.

27.6 Termination of Lease. Upon the expiration or earlier termination of the Lease term, Tenant shall surrender possession of the Premises to Landlord free of contamination attributable to Hazardous Materials that are in excess of concentrations permitted by any applicable Environmental Requirements and that Tenant is obligated to remediate pursuant to Section 27.3 above. Tenant shall further take all actions necessary to restore the Premises to a substantially similar condition existing prior to Tenant's introduction of Hazardous Material upon, about or beneath the Premises, notwithstanding any lesser standards of remediation allowed under applicable law or governmental policies. In addition to all other remedies available to Landlord hereunder, Tenant expressly agrees that even though Tenant's right of occupancy shall have terminated, Tenant shall remain liable to pay Landlord an amount per month (or a pro rata portion thereof) equal to one hundred twenty-five percent (125%) of the Minimum Monthly Rent in effect for the month immediately preceding the month of expiration or earlier termination (less any amounts received by Landlord from any other occupant of the Premises during this period), until Tenant shall have surrendered possession of the Premises to Landlord free of any such Hazardous Materials.

27.7 Toxic Substances Disclosure. The parties acknowledge the obligation of Tenant to advise Landlord concerning Hazardous Materials located upon the Premises pursuant to the provisions of California Health and Safety Code Section 25359.7. The parties hereby agree that this Section 27.7 constitutes the notice required pursuant to said statute and Landlord hereby waives its right to further notice pursuant to

Landlord's Initials _____ Tenant's Initials _____

such statute to the extent described herein. The parties acknowledge that Tenant shall maintain and use certain substances upon the Premises which may be classified as "hazardous substances" to clean and maintain the Premises. The parties acknowledge that the use of any of such substances which may be a "hazardous substance" within the scope of Health and Safety Code Section 25359.7 shall not constitute a breach of this Lease and shall require no further notice from Tenant. Tenant agrees, however, that the use of other Hazardous Materials upon the Premises is not subject to the terms of this notice and waiver and Tenant shall be obligated to report the existence of such other Hazardous Materials pursuant to the requirements of Health and Safety Code Section 25359.7.

27.8 Landlord's Limited Warranty. To Landlord's actual knowledge, limited solely to its review of that certain Phase 1 Environmental Report prepared by ENSR Corporation, dated May, 1999 (the "Environmental Report"), Landlord represents and warrants that no Environmental Damages, violations of any Environmental Requirements or the presence of an Hazardous Materials exist with respect to the Premises, except as set forth in the Environmental Report.

28. INTENTIONALLY OMITTED.

29. WRITTEN NOTICES

Whenever under this Lease a provision is made for any demand, notice or declaration of any kind or where it is deemed desirable or necessary by either party to give or serve any such notice, demand or declaration to the other, it shall be in writing and (i) served personally, (ii) sent by registered or certified mail, return receipt requested, with postage prepaid, or (iii) sent by a private overnight express carrier, addressed to Tenant or Landlord, as the case may be, at the notice address specified for each in the Basic Provisions. Either party may by like notice at any time and from time to time designate a different address to which notices shall be sent. Mailed notices shall be effective upon the earlier of (a) actual receipt as evidenced by the return-receipt or (b) three (3) days after mailing. Notices sent by overnight carrier shall be effective as of the next business day. Notices personally served shall be effective immediately upon delivery.

30. JOINT AND SEVERAL LIABILITY

Each person or entity named as a Tenant in this Lease, or who hereafter becomes a party to this Lease as a tenant in the Premises, or as a permitted assignee or subtenant of Tenant, shall be jointly and severally liable for the full and faithful performance of each and every covenant and obligation required to be performed by Tenant under the provisions of this Lease.

31. BINDING ON SUCCESSORS, ETC.

Landlord and Tenant agree that each of the terms, conditions, and obligations of this Lease shall extend to and bind, or inure to the benefit of (as the case may require), the respective parties hereto, and each of their respective heirs, executors, administrators, representatives, and permitted successors and assigns.

32. ATTORNEYS' FEES

In the event that any legal action is instituted by either of the parties hereto to enforce or construe any of the terms, conditions or covenants of this Lease, or the validity thereof, the party prevailing in any such action shall be entitled to recover from the other party all court costs and a reasonable attorneys' fee to be set by the court or arbitrator, and the costs and fees incurred in enforcing any judgment entered therein.

33. FURTHER ASSURANCES

Each of the parties hereto agrees to perform all such acts (including, but not limited to, executing and delivering such instruments and documents) as reasonably may be necessary to fully effectuate each and all of the purposes and intent of this Lease.

34. CONSTRUCTION OF LEASE

The term and provisions of this Lease shall be construed in accordance with the laws of the State of California as they exist on the date hereof.

Landlord's Initials _____ Tenant's Initials _____

The parties agree that the terms and provisions of this Lease embody their mutual intent and that they are not to be construed more liberally in favor of, or more strictly against, any party hereto.

When the context in which words are used in this Lease indicates that such is the intent, words in the singular number shall include the plural and vice versa, and words in the masculine gender shall include the feminine and neuter genders and vice versa.

The Article, Section and subsection headings contained in this Lease are for purposes of identification and reference only and shall not affect in any way the meaning or interpretation of any provision of this Lease.

Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

Except as otherwise provided herein, wherever in this Lease the consent of a party is required to any act by or for the other party, such consent shall not be unreasonably withheld or delayed. Landlord's actual reasonable costs and expenses (including architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Tenant for any Landlord consent shall be paid by Tenant upon receipt of an invoice and supporting documentation therefore. Landlord's consent to any act, assignment or subletting shall not constitute an acknowledgment that no default or breach by Tenant of this Lease exists, nor shall such consent be deemed a waiver of any then existing default or breach. The failure to specify herein any particular condition to Landlord's consent shall not preclude the imposition by Landlord at the time of the consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given.

The word "Tenant" shall be deemed and taken to mean each and every person or party mentioned as a tenant herein, whether or not one or more, and if there shall be more than one tenant, any notice required or permitted by the terms of this Lease may be given by or to any one thereof and shall have the same force and effect as if given by or to all thereof. The use of the neuter singular pronoun to refer to Tenant shall be deemed a proper reference even though Tenant may be an individual, a partnership, a corporation, a limited liability company, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one Tenant and to either corporations, limited liability companies, associations, partnership or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

35. PARTIAL INVALIDITY

If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

36. RECORDING

Neither this Lease nor any memorandum of this Lease shall be recorded without the prior written consent of Landlord and its mortgage lenders.

37. COMPLETE AGREEMENT

It is understood that there are no oral agreements or representations between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements or representations and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. There are no representations or warranties between the parties other than those contained in this Lease and all reliance by the parties hereto with respect to representations and warranties is solely upon the representations and warranties contained in this document. This Lease, and the Attachments and Exhibits hereto, constitute the entire agreement between the parties and may not be altered, amended, modified, or extended except by an instrument in writing signed by the parties hereto.

Landlord's Initials _____ Tenant's Initials _____

38. NO IMPLICATION OF EXCLUSIVE USE

Nothing contained in this Lease shall be deemed to give Tenant an express or implied exclusive right to operate any particular type of business in the Project.

39. TENANT A CORPORATION OR LIMITED LIABILITY COMPANY

In the event Tenant (or Tenant's general partner) hereunder shall be a corporation or limited liability company, the parties executing this Lease on behalf of the Tenant hereby covenant and warrant that Tenant (or Tenant's general partner) is a duly qualified corporation or company and all steps have been taken prior to the date hereof to qualify Tenant to do business in the state wherein the Project is situated and all franchise and corporate taxes have been paid to date; and all future forms, reports, fees and other documents necessary to comply with applicable law will be filed when due. Each individual executing this Lease on behalf of said corporation or company represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation or company in accordance with the bylaws of said corporation (or operating agreement of said company), and that this Lease is binding upon said corporation or company in accordance with its terms.

40. SUBMISSION OF DOCUMENT

The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Premises. This document shall become effective and binding only upon execution and delivery hereof by Tenant and by Landlord (or, when duly authorized, by Landlord's agent or employee). No act or omission of any agent of Landlord or of Landlord's broker shall alter, change or modify any of the provisions hereof.

41. NO PERSONAL OBLIGATION OF LANDLORD

The obligations of Landlord under this Lease do not constitute personal obligations of the individual general partners of the general partnership which is Landlord herein, and Tenant shall look solely to the real estate that is the subject of this Lease and to no other assets of Landlord for satisfaction of any liability in respect of this Lease and will not seek recourse against the individual general partners of the general partnership which is Landlord herein, nor against any of its personal assets for such satisfaction.

42. EXCAVATION

Landlord shall have the right to utilize the land on which the Project is located (the "Land") for purposes of excavation and shall have the right to authorize the use of, and grant licenses and easements over, the Land to owners of adjacent property or governmental authorities for excavation purposes. If an excavation is made upon the Land or any of the Land adjacent to the Building by Landlord or said owner of adjacent property, Tenant shall license and authorize Landlord or said owner to enter on to the Premises for the purpose of performing such work in connection with the excavation as may be necessary or prudent to preserve the Building from injury or damage. Tenant shall have no claim for damages or indemnity against Landlord or any right to abatement of rent in connection therewith.

43. ARBITRATION

Any dispute between the parties hereto (except for any event of default or dispute regarding the payment of rent, for which Landlord shall be entitled to its remedies under Article 18 hereof and except for any dispute for which the Superior Court for the location in which the Premises are situated has jurisdiction by virtue of the California Code of Civil Procedure, Section 1161 *et. seq* [as the same may be recodified or amended from time to time]) shall be determined by arbitration. Whenever any such dispute arises between the parties hereto in connection with the Premises or this Lease and either party give written notice to the other that such dispute shall be determined by arbitration, then within thirty (30) days after the giving of the notice, both parties shall select and hire one member of the panel of Judicial Arbitration and Mediation Services, Inc. ("Judge"). The Judge shall be a retired judge experienced with commercial real property lease disputes in the County in which the Premises are located. As soon as reasonably possible, but no later than

forty (40) days after the Judge is selected, the Judge shall meet with the parties at a location reasonably acceptable to Landlord, Tenant and the Judge. The Judge shall determine the matter within ten (10) days after any such meeting. Each party shall pay half the costs and expenses of the Judge.

If Judicial Arbitration and Mediation Services, Inc. ceases to exist, and either party gives written notice to the other that a dispute shall be determined by arbitration, then, unless agreed otherwise in writing by the parties, all arbitrations hereunder shall be governed by California Code of Civil Procedure Sections 1280 through 1294.2, inclusive, as amended or recodified from time to time, to the extent they do not conflict with this Article. Within ten (10) days after delivery of such notice, each party shall select an arbitrator with at least five (5) years' experience in commercial real property leases in the County in which the Premises are located and advise the other party of its selection in writing. The two arbitrators so named shall meet promptly and seek to reach a conclusion as to the matter to be determined, and their decision, rendered in writing and delivered to the parties hereto, shall be final and binding on the parties. If said arbitrators shall fail to reach a decision within ten (10) days after the appointment of the second arbitrator, said arbitrators shall name a third arbitrator within the succeeding period of five (5) days. Said three (3) arbitrators thereafter shall meet promptly for consideration of the matter to be determined and the decision of any two (2) of said arbitrators rendered in writing and delivered to the parties hereto shall be final and binding on the parties.

If either party fails to appoint an arbitrator within the prescribed time, and/or if either party fails to appoint an arbitrator with the qualifications specified herein, and/or if any two arbitrators are unable to agree upon the appointment of a third arbitrator within the prescribed time, then the Superior Court of the County in which the Premises is located may, upon request of any party, appoint such arbitrators, as the case may be, and the arbitrators as a group shall have the same power and authority to render a final and binding decision as where the appointments are made pursuant to the provisions of the preceding paragraph. All arbitrators shall be individuals with at lease five (5) years experience negotiating or arbitrating disputes arising out of commercial real property leases in the County where the Premises are located. All determinations by arbitration hereunder shall be binding upon Landlord and Tenant.

Any determination by arbitration hereunder may be entered in any court having jurisdiction.

END OF THE STANDARD TERMS & CONDITIONS

Landlord's Initials _____ Tenant's Initials _____

ATTACHMENT 1

RULES AND REGULATIONS

1. No automobile, recreational vehicle or any other type of vehicle or equipment shall remain upon the Common Area longer than 24 hours, and no vehicle or equipment of any kind shall be dismantled or repaired or serviced on the Common Area. All vehicle parking shall be restricted to areas designated and marked for vehicle parking. The foregoing restrictions shall not be deemed to prevent temporary parking for loading or unloading of vehicles in designated areas.

2. Tenant and its agents and invitees shall not obstruct the sidewalks, common halls, passageways, driveways, entrances and exits of any Building; such facilities shall be used only for ingress to and egress from the Premises and other buildings, if any, in the Project.

3. Signs will conform to sign standards and criteria established from time to time by Landlord. Excepting any signs specifically permitted in the Lease, no other signs, placards, pictures, banners, advertisements, names or notices shall be inscribed, displayed or printed or affixed on or to any part of the outside or inside of the building without the written consent of Landlord, and Landlord shall have the right to remove any such non-conforming signs, placards, pictures, banners, advertisements, names or notices without notice to and at the expense of Tenant.

4. No antenna, aerial, discs, dishes or other such device shall be erected on the roof or exterior walls of the Building or on the grounds without the written consent of the Landlord in each instance. Any device so installed without such written consent shall be subject to removal without notice at any time.

5. No loud speakers, televisions, phonographs, radios or other devices shall be used in a manner so as to be heard or seen outside of the Premises without the prior written consent of the Landlord.

6. The outside areas adjoining the Premises shall be kept clean and free from dirt and rubbish by the Tenant to the satisfaction of Landlord, and Tenant shall not place or permit any obstruction or materials in such areas or permit any work to be performed outside the Premises.

7. No open storage shall be permitted in the Project.

8. All garbage and refuse shall be placed in containers placed at the locations designated for refuse collection, in the manner specified by Landlord. All trash and refuse shall be stored in adequate containers within the Premises and removed at regular intervals to the common pickup station authorized by Landlord. Tenant shall be responsible for complete dismantling of all boxes and cartons and for cleanup of any clutter resulting from the dumping of trash. Cartons and boxes are not to be stored outside the Premises and trash of any kind shall not be burned in or about the Premises.

9. Other than any internal vending machines in Tenant's break room, no vending machine or machines of any description shall be installed, maintained or operated upon the Common Area without Landlord's prior written consent.

10. Tenant shall not disturb, solicit, or canvass any occupant of the Building and shall cooperate to prevent same.

11. No noxious or offensive trade or activity shall be carried on in any units or on any part of the Common Area, nor shall anything be done thereon which would in any way interfere with the quiet enjoyment of each of the other tenants of the Project or which would increase the rate of insurance or overburden utility facilities from time to time existing in the Project.

12. All moving of furniture, freight or equipment of any kind shall be done at the times and in the manner prescribed by Landlord and through entrances prescribed for such purpose by Landlord. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy equipment brought into the Building. Safes or other heavy objects shall be placed upon wooden strips of such thickness as Landlord determines necessary to properly distribute the weight. All damage done to the Premises, the Building, the Project and/or Common Areas by moving or maintaining any such safe or other property shall be repaired at Tenant's cost.

Landlord's Initials _____ Tenant's Initials _____

13. The delivery or shipping of merchandise, supplies and fixtures to and from the Premises shall be subject to such rules and regulations as in the judgment of the Landlord are necessary for the proper operation of the Project.

14. Plumbing facilities shall be used only for the purpose for which they were constructed. Tenant shall pay the expense of any breakage, stoppage, or damage resulting from misuse or from the deposit of any substance into the plumbing facilities by Tenant or its agents or invitees.

15. Tenant shall assure that all water faucets or water apparatus and all electricity have been shut off before Tenant or its agents or invitees leave the Building, so as to prevent waste or damage.

16. Tenant, upon termination of its tenancy, shall deliver to Landlord all keys to stores, offices, rooms and restroom facilities that were furnished to Tenant or that Tenant has had made. Tenant shall pay Landlord the costs of replacing any lost keys and, at the option of Landlord, the costs of changing locks necessitated by the loss or theft of keys furnished to Tenant.

17. Tenant shall notify Landlord promptly of any damage to the Premises, the Building, the Project and/or the Common Areas resulting from or attributable to the acts of others.

18. Upon request of the Landlord, Tenant shall furnish to Landlord a current list of the names, vehicle descriptions and vehicle license numbers of each of Tenant's agents or employees who utilize the parking facilities of the Building if it becomes necessary in connection with the management of the parking area.

19. Upon the request of Landlord, Tenant shall employ and use at Tenant's sole cost and expense a licensed pest exterminator selected by Landlord at such intervals as Landlord may request.

20. Landlord reserves the right to make such amendments to these Rules and Regulations from time to time as are nondiscriminatory and not inconsistent with the Lease.

21. Landlord shall use its best efforts to enforce the Rules and Regulations on a uniform basis as to all tenants in the Project, but Landlord shall not be responsible to Tenant or to any persons for the nonobservance or violation of these rules and regulations by any other tenant or other person. Tenant shall be deemed to have read these rules and to have agreed to abide by them as a condition to its occupancy of the Premises.

END OF RULES AND REGULATIONS

Landlord's Initials _____ Tenant's Initials _____

EXHIBIT A

SITE PLAN

SANTA BARBARA BUSINESS PARK
GOLETA, CALIFORNIA

END OF EXHIBIT A

Landlord's Initials _____ Tenant's Initials _____

EXHIBIT F

REAL ESTATE COMMISSIONS

Landlord and Tenant warrant to the other that it has had no dealings with any real estate broker or agents in connection with the negotiation of this Lease excepting only Hayes Commercial Group and The Towbes Group, Inc. and it knows of no other real estate broker or agent who is entitled to a commission in connection with this Lease. Landlord shall pay the brokers a fee per separate agreement.

END OF EXHIBIT F

Landlord's Initials _____ Tenant's Initials _____

EXHIBIT G

TENANT'S OPTION TO RENEW

1. Grant of Option

Landlord hereby grants to Tenant, on the terms and conditions set forth below, one (1) option to renew this Lease for a renewal term of five (5) years, to commence at the expiration of the initial term. The renewal term shall be subject to all of the provisions of this Lease, including but not limited to the provisions for increases in Minimum Monthly Rent. The failure of Tenant to exercise its option for any renewal term shall nullify the option of the Tenant for any succeeding renewal terms. The option granted to Tenant in this Lease are personal to Tenant and cannot be exercised by anyone other than Tenant and only while Tenant is in full possession of the Premises.

2. Conditions to Exercise

The right of Tenant to exercise its renewal option is subject to Tenant's compliance with all of the following conditions precedent:

(a) The Lease shall be in effect at the time written notice of exercise is received and on the last day of the existing Lease term; and

(b) Tenant shall not be in default (after having failed to cure within the period allowed for hereinafter receipt of written notice thereof from Landlord) under any provisions of this Lease at any time in the twelve months prior to the time notice of exercise is given or at any time from the time notice of exercise is given to the last day of the existing Lease term; and

(c) At least nine (9) months and not more than twelve (12) months before the last day of the existing Lease term, Tenant shall have given Landlord written notice of exercise of option, which notice, once given, shall be irrevocable and binding on the parties hereto. Notwithstanding the time Tenant elects to exercise its option, the process of determining the Fair Market Rental Rate (as defined below) shall not be commenced by Landlord and Tenant earlier than six (6) months prior to the commencement of the applicable option term; and

(d) Tenant shall not have incurred more than two (2) late charge processing charges nor more than two (2) notices of nonpayment under Section 3.4 of the Standard Terms and Conditions during the preceding twenty-four (24) months; and

(e) Neither Landlord nor Tenant has exercised any right to terminate this Lease due to damage to or destruction of the Premises or the building and improvements of which the Premises are a part, or any condemnation or conveyance under threat of condemnation.

3. Minimum Monthly Rent

(a) The Minimum Monthly Rent at the beginning of the first option term shall be adjusted to the then "Fair Market Rental Rate," however in no event shall the rent at the beginning of the first option term be less than the rent paid in the last month of the fifth (5th) year of the Initial Term including the annual increase adjustment.

(b) For purposes of this Lease, the term "Fair Market Rental Rate" shall mean the annual amount per rentable square foot or rent that a comparable landlord, of a comparable building, with comparable vacancy factors, for a comparable term, and a comparable use, would accept ("Comparable Transactions"). In any determination of Comparable Transactions appropriate consideration shall be given to the annual rental rates per rentable square foot within the Project as well as for comparable space in the market, the type of escalation clause (e.g., whether increases in additional rent are determined on a net or gross basis, and if gross, whether such increases are determined according to a base year or a base dollar amount expense stop), abatement provisions reflecting free rent and/or no rent during the period of construction or subsequent to the commencement date as to the space in question, length of the lease term, size and location of premises being leased, and other generally applicable conditions of tenancy for such Comparable Transactions.

Landlord's Initials _____ Tenant's Initials _____

(c) Landlord shall determine the Fair Market Rental Rate by using its good faith judgment. Landlord shall provide written notice of such amount within twenty (20) days after Tenant provides the notice to Landlord exercising Tenant's option rights which require a calculation of the Fair Market Rental Rate; provided however that, in no event, shall Landlord be required to deliver such notice to Tenant more than one hundred eighty (180) days prior to the first day of the renewal term for which such determination is being made. Tenant shall have fifteen (15) days ("Tenant's Review Period") after receipt of Landlord's notice of the new rental within which to accept such rental or to reasonably object thereto in writing. In the event Tenant objects, Landlord and Tenant shall attempt to agree upon such Fair Market Rental Rate using their best good faith efforts. If Landlord and Tenant fail to reach agreement within fifteen (15) days following Tenant's Review Period ("Outside Agreement Date"), then each party shall place in a separate sealed envelope their final proposal as to Fair Market Rental Rate and such determination shall be submitted to arbitration as provided below. Failure of Tenant to so elect in writing within Tenant's Review Period shall conclusively be deemed its approval of the Fair Market Rental Rate determined by Landlord.

(d) If both parties make timely individual determinations of the Fair Market Rental Rate under Article 2, the disagreement shall be resolved by arbitration under this Article 3. Except as provided below, the determination of the arbitrators(s) shall be limited to the sole issue of whether Landlord's or Tenant's submitted Fair Market Rental Rate is the closest to the actual Fair Market Rental Rate as determined by the arbitrator(s), taking into account the requirements of subsection (a) above. The arbitrator(s) must be a licensed real estate appraiser who has been active in the appraisal of corporate business parks properties in the City in which the Premises are located over the five-year (5-year) period ending on the date of his or her appointment as an arbitrator. Within fifteen (15) days after the Outside Agreement Date, Landlord and Tenant shall each appoint one arbitrator and notify the other party of the arbitrator's name and business address. Within ten (10) days after the appointment of the second arbitrator, the two (2) arbitrators shall decide whether the parties will use Landlord's or Tenant's submitted Fair Market Rental Rate and shall notify Landlord and Tenant of their decision. If either Landlord or Tenant fails to appoint an arbitrator within fifteen (15) days after the Outside Agreement Date, the arbitrator timely appointed by one of them shall reach a decision and notify Landlord and Tenant of that decision within thirty (30) days after the arbitrator's appointment. If each party appoints an arbitrator in a timely manner, but the two (2) arbitrators either fail to agree on whether the Landlord's or Tenant's submitted Fair Market Rental Rate is closest to the actual Fair Market Rental Rate, or one (1) arbitrator's actual determination of the Fair Market Rental Rate varies from the other arbitrator's actual determination of the Fair Market Rental Rate by greater than five percent (5%), then the two (2) arbitrators shall immediately appoint a third arbitrator (who shall be qualified under the same criteria set forth above for qualification of the initial two (2) arbitrators) and provide notice to Landlord and Tenant of the third arbitrator's name and business address. Provided, however, if the arbitrators' respective determinations of the actual Fair Market Rental Rate vary by five percent (5%) or less, then the Actual Fair Market Rental Rate shall be determined by taking the average of the two (2) determinations. Within twenty (20) days after the appointment of the third arbitrator, the third arbitrator's determination shall be limited solely to the determination of which of the prior two (2) arbitrators' determinations is the closest to the actual Fair Market Rental Rate as determined by the third arbitrator, taking into account the requirements of subsection (b) above. If the third arbitrator is unable or unwilling to select one (1) of the two (2) prior determinations, the arbitrator(s) shall be dismissed without delay and the issue of the Fair Market Rental Rate shall be submitted to arbitration in Santa Barbara, California, under the commercial arbitration rules then existing of JAMS or its successor, subject to the provisions of this Exhibit G. If both Landlord and Tenant fail to appoint an arbitrator in a timely manner, or if the two (2) arbitrators appointed by Landlord and Tenant fail to appoint a third arbitrator, the Fair Market Rental Rate shall be submitted to arbitration in Santa Barbara, California, under the commercial arbitration rules then existing of JAMS or its successor, subject to the provisions of this Exhibit G. The arbitrator's decision shall be binding on Landlord and Tenant. The cost of any arbitration required herein shall be paid by the losing party.

(e) Minimum Monthly Rent for the option term, established as provided above, shall be adjusted annually in accordance with Section E.2 of the Basic Provisions of the Lease and set forth in a written amendment to Lease executed by the parties.

4. Options Personal

The Option granted to Tenant in this Lease is personal to Tenant, but may be assigned to an Affiliate (without releasing the original Tenant hereunder) as defined in Section 16 of the Standard Terms and Conditions of the Lease.

END OF EXHIBIT G

Landlord's Initials _____ Tenant's Initials _____

EXHIBIT H

PARKING ALLOCATION

Santa Barbara Business Park
326,336 & 346 Bollay Drive
Goleta, California

Method of Areas

Square Footage is based on outside face of exterior walls and centerline of demising walls when interior space is subdivided.

All exterior wall and shell drawings are based on Lavnik and Minor plans dated 9,19.84. Job No. 84-22.

All Interior wall location drawings based on Tenant Improvement plans for Delco, prepared by R.R.M. doted 6.10.85. Job No. 84-710.

The information contained herein was prepared “in-house” by Rossi Enterprises personnel solely for use by Rossi Enterprises management and is not intended for use by others. While the information contained herein is believed to be accurate in all material respects, no representations or warranties regarding accuracy are expressed or implied.

All improvements represented are generally located as shown. Landlord reserves the right to modify the design, layout and/or use from time to time without notice and/or approval of tenant, unless specifically limited by terms established within the tenant’s lease agreement.

Plot Date: 7:23:96

File Name: Slte2.dwg

END OF EXHIBIT H

Landlord’s Initials _____ Tenant’s Initials _____

Exhibit I

SANTA BARBARA BUSINESS PARK
320 & 340 STORKE ROAD
315, 326, 336 & 346 BOLLAY
GOLETA, CA 93117

SIGNAGE CRITERIA
TENANT IDENTIFICATION EXTERIOR WALL-MOUNTED

A. GENERAL PROVISIONS:

1) THE TENANT SHALL BE REQUIRED TO SUBMIT DUPLICATE SCALED DRAWINGS OF THEIR SIGN DESIGN FOR APPROVAL BY THE LANDLORD PRIOR TO PERMIT APPLICATION, FABRICATION AND INSTALLATION.

2) THE TENANT SHALL BE RESPONSIBLE FOR ALL ADA REQUIRED SIGNAGE WITHIN THEIR PREMISES.

3) ONLY LICENSED SIGN CONTRACTORS SHALL BE ALLOWED TO FABRICATE AND INSTALL *STORKE HOLLISTER RESEARCH CENTER* SIGNAGE.

4) ALL EXTERIOR SIGNAGE MUST HAVE A SIGN PERMIT FROM THE COUNTY OF SANTA BARBARA PRIOR TO INSTALLATION.

5) A COPY OF THE APPROVED SIGN PERMIT MUST BE SUBMITTED TO THE LANDLORD PRIOR TO INSTALLATION.

6) NO BLINKING, FLASHING, MOVING OR NEON STYLE SIGNAGE SHALL BE ALLOWED.

B. DESIGN, DIMENSIONS and PLACEMENT FOR EXTERIOR WALL- MOUNTED TENANT SIGNAGE:

1) QUANTITY and DIMENSIONS:

   a. One exterior wall-mounted sign of individual plastic injection molded or plex faced foam letters shall be allowed per Tenant.

   b. A second exterior wall-mounted sign may be allowed for any Tenant leasing more than 4,000 square feet, upon the written approval of the Landlord.

   c. The sign band area shall be located on the second level parapet of the building above the building frontage or entrance frontage occupied by the individual business and deemed acceptable to Landlord approval.

   d. Overall signage length shall not exceed 80% of the designated sign band area.

   e. Overall signage area shall not exceed 1/8th of the square footage of the building façade occupied by the individual business.

   f. The total sign area shall not exceed 95 square feet.

   g. No more than two lines of copy/lettering shall be allowed per sign.

2) INDIVIDUAL LETTER STYLE/FONT-COLOR:

   a. Individual letter style/font shall be per Tenant’s selection, shall be fabricated of plastic injection molded or plex faced foam, and shall require Landlord’s prior written approval.

   b. The signage, color shall be per Tenant’s selection and shall require the Landlord’s prior written approval.

   c. All edges of the Tenant signage shall be finished the same color as the faces.

3) LOGOS:

   a. Requests to use logos shall be considered on an individual basis.

   b. Only copyright-secured or trademark- registered logos shall be approved by the Landlord.

   c. The use of logos shall be included in the designated sign band area,

4) PLACEMENT: (Diagram A)

   a. Tenants shall install their business identification lettering within the designated sign area with the Landlord’s prior written approval.

   b. All Tenant signage shall be centered on the second level parapet, within the designated sign band area,

   c. All Tenant signage shall be installed directly to the building with silicone adhesive or equivalent. Peg mounting will not be allowed.

(Diagram A)

Landlord's Initials _____ Tenant's Initials _____

TENANT IDENTIFICATION SIGNAGE CRITERIA
SUITE & DIRECTORY MOUNTED

C. DESIGN DIMENSIONS and PLACEMENT FOR DIRECTORY INSTALLED TENANT SIGNAGE: (Diagram B)

1. QUANTITY, DIMENSIONS and PLACEMENT-DIRECTORY PLAQUES:

   a. One Tenant directory strip will be allowed for Tenant's occupying one entire building within the Santa Barbara Business Park. These directory strips will be mounted within the Santa Barbara Business Park's monument style directory structures, placed at each major parking lot entrance.

   b. More than one Tenant name will be allowed in each directory structure if it accommodates a multiple-Tenant building.

2. INDIVIDUAL LETTER STYLE/FONT-COLOR/LOGOS-DIRECTORY PLAQUES:

   a. Individual letter style/font shall be per Tenant's selection and shall require the Landlord's prior written approval.

   b. The use of logos will not be allowed in the directories.

   c. Color of directory strip shall be consistent with the Tenant approved individual wall mounted signage.

(Diagram B)

D. DESIGN, DIMENSIONS and PLACEMENT FOR SUITE TENANT IDENTIFICATION SIGNAGE: (Diagram C)

1. QUANTITY, DIMENSIONS and PLACEMENT-TENANT SUITE IDENTIFICATION:

   a. Only Tenant's name and building suite identification will be allowed on individual Tenant entry doors.

   b. This Tenant individual suite identification material shall be allowed only on the glass entry door, glass window or stucco wall adjacent to the entry door

   c. If placed on glass door/window panel the material shall be hand-painted, gold foil or dye-cut vinyl.

   d. If placed on stucco wall adjacent to door, the material shall be plastic injection molded or metal letters or plaque, and shall require the Landlord's prior written approval.

   e. A maximum of two lines of copy/lettering shall be allowed and shall occupy no more than 80% of the width of the door.

   f. The placement of the Tenant's identification copy/lettering for the entry door shall be installed 5' from the bottom of the door, and centered on the door.

2. INDIVIDUAL LETTER STYLE/FONT-COLOR/LOGOS- TENANT SUITE IDENTIFICATION:

   a. Individual copy/lettering, style/font shall be per Tenant's selection, and shall require Landlord's prior written approval.

   b. The color of the copy/lettering shall be per Tenant's selection, and shall require Landlord's prior written approval.

   c. Request to use logos shall be considered on an individual basis and shall be used only in conjunction with Tenant identification.

   d. Only copyright-secured, or trademark-registered logos shall be approved by the Landlord.

(Diagram C)

Landlord's Initials _____ Tenant's Initials _____

EXHIBIT K

SUPPLEMENTAL TERMS AND CONDITIONS

THESE SUPPLEMENTAL TERMS AND CONDITIONS constitute an integral part of this Lease to which they are attached. Any other provisions of this Lease shall be resolved in favor of these Supplemental Terms and Conditions.

K.1 Term of Lease (continued from Basic Provisions Section D)

This Lease shall become binding and enforceable upon execution by the parties (the "Effective Date"). Up until the Commencement Date, that certain Sublease Agreement between Tenant and Ericsson Inc., a Delaware corporation, dated October 9, 2006, shall remain in full force and effect and shall govern Tenant's occupancy of the Premises.

K.2 Early Access. Tenant shall have the right to access to the Premises for the purposes of installing furniture, fixtures, equipment, tenant improvements and all other associated work not conducted by Landlord thirty (30) days prior to the Commencement Date.

K.3 Signage (cont. from Article 23 of Standard Terms and Conditions)

At Tenant's sole cost and expense, Landlord shall allot Tenant interior Building signage in the main lobby of the Building and one exterior sign within the interior parking lot portion of the Building, all in accordance with the terms of this Lease and the sign plan currently in place for the business park.

K.4 Tax Matters. Landlord and Tenant agree that any improvement costs incurred by Landlord that exceed the Allowance shall be allocated between Landlord and Tenant, for depreciation and income tax purposes, solely by the Landlord. It will be the intention of Landlord to allocate Landlord's contribution to such improvement items that have the shortest useful life. The parties agree to abide by the allocation of improvement costs as determined by Landlord, and agree to report the transaction for income tax purposes as so allocated by Landlord.

END OF EXHIBIT K

Landlord's Initials _____ Tenant's Initials _____

EXHIBIT N

PROHIBITED USES

The following types of operations and activities are expressly prohibited on the Premises:

1. automobile/truck maintenance, repair or fueling;
2. battery manufacturing or reclamation;
3. ceramics and jewelry manufacturing or finishing;
4. chemical (organic or inorganic) storage, use or manufacturing;
5. drum recycling;
6. dry cleaning;
7. electronic components manufacturing;
8. electroplating and metal finishing;
9. explosives manufacturing, use or storage;
10. hazardous waste treatment, storage, or disposal;
11. leather production, tanning or finishing;
12. machinery and tool manufacturing;
13. hospitals;
14. metal shredding, recycling or reclamation;
15. metal smelting and refining;
16. mining;
17. paint, pigment and coating operations;
18. petroleum refining;
19. plastic and synthetic materials manufacturing;
20. solvent reclamation;
21. tire and rubber manufacturing;
22. above- and/or underground storage tanks; and
23. residential use or occupancy

END OF EXHIBIT N

Landlord's Initials _____ Tenant's Initials _____

EXHIBIT L
TENANT ESTOPPEL CERTIFICATE

To: _____ ("Bank")

_____

_____

_____

Attn: _____
Re: Lease Dated: _____
Current Landlord: _____
Current Tenant: _____
Square Feet: Approximately: _____
Floor(s): _____
Located at: _____

("Tenant") hereby certifies that as of , 20 :

1. Tenant is the present owner and holder of the tenant's interest under the lease described above, as it may be amended to date (the "Lease") with Landlord (who is called "Borrower" for the purposes of this Certificate). (*USE THE NEXT SENTENCE IF THE LANDLORD OR TENANT NAMED IN THE LEASE IS A PREDECESSOR TO THE CURRENT LANDLORD OR TENANT.*) [**The original landlord under the Lease was , and the original tenant under the Lease was** .] The Lease covers the premises commonly known as (the "Premises") in the building (the "Building") at the address set forth above.

(CHOOSE ONE OF THE FOLLOWING SECTION 2(a)s BELOW)

[2. (a) A true, correct and complete copy of the Lease (including all modifications, amendments, supplements, side letters, addenda and riders of and to it) is attached to this Certificate as Exhibit A.] As used herein, the defined term "Lease" includes all such modifications, amendments, supplements, side letters, addenda and riders.

[2 (a) The attached Exhibit A accurately identifies the Lease and all modifications, amendments, supplements, side letters, addenda and riders of and to it.]

(b) (*IF APPLICABLE*) [The Lease provides that in addition to the Premises, Tenant has the right to use or rent assigned/unassigned] parking spaces near the Building or in the garage portion of the building during the term of the Lease.]

(c) The term of the Lease commenced on 199 and will expire on , 199 including any presently exercised option or renewal term. (*CHOOSE ONE OF THE FOLLOWING TWO SENTENCES*.) [Tenant has no option or right to renew, extend or cancel the Lease, or to lease additional space in the Premises or Building, or to use any parking *(IF APPLICABLE*) [other than that specified in Section 2(b) above].] [Except as specified in Paragraph(s) of the Lease (copy attached), Tenant has no option or right to renew, extend or cancel the Lease, or to lease additional space in the Premises or Building, or to use any parking (*IF APPLICABLE*) [other than that specified in Section 2(b) above].]

(CHOOSE ONE OF THE FOLLOWING SECTION 2(d)s)

[(d) Tenant has no option or preferential right to purchase all or any part of the Premises (or the land of which the Premises are a part). Tenant has no right or interest with respect to the Premises or the Building other than as Tenant under the Lease.]

[(d) Except as specified in Paragraph(s) the Lease (copy attached), Tenant has no option or preferential right to purchase all or any part of the Premises (or the land of which the Premises are a part). Except for the foregoing, Tenant has no right or interest with respect to the Premises or the Building other than as Tenant under the Lease.]

(e) The annual minimum rent currently payable under the Lease is $ and such rent has been paid through , 199 . *(IF APPLICABLE*) [The annual percentage rent currently payable under the Lease is at the rate of such rent has been paid through , 199 .]

(f) (*IF APPLICABLE*) [Additional rent is payable under the Lease for (i) operating, maintenance or repair expenses, (ii) property taxes, (iii) consumer price index cost of living adjustments, or (iv) percentage of gross sales adjustments (i.e., adjustments made based on underpayments of percentage

rent). Such additional rent has been paid in accordance with Borrower's rendered bills through , 199 . The base year amounts for additional rental items are as follows: (1) operating, maintenance or repair expenses $, (2) property taxes $, and (3) consumer price index (please indicate base year CPI level).]

(g) Tenant has made no agreement with Borrower or any agent, representative or employee of Borrower concerning free rent, partial rent, rebate of rental payments or any other similar rent concession (*IF APPLICABLE*) [except as expressly set forth in Paragraph(s) of the Lease (copy attached)].

(h) Borrower currently holds a security deposit in the amount of $ which is to be applied by Borrower or returned to Tenant in accordance with Paragraph(s) of the Lease. Tenant acknowledges and agrees that Bank shall have no responsibility or liability for any security deposit, except to the extent that any security deposit shall have been actually received by Bank.

3. (a) The Lease constitutes the entire agreement between Tenant and Borrower with respect to the Premises, has not been modified changed, altered or amended and is in full force and effect in the form (*CHOOSE ONE*) [attached as/described in] Exhibit A. There are no other agreements, written or oral, which affect Tenant's occupancy of the Premises.

(b) All insurance required of Tenant under the Lease has been provided by Tenant and all premiums have been paid.

(c) To the best knowledge of Tenant, no party is in default under the Lease. To the best knowledge of Tenant, no event has occurred which, with the giving of notice or passage of time, or both, would constitute such a default.

(d) The interest of Tenant in the Lease has not been assigned or encumbered. Tenant is not entitled to any credit against any rent or other charge or rent concession under the Lease except as set forth in the Lease. No rental payments have been made more than one month in advance.

4. All contributions required to be paid by Borrower to date for improvements to the Premises have been paid in full and all of Borrower's obligations with respect to tenant improvements have been fully performed. Tenant has accepted the Premises, subject to no conditions other than those set forth in the Lease.

5. Neither Tenant nor any guarantor of Tenant's obligations under the Lease is the subject of any bankruptcy or other voluntary or involuntary proceeding, in or out of court, for the adjustment of debtor-creditor relationships.

6. (a) As used here, "Hazardous Substance" means any substance, material or waste (including petroleum and petroleum products) which is designated, classified or regulated as being "toxic" or "hazardous" or a "pollutant" or which is similarly designated, classified or regulated, under any federal, state or local law, regulation or ordinance.

(b) Tenant represents and warrants that it has not used, generated, released, discharged, stored or disposed of any Hazardous Substances on, under, in or about the Building or the land on which the Building is located (*IF APPLICABLE*) [, other than Hazardous Substances used in the ordinary and commercially reasonable course of Tenant's business in compliance with all applicable laws]. (*IF APPLICABLE*).

7. Tenant hereby acknowledges that Borrower (*CHOOSE ONE*) [intends to encumber/has encumbered] the property containing the Premises with a Deed of Trust in favor of Bank. Tenant acknowledges the right of Borrower, Bank and any and all of Borrower's present and future lenders to rely upon the statements and representations of Tenant contained in this Certificate and further acknowledges that any loan secured by any such Deed of Trust or further deeds of trust will be made and entered into in material reliance on this Certificate.

8. Tenant hereby agrees to furnish Bank with such other and further estoppel as Bank may reasonably request.

_____

By: _____

Name: _____

Title: _____

EXHIBIT M

COMMENCEMENT DATE MEMORANDUM

With respect to that certain lease ("Lease") dated February 1, 2010, between Inogen, Inc., a Delaware corporation ("Tenant"), and Rockbridge Investments, L.P., a California limited partnership ("Landlord"), whereby Landlord leased to Tenant and Tenant leased from Landlord approximately 38,851 rentable square feet of the building located at 326 Bollay Drive, Goleta, CA ("Premises"), Tenant hereby acknowledges and certifies to Landlord as follows:

(1) Landlord delivered possession of the Premises to Tenant in a substantially completed condition on ("Commencement Date");

(2) The rental commencement date is to be ("Rent Commencement Date");

(3) The Premises contain 38,851 square feet of space; and

(4) Tenant has accepted and is currently in possession of the Premises and the Premises are acceptable for Tenant's use.

IN WITNESS WHEREOF, this Commencement Date Memorandum is executed this day of , 2010.

"Tenant"

Inogen, Inc., a Delaware corporation

By: _____

Its:

By: _____

Its:

EXHIBIT P

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Attention:

(Space Above For Recorder's Use)

SUBORDINATION, NONDISTURBANCE
AND ATTORNMENT AGREEMENT

This SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement"), dated as of , 20 , executed by ("Tenant"), and , a ("Landlord"), in favor of , a , as Agent ("Lender"), is entered into with reference to the following facts:

A. Tenant is presently leasing certain premises (the "Premises") comprising a portion of the real property (the "Property") described in Exhibit A, attached hereto and incorporated herein by this reference, pursuant to a lease (as modified from time to time, the "Lease") dated , 20 , between Tenant and Landlord.

B. Lender has made or agreed to make a loan or loans to Landlord (the "Loan") and, in connection therewith, Landlord has executed a deed of trust (as modified from time to time, the "Deed of Trust") and an assignment of leases (the "Assignment of Leases"), assigning to Lender Landlord's interests in the Property, including Landlord's interests as landlord under the Lease.

IN CONSIDERATION OF THE FOREGOING, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant and Landlord hereby agree as follows:

A G R E E M E N T

1. Certifications by Tenant, Tenant hereby certifies to Lender as follows:

1.1 The Lease is in full force and effect, Tenant is presently occupying the Premises pursuant thereto, and Tenant has not transferred its interests in the Lease or agreed to do so.

1.2 A true and complete copy of the Lease, together with all amendments, supplements and other modifications thereto (oral or written), has been delivered to Lender by Tenant prior to the execution of this Agreement, is attached hereto as Exhibit B.

1.3 No rent or other amount has been prepaid under the Lease, except as follows (if none, state "None"):

1.4 No deposit of any nature has been made in connection with the Lease (other than deposits the nature and amount of which are expressly described in the Lease), except as follows (if none, state "None"):

1.5 Tenant is currently paying base rent under the Lease in the amount of $ per month. Tenant's estimated share of common area charges, insurance, real estate taxes and administrative and overhead charges is currently being paid at the rate of $ per month. Tenant has paid a total of $ of percentage rent for the 12-month period ending , 20 .

1.6 The Lease is the only agreement between Landlord and Tenant with respect to the Premises, and Tenant claims no rights with respect to the Premises or the Property other than those set forth in the Lease, except as follows (if none, state "None")

1.7 To the best of Tenant's knowledge, there are no existing defenses or offsets against amounts due or to become due to Landlord under the Lease, and there are no existing uncured defaults by Landlord under the Lease, nor has any event occurred which, with the passage of time or the giving of notice or both, would constitute such a default, except as follows (if none, state "None"):

1.8 Landlord has performed all of its obligations to Tenant with respect to the construction of improvements; Landlord has offered no free rent period, building allowance or similar concession(s) to induce Tenant to enter into the Lease except as set forth in the Lease; and Landlord has no other obligations to Tenant in connection with the Lease, matured or not yet matured, except as set forth in the Lease.

1.9 To the best of Tenant's knowledge, no circumstance presently exists, and no event has occurred, that would prevent the Lease from becoming effective or would entitle Tenant to terminate the Lease.

2. Consent to Assignment. Tenant understands that Landlord has assigned or will assign the Lease to Lender in connection with the Loan, and Tenant hereby consents to such assignment. Tenant is not aware of any prior assignment of the Lease by Landlord, except as follows (if none, state "None"):

3. No Modification of Lease; Lender Consents. Tenant shall not, without Lender's prior written consent, (a) amend, supplement, terminate (except to the extent permitted under Section 4, below) or otherwise modify the Lease; or (b) accept (and/or act in reliance on) the release, relinquishment or waiver by Landlord of any right with respect to the Lease. Any such termination, modification, acceptance or other action taken without such prior consent shall, at Lender's option, be void. Without limiting the generality of the foregoing, (i) any assignment or subletting by Tenant (or by any assignee or subtenant) which requires Landlord's consent shall also require Lender's consent, which consent shall not be unreasonably withheld and shall, at Lender's option, be void if such consent is not obtained, and (ii) any alteration to the Premises which requires Landlord's consent shall also require Lender's consent, which consent shall not be unreasonably withheld. Tenant shall not pay any rent or other amount due to Landlord under the Lease more than 10 days in advance of the due date.

4. Lender Cure Rights. Tenant shall not exercise any termination remedy upon a default by Landlord with respect to the Lease unless Tenant has first given Lender written notice of such default (at the address shown below or any other address hereafter supplied to Tenant by Lender) and such default is not cured within 30 days thereafter; provided that, if such default is nonmonetary, is curable by Lender, and (a) is of such a nature that it cannot reasonably be cured within 30 days or (b) the cure thereof by Lender requires Lender to have possession of the Property, then in either such event Tenant shall not exercise any termination remedy so long as Lender is diligently taking all steps required for Lender to cure the default (including pursuit of possession of the Property, to the extent required).

ADDRESS FOR NOTICES TO LENDER:

Attention:

with a copy to:

Attention:

5. Payments to Lender. Tenant shall make all payments under the Lease to Lender upon receiving a direction to pay from Lender, and shall comply with any such direction to pay without determining whether any default exists with respect to the Loan.

6. Agreements by Landlord. Landlord hereby agrees as follows:

6.1 Tenant shall have no liability to Landlord for any amount otherwise owing to Landlord under the Lease in the event that (a) Tenant receives a written demand from Lender to pay such amount to Lender and (b) Tenant thereafter pays such amount to Lender.

6.2 Tenant shall be entitled to assume that any such demand by Lender is valid and shall be under no obligation, and shall have no right, to inquire as to its validity, nor shall any claim by Landlord that such demand is invalid affect Tenant's right and obligation to pay all amounts demanded to Lender and thereupon be discharged of Tenant's obligation to pay such amounts to Landlord.

7. Subordination. All of Tenant's rights and interests with respect to the Premises and the Property under the Lease and all related documents (including, without limitation, any options to purchase and rights of first offer and first refusal) are and shall remain subject and subordinate to Lender's rights and interests in the Property under the Deed of Trust, the Assignment of Leases and all related loan and security documents, and to all amendments, supplements and other modifications now or hereafter executed with respect thereto, including without limitation modifications that substantially increase the obligations to Lender to which Tenant's interests are subordinated. Without limiting the generality of the foregoing, the provisions of the above-described loan and security documents shall prevail over any inconsistent provisions of the Lease relating to the disposition of insurance and condemnation awards.

8. Nondisturbance and Attornment. In the event of any judicial or nonjudicial foreclosure of the Deed of Trust or transfer by deed in lieu thereof, the Lease shall not terminate, nor shall Tenant's rights thereunder be disturbed, except in accordance with the terms of the Lease or any amendment or other applicable agreement executed by Tenant with respect thereto; provided, however, that the transferee of Landlord's interests pursuant to such foreclosure or other transfer shall not be (a) liable for any act or omission of any prior landlord under the Lease (including, without limitation, the breach of any representation or warranty made by any prior landlord unless such breach is caused by such transferee), (b) obligated to cure any default of any prior landlord under the Lease (other than nonmonetary default that remain uncured at the time of foreclosure)1 (c) subject to any offsets or defenses which Tenant is entitled to assert against any prior landlord under the Lease, (d) bound by any payment of any amount owing under the Lease to any prior landlord which was made more than 10 days prior to the date due, (e) bound by any amendment or other modification to the Lease which was made subsequent to the date of this Agreement without the prior written consent of Lender (which shall not be unreasonably withheld) and which could adversely affect the landlord's interests, or (f) liable for the return to Tenant of any security or other deposit paid by Tenant to any prior landlord under the Lease except to the extent that such transferee actually receives such deposit. Tenant shall attorn to and accept any such transferee as the landlord under the Lease for the unexpired balance of the Lease term, and shall execute any document reasonably requested by such transferee to evidence such attornment. Tenant shall not be named in any foreclosure action related to the Deed of Trust.

9. Further Assurances. Each party hereto shall execute, acknowledge and deliver to each other party all documents, and shall take all actions reasonably required by such other party from time to time to confirm or effect the matters set forth herein, or otherwise to carry out the purposes of this Agreement.

10. Reference and Arbitration.

10.1 Mandatory Arbitration. Any controversy or claim between or among the parties that arises from or relates to this Agreement (including any controversy or claim based on or arising from an alleged tort) shall at the request of any party be determined by arbitration. The arbitration shall be conducted in accordance with the United States Arbitration Act (Title 9, U.S. Code), notwithstanding any choice of law provision in this Agreement and under the Commercial Rules of the AAA. The arbitrator(s) shall give effect to statutes of limitation in determining any claim. Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrator(s). Judgment upon the arbitration award may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

10.2 Real Property Collateral. Notwithstanding the provisions of Section 10.1, no controversy or claim shall be submitted to arbitration without the consent of all parties if, at the time of the proposed submission, such controversy or claim arises from or relates to an obligation that is secured by real property collateral. If all parties do not consent to submission of such a controversy or claim to arbitration, the controversy or claim shall be determined by a referee in accordance with California Code of Civil Procedure Sections 638 et sec . The parties shall designate to the court a referee or referees selected under the auspices of the American Arbitration Association ("AAA") in the same manner as arbitrators are selected in AAA-sponsored proceedings. The presiding referee of the panel, or the referee if there is a single referee, shall be an active attorney or retired judge. Judgment upon the award rendered by such referee or referees shall be entered in the court in which such proceeding was commenced in accordance with California Code of Civil Procedure Sections 644 and 645.

10.3 Provisional Remedies, Self-Help and Foreclosure. No provision of this Section 10 shall limit the right of any party to this Agreement to exercise self-help remedies such as setoff, foreclosure against or sale of any real or personal property collateral or security, or to obtain provisional or ancillary remedies (including provisional remedies such as claim and delivery and ancillary remedies such as the issuance of temporary restraining orders and preliminary injunctions pending submission of any action or cause of action to judicial reference or arbitration as otherwise required hereunder) from a court of competent jurisdiction before, after, or during the pendency of any arbitration or other proceeding. The exercise of a remedy does not waive the right of any party to resort to arbitration or reference.

11. Attorneys' Fees. In the event that any litigation, reference or arbitration shall be commenced concerning this Agreement, the party prevailing in such proceeding shall be entitled to recover, in addition to such other relief as may be granted, its reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and costs (including the allocated costs for in-house counsel), whether or not taxable, as awarded by a court of competent jurisdiction, referee or arbitrator.

12. Reliance by Lender. Tenant understands that Lender will rely upon this Agreement in making the Loan and/or in entering into certain agreements and/or granting certain consents in connection therewith. Notice of acceptance of this Agreement by Lender is waived.

13. Miscellaneous. This Agreement shall bind, and shall inure to the benefit of, the successors and assigns of the parties. This document may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof. This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, Tenant and Landlord have caused this Agreement to be duly executed as of the date first written above.

"Tenant"

_____

a _____
By: _____
Name: _____
Its: _____
Date: _____

"Landlord"

_____

a _____
By: _____
Name: _____
Its: _____
Date: _____

Landlord consents to, and agrees to be bound by, the provisions of Sections 4 through 13, inclusive, of the foregoing Agreement.

"Lender"

_____

a _____
By: _____
Name: _____
Its: _____
Date: _____

FIRST AMENDMENT TO LEASE

This First Amendment to Lease (the "***Amendment***"), dated September 16, 2011, for references purposes only, is made and entered into by and between Rockbridge Investments, L.P., a California limited partnership (the "***Landlord***"), and Inogen, Inc., a Delaware corporation (the "***Tenant***"), with reference to the following facts:

RECITALS:

A. Landlord is the owner of the real property and improvements consisting of approximately 194,202 square feet of leasable space located in the Santa Barbara Business Park situated at 315-346 Bollay Drive and 320-340 Storke Road, Goleta, California (the "***Project***").

B. Landlord and Tenant entered into a Multi-Purpose Commercial Building Lease dated February 1, 2010 (the "***Original Lease***"), whereby Landlord leased to Tenant, and Tenant leased from Landlord, approximately 38,851 square feet of leasable space located within the Project and commonly known as 326 Bollay Drive, Goleta, California (the "***Premises***").

C. Landlord and Tenant desire to amend the Lease to allow for the installation of a Vertical Baler Model BB60E (the "***Baler***") as further described in Exhibit B to this Amendment, and to address other matters.

D. The parties have agreed to execute this Amendment in order to memorialize their understandings regarding certain amendments to the Lease.

E. All capitalized terms that appear in this Amendment and are not defined herein shall have the meaning ascribed thereto in the Lease.

AGREEMENTS:

NOW THEREFORE, the parties hereto, intended to be legally bound, do hereby agree and further amend the Lease as follows:

1. AMENDMENTS TO LEASE. Notwithstanding any other provisions of the Lease to the contrary, effective as of the date set forth above, the Lease is hereby amended as follows:

1.1 Tenant's Obligations. In addition to the obligations specified in Article 8 (Use: Limitations on Use) of the Original Lease, Tenant agrees at all time from and after the Commencement Date of the Original Lease, the area and improvements designated as "Tenant's Exterior Loading Area" on "Exhibit A" to this Amendment (collectively hereinafter the "***Loading Area***"), at its own cost and expense, to repair, maintain in good and tenantable condition and replace and/or restore, as necessary, the Loading Area and every part thereof, including without limitation, the following: all equipment installed in the Loading Area; trash enclosures outdoor seating areas sidewalks and exterior building lighting; all signs, locks and closing devices; and all such items of repair, maintenance, alteration, improvement or reconstruction as may be required at any time or from time to time by a governmental agency having jurisdiction thereof. All replacements and modifications made by Tenant in accordance with Amendment shall be of like size, kind and quality to any items replaced or modified as they existed when the Original Lease commenced.

1.2 Installation of the Baler. Landlord consents to the alterations and improvements to the Loading Area as detailed on Exhibit B to this Amendment (the "***Baler Installation***"). Tenant shall be responsible for, at its sole cost and expense, all construction costs associated with the Baler Installation to the area in the Loading Area indicated on Exhibit A of this Amendment, including, but not limited to, all required permits and fees. In connection with the performance of the Baler Installation, Tenant shall hire, at its sole cost and expense, a licensed general contractor reasonably acceptable to Landlord to perform such work. In no event shall Landlord be responsible for any costs associated with the design, permitting and work necessary for the Baler Installation, or of the maintenance of improvements thereafter.

1.3 Removal of the Baler. Prior to the expiration or termination of the Lease, as it may be extended or amended, and subject to Landlord's written consent of Landlord, which consent shall not be

unreasonably withheld or delayed but which, however may be conditioned upon Tenant's compliance with Landlord's reasonable requirements regarding the restoration of the Loading Area, Tenant shall, at its sole expense, remove the Baler and restore the Loading Area to its original conditions, except for normal wear and tear and damage from casualty. Prior to its removal, Tenant shall submit to Landlord, at least sixty (60) days prior to the proposed removal date, all plans and specifications associated with the removal of the Baler with Tenant's request for approval. If Landlord does not respond to a written request for approval for the removal of the Baler within ten (10) business days, then Landlord shall be deemed' to approve such request.

2. MISCELLANEOUS.

2.1 In the event of any conflict between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall control.

2.2 This Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior contemporaneous oral and written agreements and discussions with respect to the subject matter hereof.

2.3 Landlord and Tenant represent and warrant that all signatories hereto signing in a representative capacity have been duly authorized by and on behalf of their respective principals to execute this Amendment.

AGREED THIS 31st day of October 2011.

LANDLORD:

ROCKBRIDGE INVESTMENTS, L.P. a California limited partnership

By: Michael Towbes Construction & Development, Inc., a California corporation
Its: General Partner

/s/ Craig Zimmerman
By: Craig Zimmerman
Its: Vice President

TENANT:

INOGEN, INC.,
a Delaware corporation

By: /s/ Alison Perry
Its: CFO

By: _____
Its: _____

EXHIBIT A

SITE PLAN

SANTA BARBARA BUSINESS PARK

GOLETA, CALIFORNIA

END OF EXHIBIT A

Landlord's Initials _____ Tenant's Initials _____

EXHIBIT B

BALER INSTALLATION, LOCATION AND SPECIFICATIONS

Landlord's Initials _____ Tenant's Initials _____

Exhibit 10.18

LEASE AGREEMENT
CARDINAL PARK

1. **DEFINITIONS AND BASIC PROVISIONS**.

A. "Effective Date": April , 2012

B. "Landlord": Bayview (TX) Holding, LLC, a Delaware limited liability company

C. Landlord's Address: 5055 Keller Springs Road, Suite 300, Addison, Texas 75001

D. "Tenant": Inogen, Inc., a Delaware corporation

E. Tenant's Address: Before the Commencement Date: 326 Bollay Drive, Goleta, CA 93117

F. Tenant's Address: After the Commencement Date: 1125 E. Collins Blvd. Suite 200 Richardson, TX 75081

G. "Building": The structure commonly known as Cardinal Park I, 1125 E. Collins Blvd and which is located on the tract of land (the "Land") described by on **Exhibit "B"** attached to this Lease and made a part of this Lease for all purposes.

H. "Premises": Suite No. 200 in the Building, consisting of approximately 31,204 square feet of Net Rentable Area (the "Rentable Area in the Premises"), and as outlined and hatched on the plan attached hereto as **Exhibit "A"** and made a part hereof for all purposes. As used herein, the term "Net Rentable Area" means that area, on either a single tenancy floor or a floor to be occupied by more than one tenant, that is determined by measuring and computing rentable area on each type of floor in accordance with the Standard Method for Measuring Floor Area in Office Buildings promulgated by Building Owners and Managers Association International (ANSI/BOMA Z65.1-1996). Following the completion of the Tenant Improvements, Landlord may re-measure the Net Rentable Area of the Premises in accordance with the foregoing standard in which case, the decision of an independent architect mutually agreed upon by Landlord and Tenant, but whose fee shall be paid at the sole cost and expense of Landlord, shall be final, binding and conclusive. After the Rentable Area in the Premises has been determined, if such Rentable Area in the Premises agreed to differs from the square feet of Rentable Area set forth above, Landlord and Tenant shall promptly execute a certificate stipulating and agreeing to the same as of the date of such certificate. All payments of Rent shall be made as and when required in this Lease and shall be based on the Rentable Area in the Premises set forth in this Section 1.H. unless and until a Rent Certificate has been executed by Landlord and Tenant, whereupon any overpayment or any underpayment theretofore made shall be adjusted by increasing or reducing, as the case may be, the next installment(s) of Base Rental coming due by the amount of such underpayment or overpayment, as applicable (and no interest or penalty shall be applied thereto).

I. "Project": The Building, the parking facilities, and other structures, improvements, landscaping, fixtures, appurtenances and other Common Areas owned or controlled by Landlord now or hereafter, constructed or erected on the Land.

J. "Rentable Area in the Project": 100,354 square feet of Net Rentable Area unless modified as provided herein.

K. "Tenant's Proportionate Share": 31.09%, which is the ratio between the Rentable Area in the Premises as of the Effective Date and the Rentable Area in the Project. If the Rentable Area in the Premises and/or the Rentable Area in the Project changes, Tenant's Proportionate Share shall be adjusted effective as of the date of such change, provided that a mutually acceptable Rent Certificate has been executed by Landlord and Tenant memorializing such change.

L. "Commencement Date": Subject to the provisions of the **Exhibit "D"** attached hereto, the commencement date is June 1, 2012. Upon Landlord's request, Tenant agrees to execute and deliver a written declaration (the "Rent Certificate") expressing the Commencement Date hereof.

M. "Term": Commencing on the Commencement Date and ending 90 full calendar months after the Commencement Date, plus any partial calendar month following the Commencement Date, subject to (i) adjustment and earlier termination as provided in this Lease or by operation of law and (ii) the terms of **Exhibit "F"** (*Extension of Term*).

N. "Base Rental": The amounts set forth in the table below. Each monthly installment of Base Rental shall be due and payable in accordance with Section 3.

Months	*Annual Base Rental*	*Monthly Base Rental*	*Annual Rental/SF*
1 - 6	$ 0.00	$ 00.00	$ 00.00
7 - 18	$ 8.00	$20,802.67	$249,632.00
19 - 30	$ 8.50	$22,102.83	$265,234.00
31 - 42	$ 9.25	$24,053.08	$288,637.00
43 - 54	$ 9.50	$24,703.17	$296,437.92
55 - 90	$ 10.00	$26,003.33	$312,040.00

O. "Prepaid Rental": $20,802.67, to be applied to the first accruing monthly installment of Base Rental (e.g., Base Rental for month seven (7) of the Term).

P. "Security Deposit": $26,003.33.

Q. "Permitted Use": The Premises shall be used only for general office, production, testing and distribution purposes, and for such other lawful purposes as are consistent with such uses in Richardson, Texas, and for no other purpose without Landlord's prior written consent. No retail showroom shall be permitted within the Premises. The Premises shall not be used for any use that is disreputable or for any use that is a public nuisance.

R. "Common Areas": That part of the Project designated by Landlord from time to time for the common use of all tenants, including among other facilities, sidewalks, service corridors, curbs, truck ways, loading areas, private streets and alleys, lighting facilities, delivery passages, parking areas, decks and other parking facilities, landscaping and other areas not leased or held for lease within the Building.

S. "Tenant's Broker": Henry S. Miller, Jim Turano.

T. "Rent": The Base Rental and the Additional Rental.

U. "Additional Rental": Electrical Costs, Tenant's Share of Operating Expenses (defined below) and all other payments and reimbursements required to be made by Tenant under this Lease.

V. "Tenant Party(ies)": Tenant, any assignees claiming by, through, or under Tenant, any subtenants claiming by, through, or under Tenant, and any of their respective agents, contractors, employees, and invitees.

W. "Operating Expense Stop": The actual cost and expense paid or incurred by Landlord during calendar year 2012 (the " Base Year") for Operating Expenses, as hereinafter defined, divided by the Rentable Area in the Project.

X. "TI Allowance": Subject to the terms of **Exhibit "D"** (the "Work Letter"), an allowance of $11.50 per square foot of Rentable Area in the Premises ($358,846.00).

Y. "Parking Spaces": Five parking spaces for every 1000 square feet of Net Rentable Area in the Premises (estimated to be 155 spaces as of the Effective Date). Shown on **Exhibit "H-1"**. The Parking Spaces will be within the area cross-hatched on **Exhibit "H-1"** attached hereto. Hence, the "Parking Area", as defined in **Exhibit "H"** shall be the area reflected on **Exhibit "H-1"**.

Z. "Guarantor": None.

Each of the foregoing definitions and basic provisions shall be construed in conjunction with the references thereto contained in the other provisions of this Lease and shall be limited by such other provisions. Each reference in this Lease to any of the foregoing definitions and basic provisions shall be construed to incorporate each term set forth above under such definition or provision.

2. **GRANTING CLAUSE**. In consideration of the obligations of Tenant to pay Rent as herein provided and in consideration of the other terms, covenants and conditions hereof, Landlord hereby demises and leases to Tenant, and Tenant hereby leases from Landlord, the Premises as described above, to have and to hold such Premises for the Term of this Lease, all upon the terms and conditions set forth in this Lease. Notwithstanding the terms of Section 1.L, and upon Substantial Completion of the Premises, Tenant may occupy the Premises prior to the Commencement Date for purposes of installing furniture, fixtures and equipment therein, and any such early occupancy by Tenant shall be subject to all provisions of this Lease other than those relating to payment of Base Rental, including provisions relating to liability for loss or damage, insurance, compliance with laws and delays caused by Tenant and penalties therefor.

3. **BASE RENTAL**. As Rent for the lease and use of the Premises, Tenant will pay Landlord or Landlord's assigns, in 12 equal monthly installments on the first day of each calendar month, in advance and without deduction, abatement or setoff, the Base Rental in the then applicable amount set forth in Section I.N. hereof, in lawful money of the United States. All installments of Rent shall be paid to Landlord at the address set forth in Section 1.C. (or such other address as may be designated by Landlord from time to time). Landlord hereby agrees to provide Tenant with sufficient information necessary for Tenant to make all payments to Landlord due under this Lease via Automatic Clearing House ("ACH") payment, wire transfer or other form of electronic payment as may be requested by Tenant.

If the Commencement Date is other than the first day of a calendar month or if this Lease expires or terminates on other than the last day of a calendar month, then the installments of Base Rental for such month or months shall be prorated and the installment or installments so prorated shall be paid in advance. Said installments for such prorated month or months shall be calculated by multiplying the equal monthly installment by a fraction, the numerator of which shall be the number of days of the Term occurring during said commencement or expiration month, as the case may be, and the denominator of which shall be the number of days in said month.

All past due installments of Rent or other payments specified in this Lease shall bear interest from the first day which is five days after Tenant receives a written notice from Landlord that the same is past due until payment is received at the rate (the "Interest Rate") equal to the lesser of (i) a per annum rate equal to the "prime rate" or "base rate" announced by JPMorgan Chase Bank or its successor, from time to time ("Prime Rate") (or if the "prime rate" or "base rate" is discontinued, the rate announced by such bank as that being charged to its most creditworthy commercial borrowers), plus 2%, or (ii) the maximum contract interest rate per annum allowed by law; provided, however, if Tenant shall fail to pay any Rent when due and such failure shall occur more than two times in any 12-month period, upon the third such failure all past due Rent then owing shall bear interest at the Interest Rate from the date due (without the requirement of notice from Landlord or the five day grace period). In addition, Tenant shall pay Landlord upon demand a late charge in an amount equal to 5% of any installments of Rent or other payments specified herein if such Rent is not paid within five days after Tenant receives a notice from Landlord that the same is past due. The provision for such late charge shall be in addition to all of Landlord's other rights and remedies hereunder or at law, and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner.

For purposes of making other payments due under this Lease (i.e. payments other than Base Rental, Additional Rental and any other payments for which a specific time period for payment is specified in this Lease), unscheduled payments due from Tenant to Landlord hereunder shall be due hereunder 30 days after Tenant's receipt of a written notice and an invoice therefor from Landlord (accompanied by receipts or other reasonably adequate documentation) specifying the amount due by Tenant.

4. **ADDITIONAL RENTAL AND OPERATING EXPENSES**.

4.1. Tenant shall pay as Additional Rental the Electrical Costs (as hereinafter defined) and, subject to Section 4.4 below, Tenant's Share of Operating Expenses (as hereinafter defined)

(i.e., Tenant's Proportionate Share of the amount by which the Operating Expenses exceed the Operating Expense Stop), in the same manner and at the same time and location as set forth in Section 3 for the payment of Base Rental.

4.2. The term "Electrical Costs" means: (i) the cost of any sub metered electricity used in the Premises; plus (ii) Tenant's Proportionate Share of the remainder of (1) the cost of all electricity used by the Project minus (2) the cost of any sub metered or separately metered electricity used by Tenant or other tenants of the Project minus (3) the cost of electricity allocable to other tenants leased premises within the Project that are reimbursable to Landlord by such other tenants. Each installment is payable according to Landlord's estimate of the amount due for each month. From time to time, Landlord may estimate and re-estimate the Electrical Costs payable by Tenant and deliver a copy of the estimate or re-estimate to Tenant Thereafter, the monthly installments of Electrical Costs payable by Tenant shall be appropriately adjusted in accordance with those estimations.

4.3. The term "Operating Expenses" shall mean all expenses, costs and disbursements of every kind and nature which Landlord pays or becomes obligated to pay because of or in connection with the ownership, operation, maintenance, repair, replacement, protection and security of the Building and Project, determined in accordance with sound accounting principles consistently applied, including without limitation the following:

(a) Salaries and wages of all employees engaged in the operation, maintenance and security of the Project, including taxes, insurance and benefits (including pension, retirement and fringe benefits) relating thereto;

(b) Cost of supplies and materials used in the operation, maintenance and security of the Project including the cost of repairs, replacements and services which are performed by Landlord pursuant to Section 4.3;

(c) Cost of all utility service (including water and sewage service) supplied to the Project, with the exception of Electrical Costs and utility services supplied to tenants of the Project for use within their respective leased premises, regardless of whether the costs of such utilities are to be directly paid by such tenants to the applicable utility providers;

(d) Cost of all maintenance, repair and replacement of, and any service agreements for the Project and the equipment therein, including without limitation, any of the following (if provided): parking facilities, landscaping, fire protection, sprinklers, trash removal, window cleaning, and elevator maintenance;

(e) Cost of all insurance relating to the Project, including the cost of casualty, rental and liability insurance applicable to the Project and Landlord's personal property used in connection therewith;

(f) All taxes, assessments and governmental charges (foreseen or unforeseen, general or special, ordinary or extraordinary) whether federal, state, county or municipal and whether they be levied by taxing districts or authorities presently taxing the Project or by others

subsequently created or otherwise, and any other taxes and assessments attributable to the Project or its operation, and all taxes of whatsoever nature that are imposed in substitution for or in lieu of any of the taxes, assessments or other charges herein defined (collectively, the "Taxes"); and the cost of any tax consultant employed to assist Landlord in determining the fair tax valuation of the Building, Land and Project, provided, however, that Operating Expenses shall not include taxes paid by tenants of the Project as a separate charge on the value of their leasehold improvements, death taxes, excess profits taxes, franchise taxes and state and federal income taxes except to the extent imposed in substitution for or in lieu of any Taxes;

(g) Cost of repairs and general maintenance and reasonable depreciation charges applicable to all equipment used in repairing and maintaining the Project, but specifically excluding repairs and general maintenance paid by proceeds of insurance or by Tenant or by other third parties;

(h) Cost of improvement items, including installation thereof, that, although capital in nature, are (1) expected, to reduce the normal operating costs (including any utility costs) of the Building (2) expected to avoid increases in operating costs (including any utility costs) of the Building based on Landlord's good faith determination or (3) reasonably calculated to improve the safety of tenants of the Building and their guests and invitees, based on Landlord's good faith determination as well as all capital improvements made in order to comply with any Law hereafter promulgated by any governmental authority, as amortized over the useful economic life of such improvements as determined by Landlord (without regard to the period over which such improvements may be depreciated or amortized for federal income tax purposes) (collectively, "Unanticipated Expenses");

(i) Cost of repair and maintenance of the landscape and parking areas; and

(j) Reasonable management fees paid by Landlord to third parties or to management companies owned by, or management divisions of, Landlord.

To the extent that any Operating Expenses are attributable to the Project and other projects of Landlord, a fair and reasonable allocation of such Operating Expenses shall be made between the Project and such other projects.

Notwithstanding anything seemingly to the contrary contained herein, Operating Expenses shall not include the following:

(i) Costs for capital improvements made to the Building and/or the Project other than amortization of the cost described in subsection (h) above and except for items that, though capital for accounting purposes, are properly considered maintenance and repair items, such as painting of common areas, replacement of carpet in Common Areas and the like;

(ii) Costs of repairs, restoration, replacements or other work occasioned by (1) Casualty of an insurable nature (whether such destruction be total or partial) and (aa) payable (whether paid or not) by insurance required to be obtained by Landlord under this Lease (whether or not such insurance is actually carried), (bb) otherwise paid by insurance then in effect obtained by Landlord, or (cc) not so paid by insurance to the extent such deductible exceeds customary

deductibles for other office buildings in Richardson, Texas that are comparable to the Building ("Comparable Buildings"), (2) the exercise by an governmental authority of the right of eminent domain, whether such Taking be partial or total, and (3) the gross negligence or willful misconduct of Landlord, or its agents and employees or any other tenant of the Project;

(iii) Subject to subsection (h) and subsection (i) above, payments of interest and principal on loans to Landlord and other finance charges made on any debt and rental payments made under any ground or underlying lease or leases, except to the extent that a portion of such payments is expressly for ad valorem/real estate taxes or insurance premiums on the Project,

(iv) Deductions for depreciation and amortization of the Project and the Project equipment (except as provided in subsection (h) and subsection (i) above);

(v) Real estate commissions, leasing commissions, legal fees, tenant incentives, reasonable marketing and advertising expenses and other costs, disbursements and other expenses incurred by Landlord in leasing or attempting to lease the Project, including negotiations for leases with tenants, other occupants, or prospective tenants or other occupants of the Project, or similar costs incurred in connection with disputes with tenants, other occupant, or prospective tenants or other occupant of the Project;

(vi) Allowances, concessions, or other costs (including the cost of plans, permits, licenses and inspection fees) incurred with respect to the installation of tenant improvements made for other tenants in the Project or in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Project;

(vii) Costs and expenses attributable to the initial construction of the Project, repairs resulting from any defect in the original design or construction of the base building improvements in the Project, the leasehold improvements of other occupants of the Project, Project equipment or failure of the Project to be constructed in accordance with Law in effect as of the Effective Date;

(viii) Costs of designing, installing, operating and maintaining any specialty facility, including but not limited to, a luncheon club, athletic or recreational club, cafeteria or dining facility, hair salon, restaurant, or other retail use, other than the costs of Building standard services provided to tenants generally and paid for by any such facility through a contribution towards Operating Expenses of the Project;

(ix) Costs incurred by Landlord for legal, auditing, consulting and professional fees paid or incurred in connection with negotiations for the sale, financing, refinancing or mortgaging of the Building or the Project;

(x) Landlord's general corporate overhead costs (including salaries, equipment, supplies, accounting and legal fees, rent and other occupancy costs) relating solely to the operation and internal organization and function of Landlord as a business entity (i.e. trustee's fees and partnership organizational expenses) (as opposed to maintenance, ownership and operation of the Project);

(xi) Any penalty charges incurred by Landlord due to Landlord's late payment of taxes, utility bills or other amounts included in Operating Expenses except to the extent the interest or penalties arise from late payments beyond Landlord's control or because Landlord was contesting the payment of such item in good faith, provided, however, the foregoing does not excuse Landlord from not having sufficient funds to pay such taxes, utility bills or other costs but does include interest or penalties arising from late payments due to Landlord not receiving the applicable bills in time to pay them prior to incurring the penalty;

(xii) Any fines or penalties incurred due to Landlord's violation of Laws; provided that such violation is not caused by Tenant or is not the result of a future change in Laws and that the costs of any capital improvements resulting therefrom are subject to subsection (h) and subsection (i) above;

(xiii) Costs of acquiring, insuring and maintaining (to the extent the maintenance is in excess of Building standard maintenance) fine art work in the Project, whether permanent or temporary;

(xiv) Any compensation paid to clerks, attendants or other persons employed in commercial concessions operated by Landlord for a profit in leasable space in the Building;

(xv) Costs incurred by Landlord to encapsulate or remove any Hazardous Substances (defined below) that were not caused by the actions of Tenant, its agents, employees, contractors, subtenants, assignees or invitees to the extent Laws in effect prior to the Effective Date require Landlord to take affirmative action to encapsulate or remove such Hazardous Substance which was located in the Project prior to the Effective Date and such action was not taken by Landlord prior to the Effective Date; provided, however, the foregoing does not include , the routine cleaning of any such Hazardous Materials (e.g., oil spots from cars in the Parking Area).

(xvi) Costs incurred by Landlord for any items not otherwise excluded to the extent Landlord (A) is actually reimbursed by insurance, (B) would have been reimbursed by insurance had Landlord maintained the insurance required by Section 12.2 on which a claim is made or (C) is otherwise compensated (other than as part of Operating Expenses), including without limitation, direct reimbursement by any tenant;

(xvii) All amounts which would otherwise be included in Operating Expenses which are paid to any affiliate of Landlord to the extent the costs of such services exceed the amount which would have been paid in the absence of such relationship for similar services of comparable level, quality and frequency rendered by persons of similar skill, competence and experience (but Operating Expenses shall include any such amounts specifically provided for or permitted in this Lease [including without limitation, the sums permitted to (a) and (j) above] for which the provisions of this Lease shall control);

(xviii) Costs or expenses for services of a type or quantity which Tenant is not entitled to receive (and does not receive) but which are provided to another tenant or occupant of the Project;

(xix) Costs, fees, dues, contributions or similar expenses for political, charitable, industry associations or similar organizations;

(xx) Any penalties or legal costs paid by Landlord due to the violation by Landlord of the terms of this Lease or any other lease pertaining to the Project, except to the extent caused by Tenant;

(xxi) Landlord's costs of any services sold to tenants for which Landlord is entitled to be reimbursed by such tenants as an additional charge or rental over and above the Base Rental and Operating Expenses payable under the lease with such tenant or other occupant

(xxii) Subject to subsection (h) and subsection (ii) above, payments for rented equipment, the cost of which equipment would constitute a capital expenditure (as defined in accordance with generally accepted amounting principles) if the equipment were purchased

(xxiii) Subject to subsection (a) above, salaries or other compensation paid to executive employees above the grade of senior property manager or the salaries of non-management employees, except to the extent of actual time expended at or on behalf of the Project by such non-management employees;

(xxiv) Increased insurance premiums caused by Landlord's or any other tenants acts;

(xxv) Costs incurred (less costs of recovery) for any items to the extent covered by a manufacturer's, materialman's, vendor's or contractor's warranty (a "Warranty") which are paid by such manufacturer, materialman, vendor or contractor (Landlord shall pursue a breach of warranty claim for items covered by a Warranty unless Landlord determines in good faith that such action would not be in the best interest of the tenants of the Project);

(xxvi) Costs or expenses of utilities directly metered to tenants of the Project and payable separately by such tenants and costs of additional electrical equipment installed in premises of other tenants of the Project and costs of electricity consumed through such additional electrical equipment, whether or not such costs are payable by such other tenants, and the costs of heating, ventilating and air-conditioning services provided to the premises of other tenants of the Project, whether or not such costs are payable by such other tenants;

(xxvii) Costs of any work or service performed for the benefit of any improvements other than those comprising the Project; and

(xxviii) Costs resulting from the gross negligence or intentional tort of Landlord, or any subsidiary or affiliate of Landlord, or any representative, employee or agent of same.

4.4. For purposes hereof, "Tenant's Share of Operating Expense" shall mean Tenant's Proportionate Share of the amount by which Operating Expenses exceed the Operating Expense Stop. Landlord shall submit to Tenant before the expiration of the Base Year and the beginning of each calendar year thereafter, or as soon thereafter as reasonably practicable, a statement of

Landlord's estimate of Tenant's Share of Operating Expenses during such calendar year_ Commencing upon the expiration of the Base Year and in additional to Base Rental, Tenant shall pay to Landlord monthly on the first day of each calendar month during such calendar year in question, as Additional Rental, an amount equal to one twelfth (1/12th) of the estimated amount of Tenant's Share of Operating Expenses. From time to time during any calendar year, Landlord may estimate and re-estimate Tenant's Share of Operating Expenses to be due by Tenant for that calendar year and deliver a copy of the estimate or re-estimate to Tenant. Thereafter, the monthly installments of Tenant's Share of Operating Expenses payable by Tenant shall be appropriately adjusted in accordance with the estimations so that, by the end of the calendar year in question, Tenant will have paid all of Tenant's Share of Operating Expenses as estimated by Landlord. Any amounts paid based on such an estimate shall be subject to adjustment pursuant to Section 4.5 of this Lease when actual Operating Expenses are available for each year. If Landlord does not provide an updated estimate of Tenant's Share of Operating Expenses prior to the expiration of the Base Year or the beginning of a calendar year, then until such time as an estimate of Tenant's Share of Operating Expenses with respect to any particular calendar year is delivered to Tenant, Tenant shall pay to Landlord, on the first day of January and the first day of each calendar month thereafter during such calendar year in question the amount of such Additional Rental which shall have been payable by Tenant under this Section 4.4 with respect to the month of December of the immediately preceding calendar year. Thereafter, at such time as the estimate of Tenant's Share of Operating Expenses with respect to such calendar year is delivered to Tenant, Tenant shall pay to Landlord within 30 days following receipt of such estimate the amount by which (i) the product of one twelfth (1/12th) of the amount of such estimate multiplied by the number of calendar months in such calendar year which shall have wholly or partially expired exceeds (ii) the amount of such Additional Rental which shall have been theretofore paid under this Section 4.4 with respect to such calendar months.

4.5. Landlord shall provide to Tenant a statement of the Operating Expanses and Electrical Costs incurred with respect to each calendar year on or before 120 days (or as soon thereafter as reasonably possible) following the end of such calendar year. If the Electrical Costs or Tenant's Share of Operating Expenses (as applicable) actually incurred with respect to any calendar year exceeds the estimate of Electrical Costs or Tenant's Share of Operating Expenses (as applicable) theretofore paid by Tenant for such calendar year, then Tenant shall pay to Landlord the amount of such excess within 30 days following receipt of notice from Landlord setting forth the Electrical Costs and/or Tenant's Share of Operating Expenses for the calendar year in question. If the Electrical Costs or Tenant's Share of Operating Expenses (as applicable) actually incurred with respect to any calendar year is less than the estimate of Electrical Costs or Tenant's Share of Operating Expenses (as applicable) theretofore paid by Tenant for such calendar year, then Landlord shall credit the difference to Tenant against the next due installments of the estimated amount of Electrical Costs or Tenant's Share of Operating Expenses (as applicable). If the Commencement Date of this Lease is not the first day of a calendar year or the expiration or termination date of this Lease is not the last day of a calendar year, then Electrical Costs or Tenant's Share of Operating Expenses (as applicable) with respect to such calendar year shall be prorated. The provisions of this Section 4.5 shall survive the expiration or earlier termination of this Lease. Tenant's electricity in the initial Premises shall be submetered and unique to the Premises.

4.6. Notwithstanding any other provision herein to the contrary, it is agreed that if the Project is not occupied to the extent of 100% of the Net Rentable Area thereof, then an adjustment

shall be made in computing the Operating Expenses and Electrical Costs for such calendar year so that the Operating Expenses and Electrical Costs are compiled as though the Project had been occupied to the extent of 100% of the Rentable Area in the Project during such calendar year. With respect to the calendar year in which the expiration date of the Term occurs, Landlord and Tenant agree to the following: (1) that the calendar year shall be deemed to have commenced on January 1 of that year and ended on the expiration date of the Term (the "Final Calendar Year") and (2) unless Tenant makes written exception to any item within 30 days after Landlord provides Tenant with a statement of Operating Expenses, the Operating Expenses for the Final Calendar Year shall be considered as final and accepted by Tenant.

4.7. Provided no Event of Default is then in existence and is continuing, Tenant may, after giving Landlord 30 days prior written notice thereof, inspect or have an independent, nationally or regionally recognized firm of certified public accountants audit Landlord's records relating to Operating Expenses for the immediately preceding lease year; however, no review may cover periods before the Commencement Date. Tenant's audit or inspection shall be conducted only during Landlord's normal business hours. Tenant shall pay the cost of such audit or inspection unless the annual statement described in Section 4.5 for the time period in question is determined to be in error by more than 5% and, as a result thereof, Tenant paid to Landlord 5% more than the actual Tenant's Share of Operating Expenses due for such time period, in which case Landlord shall pay Tenant's audit costs and expenses (not to exceed $1,500). Tenant may not conduct an inspection or have an audit performed more than once during any calendar year. Tenant shall complete its review within 60 days of the commencement of such review and shall notify Landlord of its results, If such inspection or audit reveals that an error was made in the Operating Expenses previously charged to Tenant and Tenant paid more than its share of Operating Expenses during the year in question, then Landlord shall credit the difference to Tenant against the next due installments of the estimated amount of Tenant's Share of Operating Expenses (or upon expiration or earlier termination of this Lease, Landlord shall pay such difference to Tenant in cash or its equivalent within 30 days after the completion of such audit); likewise, if Tenant paid less than its share of Operating Expenses during such year, then Tenant shall pay Landlord such deficiency within 30 days after such determination is made. Tenant shall maintain the results of each such audit and inspection confidential and shall not be permitted to use any third party to perform such audit and inspection unless such third party is (i) an independent, nationally or regionally recognized firm or is otherwise reasonably acceptable to Landlord, (ii) agrees with Landlord in writing to maintain the results of such audit or inspection confidential, and (iii) not to be compensated on a contingency fee basis for such audit.

4.8. Should Tenant desire any additional services beyond those which Landlord is expressly obligated to provide pursuant to this Lease or should Tenant desire rendition of any of such services outside the normal times provision of such services by Landlord or its agents or employees, Landlord may (at Landlord's option), upon reasonable advance notice front Tenant to Landlord, furnish such services, and Tenant agrees to pay Landlord such charges as may be agreed on between Landlord and Tenant, but in no event at a charge less than Landlord's actual cost plus overhead for the additional services provided.

4.9. Landlord and Tenant are knowledgeable and experienced in commercial transactions and agree that the terms of this Lease for determining charges, amounts, Electrical Costs and

Tenant's Share of Operating Expenses payable by Tenant are commercially reasonable and valid even though such methods may not state a precise mathematical formula for determining such charges.

5. **TAXES**.

5.1. Tenant shall be liable for the timely payment of all taxes levied or assessed against personal property, furniture or fixtures or equipment placed by Tenant in the Premises. If any such taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and if Landlord elects to pay the same, or if the assessed value of Landlord's property is increased by inclusion of personal property, furniture or fixtures or equipment placed by Tenant in the Premises, and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord upon within 30 days of Tenant's receipt of a written notice and an invoice from Landlord therefor, that part of such taxes for which Tenant is liable hereunder.

5.2. If at any time during the Term of this Lease, a tax or excise on rental, a sales tax or other tax however described (except any inheritance, estate, gill, or federal income tax or franchise tax imposed upon Landlord) is levied or assessed against Landlord by any taxing authority having jurisdiction on account of Landlord's interest in this Lease, or the rentals or other charges payable hereunder, as a substitute in whole or in part for, or in addition to, the taxes described elsewhere in this Section 5.2 (including, without limitation, all taxes attributable to taxable margin levied pursuant to Chapter 171 of the Texas Tax Code or any amendment, adjustment or replacement thereof), the amount of such tax or excise shall be included in the calculation of Operating Expenses to be paid by Tenant in Additional Rent in equal portions over the remaining months of the then current lease year. In the event that any such Tax or excise is levied or assessed directly against Tenant, Tenant shall pay the same at such times and in such manner as such taxing authority shall require.

5.3. Landlord may from time to time contest the Taxes. If Landlord elects to contest the Taxes, then Landlord may bill Tenant for Tenant's Proportionate Share of the costs and expenses of such contest as and when incurred, and those amounts shall constitute part of the Taxes. To the extent Landlord has so billed and received payment from Tenant, such costs and expenses shall not be reduced as described below by the abatement or refund, if any, ultimately received with respect to that contest. The Taxes shall be reduced by any net abatement or refund paid to Landlord by the taxing authorities as a result of any contest after recovering all of Landlord's costs and expenses of securing such abatement or refund. Should Landlord elect not to contest the Taxes, Tenant shall have the right to contest the Taxes. If Tenant elects to contest the Taxes, then Tenant shall pay in full to Landlord the Taxes which Tenant is liable to pay hereunder, plus any additional amounts as Landlord may reasonably estimate Tenant may incur in penalties and interest if Tenant loses the contest in whole or in part and the Landlord shall, at Tenant's expense, cooperate fully with Tenant in connection therewith; however, Landlord shall have no obligation to take any action to which Landlord reasonably objects. Landlord shall refund to Tenant Tenant's Proportionate Share amounts, if any, received by Landlord as a rebate of Taxes actually paid by Tenant to Landlord, less all costs and fees, if any, including professional, incurred by Landlord in connection with obtaining such refund. The Taxes shall be reduced by any net abatement or refund paid to Landlord by the taxing authorities as a result of any contest after recovering all of Landlord's costs and expenses of securing such abatement or refund.

6. **PREPAID RENTAL AND SECURITY DEPOSIT**. Landlord acknowledges receipt from Tenant of the sum stated in Section 1.O hereof to be applied to the first accruing monthly installment of Base Rental (e.g., Base Rental for month seven (7) of the Term. Landlord further acknowledges receipt from Tenant of a Security Deposit in the amount stated in Section 1.P hereof to be held by Landlord, without obligation for interest, as security for Tenant's performance hereunder, it being expressly understood that the Security Deposit is not an advance rental deposit or measure of Landlord's damages in case of Tenant's default. Upon the occurrence of any Event of Default by Tenant, Landlord may, without prejudice to any other remedy provided herein or by law, use the Security Deposit to pay any arrears in Rent and any other damage, injury, expense (including legal expenses) or liability caused by such Event of Default. If any or all of such Security Deposit is so used, Tenant agrees to restore such Security Deposit within 30 days of Tenant's receipt of written demand from Landlord therefor. The Security Deposit shall be Landlord's property. If no Event of Default by Tenant exists under this Lease, Landlord shall return any remaining balance of such Security Deposit to Tenant (less the cost that Landlord incurs in restoring the Premises to the condition required by this Lease) within the time required by applicable Law, provided that Tenant has delivered a notice to Landlord of Tenant's address for the purpose of refunding the Security Deposit. If Landlord sells or transfers the Premises, or a substantial part thereof, Landlord shall transfer such Security Deposit to the transferee (which transfer may be accomplished by a credit to the transferee upon such a transfer), and the transferor will be thereupon released from all liability for return of such Security Deposit provided that the transferee has agreed to assume all of Landlord's obligations under this Lease. If the transferee has agreed to assume all of Landlord's obligations under this Lease, then Tenant will look solely to such transferee for the return of the Security Deposit.

7. **ACCEPTANCE OF PREMISES**. Taking physical possession of the Premises by Tenant for purposes of conducting its business therein shall be conclusive evidence that Tenant accepts the Premises in an "AS IS, WHERE IS" with all faults and condition subject to completion of the work described on **Exhibit "D"**, Landlord's repair and maintenance obligations set forth in this Lease, and the completion of punch list items, if any, relating to the Tenant Improvements and Landlord's repair and maintenance obligations set forth in this Lease. Notwithstanding the foregoing, Landlord shall deliver the Premises to Tenant in good order and "broom clean" condition and in compliance with all applicable Laws. Landlord shall have no obligation to perform or pay for any repair or other work, other than as set forth in this Lease; provided, however, nothing in this Section 7 shall relieve Landlord of its repair and maintenance obligations under this Lease, including with respect to latent defects in the base building improvements.

8. **USE OF PREMISES**. The Premises shall be used and occupied only for the Permitted Use stated in Section 1.Q hereof and not otherwise. Notwithstanding the foregoing and subject to Section 31 without Landlord's prior written consent, Tenant shall not receive, store or otherwise handle any product, material or merchandise which is explosive, or highly inflammable or hazardous. Tenant will conduct its business and control its agents in such a manner that such use of the Premises will not create any nuisance or unreasonably interfere with, annoy or disturb other tenants of the Project, if any, or the Landlord in its management or leasing of the Building Tenant shall, at its own expense, obtain any and all governmental licenses and permits necessary for the conduct of its business. Tenant shall not use the Premises as living or sleeping quarters or a residence. Tenant shall not permit any objectionable or unpleasant odors, smoke, dust, gas, light,

noise or vibrations to emanate from the Premises; nor at any time sell, purchase or give away food in the Premises except through vending machines or catering services in employees' lunch or rest areas within the Premises for use by Tenant only. Tenant shall not take any other action that would constitute a public or private nuisance or would disturb the quiet enjoyment of any other tenant of the Building, or unreasonably interfere with, or endanger Landlord or any other person. If, because of Tenant's sole acts, the rate of insurance on the Building or its contents increases, then Tenant shall pay to Landlord the amount of such increase as Additional Rent hereunder, and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights.

9. **REPAIR AND MAINTENANCE**.

9.1. Tenant understands and agrees that Landlord's maintenance, repair and replacement obligations which are paid by Landlord and not reimbursed by Tenant, through Operating Expenses or otherwise, are limited to those set forth in this Section 9.1, Landlord at its own cost and expense, shall be responsible only for (a) replacement of the roof and roof membrane and the structural components of the roof and (b) repair and replacement of only the foundation of the Building, and the structural members of the exterior walls of the Building. Landlord's obligations under clauses (a) and (b) shall not include windows, glass or plate glass, doors, special store fronts or office entries. Landlord's liability with respect to any defects, repairs, replacement or maintenance for which Landlord is responsible hereunder shall be limited to the cost of such repairs or maintenance or the curing of such defect. Subject to the provisions of Section 4 of this Lease, Landlord shall further maintain the Common Areas and the Parking Areas (defined in **Exhibit "H"**). Tenant shall give immediate written notice to Landlord of the need for maintenance, repairs or corrections, but the failure of Tenant to provide any such notice shall not constitute a waiver of any rights or remedies available to Tenant hereunder except as to any matter for which Tenant does not give Landlord written notice within sixty (60) days after Tenant has notice thereof. Landlord shall not be required to make any improvements, replacements or repairs of any kind or character to the Premises except as expressly set forth in this Section 9.1. In addition to the provisions of Section 4 above, it is expressly understood that Tenant shall pay for any damage to the roof, foundation or to the structural soundness of the Building that is caused by the act of Tenant, or of Tenant's employees, agents or invitees or that is caused by and Event of Default.

9.2. Tenant shall, at its own risk and expense, maintain all other parts of the Premises in good repair and condition (including all necessary replacements), including, but not limited to, all fixtures installed by Tenant, walls, carpeting and other floor covering, plumbing which is located in and serves the Premises, windows, window glass (excluding window frames), plate glass, doors (excluding door frames), heating, ventilation and air conditioning systems (the "HVAC Systems"), fire protection sprinkler system, downspouts, and other electrical, mechanical, and electromotive installation, equipment, and fixtures located in, under or above the Premises and which exclusively serve the Premises, any trash removal equipment, any utility repairs in the Premises related to use of such utilities in the Premises in ducts conduits, pipes and wiring located in, under or above the Premises, and any sewer stoppage located in, under, and above the Premises and caused exclusively by the use of the Premises. Tenant shall take good care of all leasehold improvements and fixtures, and suffer no physical waste. Tenant shall be responsible for all pest control and extermination within the Premises. Should Tenant neglect to keep and maintain the Premises, then Landlord shall have the right, but not the obligation, to have the work done and any costs reasonably incurred in

connection therewith shall be charged to Tenant as Additional Rental and shall become payable by Tenant with the payment of the Rent next due. At the termination of this Lease, Tenant shall deliver the Premises "broom clean" in the same good order and condition as existed at the Commencement Date ordinary wear and tear (and condemnation and fire or other casualty damage, as to which Sections 17 and 19 shall control) excepted.

Throughout the Term of the Lease, Tenant shall contract with a qualified and properly insured contractor to service and maintain the HVAC Systems on a regularly scheduled basis, but not less than once every three months, Such service shall include, but not be limited to, cleaning of the coil and condenser units on each unit; checking the electrical connections, the oil and refrigerant for leaks, the safety device, the blower belt for wear, tension and alignment, the expansion valve, coil temperature, and condensate drain; and maintaining the lubrication and addition of coolants. Tenant shall secure, at its sole cost and expense, and shall provide Landlord with a copy of the service contract, providing for the maintenance as described in above, within 60 days following the Commencement Date of this Lease, and thereafter, Tenant shall renew such service contract to Landlord prior to expiration of the then existing service contract.

9.3. Tenant agrees it shall not locate or install or cause to be located or installed any improvements in the Common Areas, including any bike racks, newspaper holder stands, vending machines of any kind, mailboxes, telephone booths, mobile homes, fences, or any other device of a similar nature which would impede or obstruct the Common Areas. Notwithstanding the foregoing, Tenant shall have the right to locate a trash compactor and/or baler in a location that is mutually agreeable to Landlord and Tenant for the handling of trash and other refuse. Tenant will not place any trash or other refuse in the Common Areas, except in those portions of the Common Area designated for use by tenants of the Building for trash or refuse collection, and if Tenant does place trash or other refuse in the Common Areas, Landlord may clean up for Tenant at Tenant's cost and without notice to Tenant.

10. **ALTERATIONS, ADDITIONS AND IMPROVEMENTS**.

10.1. Tenant shall not make any changes, modifications, alterations, additions or improvements to the Premises, or install any heat or cold generating equipment, or other equipment, machinery or devices in the Premises or any other part of the Building without the prior written consent of Landlord, which shall not be unreasonably withheld. Tenant shall not create any openings in the roof or exterior walls, or make any alterations, additions, or improvements to the Premises or install any structures or equipment on the roof of the Building or any portion of the Common Areas without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant expressly agrees to indemnify Landlord for any and all damages resulting from or caused by Tenant penetrating the roof or exterior walls of the Premises. Tenant shall have the right, without obtaining Landlord's consent, to erect or install shelves, bins and machinery in the Premises, provided that Tenant complies with all applicable Laws. Notwithstanding the foregoing, Tenant shall have the right to make non-structural, interior alterations and physical additions to the Premises required in the ordinary course of Tenant's business without Landlord's consent provided: (i) Tenant notifies Landlord and furnishes plans and specifications of all significant alterations or additions at least seven days prior to undertaking them, (ii) such alterations or additions are not visible from the exterior of the Premises or the Building,

(iii) the modifications are in compliance with all applicable Laws, (iv) such additions and alterations will not affect the Building's structure, the provision of services to other Building tenants or materially affect the Building's electrical, plumbing, HVAC, life safety or mechanical systems; (v) Tenant coordinates its activities with the Building's property management, (vi) such additions and alterations will not unreasonably interfere with the business operations of other tenants in the Building; (vii) the cost of the work for such additions and/or alterations does not exceed $25,000 in any single instance or series of related additions or alterations performed within a six-month period (provided that Tenant shall not perform any improvements, alterations or additions to the Premises in stages as a means to subvert this provision); and (viii) Tenant secures any and all permits, licenses and approvals required to construct and install such alterations (collectively "Permitted Alterations"). Tenant shall notify Landlord before performing any Permitted Alterations if the anticipated Permitted Alterations could disrupt any other tenants or occupants of the Building or interfere with Landlord's operation of the Building. All of Tenant's alterations shall be made in accordance with all applicable Laws and in a good and first-class, workmanlike manner and in accordance with the terms of this Lease. All such alterations, additions and improvements shall be constructed, maintained and used by Tenant at its sole risk and expense, in accordance with all applicable Laws. Tenant shall have the right to remove at the termination of this Lease, such trade fixtures so installed by Tenant in the Premises, provided no Event of Default by Tenant then exists; however, Tenant shall, prior to the termination of this Lease, repair any damage caused by such removal and, if requested by Landlord, offer Landlord (prior to such removal) sufficient security to insure Landlord that the proper repairs will be made.

10.2. All alterations, additions or improvements made by Tenant (including, without limitation, HVAC Systems, offices and improvements in and pertaining to such offices, partitions, floor coverings, etc., but excluding the trade fixtures referenced in Section 10.1 above) shall become the property of Landlord when the alterations, additions and improvements are made together with such other property as Tenant leaves in or on the Premises at the termination of this Lease, and Tenant waives all rights to any payment, reimbursement or compensation for the property that must remain at the Premises in accordance with this subsection however, Tenant shall promptly remove, if Landlord so elects, any or all alterations, additions, and improvements (except for those improvements installed by Landlord pursuant to **Exhibit "D"**) specified by Landlord, pursuant to written notice delivered to Tenant prior to commencing construction of such alterations, additions or improvements and any other property placed in the Premises by Tenant, and Tenant shall repair any damage caused by such removal. The provisions of this Section 10.2 shall survive the expiration or earlier termination of this Lease.

10.3. Landlord retains the exclusive right to make additions, changes or improvements, whether structural or otherwise, in and about the Building, or any part thereof, and for such purposes to enter upon the Premises, and, during the continuance of any of said work, to temporarily close doors, entryways, public space and corridors in the Building, to interrupt or temporarily suspend Building services and facilities, and to change the arrangement and location of entrances or passageways, doors and doorways, corridors, elevators, stairs, toilets, or other public parts of the Building, all without abatement of Rent or affecting any of Tenant's obligations hereunder, so long as the Premises are reasonably accessible and provided that Tenant receives not less than 48 hours advance written notice from landlord therefor (except in the case of an emergency, when no notice is required).

11. **SIGNS**. Tenant shall not, without Landlord's prior written consent not unreasonably withheld, conditioned or delayed, (a) install, alter or replace any exterior lighting, decorations paintings, awnings, canopies or the like, or (b) erect, install, alter or replace any signs, window or door lettering, placards, decorations or advertising media of any type which can be viewed from the exterior of the Premises. All signs (including the Exterior Sign), lettering, placards, decorations and advertising media must conform in all respects to the sign criteria established by Landlord for the Project from time to time in the exercise of its sole discretion, and shall be subject to the prior written approval of Landlord as to construction, method of attachment, size, shape, height, lighting, color and general appearance. Tenant shall be solely responsible for all costs associated with the installation and maintenance of such signs. All signs are subject to applicable Laws and deed restrictions and must conform to any national, local or municipal ordinance or regulation. All signs shall be kept in good condition and in proper operating order at all times. At Landlord's option and request, Tenant shall remove all signs including the Exterior Sign at the expiration or earlier termination of this Lease, and shall repair any damage and close any holes caused by such removal, with such repairs to be made in good workmanlike manner. Except as expressly permitted in this Section 11, Tenant shall not erect any signs on the roof or paint or otherwise deface the exterior walls of the Building.

12. **INSURANCE**.

12.1. Tenant shall not permit the Premises to be used in any way that would, in the reasonable opinion of Landlord, be extra hazardous (on account of fire or otherwise) or in any way increase the cost of or render void any insurance coverage in place with respect to the Building or any contents in the Building belonging to other tenants in the Building. Tenant warrants to Landlord that the Permitted Use as defined in Section 1.Q herein accurately reflects Tenant's original intended use of the Premises, and that the minimum insurance coverage required by this Section 12 shall be obtained by Tenant and in force as of the Commencement Date. If, at any time during the Term of this Lease, the State Board of Insurance or other insurance authority, or any insurer disallows any of Landlord's sprinkler credits or imposes an additional penalty or surcharge in Landlord's sprinkler credits or imposes an additional penalty or surcharge in Landlord's insurance premiums because of Tenant's original or subsequent placement or use of storage racks or bins, method of storage or nature of Tenant's inventory or any other act of Tenant, Tenant agrees to pay as Additional Rental the increase in Landlord's insurance premiums as a result of such placement or use or method or nature of storage by Tenant. If an increase in the fire and extended coverage premium paid by Landlord for the Building is caused by Tenant's use or occupancy of the Premises, or if Tenant wrongfully abandons the Premises and causes an increase, then Tenant shall pay as Additional Rental the amount of such increase to Landlord.

12.2. Landlord shall keep the Building and the Project (excluding leasehold improvements and the personal property of tenants) insured against loss or damage by fire or other casualty, with Special Cause of Loss Form and such other insurance as from time to time Landlord's Mortgagee requires or Landlord otherwise deems advisable, in amounts not less than 80% of the full replacement cost thereof above foundation walls, or such greater amounts as Landlord deems advisable, and with such deductibles as Landlord deems advisable. Landlord may, at Landlord's sole option, maintain time element insurance covering the loss of rental income that may occur as a result of loss or damage to the Building caused by an insured peril. Said insurance shall be maintained at

the expense of Landlord (which expense is to be included in Operating Expenses) with an insurance company authorized to insure properties in the State of Texas. Payments for losses thereunder shall be made solely to Landlord or Landlord's Mortgagees as their respective interests shall appear. Tenant shall maintain at its expense, in an amount equal to full replacement cost, Special Cause of Loss Form insurance issued by and binding upon a company meeting the requirements set forth below in this paragraph, on the leasehold improvements and all of Tenant's personal property, including removable trade fixtures, located within the Premises. Tenant shall provide Landlord with current certificates of insurance evidencing Tenant's compliance with this Section 12. Each policy required to be maintained by Tenant shall be with companies rated A-X or better in the most current issue of Best's Insurance Reports and will contain endorsements that (1) such insurance may not lapse with respect to Landlord or its property manager or be canceled or amended with respect to Landlord or its property manager without Tenant's insurance company giving Landlord at least 30 days prior written notice of every expiration, cancellation or amendment, and (2) Tenant shall be solely responsible for payment of premiums and (3) in the event of payment of any loss covered by any policy, Landlord or Landlord's designees shall be paid first by the insurance company for Landlord's loss and Tenant's insurance shall be primary in the event of overlapping coverage with insurance which may be carried by Landlord.

12.3. Tenant shall each maintain separate policies of commercial general liability insurance, issued by and binding upon an insurance company authorized to transact business in the State of Texas and of good financial standing, and providing minimum protection of not less than $3,000,000 combined single limit coverage of bodily injury or death and/or property damage or combination thereof. Tenant's liability insurance shall include Landlord, Landlord's property manager, and Landlord's Mortgagees as additional insureds and loss payees against any and all covered claims for bodily injury or death and property damage occurring in or about the Premises arising from or in connection with Tenant's use or occupancy of the Premises. Landlord shall not be required to maintain insurance against thefts within the Premises, Building or Project In no event shall the limits of Tenant's insurance limit its liability under this Lease. Without limitation of the foregoing, Tenant may comply with its insurance coverage requirements under this Section 12.3 through a blanket policy, provided Tenant, at Tenant's sole expense, procures a "per location" endorsement, or an equivalent reasonably acceptable to Landlord, so that the general aggregate and other limits apply separately and specifically to the Premises.

12.4. Except as otherwise provided herein, any insurance which may be carried by Landlord or Tenant against any loss or damage to the Building and other improvements situated on the Project or in the Premises shall be for the sole benefit of the party carrying such insurance and under its sole control. Tenant's insurance obligations under this Section 12 are freestanding obligations which are not dependent on any other conditions or obligations under this Lease.

13. **WAIVER OF SUBROGATION. NOTWITHSTANDING ANY PROVISION IN THIS LEASE TO THE CONTRARY, LANDLORD AND TENANT EACH HEREBY WAIVES ANY AND ALL RIGHTS OF RECOVERY, CLAIM, ACTION, OR CAUSE OF ACTION, AGAINST THE OTHER, ITS AGENTS, OFFICERS, OR EMPLOYEES, FOR ANY LOSS OR DAMAGE THAT MAY OCCUR TO THE PREMISES, OR ANY IMPROVEMENTS THERETO, OR THE BUILDING OF WHICH THE PREMISES ARE A PART, OR ANY IMPROVEMENTS THERETO, OR ANY PERSONAL PROPERTY OF SUCH PARTY**

THEREIN, BY REASON OF FIRE, THE ELEMENTS, OR ANY OTHER CAUSE WHICH IS OR WOULD BE INSURED AGAINST UNDER THE TERMS OF THE PROPERTY INSURANCE POLICIES CARRIED OR REQUIRED TO BE CARRIED UNDER THE TERMS OF THIS LEASE BY THE RESPECTIVE PARTIES HERETO, REGARDLESS OF CAUSE OR ORIGIN, INCLUDING NEGLIGENCE OF THE OTHER PARTY HERETO, ITS AGENTS, OFFICERS, OR EMPLOYEES. LANDLORD AND TENANT EACH COVENANTS THAT NO INSURER WILL HOLD ANY RIGHT OF SUBROGATION AGAINST SUCH OTHER PARTY, AND LANDLORD AND TENANT SHALL CAUSE THEIR APPLICABLE INSURANCE POLICIES TO BE AMENDED OR ENDORSED TO REFLECT SUCH WAIVER OF SUBROGATION. This waiver of subrogation provision shall be effective to the full extent, but only to the extent, that it does not impair the effectiveness of insurance policies of Landlord and Tenant. Notwithstanding the foregoing, Landlord's waiver of liability under this Section 13 shall not apply to Landlord's right to seek compensation from Tenant or any Tenant Party for any deductible amounts under Landlord's insurance.

14. **LANDLORD'S RIGHT OF ENTRY**.

14.1. Upon giving no less than 48 hours prior written notice (except in the case of an emergency, when no notice is required), Landlord and its authorized agents shall have the right to enter the Premises during normal working hours for the following purposes: (a) inspecting the general condition and state of repair of the Premises, (b) making of repairs required or authorized herein, (c) showing the Premises to any current or prospective purchaser, tenant, mortgagee or any other party, (d) or for any other reasonable purpose. During the final 180-day period of the Term of this Lease, Landlord and its authorized agents shall have the right to erect on or about the Premises a customary sign advertising the property for lease or for sale. Furthermore, in the event of any emergency (defined to be any situation in which Landlord reasonably perceives imminent danger or injury to person and/or damage or loss of property), Landlord and its authorized agents shall have the right to enter the Premises at any time without notice.

14.2. In any circumstance where Landlord is permitted to enter upon the Premises, whether for the purpose of curing any default of Tenant, repairing damage resulting from fire or other casualty or an eminent domain taking or is otherwise permitted hereunder or by law to go upon the Premises, no such entry shall constitute an eviction or disturbance of Tenant's use and possession of the Premises or a breach by Landlord of any of Landlord's obligations hereunder or render Landlord liable for damages for loss of business or otherwise or entitle Tenant to be relieved from any of Tenant's obligations hereunder or grant Tenant any right of setoff or recoupment or other remedy; in connection with any such entry incident to the performance of repairs, replacements, maintenance or construction; all of the aforesaid provisions shall be applicable notwithstanding that Landlord may elect to take building materials in, to or upon the Premises that may be required or utilized in connection with such entry by Landlord; provided, however, Landlord shall use reasonable efforts to not disturb or unreasonably interfere with access to or the use of the Premises by Tenant and its employees.

15. **UTILITY SERVICES**.

15.1. Tenant shall obtain and pay for all electricity that is separately metered to the Premises and telephone services used on or at the Premises, together with any taxes, penalties, surcharges or the like pertaining to the Tenant's use of the Premises and any maintenance charges, tap fees and other similar assessments made in connecting the Premises to such utilities and imposed by the applicable utility provider for the provision of such utilities. Electricity and gas serving Tenant's Premises shall, at Landlord's expense, be separately metered directly from the public utilities supplying service to the Premises. Tenant shall be responsible for making arrangements for and paying the cost of the installation, maintenance and repair of its own telephone system.

15.2. No interruption or malfunction of any of such services shall constitute an eviction or disturbance of Tenant's use and possession of the Premises or the Building or a breach by Landlord of any of Landlord's obligations hereunder or render Landlord liable for damages or entitle Tenant to be relieved from any of Tenant's obligations hereunder (including the obligation to pay rent) or grant Tenant any right of setoff or recoupment. In the event of any such interruption, however, Landlord shall use reasonable diligence to restore such service or cause same to be restored in any circumstances in which such restoration is within the reasonable control of Landlord and the interruption was not caused in whole or in part by Tenant's fault. Tenant expressly agrees to notify any utility service requesting or requiring such notice of Tenant's intention to vacate the Premises. This notice requirement shall be in addition to any other notice requirement specified herein.

Notwithstanding the foregoing, if (i) any essential utility service to be provided as set forth in the preceding paragraph is interrupted or curtailed for a period of 48 hours from the time Tenant notifies Landlord (either orally or in writing), (ii) as a result thereof, Tenant's use of the Premises is materially, adversely affected (including failure of HVAC system) and (iii) such interruption is caused by Landlord or lies within Landlord's control, then the Base Rent for the Premises shall completely abate from such 48 hour period and continue until such services are restored to the point where Tenant's use of the Premises is no longer materially, adversely affected.

16. **ASSIGNMENT AND SUBLEASING**.

16.1. Except with respect to a Permitted Transfer, Tenant shall not, without the prior written consent of Landlord (which may be withheld in Landlord's sole discretion, subject to the terms of this Section 16): (i) assign, transfer or encumber this Lease or any estate or interest herein, whether directly or by operation of Law; (ii) permit any other entity to become Tenant hereunder by merger, consolidation or other reorganization (and for purposes of this Section 16 the surviving or resulting entity in any such merger, consolidation or other reorganization may be considered an entity other than Tenant, notwithstanding any applicable Law to the contrary); (iiii) if Tenant is an entity other than a corporation whose stock is publicly traded, permit the transfer of an ownership interest in Tenant so as to result in a change in the current control of Tenant (iv) sublet any portion of the Premises; (v) grant any license, concession or other right of occupancy of any portion of the Premises; or (vi) permit the use of the Premises by any parties other than Tenant (any of the events listed in Sections 16.1(i) through (vi) being a "Transfer") and any attempt to do any of the foregoing without the prior written consent of Landlord shall be void and no effect Provided no Event of Default then exists, Landlord shall not unreasonably withhold, condition or delay its consent to

(a) Tenant's advertising that all or a portion of the Premises is available for sublease or assignment or (b) any assignment or subletting of the Premises, provided that Landlord may take into consideration all relevant factors surrounding the proposed sublease and assignment. Notwithstanding the foregoing, Landlord may withhold its consent, in its sole discretion, to any proposed Transfer to an assignee or subtenant that is a tenant in any other space in the Building or the Project, provided Landlord may object to an assignee or sublessee on the basis set forth in this sentence only if Landlord or its affiliates are capable of and willing to lease space in the Building or the Project to such other tenant at market rates. In any case where Landlord consents to Transfer, the undersigned Tenant will nevertheless remain directly and primarily liable for the performance of all covenants, duties and obligations of Tenant and Landlord shall be permitted to enforce the provisions of this Lease against the undersigned Tenant and/or any assignee, subtenant or other transferee without demand upon or proceeding in any way against any other person. The acceptance of an assignment or subletting of the Premises by any assignee or subtenant shall be construed as a promise on the part of such assignee or subtenant to be bound by and perform all of the terms, conditions and covenants in this Lease by which Tenant is bound, No Transfer shall be construed to constitute a novation or to waive the requirement for obtaining consent to any Transfer. In the event of default by Tenant after this Lease has been assigned or while the Premises are sublet, Landlord, in addition to any other remedies provided herein (or provided by law), may at Landlord's option, collect directly from such assignee or subtenant all rents becoming due to Tenant under such assignment or subletting, and Landlord may apply such Rent against any sums due to Landlord by Tenant hereunder. No direct collection by Landlord from any such assignee or subtenant shall release Tenant from Tenant's primary responsibility under this Lease (as aforesaid) and from the further performance of Tenant's obligations hereunder. Tenant shall pay to Landlord, promptly after receipt thereof, 50% of the excess of (A) the net compensation received by Tenant for a Transfer (other than a Permitted Transfer) after deduction of the costs reasonably incurred by Tenant with unaffiliated third parties in connection with such Transfer (i.e., marketing costs, brokerage commissions, legal fees and tenant finish work) over (B) the Rent allocable to the portion of the Premises covered thereby.

16.2. Notwithstanding Section 16.1 provided no Event of Default then exists, Tenant may Transfer all of its interest in this Lease or all of the Premises (a "Permitted Transfer") to the following types of entities (a "Permitted Transferee") without the prior written consent of Landlord, subject to the terms of this Section 16.2: (i) any Affiliate of Tenant (ii) any corporation, limited partnership, limited liability partnership, limited liability company or other business entity in which, with which or to which Tenant, or its corporate successors or assigns, is merged, consolidated or sold (provided such sale is of all or substantially all of the assets or equity ownership interests of Tenant), in accordance with applicable statutory provisions and other Laws governing merger, consolidation and sale of business entities or other non-bankruptcy reorganization, so long as (1) Tenant's obligations hereunder are assumed by the entity surviving such merger or created by such consolidation; and (2) the Tangible Net Worth of the surviving or created entity is not less than the Tangible Net Worth of Tenant or on the Effective Date. Tenant shall promptly notify Landlord of any such Permitted Transfer. Tenant shall remain liable for the performance of all of the obligations of Tenant hereunder, or if Tenant no longer exists because of a merger, consolidation or acquisition, the surviving or acquiring entity shall expressly assume in writing the obligations of Tenant hereunder. Not more than 30 days after the effective date of any Permitted Transfer, Tenant shall furnish Landlord with copies of the instrument effecting any of the foregoing Transfers and documentation establishing Tenant's satisfaction of the requirements set forth above applicable to

any such Transfer. The occurrence of a Permitted Transfer shall not waive Landlord's rights as to any subsequent Transfers. "Tangible Net Worth" means the excess of total assets over total liabilities, in each case as determined in accordance with generally accepted accounting principles consistently applied ("GAAP"), excluding, however, from the determination of total assets all assets that would be classified as intangible assets under GAAP, including goodwill, licenses, patents, trademarks, trade names, copyrights and franchises "Affiliate" means any person or entity that, directly or indirectly, controls, is controlled by or is under common control with the party in question.

16.3. Tenant shall pay to Landlord, as Landlord's cost of processing each proposed Transfer (whether or not the same is ultimately approved by Landlord or consummated by Tenant) an amount equal to Landlord's reasonable attorneys' fees in an amount not to exceed $1030.

16.4. Landlord shall have the right to transfer, assign, mortgage, or convey all or any part of the Premises and this Lease without Tenant's consent, and nothing contained in this Lease shall be construed as a restriction upon Landlord's right to do any of the foregoing. If Landlord transfers this Lease, either specifically or by virtue of a transfer of all or any part of the Premises, then Landlord shall thereby be released from all obligations arising hereunder after such transfer, and Tenant agrees to look solely to such assignee for performance of such obligations.

17. **FIRE AND CASUALTY DAMAGE**.

17.1. Total Destruction. Tenant shall immediately give written notice to Landlord of any damage to the Premises by fire or other casualty ("Casualty"). If the Premises, the Building or the Project are damaged by a Casualty, Landlord shall, within 30 days after the date of Landlord's actual knowledge of the Casualty, deliver to Tenant a good faith estimate ("Damage Notice") of the time needed to repair the damage caused by such Casualty; provided, however, if a material portion of the Premises, the Building or the Project are destroyed by a Casualty or so damaged by a Casualty that, in Landlord's estimation, rebuilding or repairs cannot be substantially completed (exclusive of leasehold improvements that Tenant makes) within 180 days after the date of Landlord's actual knowledge of the Casualty, then Landlord may elect, in Landlord's sole discretion to either (a) terminate this Lease by delivering to Tenant a written notice of termination within 30 days after the damage and provided further that Landlord shall be responsible, at its sole cost and expense, for any costs incurred by Landlord or (b) relocate Tenant to office space reasonably comparable to the Premises, provided that Landlord notifies Tenant of its intention to do so in a written notice delivered to Tenant within thirty (30) days after the damage. Any such relocation may be for a portion of the remaining Term or the entire Term, and Landlord shall complete any such relocation within ninety (90) days after Landlord has delivered such written notice to Tenant If a material portion of the Premises, the Building or the Project are destroyed or damaged by a Casualty such that Tenant is prevented from conducting its business in the Premises in a manner reasonably comparable to that conducted immediately before such Casualty and, (i) in Landlord's estimation, rebuilding or repairs cannot be substantially completed (exclusive of leasehold improvements that Tenant makes) within 180 days after the date of Landlord's delivery of the Damage Notice, (ii) Landlord does not elect to relocate Tenant following such damage to the Premises or the Building (iii) a Tenant Party did not cause such damage, then Tenant may terminate this Lease by delivering to Landlord written notice of termination within 15 days following Landlord's delivery of the Damage Notice. In the

event of a termination of this Lease pursuant to this Section 17.1, the Rent shall be abated during the unexpired portion of this Lease, effective upon the date the damage occurred. Time is of the essence with respect to the delivery of all notices of damage, estimates of completion and notices of termination.

17.2. Restoration of Premises. Subject to Section 17.3 if this Lease is not terminated under Section 17.1, then Landlord shall restore the Premises to substantially its previous condition, except that Landlord shall not be required to rebuild, repair or replace any part of the alterations (except to the extent of any improvements existing therein on the date of the Casualty that were installed by Landlord pursuant to **Exhibit "D"**) other improvements or personal property required to be covered by Tenant's insurance under Section 12. Notwithstanding the foregoing, Landlord's obligation to restore the improvements existing therein on the date of the Casualty that were installed by Landlord pursuant to **Exhibit "D"** shall be limited to the amount of the TI Allowance, adjusted by the percentage change in Consumer Price Index for All Urban Consumers - United States Index (all items) (base year 1982-1984 = 100) promulgated by the United States Department of Labor, Bureau of Labor Statistics (or, should such index no longer be published or available, any successor index of equivalent measurement and geographical area; or should no successor index be published or available, the index of equivalent or comparable measurement) through the date of restoration under this Section. Notwithstanding the foregoing, if Landlord commences restoration of the Premises and fails to restore the Premises in accordance with this Section 17.2 within the period of time estimated for such restoration as set forth in the Damage Notice, Landlord may, by notice to Tenant, extend its time to restore the Premises for an additional period equal to Landlord's initial estimate for such restoration (as set forth in the Damage Notice), but in no event may such extension exceed an additional 30 days plus the number of days of extension due to Force Majeure Events (the "Outside Restoration Date"). If Landlord has not completed its work in accordance with this Section 17.2 on or before the Outside Restoration Date, then Tenant may, as its sole and exclusive remedy, elect in writing, within 15 days after the Outside Restoration Date but prior to completion of such work, to terminate this Lease effective as of a date which is 15 days after the date of Tenant's termination notice provided such restoration is not completed within such 15 day period.

If the Premises are Untenantable, in whole or in part, during the period beginning on the date the damage occurred and ending on the date of substantial completion of Landlord's repair or restoration work (the "Repair Period"), then the Rent for the Repair Period shall be abated equitably as to the portion of the Premises rendered Untenantable (based on the square footage of the Net Rentable Are rendered Untenantable). Notwithstanding the foregoing, the Rent shall not be abated if a Tenant Party caused the Casualty.

17.3. Insurance. If the Premises are destroyed or substantially damaged by any peril not covered by the insurance maintained by Landlord, or any Landlord's Mortgagee (defined below) requires that insurance proceeds be applied to the indebtedness secured by its Mortgage (defined below) or the insurance proceeds available to Landlord to restore the Building or the Project are insufficient in Landlord's reasonable opinion, then Landlord may terminate this Lease by delivering written notice of termination to Tenant within 30 days of the later to occur of (i) the date upon which any destruction or damage occurred, or (ii) the date upon which Landlord learns there are insufficient insurance proceeds to restore the Building or the Project, or (iii) Landlord learns of any such requirement by any Landlord's Mortgagee, as applicable. In the event Landlord or Tenant

terminates this Lease under this Section 17, all rights and obligations hereunder shall cease and terminate, except for any liabilities of Landlord or Tenant, which accrued prior to the termination of this Lease or which survive the termination of this Lease.

18. **LIABILITY, INDEMNIFICATION**.

18.1. **SUBJECT TO THE PROVISIONS OF SECTION 13, TENANT SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS LANDLORD, ITS SUCCESSORS, ASSIGNS, AGENTS, EMPLOYEES, CONTRACTORS, PARTNERS, DIRECTORS, OFFICERS AND AFFILIATES (COLLECTIVELY, THE "LANDLORD INDEMNIFIED PARTIES") FROM AND AGAINST ALL FINES, SUITS, LOSSES, COSTS, LIABILITIES, CLAIMS, DEMANDS, ACTIONS AND JUDGMENTS OF EVERY KIND OR CHARACTER (1) ARISING FROM TENANT'S FAILURE TO PERFORM ITS COVENANTS UNDER THIS LEASE, (2) RECOVERED FROM OR ASSERTED AGAINST ANY OF THE LANDLORD INDEMNIFIED PARTIES ON ACCOUNT OF ANY LOSS (DEFINED BELOW IN SECTION 18.2) TO THE EXTENT THAT ANY SUCH LOSS MAY BE INCIDENT TO, ARISE OUT OF, OR BE CAUSED, EITHER PROXIMATELY OR REMOTELY, WHOLLY OR IN PART, BY TENANT PARTY OR ANY OTHER PERSON ENTERING UPON THE PREMISES UNDER OR WITH A TENANT PARTY'S EXPRESS OR IMPLIED INVITATION OR PERMISSION, (3) ARISING FROM OR OUT OF THE OCCUPANCY OR USE OF THE PREMISES BY A TENANT PARTY OR (4) ARISING FROM OR OUT OF ANY OCCURRENCE IN THE PREMISES, HOWEVER CAUSED, OR SUFFERED BY, RECOVERED FROM OR ASSERTED AGAINST ANY LANDLORD INDEMNIFIED PARTIES BY A TENANT PARTY. INDEMNIFICATION OF THE LANDLORD INDEMNIFIED PARTIES BY TENANT SHALL NOT APPLY TO THE EXTENT SUCH LOSS, DAMAGE, OR INJURY IS CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY OF THE INDEMNIFIED PARTIES. INCLUDING ANY LOSS (DEFINED BELOW IN SECTION 18.2) OR DAMAGE CAUSED BY THE NEGLIGENCE OF THE LANDLORD INDEMNIFIED PARTIES.**

18.2. **LANDLORD SHALL NOT BE LIABLE TO THE TENANT PARTIES FOR ANY INJURY TO OR DEATH OF ANY PERSON OR PERSONS OR THE DAMAGE TO OR THEFT, DESTRUCTION, LOSS, OR LOSS OF USE OF ANY PROPERTY OR INCONVENIENCE (COLLECTIVELY AND INDIVIDUALLY A "LOSS") CAUSED BY CASUALTY, THEFT, FIRE, THIRD PARTIES, REPAIR, OR FAILURE TO REPAIR, OR ALTERATION OF ANY PART OF THIS BUILDING, OR ANY OTHER CAUSE, EXCEPT TO THE EXTENT SUCH LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD INDEMNIFIED PARTIES IS THE SOLE CAUSE OF THE LOSS (AS DETERMINED IN A FINAL, NON-APPEALABLE JUDGMENT OF A COURT OF COMPETENT JURISDICTION).**

19. **CONDEMNATION**.

19.1. If, during the Term of this Lease or any extension or renewal thereof, all or substantially all of the Premises (a) is taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or is sold to the

condemning authority under threat of condemnation (the "Taking") (b) or is rendered Untenantable as a result of such Taking, this Lease shall terminate and the Rent shall be abated during the unexpired term of this Lease, effective as of the date of such Taking.

19.2. If less than substantially all of the Premises is (a) subject to the Taking or (b) rendered Untenantable as a result of a Taking, this Lease shall not terminate but Landlord shall, to the extent practicable, at its sole cost and expense, repair or modify the Building and the Premises so that the remaining portion of the Premises shall be partitioned off from the portion so taken or condemned, and the Rent payable hereunder during the unexpired portion of the Term shall be adjusted to such extent as may be fair and reasonable under the circumstances (based on the number of square feet of Net Rentable Area so taken). In the event that Landlord cannot practicably repair or modify the Building and the Premises as set forth above (as reasonably determined by Landlord) or any Landlord's Mortgagee (defined below) requires that proceeds from such Taking be applied to the indebtedness secured by its Mortgage, this Lease shall terminate, the Rent shall be abated for the unexpired term of this Lease and all rights and obligations relating to the unexpired term of this Lease shall cease. All compensation awarded for any Taking shall be the property of Landlord, and Tenant shall not be entitled to any portion of such award; provided, however, Tenant shall have all rights permitted under the laws of the State of Texas to pursue a separate claim relative to such Taking (to the extent such claims in no way diminish the award Landlord receives from the condemning authority) including, but not limited to (i) the value of any fixtures, furnishings, and other personal property that are taken but that Tenant, under the terms of this Lease, is permitted to remove at the end of the Term, (ii) the unamortized cost [such costs having been amortized on a straight line basis over the Term excluding any renewal terms] of Tenant's leasehold improvements that are taken that Tenant is not permitted to remove at the end of the Term and that were installed solely at Tenant's expense [*i.e.*, not paid for by Landlord or purchased with allowances provided by Landlord], and (iii) relocation and moving expenses, but not the value of Tenant's leasehold estate created by this Lease.

20. **HOLDING OVER**. If Tenant fails to vacate the Premises after the expiration of the Term or earlier termination of this Lease, then Tenant's possession of the Premises shall constitute and be construed as a hold-over tenancy at will only, subject, however, to all of the terms, provisions, covenants and agreements on the part of Tenant under this Lease. Tenant or any such Tenant Party covenants and agrees to pay Landlord, in addition to the other Rent due hereunder, if any, as Rent for the period of such holdover a prorated daily Base Rental equal to the sum of 150% of the daily Base Rental plus 100% Additional Rental representing an amount equal to one-twelfth (1/12th) of the estimated amount of Tenant's Share of Operating Expenses, both payable during the last month of the Term. The Rent during such holdover period shall be payable to Landlord in accordance with the provisions of this Section 20. Tenant will vacate the Premises and deliver same to Landlord immediately upon Tenant's receipt of notice from Landlord to so vacate. No holding over by Tenant (whether with or without the consent of Landlord), and no payments of money by Tenant to Landlord after the end of the Term, shall operate to reinstate, continue or extend the Term, and no extension of this Term shall be valid unless evidenced by a writing signed by both Landlord and Tenant. No payments of money by Tenant (other than the holdover Rent accruing during such holdover period paid in accordance with the provisions of this Section 20) to Landlord after the expiration of the Term or earlier termination of this Lease shall constitute full payment of Rent under the terms of this Lease. Tenant shall be liable for all actual damages resulting from Tenant's holding over.

21. **DEFAULTS**.

21.1. Each of the following acts or omissions of Tenant or occurrences shall constitute an "Event of Default":

(a) Monetary Default, Failure to Pay Rent. Tenant fails to pay Rent when due or any payment or reimbursement required under this Lease when due, and in either case such failure continues for a period of five (5) business days from the date such payment was due; provided however, that Landlord shall give written notice of such default to Tenant with opportunity to cure within a five day period after the date of such notice provided however, that Landlord shall give written notice of such default to Tenant with opportunity to cure within a five day period after the date of such notice, provided Landlord shall not be obligated to furnish Tenant with more than two written notices of default and opportunity to cure each calendar year during the Term of this Lease.

(b) Non-Monetary Default, Failure to Perform. Failure to perform or observe any covenant or condition of this Lease by Tenant to be performed or observed, other than the payment of rental or other payments hereunder, and such failure continues for a period of 30 days following written notice to Tenant of such failure; however, if such failure cannot reasonably be cured within such 30 day period, but Tenant commences to cure such failure within such 30 day period and thereafter diligently pursues such cure to completion, then such curative period shall be extended for so long as is reasonably required to complete such cure (but, in any event, not longer than 150 days after Landlord has delivered such notice to Tenant).

(c) Liens; Encumbrances. If Tenant creates or allows the creation of a lien upon the Premises in violation of this Lease and thereafter fails or is unable to bond around or cure such lien in accordance with Section 35.2.

(d) Creditors. The filing or execution or occurrence of any one of the following: (i) a petition in bankruptcy or other insolvency proceeding by or against Tenant, (ii) petition or answer seeking relief under any provision of the Bankruptcy Act, (iii) an assignment for the benefit of creditors or composition, (iv) a petition or other proceeding by or against Tenant for the appointment of a trustee, receiver or liquidator of Tenant or any of Tenant's property, or (v) a proceeding by any governmental authority for the dissolution or liquidation of Tenant Notwithstanding the foregoing, if such petition is filed against Tenant, such filing shall not be an Event of Default unless Tenant fails to have such proceedings initiated by such petition dismissed within 60 days after the filing thereof. The term "Tenant" shall include, for the purpose of this Section 21.1(d), Guarantor)

(e) Estoppel Certificate; SNDA. If Tenant fails to timely deliver an estoppel certificate or SNDA to Landlord pursuant to the requirements of this Lease and such failure continues more than thirty business days after written notice therefor from Landlord to Tenant.

21.2. This Lease and the Term and estate hereby granted and the demise hereby made are subject to the limitation that if and whenever any Event of Default shall occur, Landlord may, at Landlord's option, in addition to all other rights and remedies given hereunder or by law or equity, do any one or more of the following, provided, however that under no circumstances whatsoever shall Tenant ever be liable hereunder for consequential damages or special damages.

(a) Terminate this Lease by delivering a written termination notice to Tenant, in which event Tenant shall immediately surrender possession of the Premises to Landlord.

(b) Enter upon and take possession of the Premises and expel or remove Tenant and any other occupant therefrom, with or without having terminated this Lease.

(c) Without notice (other than as required in Section 21.1), alter locks and other security devices at the Premises. Landlord may alter locks or other security devices at the Premises to deprive Tenant of access thereto, and Landlord shall not be required to provide a new key or right of access to Tenant unless and until Tenant cures all Events of Default. This Lease supersedes *Section 93.002* of the Texas Property Code to the extent of any conflict.

(d) Landlord may perform Tenant's obligations and enter the Premises, without being liable for prosecution or any claim for damages therefor, to accomplish such purpose. Tenant shall reimburse Landlord promptly upon request (together with reasonable supporting documentation) for the actual cost and expense that Landlord incurs in effecting compliance with this Lease on Tenant's behalf, together with interest thereon at the Interest Rate from the date Landlord incurs the expense in question until Landlord is reimbursed.

21.3. Exercise by Landlord of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises by Tenant, whether by agreement or by operation of law, it being understood that such surrender can be effectuated only by the written agreement of Landlord and Tenant. During the continuance of an Event of Default or following Landlord's exercise of its remedies set forth in Sections 21.2(a) or (b), no such alteration of security devices and no removal or other exercise of dominion by Landlord over the property of Tenant or others at the Premises shall be deemed unauthorized or constitute a conversion, Tenant hereby consenting, during the continuance of an Event of Default or following Landlord's exercise of its remedies set forth in Sections 21.2(a) or (b), to the aforesaid exercise of dominion over Tenant's property within the Building. All claims for damages by reason of such re-entry and/or possession and/or alteration of locks or other security devices are hereby waived, as are all claims for damages by reason of any distress warrant, forcible detainer proceedings, sequestration proceedings or other legal process. Tenant agrees that any re-entry by Landlord may be pursuant to judgment obtained in forcible detainer proceedings or other legal proceedings or without the necessity for any legal proceedings, as Landlord may elect, and Landlord shall not be liable in trespass or otherwise. If Landlord repossesses the Premises pursuant to the authority herein granted, then Landlord shall have the right remove and store, at Tenant's expense, all of the furniture, trade fixtures, equipment and other personal property in the Premises, including that which is owned by or leased to Tenant at all times before any foreclosure thereon by Landlord or repossession thereof by any lessor thereof or third party having a lien thereon. If any furniture, trade fixtures, equipment or other property remains on Premises for longer than 30 days after Landlord repossesses the Premises pursuant to the

authority granted in this Section 21 such property shall be deemed to have been abandoned by Tenant and Landlord may keep in place and use or may dispose of such property under any manner Landlord see fit provided however that Landlord may relinquish possession of all or any portion of such furniture, trade fixtures, equipment and other property to any person (a "Claimant") who present to Landlord a copy of any instrument represented by Claimant to have been executed by Tenant (or any predecessor of Tenant) granting Claimant the right under various circumstances to take possession of such furniture, trade fixtures, equipment or other property, without the necessity on the part of Landlord to inquire into the authenticity or legality of the instrument. Landlord may, at its option and without prejudice to or waiver of any rights it may have, escort Tenant to the Premises to retrieve any personal belongings of Tenant and/or its employees; however, Tenant first shall pay in cash all costs and estimated expenses to be incurred in connection with the removal of such property and making it available. The rights of Landlord under this Lease are cumulative and in addition to any and all other rights that Landlord has or may hereafter have at law or in equity, and Tenant hereby agrees that the rights herein granted Landlord are commercially reasonable.

21.4. In the event that Landlord elects to terminate this Lease by reason of an Event of Default, then, notwithstanding such termination, Tenant shall be liable for and shall pay to Landlord the sum of (i) all rental and other indebtedness accrued but unpaid to the date of such termination, *plus* (ii) all amounts due from time to time under Section 21.6, *plus* (iii) as damages, an amount equal to (1) all Rent that Tenant would have been required to pay for the balance of the Term (had such Term not been terminated by Landlord prior to the expiration of the Term of this Lease), as reasonably estimated by Landlord, discounted to present value at a per annum rate equal to the Prime Rate, *minus* (2) the then present fair rental value of the Premises for such period, similarly discounted.

In the event that Landlord elects to terminate this Lease by reason of an Event of Default, in lieu of exercising the rights of Landlord under the preceding paragraph of this Section 21.4, Landlord may instead hold Tenant liable for all Rent and other indebtedness accrued but unpaid to the date of such termination, plus such rental and other indebtedness as would otherwise have been required to be paid by Tenant to Landlord during the period following termination of the Term of this Lease measured from the date of such termination by Landlord until the expiration of the Term of this Lease (had Landlord not elected to terminate this Lease on account of such Event of Default) diminished by any net sums thereafter received by Landlord through reletting the Premises during said period (after deducting expenses incurred by Landlord as provided in Section 21.6 hereof). Actions to collect amounts due by Tenant provided for in this paragraph of this Section 21.4 may be brought from time to time by Landlord during the aforesaid period, on one or more occasions, without the necessity of Landlord's waiting until the expiration of such period, and in no event shall Tenant be entitled to any excess of rental (or Rent plus other sums) obtained by reletting over and above the rental provided for in this Lease.

21.5. In the event that Landlord elects to repossess the Premises without terminating this Lease, then Tenant shall be liable for and shall pay to Landlord all Rent and other indebtedness accrued but unpaid to the date of such repossession, plus Rent required to be paid by Tenant to Landlord during the remainder of the Term of this Lease until the expiration of the Term of this Lease, diminished by any net sums thereafter received by Landlord through reletting the Premises during said period (after deducting expenses incurred by Landlord as provided in Section 21.6

hereof). In no event shall Tenant be entitled to any excess of any rental obtained by reletting over and above the Rent herein reserved. Actions to collect amounts due by Tenant as provided in this Section 21.5 may be brought from time to time, on one or more occasions, without the necessity of Landlord's waiting until the expiration of the Term of this Lease.

21.6. In case of an Event of Default, Tenant shall also be liable for and shall pay to Landlord in addition to any sum provided to be paid above: (i) the cost of removing and storing Tenants or other occupant's property, (ii) the cost of repairing, the Premises into the condition required by this Lease, and (iii) all reasonable expenses incurred by Landlord in enforcing Landlord's remedies, including reasonable attorneys' fees, whether or not a legal suit is actually brought. Past due Rent and other past due payments shall bear interest from maturity at the Interest Rate.

21.7. Landlord and Tenant stipulate that the terms of this Section 21.7 are intended to establish the standards by which Landlord may satisfy a duty to mitigate damages under the Texas Property Code; moreover, Tenant agrees that this Section 21.7 is not intended to waive a right or exempt Landlord from a liability or a duty under *Section 91.006(b)* of the Texas Property Code. Without limiting the foregoing, Landlord shall have no duty to mitigate damages caused by an Event of Default other than as specifically set forth in *Section 91.006* of the Texas Property Code. If a duty to mitigate damages is imposed upon Landlord, then Landlord will conclusively be deemed to have satisfied its duty to mitigate its damages if Landlord lists the Premises for lease in accordance with prevailing market conditions with a real estate broker or agent (which may be affiliated with Landlord) and considers all written proposals for such space made by such broker or agent. Landlord's duty to consider such proposals shall not require Landlord to agree to any lease terms that it deems to be unacceptable; moreover, Landlord shall not be obligated: (1) to solicit or entertain negotiations with any other prospective tenant(s) for the Premises until Landlord has obtained full and complete possession of the Premises, free of any claim by Tenant that it continues to have a right of occupancy with respect to the Premises, (2) to travel outside a radius of five miles from the Building in order to meet with a prospective tenant, (3) to expend monies for finish-out requested by a prospective tenant unless Landlord, in its sole discretion, believes that the excess rent Landlord will receive and the credit of the prospective tenant support such a decision, (4) to cause or allow an existing tenant of the Building to move from its existing space to the Premises, or (5) to give preference to the Premises over other spaces in the Building, with regard to prospective tenants inquiring as to available space in the Building. In attempting to relet or actually reletting the Premises, Landlord may enter into a direct lease with the proposed replacement tenant and will not be deemed to be acting as Tenant's agent. Landlord agrees that the rentals and other collections that Landlord may actually receive from a substitute tenant of the Premises, to the extent that any such rentals and/or other collections are attributable to any particular time period within the Term (and after reduction for all expenses incurred by Landlord in connection with such substitute tenant), will be credited against Tenant's obligations for the same time period; however, Tenant agrees that it will not be entitled to any additional credit (for example, if Landlord receives amounts during a particular time period in excess of Tenant's obligations for the same time period, Landlord will not be required to credit such excess against Tenant's obligations for any other time period).

21.8. If Landlord fails to perform or observe any covenant, term, provision or condition of this Lease and such default continues beyond a period of ten days as to a monetary default or 30

days (plus such additional reasonable period as may be required if the default cannot reasonably be cured within 30 days in the exercise by Landlord of due diligence) as to a non-monetary default, after in each instance written notice thereof is given by Tenant to Landlord specifying in reasonable detail such failure, then Tenants may, at its option, in addition to all other rights and remedies given hereunder or by laws or equity, pursue an action for injunctive relief, specific performance, declaratory relief or actual monetary damages, excluding lost profits and lost economic damages. Landlord agrees that Tenant may pursue injunctive relief or specific performance without a showing of actual damages. Unless and until Landlord fails to so cure any default as required hereunder after such notice, Tenant shall not have any remedy or cause of action by reason thereof. All obligations of Landlord hereunder will be construed as covenants, not conditions; and all such obligations will be binding upon Landlord only during the period of Landlord's possession of the Building and not thereafter. Under no circumstances whatsoever shall Landlord ever be liable hereunder for consequential damages or special damages. THE LIABILITY OF LANDLORD TO TENANT FOR ANY DEFAULT BY LANDLORD, SHALL BE LIMITED TO ACTUAL AND DIRECT DAMAGES. IN NO EVENT SHALL LANDLORD BE LIABLE TO TENANT FOR CONSEQUENTIAL OR SPECIAL DAMAGES BY REASON OF A FAILURE TO PERFORM (OR A DEFAULT) BY LANDLORD HEREUNDER OR OTHERWISE. EXCEPT FOR CLAIMS WHICH MAY BE COVERED BY INSURANCE, IF TENANT SHALL RECOVER A MONEY JUDGMENT AGAINST LANDLORD, TENANT AGREES THAT SUCH MONEY JUDGMENT SHALL BE SATISFIED SOLELY BY LANDLORD'S INTEREST IN THE PREMISES AND BUILDING, AS THE SAME MAY THEN BE ENCUMBERED, AND LANDLORD, ITS AFFILIATES, PARTNERS, OFFICERS, DIRECTORS, SHAREHOLDERS, AND EMPLOYEES SHALL NOT BE LIABLE OTHERWISE FOR ANY OTHER CLAIM ARISING OUT OF OR RELATING TO THIS LEASE. Additionally, Tenant hereby waives its statutory lien under *Section 91.004* of the Texas Property Code. The terms of this Section 21.8 shall survive the termination or expiration of this Lease.

21.9. No waiver by the parties hereto of any default or breach of any term, condition, or covenant of this Lease shall be deemed to be a waiver of any subsequent default or breach of the same or of any other term condition, or covenant contained herein. No receipt of money by Landlord from Tenant after the expiration of the Term of this Lease, or after the service of any notice, or after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the Term of this Lease or affect any such notice, demand or slit or imply consent for any action for which Landlord's consent is required.

21.10. The term "Landlord" shall mean only the owner, for the time being, of the Building, and in the event of the transfer by such owner of its interest in the Building, such owner shall thereupon be released and discharged from all covenants and obligations of the Landlord thereafter accruing, but such covenants and obligations shall be binding during the Term of this Lease upon each new owner for the duration of such owner's ownership.

22. **INTENTIONALLY OMITTED**.

23. **SUBORDINATION**. Tenant agrees that, upon the request of Landlord, Tenant will subordinate this Lease to each ground or land lease, mortgage, deed of trust or other security instrument or other security instrument (each, a "Mortgage") that may now or hereafter encumber all

or any portion of the Project and to all renewals, modifications, consolidations, replacements and extensions thereof; but only if the landlord under each ground or land lease or the holder of any mortgage of deed of trust (each, a "Landlord's Mortgagee") shall enter into a subordination, non-disturbance and attornment agreement (an "SNDA") in recordable form with Tenant, in form and content reasonably acceptable to Tenant and such landlord or holder, providing that as long as an Event of Default on the part of Tenant is not then in existence, Tenant shall not be disturbed in its possession of the Premises or have its rights hereunder terminated or modified by such holder or landlord, except pursuant to the provisions of this Lease. Tenant agrees to be reasonable in its negotiations concerning the form and substance of the SNDA with any subsequent lessor under a ground or land lease or any subsequent trustee, mortgagee or beneficiary under any mortgage or deed of trust. Tenant agrees, and the SNDA shall provide, that in the event of the enforcement by the landlord under any such ground lease or land lease or by the trustee, the mortgagee or he beneficiary under any such mortgage or deed of trust of the remedies provided for by law or by such ground or land lease, mortgage or deed of trust, Tenant, upon request of any person or party succeeding to the interest of Landlord as a result of such enforcement (collectively, the "Successor"), automatically will become the tenant of the Successor without change in the terms or other provisions of this Lease; provided, however, that such Successor shall not be (a) subject to any credits, offsets, defenses or claims which Tenant may have against any prior landlord, (b) bound by any payment of Rent for more than one month in advance, except prepayments in the nature of security for the performance by Tenant of its obligations under this Lease, (c) bound by an amendment or modification of this Lease made after the applicable ground or land lease, mortgage or deed of trust is placed against the Project (and Tenant has been given notice thereof) without the written consent of such trustee, mortgagee, beneficiary or landlord, (d) liable for any act, omission, neglect or default of any prior landlord, except to the extent (and for the time period) that such Successor continues such prior act, omission, neglect or default, or (e) required to make any capital improvements to the Project or the Premises which Landlord may have agreed to make but had not completed, except to the extent expressly called for or required by the terms of this Lease. Tenant shall execute any SNDA presented to it meeting the requirement of this Section 22 within 30 days of Landlord's written request. Notwithstanding the foregoing, the holder of any ground or land lease that may affect all or any portion of the Project or the holder of any mortgage or deed of trust that may encumber all or any portion of the Project may elect at any time to cause their interest in the Project to be subordinate and junior to Tenant's interest under this Lease by filing an instrument in the real property records of Dallas County, Texas effecting such election and providing Tenant with notice of such election.

24. **COMPLIANCE WITH LAWS, RULES AND REGULATIONS**.

24.1. Tenant, at Tenant's own expense, shall comply with all federal, state, municipal, fire underwriting and other Laws applicable to the Premises and the business conducted therein by Tenant. If a controversy arises concerning Tenant's compliance with any Laws applicable to the Premises and the business conducted therein by Tenant, Landlord may retain third-party consultants of recognized standing to investigate Tenant's compliance. If it is reasonably determined by Landlord that Tenant has not complied as required, Tenant shall reimburse Landlord on demand for all consulting and other actual out-of-pocket costs reasonably incurred by Landlord in such investigation, but in no event exceeding $25,000.

24.2. Tenant and Tenant's agents, employees and invitees shall comply fully with all requirements of the rules and regulations of the Building which are attached hereto as **Exhibit "C"** and made a part hereof. Landlord shall at all times have the right to change such rules and regulations or to amend or supplement them in such manner as may be deemed advisable for the safety, care and cleanliness of the Premises and the Building and for preservation of good order therein, all of which rules and regulations, changes and amendments shall be forwarded to Tenant and shall be carried out and observed by Tenant. Tenant shall further be responsible for the compliance with such rules and regulations by the employees, agents and invitees of Tenant. Subject to Landlord's obligations under **Exhibit "H"**, Landlord hereby reserves the right to designate, or otherwise control the allocation of, parking spaces for the Premises. No outside storage or accumulation of supplies, inventory, building materials or debris shall be permitted without prior written consent from the Landlord. Tenant expressly agrees to comply with and conform to all restrictive covenants of record filed or subsequently filed of record affecting the Premises.

24.3. Landlord will be responsible for compliance with all Laws (including the ADA or other applicable Laws pertaining to accessibility of the Premises by disabled or handicapped persons, and all rules, regulations and guidelines promulgated thereunder) for all items it is required to maintain pursuant to Section 9, including without limitation, all core areas and within the Common Areas of the Building, except for any of Tenant's installations within such core areas. The cost of work performed by Landlord to bring areas of the Building and the Project into compliance with future Laws due to changes in legal requirements will be considered an Operating Expense.

Tenant will be responsible for all work necessary in order to bring the Premises and core areas into compliance with Laws (including the ADA or other applicable Laws pertaining to accessibility of the Premises by disabled or handicapped persons, and all rules, regulations and guidelines promulgated thereunder) to the extent such work is necessitated by any installations, additions, or alterations made in or to the Premises at the request of or by Tenant or by the nature of Tenant's use of the Premises, regardless of whether such cost is incurred in connection with retrofit work required in the Premises (including work described in **Exhibit "D"**) or in other areas of the Building (*e.g.*, ADA related improvements required in the Common Areas of the Building resulting from such installations, additions or alterations).

25. **NOTICES**. Any notice which may or shall be given under the terms of this Lease shall be in writing and shall be either delivered by hand, by facsimile (provided the party delivering such notice can deliver proof of confirmation of receipt of such facsimile), deposited with a nationally-recognized overnight courier or sent by United States Mail, registered or certified, return receipt requested, postage prepaid, addressed to the parties herein at their respective addresses set out below, or at such other addresses as either party may have theretofore specified by written notice delivered in accordance herewith. Such address may be changed from time to time by either party by giving notice as provided herein.

LANDLORD	Bayview (TX) Holding, LLC 5055 Keller Springs Road, Suite 300 Addison, Texas 75001 Attn: Property Manager Phone: 972-241-8300 Fax: 972-241-7955
with a copy to:	Andrews Barth & Harrison, PC 8235 Douglas Avenue, Suite 1120 Dallas, Texas 75225 Attn: Stan Barth Phone: 214-369-2929 Fax: 214-691-3070
TENANT:	Inogen, Inc. a Delaware corporation 326 Bollay Drive Goleta, CA 93117 Attn: Matt Scribner Phone: 805-562-0528 Fax: 805-562-0516

Notice shall be deemed given upon actual receipt or refusal.

26. **FINANCIAL STATEMENTS**. Tenant shall, upon request by Landlord, provide current certified financial statements to Landlord during the Term of this Lease. Such financial statements shall be compiled using generally accepted accounting principles.

27. **SPRINKLERS**. If there now is or shall be installed in the Building a sprinkler system, and such system or any of its components shall be damaged or injured or not in proper working order by reason of any act or omission of Tenant, Tenant's agents servants, employees, licensees or visitors, Tenant shall forthwith restore the same to good working condition at Tenant's own expense. If any reconfiguration of the sprinkler system (or any of its components) will be required in connection with the construction of the Tenant Improvement Work, such will be at Tenant's expense (subject the TI Allowance, as provided in **Exhibit "D"**). If the Board of Fire Underwriters or any bureau, department or official of the state or local government require or recommend that any changes, modifications, alterations or additional sprinkler heads or other equipment be made or supplied by reason of Tenant's business, or the location of partitions, trade fixtures or other contents of the Premises, or for any other reason, or if any such changes, modifications alterations, additional sprinkler heads or other equipment become necessary to prevent the imposition of a penalty or charge against the full allowance for a sprinkler system in the fire insurance rate as fixed by the Board of Fire Underwriters, or by any fire insurance company, Tenant shall, at Tenant's expense, promptly make and supply such changes, modifications, alterations, additional sprinkler heads or other equipment

28. **INTENTIONALLY OMITTED**.

29. **COMMON AREA**. The Common Areas, as defined in Section 1.R hereof, shall be subject to Landlord's sole management and control and shall be operated and maintained in such manner as is consistent with Comparable Buildings. Landlord reserves the right to change from time to time the dimensions and location of the Common Areas and to place, construct or erect other improvements on any part of the Land without the consent of Tenant. Tenant, and Tenant's employees and invitees shall have the nonexclusive right to use the Common Areas as constituted from time to time, such use to be in common with Landlord, other tenants of the Building and other persons entitled to use the same, and subject to such reasonable and non-discriminatory rules and regulations governing use as Landlord may from time to time prescribe. Landlord shall have the right to regulate access to cleaning and security areas and to telephone, mechanical, electrical, engineering and other utility closets in the Building and to require use of designated contractors for any work involving access to such areas. Tenant shall not solicit business or display merchandise within the Common Area, or distribute handbills therein, or take any action which would interfere with the rights of other persons to use the Common Area. Landlord may temporarily close any part of the Common Areas for such periods of time as may be necessary to prevent the public from obtaining prescriptive rights or to make repairs or alterations.

30. **BROKERAGE**. Tenant represents and warrants that it has dealt with no other broker or agent in connection with this transaction and that no broker or agent brought about this transaction, other than Tenant's Broker, specified in Section 1.S hereof, and Holt Lunsford Commercial ("Landlord's Broker"), and that Tenant knows of no broker or agent who are or might be entitled to a commission in connection with this Lease. EACH PARTY AGREES TO INDEMNIFY AND HOLD THE OTHER PARTY HARMLESS FROM AND AGAINST ALL COSTS, ATTORNEYS' FEES AND OTHER LIABILITIES FOR COMMISSIONS OR OTHER COMPENSATION CLAIMED BY ANY OTHER BROKER OR AGENT CLAIMING A COMMISSION OR OTHER FORM OF COMPENSATION BY VIRTUE OF HAVING DEALT WITH THE INDEMNIFYING PARTY WITH REGARD TO THIS LEASING TRANSACTION. Landlord has agreed to pay commissions to Tenant's Broker and Landlord's Broker pursuant to separate written agreements. The provisions of this Section 30 shall survive the termination of this Lease.

31. **HAZARDOUS WASTE**.

31.1. The term "Hazardous Substances," as used in this Lease shall mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the use and/or the removal of which is required or the use of which is restricted, prohibited or penalized by any "Environmental Law," which term shall mean any federal, state or local law, ordinance or other statute of a governmental or quasi-governmental authority relating to pollution or protection of the environment; provided, however, such term shall not include minimal quantities of any substance which is technically considered a Hazardous Substance provided (i) such substance is of a type and is held only in a quantity normally used by tenants in connection with the occupancy or office buildings in the geographic market (such as normal office waste, pest control products, cleaning fluids, and, with respect to automobiles in the Parking Areas, motor fuel, oil and other automotive fluids), and (ii) Tenant's use of such substance is for the ordinary performance of Tenant's business and in compliance with all Laws.

31.2. Tenant hereby agrees that (i) no activity will be conducted on the Premises that will produce any Hazardous Substance; (ii) the Premises will not be used in any manner for the storage of any Hazardous Substances; (iii) no portion of the Premises will be used as a landfill or a dump; (iv) Tenant will not install any underground tanks of any type; (v) Tenant will not cause any surface or subsurface conditions to exist or come into existence that constitute, or with the passage of time may constitute a public or private nuisance; (vi) Tenant will not permit any Hazardous Substances to be brought onto the Premises, and if so brought thereon, then the same shall be immediately removed with proper disposal, and all required cleanup procedures shall be diligently undertaken pursuant to all Environmental Laws.

31.3. If Tenant or any Tenant Party so contaminates the Premises, the Building or the Project, then Tenant shall promptly and diligently institute proper and thorough cleanup procedures at Tenant's sole cost, and Tenant agrees to indemnify and hold Landlord harmless from all claims, demands, actions, liabilities, costs, expenses, damages and obligations of any nature arising from or as a result of Tenant's failure to comply with this Section 31 and/or the presence of Hazardous Substances in or on the Premises. The foregoing indemnification and the responsibilities of Tenant shall survive the termination or expiration of this Lease. In the event of a failure of Tenant to comply with the foregoing and after notice to Tenant and a reasonable opportunity for Tenant to effect such compliance, Landlord may, but is not obligated to, enter upon the Premises and take such actions and incur such costs and expenses to effect such compliance as it deems advisable to protect its interest in the Premises; provided, however that Landlord shall not be obligated to give Tenant notice and an opportunity to effect such compliance (i) if such delay might result in material adverse harm to the Premises, the Building or the Project, (ii) if an emergency exists or (iii) in areas of the Project outside of the Premises. Tenant shall reimburse Landlord for the full amount of all actual costs and expenses reasonably incurred by Landlord in connection with such compliance activities.

31.4. Landlord or Landlord's representative shall have the right but not the obligation to enter the Premises, upon 48 hours prior written notice to Tenant (except in the case of an emergency, when no notice is required), for the purpose of determining whether there exists on the Premises any Hazardous Substances or ensuring compliance with all Environmental Laws. The right granted to Landlord herein to perform inspections shall not create a duty on Landlord's part to inspect the Premises, or liability on the part of Landlord for Tenant's use, storage or disposal of Hazardous Substances, it being understood that Tenant shall be responsible for liability in connection therewith.

32. **THEFT OR BURGLARY**. Landlord shall not be liable to Tenant for losses, claims, actions, demands, costs, expenses, damages, or liability of any kind to Tenant's property or personal injury caused by criminal acts or entry by unauthorized persons into the Premises, the Building or the Common Areas and/or arising from the use, occupancy or enjoyment of the Premises by Tenant.

33. **ESTOPPEL CERTIFICATE**. Each party agrees that from time to time upon request by the other party execute and deliver to Landlord, within ten (10) business days after a request therefor, an estoppel certificate stating that (i) this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as so modified), (ii) the dates to which Rent and other charges payable under this Lease have been paid, (iii) that such party is not in default hereunder (or, if Landlord is in default, specifying the nature of such default), (iv) the unexpired Term and (v) such other factual matters pertaining to this Lease as may be requested by

non-requesting party. The non-requesting party shall be liable to the requesting party for any and all damages caused by non-requesting party's failure to timely execute and deliver such estoppel certificate. Tenant agrees that Tenant shall from time to time upon request by Landlord execute and deliver to Landlord an instrument in recordable form acknowledging Tenant's receipt of any notice of assignment of this Lease by Landlord.

34. **BANKRUPTCY AND INSOLVENCY**.

34.1. In the event that Tenant becomes a debtor in a case filed under Chapter 7 of the Bankruptcy Code and Tenant's trustee or Tenant shall elect to assume this Lease for the purpose of assigning the same or, otherwise, such election and assignment may be made only if the provisions of Section 34.2 and 34.4 are satisfied as if the election to assume were made in a case filed under Chapter 11 of the Bankruptcy Code. If Tenant or Tenant's trustee shall fail to elect to assume this Lease within 90 days after the filing of such petition or such additional time as provided by the court within such 90-day period, this Lease shall be deemed to have been rejected. Immediately thereupon, Landlord shall be entitled to possession of the Premises without further obligation to Tenant or Tenant's trustee and this Lease upon the election of Landlord shall terminate, but Landlord's right to be compensated for damages (including, without limitation, liquidated damages pursuant to any provision hereof) or the exercise of any other remedies in any such proceeding shall survive, whether or not this Lease shall be terminated.

34.2. In the event that Tenant becomes a debtor in a case filed under Chapter 11 of the Bankruptcy Code, or in a case filed under Chapter 7 of the Bankruptcy Code which is transferred to Chapter 11, Tenant's trustee or Tenant, as debtor-in-possession, must elect to assume this Lease in whole within 120 days from the date of the filing of the petition under Chapter 11 or the transfer thereto or Tenant's trustee or the debtor-in-possession shall be deemed to have rejected this Lease. In the event that Tenant, Tenant's trustee or the debtor-in-possession has failed to perform all of Tenant's obligations under this Lease within the time periods (excluding grace periods) required for such performance, no election by Tenant's trustee or the debtor-in-possession to assume this Lease, whether under Chapter 7 or Chapter 11, shall be permitted or effective unless each of the following conditions have been satisfied:

(a) Tenant's trustee or the debtor-in-possession has cured all defaults under this Lease, or has provided Landlord with Assurance (as defined below) that it will cure all defaults susceptible of being cured by the payment of money within thirty days from the date of such assumption and that it will cure all other defaults under this Lease which are susceptible of being cured by the performance of any act promptly after the date of such assumption.

(b) Tenant's trustee or the debtor-in-possession has compensated Landlord, or has provided Landlord with Assurance that within thirty days from the date of such assumption, it will compensate Landlord for any actual pecuniary loss incurred by Landlord arising from the default of Tenant, Tenant's trustee, or the debtor-in-possession as indicated in any statement of actual pecuniary loss sent by Landlord to Tenant's trustee or the debtor-in-possession.

(c) Tenant's trustee or the debtor-in-possession has provided Landlord with Assurance of the future performance of each of the obligations of Tenant, Tenant's trustee or the

debtor-in-possession under this Lease, and, Tenant's trustee or the debtor-in-possession shall also (i) deposit with Landlord, as security for the timely payment of Rent hereunder, an amount equal to three installments of Base Rental (at the rate then payable) which shall be applied to installments of Base Rental in the inverse order in which such installments shall become due, provided all the terms and provisions of this Lease shall have been complied with, and (ii) pay in advance to Landlord on the date each installment of Base Rental is payable a pro rata share of Tenant's annual obligations for Additional Rental and other sums pursuant to this Lease, such that Landlord shall hold funds sufficient to satisfy all such obligations as they become due. The obligations imposed upon Tenant's trustee or the debtor-in-possession by this Section shall continue with respect to Tenant or any assignee of this Lease after completion of bankruptcy proceedings.

(d) The assumption of this Lease will not breach or cause a default under any provision of any other lease, mortgage, financing arrangement or other agreement by which Landlord is bound.

For purposes of this Section 34, Landlord and Tenant acknowledge that "Assurance" shall mean no less than: Tenant's trustee or the debtor-in-possession has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that sufficient funds will be available to fulfill the obligations of Tenant under this Lease and (x) there shall have been deposited with Landlord, or the Bankruptcy Court shall have entered an order segregating, sufficient cash payable to Landlord, and/or (y) Tenant's trustee or the debtor-in-possession shall have granted a valid and perfected first lien and security interest in, and/or mortgage on, the property of Tenant, Tenant's trustee or the debtor-in-possession, acceptable as to value and kind to Landlord, to secure to Landlord the obligation of Tenant, Tenant's trustee or the debtor-in-possession to cure the defaults under this Lease, monetary and/or nonmonetary, within the time periods set forth above.

34.3. In the event that this Lease is assumed in accordance with Section 34.2 and thereafter Tenant is liquidated or files or has filed against it a subsequent petition under Chapter 7 or Chapter 11 of the Bankruptcy Code, Landlord may, at its option, terminate this Lease and all rights of Tenant hereunder by giving Tenant notice of election to so terminate within 30 days after the occurrence of any such event.

34.4. If Tenant's trustee or the debtor-in-possession has assumed this Lease pursuant to the terms and provisions of Sections 34.1 or 34.2 for the purpose of assigning (or elects to assign) this Lease, this Lease may be so assigned only if the proposed assignee (the "Assignee") has provided adequate assurance of future performance of all of the terms, covenants and conditions of this Lease to be performed by Tenant. Landlord shall be entitled to receive all cash proceeds of such assignment. As used herein "adequate assurance of future performance" shall mean no less than that each of the following conditions has been satisfied:

(a) The Assignee has furnished Landlord with either (i)(A) a copy of a credit rating of Assignee which Landlord reasonably determines to be sufficient to assure the future performance by Assignee of Tenant's obligations under this Lease, and (B) a current financial statement of Assignee audited by a certified public accountant indicating a net worth and working capital in amounts which Landlord reasonably determines to be sufficient to assure the future

performance by Assignee of Tenant's obligations under this Lease, or (ii) a guarantee or guarantees, in form and substance satisfactory to Landlord, from one or more persons with a credit rating and net worth which Landlord reasonably determines to be sufficient to assure the future performance by Assignee of Tenant's obligations under this Lease.

(b) Landlord has obtained all consents or waivers from others required under any lease, mortgage, financing arrangement or other agreement by which Landlord is bound to permit Landlord to consent to such assignment.

(c) The proposed assignment will not release or impair any guaranty of the obligations of Tenant (including the Assignee) under this Lease.

34.5. When, pursuant to the Bankruptcy Code, Tenant's trustee or the debtor-in-possession shall be obligated to pay reasonable use and occupancy charges for the use of the Premises, such charges shall not be less than the Base Rental, Additional Rental and other sums payable by Tenant under this Lease.

34.6. Neither the whole nor any portion of Tenant's interest in this Lease or its estate in the Premises shall pass to any Trustee, receiver, assignee for the benefit creditors, or any other person or entity, by operation of law or otherwise under the laws of any state having jurisdiction of the person or property of Tenant unless Landlord shall have consented to such transfer. No acceptance by Landlord of Rent or any other payments from any such trustee, receiver, assignee, person or other entity shall be deemed to constitute such consent by Landlord nor shall it be deemed a waiver of Landlord's right to terminate this Lease for any transfer of Tenant's interest under this Lease without such consent.

34.7. Tenant expressly waives any right it might have (i) to offset Rent in any event, or (ii) to terminate this Lease upon the bankruptcy of Landlord.

35. **MISCELLANEOUS**.

35.1. Quiet Enjoyment. Tenant, upon payment of the Rent and performance of the covenants herein contained, shall quietly have, hold and enjoy the Premises subject to the terms and provisions of this Lease, without any manner of hindrance from landlord or persons lawfully claiming through Landlord.

35.2. Liens By Tenant. In no event shall Tenant have the right to create or permit there to be established any lien or encumbrance of any nature against the Premises or the Building for any improvement or improvements by Tenant, and Tenant shall fully pay the cost of any improvement or improvements made or contracted for by Tenant. In addition, Tenant may not pledge as security for a loan any of the leasehold improvements (including any fixtures or accessories to fixtures on the Premises) to the extent paid for with the TI Allowance. Any mechanic's lien filed against the Premises or the Building for work claimed to have been done at the request of Tenant, or materials claimed to have been furnished to Tenant, shall be duly discharged by Tenant within ten days after the filing of the lien. Notwithstanding the foregoing, Tenant shall give Landlord immediate written notice of the placing of any lien or encumbrance against the Premises, Building or Land. In the

event that Tenant shall not, within ten days following notification to Tenant of the imposition of any such lien, cause the same to be released of record by payment or the posting of a bond in amount, form and substance acceptable to Landlord, Landlord shall have, in addition to all other remedies provided herein and by law, the right but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of or defense against the claim giving rise to such lien.

35.3. Attorneys' Fees. If, on account of any breach or default by Tenant of its obligations to Landlord under the terms, conditions and covenants of this Lease, it becomes necessary for Landlord to employ an attorney to enforce or defend any of its rights or remedies hereunder, then Landlord shall be entitled to reasonable attorneys' fees, court costs and related expenses incurred therein, in the event that a court of competent jurisdiction enters a final and non-appealable verdict in Landlord's favor. If, on account of any breach or default by Landlord of its obligations to Tenant under the terms, conditions and covenants of this Lease, it becomes necessary for Tenant to employ an attorney to enforce or defend any of its rights or remedies hereunder, then Tenant shall be entitled to reasonable attorneys' fees, court costs and related expenses incurred therein, in the event that a court of competent jurisdiction enters a final and non-appealable verdict in Tenant's favor.

35.4. Force Majeure. Other than for monetary obligations under this Lease and obligations that can be cured by the payment of money (*e.g.*, maintaining insurance), whenever a period of time is herein prescribed for action to be taken by Landlord or Tenant, Landlord or Tenant shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, terrorist activities, acts of war, governmental actions or inactions or laws, regulations, or restrictions, or any other causes of any kind whatsoever which are beyond the control of Landlord or Tenant, as applicable, and which Landlord or Tenant, as applicable, by the exercise of due diligence, is unable, wholly or in part, to prevent or overcome ("Force Majeure Events").

35.5. Independent Obligations of Tenant. The obligation of Tenant to pay all Rent and other sums hereunder provided to be paid by Tenant and the obligation of Tenant to perform Tenant's other covenants and duties hereunder constitute independent, unconditional obligations to be performed at all times provided for hereunder, save and except only when an abatement thereof or reduction therein is expressly provided for in this Lease and not otherwise. Except for the abatements of Rent expressly set forth in Sections 17 and 19, Tenant waives and relinquishes all rights which Tenant might have to claim any nature of lien against or withhold, or deduct from or offset against any Rent and other sums provided hereunder to be paid Landlord by Tenant. Tenant waives and relinquishes any right to assert, either as a claim or as a defense that Landlord is bound to perform or is liable for the nonperformance of any implied covenant or implied duty of Landlord not expressly herein set forth.

35.6. Time is of the Essence. In all instances where Tenant is required to pay any sum or do any act at a particular indicated time or within an indicated period, it is understood that time is of the essence.

35.7. Recordation. This Lease shall not be recorded by either party without the consent of the other.

35.8. Choice of Law; Exclusive Venue. **THIS LEASE WILL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCEPT AS SUCH LAWS ARE PREEMPTED BY APPLICABLE FEDERAL LAW, WITHOUT REGARD TO ANY CONFLICT OF LAWS RULE OR PRINCIPLE WHICH MIGHT REFER THE CONSTRUCTION OR ENFORCEMENT OF THIS LEASE TO THE LAWS OF ANOTHER JURISDICTION. JURISDICTION AND VENUE FOR ANY ACTION UNDER THIS LEASE WILL BE EXCLUSIVELY IN DALLAS, DALLAS COUNTY, TEXAS.**

35.9. Joint and Several Liability. Subject to Section 21.3 if Tenant is composed of more than one person or entity, each person and/or entity comprising Tenant shall be jointly and severally liable for the performance of the obligations of Tenant under this Lease, including specifically, without limitation, the payment of Rent and all other sums payable hereunder.

35.10. Submission of a Lease Not an Offer. Submission of this Lease for examination does not constitute an offer, right of first refusal, reservation of, or option for, the Premises or any other premises in the Building. This Lease shall become effective only upon execution and delivery by both Landlord and Tenant.

35.11. Authority to do Business. Tenant warrants that Tenant is, and shall remain throughout the Term of this Lease, authorized to do business and in good standing in the State in which the Building is located. Tenant agrees, upon request by Landlord, to furnish Landlord satisfactory evidence of Tenant's authority for entering into this Lease.

35.12. Relationship of the Parties. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of the computation of Rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant

35.13. Use of Language. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires. The captions or headings of Sections in this Lease are inserted for convenience only, and shall not be considered in construing the provisions hereof, if any question of intent should arise.

35.14. Successors. The provisions of this Lease shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties, but this provision shall in no way alter the restriction herein in connection with assignment, subletting and other transfer by Tenant All rights, powers, privileges, immunities and duties of Landlord under this Lease, including, but not limited to, any notices required or permitted to be delivered by Landlord to Tenant hereunder, may, at Landlord's option, be exercised or performed by Landlord's attorney or agent

35.15. Severability. If any term or provision of this Lease shall, to any extent, be held invalid or unenforceable by a final judgment of a court of competent jurisdiction, the remainder of this Lease shall not be affected thereby.

35.16. Waiver of Right to File Tax Protest. Except as otherwise expressly provided in this Lease, **WITH RESPECT TO THE BUILDING OR ANY PORTION THEREOF, TENANT HEREBY WAIVES ALL RIGHTS UNDER SECTIONS 41.413 AND 42.015 OF THE TEXAS TAX CODE OR ANY SIMILAR OR CORRESPONDING LAW: (1) TO PROTEST A DETERMINATION OF APPRAISED VALUE OR TO APPEAL AN ORDER DETERMINING A PROTEST; AND (2) TO RECEIVE NOTICES OF REAPPRAISALS.**

35.17. Laws. "Laws" means all (now existing or hereafter adopted, created or recorded) federal, state and local laws, rules and regulations, all court orders, governmental directives and governmental orders affecting Landlord, the Building, the Project or other persons relating to any of the foregoing or any street, road, avenue or sidewalk comprising a part of or lying in front of the Building or within the Project, including: (i) the Americans with Disabilities Act and the regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto (the "ADA") and any of the foregoing relating to handicapped access to the Premises and the Texas Architectural Barriers Act and any rules and regulations established by the Texas Department of Licensing and Regulation; (ii) the building code of the City of Richardson and the laws, rules, regulations, orders, ordinances, statutes, codes and requirements of any applicable fire rating bureau or other body exercising similar functions; (iii) the certificates of occupancy issued for the Building as then in force; and (iv) any and all terms of any and all easements, covenants, conditions or restrictions of record, declarations or other indentures, documents or instruments of record including deed restrictions or mortgages encumbering the Building

35.18. Approvals. Except as otherwise expressly provided in this Lease, all actions that any party may take and all consents, approvals and determinations that any party may make pursuant hereto may be taken and made at the sole and absolute discretion of that party. A reference to a party acting in its discretion means such party may act in its sole and absolute discretion unless such provision expressly provides for a different standard.

35.19. Waiver of Jury Trial. **TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO.**

35.20. Disclaimer of Suitability. **LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE OR WILL BE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND EXCEPT EXPRESSLY PROVIDED IN SECTIONS 17 AND 19 OF THIS LEASE TENANT'S OBLIGATION TO PAY RENT UNDER THIS LEASE IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS UNDER THIS LEASE, AND, EXCEPT AS OTHERWISE EXPRESSLY**

PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS UNDER THIS LEASE, WHETHER EXPRESS OR IMPLIED.

35.21. "AS IS"; NO WARRANTIES. TENANT ACKNOWLEDGES THAT SUBJECT TO PROVISIONS OF SECTION 7 LANDLORD'S MAINTENANCE AND REPAIR OBLIGATIONS UNDER THIS LEASE AND LANDLORD'S OBLIGATIONS UNDER **EXHIBIT "D"**, (1) IT HAS INSPECTED AND ACCEPTS THE PREMISES IN AN "AS IS, WHERE IS" CONDITION, (2) THE BUILDING AND IMPROVEMENTS COMPRISING THE SAME ARE SUITABLE FOR THE PURPOSE FOR WHICH THE PREMISES ARE LEASED AND LANDLORD HAS MADE NO WARRANTY, REPRESENTATION, COVENANT, OR AGREEMENT WITH RESPECT TO THE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE PREMISES, (3) THE PREMISES ARE IN GOOD AND SATISFACTORY CONDITION, (4) NO REPRESENTATIONS AS TO THE REPAIR OF THE PREMISES, NOR PROMISES TO ALTER, REMODEL OR IMPROVE THE PREMISES HAVE BEEN MADE BY LANDLORD (EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, IF ONE SHALL BE ATTACHED, OR AS IS OTHERWISE EXPRESSLY SET FORTH IN THIS LEASE), AND (5) THERE ARE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED, IMPLIED OR STATUTORY, THAT EXTEND BEYOND THE DESCRIPTION OF THE PREMISES.

37. **NATIONAL SECURITY**.

37.1. Representations and Warranties; Reporting. Tenant hereby represents and warrants to Landlord that neither Tenant, nor any of its beneficial owners or affiliated entities is a Prohibited Person with whom a U.S. Person is prohibited from transacting business of the type contemplated by this Lease, whether such prohibition arises under U.S. Law or the Lists. Tenant further represents and warrants to Landlord that neither Tenant, nor any of its beneficial owners or affiliated entities: (i) is under investigation by any governmental authority for, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist related activities, any crimes which in the U.S. would be predicate crimes to money laundering or any violation of any Anti-Money Laundering Laws; (ii) has been assessed civil or criminal penalties under any Anti-Money Laundering Laws; or (iii) has had any of its funds seized or forfeited in any action under any Anti-Money Laundering Laws. Tenant further represents and warrants to Landlord that Tenant is in compliance with any and all applicable provisions of the Patriot Act. Tenant represents and warrants that it has taken such measures as are required by Law to ensure that the funds used to pay the Rent are derived from permissible sources and transactions that do not violate U.S. Law and, to the extent such funds originate outside the U.S., do not violate the Laws of the jurisdiction in which they originated. If Tenant obtains knowledge that Tenant, or any of its beneficial owners or affiliated entities, or the employees of any such parties, becomes listed on the Lists or is indicted, arraigned or custodially detained on charges involving Anti-Money Laundering Laws, then Tenant shall immediately notify the other party upon receipt of knowledge of such events.

37.2. Definitions. A "Prohibited Person" means an entity, organization or individual that has been designated by U.S. Law or sanction regulations of OFAC as an entity, organization or individual with whom U.S. Persons may not transact business or must limit their interactions to

those approved by OFAC. A "U.S. Person" is a citizen of the United States of America, an entity organized under the Laws of the United States of America, its territories or any of the several states, or any entity having its principal place of business within the United States of America or any of its territories. "List" means any list published by OFAC (including those executive orders and lists published by OFAC with respect to Prohibited Persons), including the Specially Designated Nationals and Blocked Persons list. "OFAC" is the Office of Foreign Assets Control, U.S. Department of the Treasury. "Anti-Money Laundering Laws" are Laws and sanctions, state and federal, criminal and civil, that (1) limit the use of and/or seek the forfeiture of proceeds from illegal transactions; (2) limit commercial transactions with designated countries or individuals believed to be terrorists, narcotics dealers or otherwise engaged in activities contrary to the interests of the United States; or (3) are designed to disrupt the flow of funds to terrorist organizations. Such Laws and sanctions are deemed to include the USA PATRIOT Act of 2001, Pub. L. No. 107-56 (the "Patriot Act"), the Bank Secrecy Act, 31 U.S.C. Section 5311 et. seq., the Trading with the Enemy Act, 50 U.S.C. App. Section 1 et. seq., the International Emergency Economic Powers Act, 50 U.S.C. Section 1701 et seq., and the sanction regulations promulgated by OFAC pursuant thereto, as well as Laws relating to prevention and detection of money laundering in 18 U.S.C. Sections 1956 and 1957.

38. **ENTIRE AGREEMENT**. This Lease with the specific references to written extrinsic documents, is the entire agreement of the parties. No prior representations, warranties, understandings, stipulations, agreements or promises pertaining to this Lease or the Premises shall be binding on Landlord unless such representations, warranties, understandings, stipulations, agreements or promises are expressly stated in this Lease or the document incorporated herein. This Lease may not be altered, waived, amended or extended except by an instrument in writing, signed by both Landlord and Tenant

39. **FURTHER REPRESENTATIONS**. Landlord represents and warrants as of the Effective Date that (a) Landlord has the legal authority to enter into an enforceable lease with Tenant upon the terms described herein, and no additional signatories or consents are required to make this Lease binding and fully enforceable as to Landlord; (b) Landlord is unaware of any encumbrances, liens, agreements or covenants in effect that would limit Tenant's rights hereunder or increase Tenant's obligations under this Lease, and Landlord covenants that it shall not enter into any such documents during the Term of this Lease; (c) Landlord is unaware of any impending condemnation plans, proposed tax assessments or other adverse conditions relating to the Premises, Building or Land; (d) the Premises are in compliance with all applicable Laws in all material respects; (e) there are no proceedings pending or, to the knowledge of Landlord, threatened before any court or administrative agency that would materially adversely affect the financial condition of Landlord, the ability of Landlord to enter into this Lease or the validity or enforceability of this Lease; and (f) there is no provision of any existing mortgage, indenture, contract or agreement binding on Landlord which would conflict with or in any way prevent the execution, delivery or performance of the terms of this Lease.

Tenant represents and warrants as of the Effective Date that (a) Tenant has the legal authority to enter into an enforceable lease with Tenant upon the terms described herein, and no additional signatories or consents are required to make this Lease binding and fully enforceable as to Tenant; (b) there are no proceedings pending or, to the knowledge of Tenant, threatened before any court or

administrative agency that would materially adversely affect the financial condition of Tenant, the ability of Tenant to enter into this Lease or the validity or enforceability of this Lease; and (c) there is no provision of any existing mortgage, indenture, contract or agreement binding on Tenant which would conflict with or in any way prevent the execution, delivery or performance of the terms of this Lease.

40. **PARKING SPACES**. Landlord shall provide, and Tenant shall have the right to use, the Parking Spaces during the Term in accordance with the provisions of **Exhibit "H"**.

41. **EXHIBITS**. Landlord and Tenant agree to the terms of each Exhibit to this Lease. If a Guaranty of Lease is attached hereto, then Tenant agrees to cause the Guarantor(s) to deliver an executed Guaranty of Lease in the form attached to this Lease.

REMAINDER OF PAGE INTENTIONALLY BLANK.
SIGNATURE PAGE(S) FOLLOWS.

EXECUTED as of the day and year first above written.

LANDLORD:

BAYVIEW (TX) HOLDING, LLC,
a Delaware limited liability company

By: Wayzata Investment Partners LLC,
its Manager

By: /s/ Authorized Signatory
Its: Authorized Signatory

TENANT:

INOGEN, INC., a Delaware corporation

By: /s/ Matthew S. Scribner

Name: Matthew S. Scribner

Title: VP Operations

EXHIBIT "A"
to
Lease Agreement

PREMISES

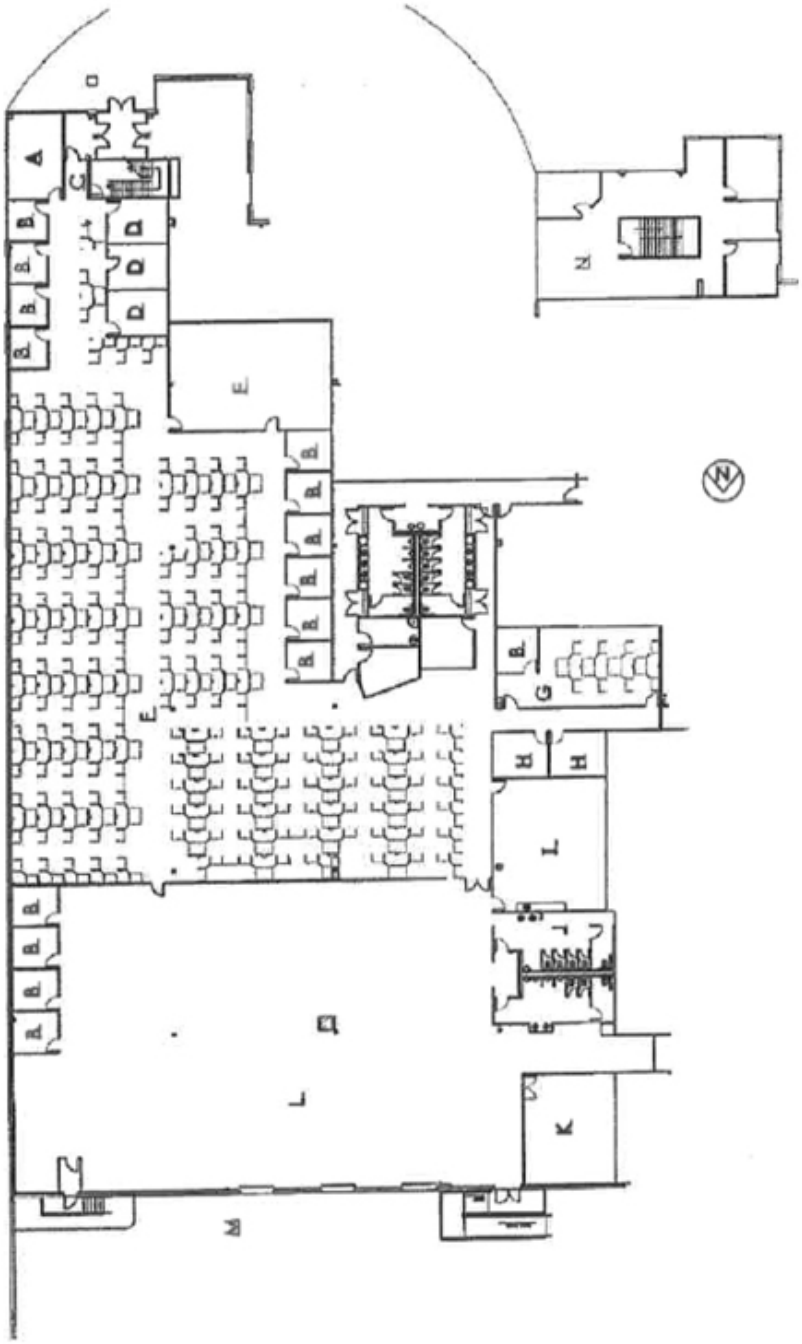


EXHIBIT "B"
to
Lease Agreement

LEGAL DESCRIPTION

As reflected on Landlord's most recent tax bill: LOT 1A, BLOCK A TRACT 1 of Collins Business Park, an addition to the City of Richardson, Texas

EXHIBIT "C"
to
Lease Agreement

BUILDING RULES AND REGULATIONS

The following rules and regulations shall apply to the Premises, the Building, the Land, the Common Areas and the appurtenances thereto:

1. Sidewalks, doorways, vestibules, halls, stairways, and other similar areas shall not be obstructed by tenants or used by any tenant for purposes other than ingress and egress to and from their respective leased premises and for going from one to another part of the Building.

2. Plumbing, fixtures and appliances shall be used only for the purposes for which designed, and no sweeping, rubbish, rags or other unsuitable material shall be thrown or deposited therein. Damage resulting to any such fixtures or appliances from misuse by a tenant or its agents, employees or invitees, shall be paid by such tenant, and Landlord will not in any case be responsible therefor.

3. No signs, advertisements or notices shall be painted or affixed on or to any windows or doors or other part of the Building without the prior written consent of Landlord. No curtains or other window treatments shall be placed between the glass and the Building standard window treatments.

4. Landlord shall provide all door locks in each tenant's leased premises, at the cost of such tenant, and no tenant shall place any additional door locks in the Premises without Landlord's prior written consent. Landlord shall furnish to each tenant a reasonable number of keys to such tenant's Premises at such tenant's cost, and no tenant shall make a duplicate thereof.

5. Landlord may prescribe weight limitations and determine the locations for safes and other heavy equipment or items, which shall in all cases be placed in the Building so as to distribute weight in a manner acceptable to Landlord, which may include the use of such supporting devices as Landlord may require. All damages to the Building caused by the installation or removal of any property of a tenant, or done by a tenant's property while in the Building shall be repaired at the expense of such tenant

6. No birds, pets or animals (except seeing-eye dogs) shall be brought into or kept in, on or about any tenant's Premises. No portion of any tenant's Premises or the Building shall at any time be used or occupied as sleeping or lodging quarters.

7. Tenant shall not make or permit any improper, objectionable or unpleasant noises or odors in the Building, or disturb the other occupants of the Building by the making of unseemly noises, or otherwise interfere in any way with other tenants or persons having business with them.

8. Landlord will not be responsible for lost or stolen personal property, equipment, money or jewelry from the tenant's Premises, the Building or the Common Areas regardless of whether such loss occurs when area is locked against entry or not

9. Tenant shall refer all contractors, subcontractors, representatives and installation technicians to Landlord for Landlord's supervision, approval and control before the performance of any contractual services. This provision will apply to all work performed in the Building, including but not limited to installations of telephones, telegraph equipment, electrical devices and attachments, doors, entrance ways, and any and all installations of every nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment and any other physical portion of the Building.

10. No vehicle(s) will be left in the parking areas for more than a five business day period without the Landlord's prior written consent. No outside storage is permitted.

11. Tenant shall give immediate notice to Landlord in case of any known emergency at the Premises, Building or Land.

12. Tenant shall not place, install or operate in the Premises or in any part of the Building any engine, stove (other than with a microwave oven) or cook thereon or therein, or place or use in or about the Premises any explosives, gasoline, kerosene, oil, acids, caustics or any inflammable, explosive, hazardous materials, fluid or substance without the prior written consent of Landlord.

13. Employees of Landlord shall not receive or carry messages for or to any tenant or other person, nor contract with or render free or paid services to any tenant or tenant's agents, employees or invitees. In the event any of Landlord's employees perform any such services, such employee shall be deemed to be the agent of any such tenant regardless of whether or how payment is arranged for services, and Landlord is expressly relieved from and all liability in connection with any such services and any associated injury or damage to person or property.

14. Tenant and Tenant's employees, agents and invitees shall observe and comply with the driving and parking signs and markers on the premises or parking facilities surrounding the Building.

15. Landlord reserves the right to rescind any of these Rules and Regulations and to make such other further Rules and Regulations as in its judgment will from time to time be needful for the safety, protection, care and cleanliness of the Premises, Building, and the Land the operation thereof, the preservation of good order therein and the protection and comfort of the tenants and their agents, employees, licensees and invitees, which Rules and Regulations, when made and written notice thereof if given to a tenant, will be binding upon it in like manner as if originally set forth herein.

EXHIBIT "D"
to
Lease Agreement

WORK LETTER

Unless otherwise provided in this Exhibit "D" Landlord shall perform the Work (defined below) at Tenant's sole cost and expense, subject, however, to Landlord's application of the TI Allowance to the cost of Tenant's Work as provided herein. Except as set forth in this Exhibit "D", Section 7 of the Lease and Landlord's repair and maintenance obligations under the Lease, Tenant accepts the Premises in their "AS-IS" condition on the date that this Lease is entered into.

1. **Space Plans; Working Drawings**. On or before the Effective Date, Landlord has delivered to Tenant a space plan depicting improvements to be installed in the Premises, which plans were prepared by Tenant's space planner (the "Space Plans"). Tenant has approved the Space Plan, and the cost of the Space Plans shall be deducted from the TI Allowance. Within five days after the Effective Date, Landlord shall cause working drawings to be prepared in accordance with the Space Plans, which working drawings shall include the partition layout, ceiling plan, drawings for any modifications to the mechanical and plumbing systems of the Building, and detailed plans and specifications for the construction of the improvements called for under this Exhibit "D" in accordance with all applicable Laws. Further, if any of Tenant's proposed construction work will affect the Building's heating, ventilation and air conditioning (HVAC), electrical, mechanical, or plumbing systems, then the working drawings pertaining thereto shall be prepared by the Building's engineer of record, whom Landlord shall engage and pay out of the TI Allowance (subject to Paragraph 6 of this Exhibit "D"), for such purpose. Landlord's approval of such working drawings shall not be unreasonably withheld, provided that (a) they comply with all applicable Laws, (b) such working drawings are sufficiently detailed to allow construction of the improvements in a good and workmanlike manner, and (c) the improvements depicted thereon conform to the rules and regulations promulgated from time to time by the Landlord for the construction of tenant improvements (a copy of which has been delivered to Tenant). Upon approval by Landlord, Landlord shall deliver all working drawings to Tenant for review and approval. Within ten days after receipt of the working drawings by Tenant, Tenant shall either approve the working drawings or notify Landlord in writing of the item(s) of the working drawings that Tenant reasonably disapproves and the specific reason(s) therefor. If Tenant reasonably disapproves the working drawings, Landlord shall make the corrections necessary to satisfy Tenant's reasonable concerns, and Landlord shall revise and resubmit same to Tenant for approval (which approval on any such re-submission shall not be unreasonably withheld, conditioned or delayed beyond five business days). The forgoing process shall continue until the working drawings are reasonably approved by Landlord. If Tenant fails to approve or reject such working drawings with such ten business-day period or five business day period (as applicable), Tenant shall be deemed to have approved such working drawings. As used herein, "Working Drawings" shall mean the final working drawings approved by Landlord and Tenant, as amended from time to time by any approved changes thereto, including changes made by Tenant pursuant to Paragraph 4 of this Exhibit "D", and "Work" shall mean

all improvements to be constructed in accordance with and as indicated on the Working Drawings. Approval by Landlord of the Working Drawings shall not be a representation or warranty of Landlord that such drawings are adequate for any use, purpose, or condition, but shall merely be the consent of Landlord to the performance of the Work. Tenant shall, at Landlord's request, sign the Working Drawings to evidence its review and approval thereof. After the Working Drawings have been approved, they may not be modified except in accordance with the change order procedure set forth in Paragraph 4 of this Exhibit "D".

2. **Performance of the Work**. After the Working Drawings have been approved, the Working Drawings will be issued for bid to at least three (3) general contractors approved to do work in the Building. After review of the bids by the Tenant, one general contractor shall be mutually selected by Tenant and Landlord, with each party acting reasonably and in good faith, and awarded the Work by Landlord. Landlord shall enter into a construction contract ("Contract"), reasonably satisfactory to Landlord, with the contractor who Landlord has elected to perform the Work ("Contractor"). The Contractor and all subcontractors shall be required to (a) procure and maintain (i) insurance against such risks, in such amounts, and with such companies as Landlord may require and such insurance policies must name Landlord and Landlord's mortgagee as additional insureds and (ii), if Landlord elects, payment and performance bonds covering the cost of Work and otherwise reasonably satisfactory to Landlord, and (b) perform the Work in a good and workmanlike manner. Landlord or its affiliate shall supervise the Work, make disbursements required to be made to the Contractor, and coordinate the relationship between the Work, the Building and the Building's systems. In consideration for Landlord's construction supervision services, Landlord shall receive a construction supervision fee equal to three (3%) percent of the total cost of the Work (the "Supervision Fee"), which fee shall be payable from the TI Allowance. All improvements installed in the Premises as a part of the Work shall become the property of the Landlord.

3. **Compliance with Laws**. Tenant shall be responsible for and shall indemnify and hold the Landlord Indemnified Parties harmless from and against any and all claims, demands, liabilities, causes of action, suits, judgments and expenses (including reasonable attorneys' fees) incurred by or asserted against any Landlord Indemnified Parties by reason of or in connection with any violation of Law arising out of (a) information or design and space plans furnished to Landlord by Tenant (or the lack of complete and accurate information so furnished which was specifically requested by Landlord or which should reasonably have been provided by Tenant in connection with the creation of the Working Drawings or completion of the Work) concerning the Work, or (b) after the Commencement Date, violations of applicable Law resulting from the Work or the Premises not being in compliance with such Laws as the result of changes in such Law or interpretations thereof not in effect or enforced in general on the Commencement Date. Without limiting the foregoing, if Landlord constructs the Work based on any special requirements or improvements required by Tenant, or upon information furnished by Tenant that later proves to be inaccurate or incomplete resulting in any violation of Laws, Tenant shall be solely liable to correct such violations and to bring the improvements into compliance with Laws as promptly as is practicable; provided, however, any unused balance in the TI Allowance remaining following the completion of the Punch-List Items shall be applied to the cost of

such corrective work and to the extent Tenant has already paid Landlord for such corrective work, Landlord will reimburse Tenant up to the amount of the unused balance of the TI Allowance. Subject to the foregoing provisions of this Paragraph 3, Landlord hereby agrees to cause all Work to be completed in accordance with all applicable Laws in effect as of the Commencement Date.

4. **Change Orders**. Tenant may request changes in the Work. Each such change must be documented by a written change order and such request must receive the prior written approval of Landlord before such change is effective, such approval not to be unreasonably withheld or delayed; however, (a) if such requested change would adversely affect (in the reasonable discretion of Landlord) (i) the Buildings structure or the Buildings systems (including the Buildings restrooms or mechanical rooms), (ii) the exterior appearance of the Building or (iii) the appearance of the Buildings common areas or elevator lobby areas, or (b) if any such requested change might delay the Commencement Date, Landlord may withhold its consent in its sole and absolute discretion. If Landlord approves any Tenant requested changes to the Work described in the Space Plans or the Working Drawings, then any increased costs and any additional design costs incurred in connection therewith as the result of any such change shall be at Tenant's sole cost and expense (subject to Paragraph 6).

5. **Substantial Completion; Delay**. As used herein "Substantial Completion" "Substantially Completed" and any derivations thereof mean that the Work is sufficiently complete (as reasonably determined by Landlord) in substantial accordance with the Working Drawings so that Tenant can reasonably use the Premises for the Permitted Use, even though minor details of construction, decoration and mechanical adjustments remain to be completed by Landlord (such items referred to as "Punch-List Items"). The date of Substantial Completion shall be deemed to be advanced to an earlier date on a day-for-day basis for each day that a Delay exists. As used herein, a "Delay" shall mean any delay in the performance of the Work that occurs because of (a) any change requested by Tenant under Paragraph 4 of this Exhibit "D", (b) Tenant's objection to any reasonable Reimbursement Request, (c) any delay by Tenant in meeting any of the time periods set forth in Exhibit "D" or in this Lease, (d) any delay caused by Tenant using materials, labor, installation methods or an architectural design that Landlord has identified in writing to Tenant on or before the date the contract with the Contractor is entered into as having a reasonable probability of delaying the completion of the Work due to limited supplies or suppliers, length of time to be fabricated or manufactured and delivered or installed, existing or impending labor problems or other foreseeable circumstances, or (e) any other delay caused by Tenant or Tenant's agents, architects, contractors, engineers, or consultants which actually causes delay in the Substantial Completion of the Work.

6. **TI Allowance; Cost of Construction**.

   a. Subject to Tenant's compliance with the terms and conditions of this Exhibit "D", Landlord shall provide to Tenant a construction allowance (the "TI Allowance") equal to the amount specified in Section 1 of this Lease. Tenant shall bear the entire cost of performing the Work (including design of the Work and preparation of the Space Plans and the Working Drawings, costs of construction labor and materials, additional janitorial services, related taxes and insurance costs, all of which costs are herein collectively called the "Total Construction Costs") in excess of the TI Allowance.

b. If Landlord has (i) incurred actual costs and expenses connection with the performance of the Work ("Eligible Costs") in an amount in excess of the TI Allowance and (ii) has presented reasonable supporting documentation to Tenant in connection therewith, then Landlord, from time to time, may submit to Tenant requests for reimbursement of Eligible Costs (each, a "Reimbursement Request"), together with reasonable supporting documentation. Tenant shall pay Landlord the full amount set forth in any Reimbursement Request within 30 days following Tenant's receipt thereof. If Tenant objects to the payment of any reasonable Reimbursement Request, Landlord and Tenant shall work together in good faith to resolve such dispute; however, Tenant shall pay any non-disputed portion of the Reimbursement Request to Landlord in accordance with the preceding sentence.

c. Upon Substantial Completion, Tenant shall pay to Landlord the amount, if any, by which the Total Construction Costs, as the same may be adjusted for any approved changes to Work or any increase in the Total Construction Costs above the originally estimated Total Construction Costs, plus the Supervision Fee exceeds the sum of (i) the amount of the payments already made by Tenant, and (ii) the amount of the TI Allowance. If all of the TI Allowance has been used, then, upon completion of any Punch-List Items, Tenant shall also pay to Landlord the costs incurred in completing all of such Punch-List Items, and Landlord and Tenant shall reconcile and pay to the other any amounts payable pursuant to the terms of this Lease.

7. **Miscellaneous**. To the extent not inconsistent with this Exhibit, Section 9 and Section 10 of this Lease shall govern Landlord's and Tenant's respective rights and obligations regarding the improvements installed pursuant to this Exhibit "D".

EXHIBIT "E"
to
Lease Agreement

INTENTIONALLY DELETED

EXHIBIT "F"
to
Lease Agreement

Provided no Event of Default exists and Tenant is occupying the entire Premises at the time of such election, Tenant shall have the right to renew this Lease for two additional periods of three years (each, an "Extension Option") each on the same terms provided in this Lease (except as set forth below), by delivering written notice of the exercise thereof to Landlord not later than eight months, but no more than twelve months, before the expiration of the Term or extended Term, as applicable. On or before the commencement date of the extended Term, Landlord and Tenant shall execute an amendment to this Lease extending the Term on the same terms provided in this Lease, except as follows:

1. The Base Rental payable for each month during the extended Term shall be the Fair Market Rate;

2. Tenant shall have no further renewal options unless expressly granted by Landlord in writing; and

3. Landlord shall lease to Tenant the Premises in their then-current condition, and Landlord shall not provide to Tenant any allowances (*e.g.*, moving allowance, construction allowance, and the like) or other tenant inducements.

Within 60 days after Tenant timely exercises its Extension Option, Landlord shall notify Tenant in writing of Landlord's determination of the Fair Market Rate for Base Rental payable during the extended Term, and Tenant shall, within 20 days following receipt of Landlord's determination, notify Landlord in writing of Tenant's acceptance or rejection thereof. If Tenant timely notifies Landlord of Tenant's acceptance of Landlord's determination of such Base Rental, then this Lease shall be extended as provided herein and Landlord and Tenant shall enter into an amendment to this Lease to reflect the extension of the Term and changes in Base Rental in accordance with this Exhibit. If (i) Tenant timely notifies Landlord in writing of Tenant's rejection of Landlord's determination of the Base Rental payable during the extended Term or (ii) Tenant does not notify Landlord in writing of Tenant's acceptance or rejection of Landlord's determination of such Base Rental within such 20-day period, then this Lease shall expire by its terms on the last day of the initial Term, and Landlord shall have no further obligations or liability under this Lease.

Tenant's rights under this Exhibit shall terminate if this Lease or Tenant's right to possession of the Premises is terminated, Tenant assigns any of its interest in this Lease or sublets any portion of the Premises, or Tenant fails to timely exercise its option under this Exhibit, time being of the essence with respect to Tenant's exercise thereof.

The "Fair Market Rate" shall be that rate charged to tenants for space in Comparable Buildings, further taking into consideration the following: (i) the location, quality and age of the building; (ii) the use, location, size and floor level(s) of the space in question; (iii) the definition of "rentable square feet"; (iv) the extent of leasehold improvements; (v) abatements (including with

respect to base rental, operating expenses and real estate taxes, and parking charges), or inducements being provided to Tenant; (vi) lease takeovers/assumptions; (vii) relocation/moving allowances; (viii) other concessions or inducements, (ix) extent of services provided or to be provided; (x) distinction between "gross" and "net" lease; (xi) base year or dollar amount for escalation purposes (both operating expenses and ad valorem/real estate taxes) in the case of "gross" leases; (xii) any other adjustments (including by way of indexes) to base rental; (xiii) credit standing and financial stature of the tenant; (xiv) term or length of lease; (xv) the time the particular rental rate under consideration was agreed upon and became or is to become effective; (xvi) the pro rata portion of any costs associated with the need to re-configure space that was previously occupied by a single tenant into multi-tenant space; and (xvii) and any other relevant term or condition in making such Fair Market Rate determination.

EXHIBIT "G"

to

Lease Agreement

INTENTIONALLY DELETED

EXHIBIT "H"
to
Lease Agreement

PARKING SPACES

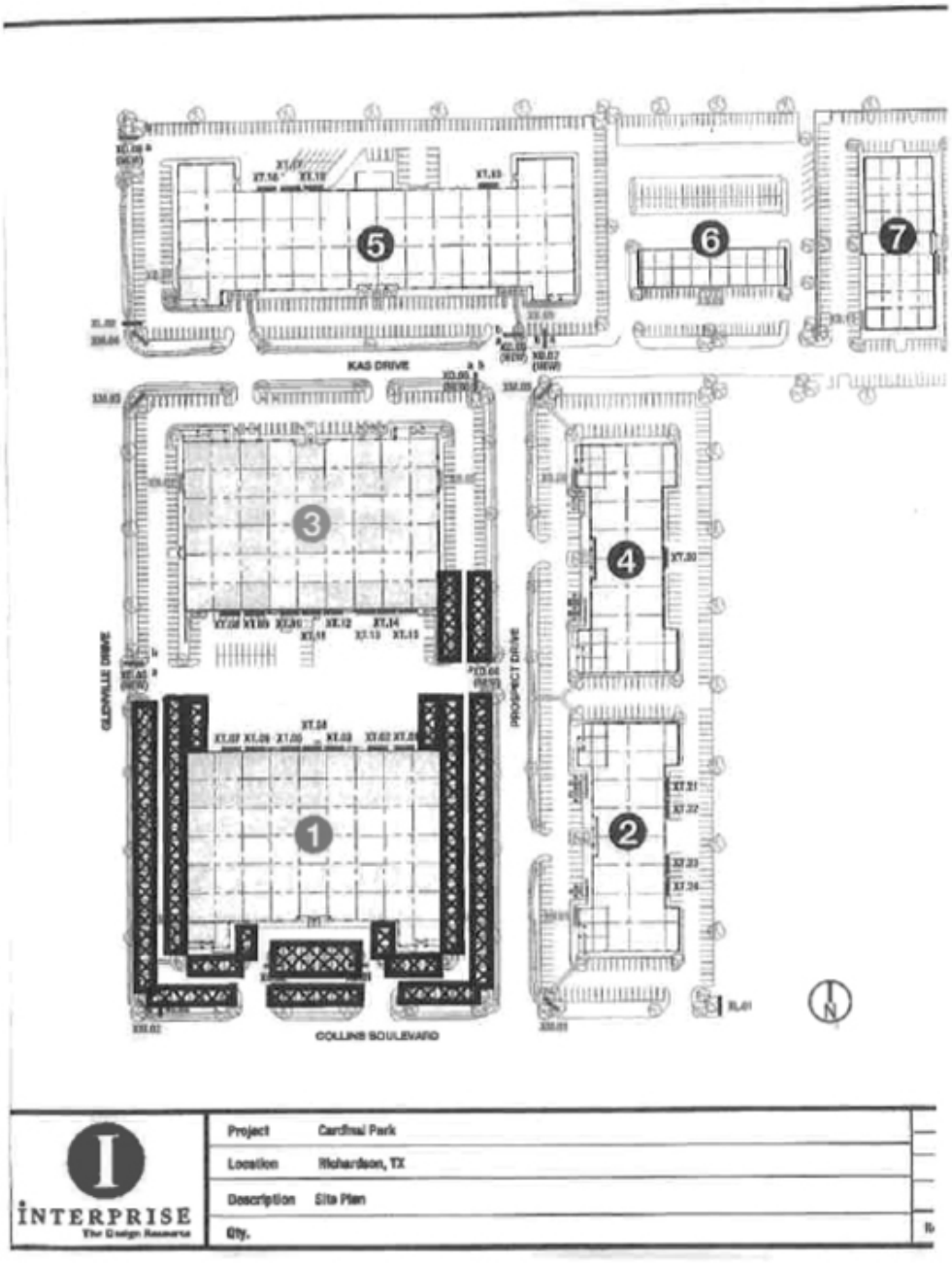
Subject to the terms of this Exhibit "H", Tenant (and Tenant's invitees) may use, and Landlord agrees to furnish, the number of Parking Spaces, set forth in Section 1 of this Lease on the surface parking lots designated by Landlord for use by tenants of the Building ("Parking Area"). Tenant's use of the Parking Spaces shall be on a non-exclusive, first-come first-serve basis. Subject to the terms of this Exhibit "H", Tenant may access the Parking Spaces in the Parking Area 24 hours per day, seven days per week.

If the Parking Spaces are not available to Tenant during any portion of the Term due to causes beyond the reasonable control of Landlord (including without limitation, as the result of a casualty or condemnation) this Lease shall continue without abatement of Rent and Landlord shall use reasonable efforts to make available to Tenant sufficient substitute parking spaces (in the amount of those spaces not available to Tenant) in the Project. Landlord shall use reasonable efforts to ensure that the Parking Spaces are available to Tenant throughout the Term. If Landlord fails to provide the Parking Spaces in accordance with this Exhibit "H" and such failure continues for 30 consecutive days after receipt by Landlord of written notice from Tenant, then Tenant, as its sole and exclusive remedy in connection with such failure, Tenant shall be entitled to a pro rata abatement of Rent (based on the number of Parking Spaces that are not available to Tenant) from and after the expiration of the foregoing 30 day period until the applicable Parking Spaces are provided for Tenant's use as required hereunder. The pro rata abatement of Rent shall be calculated by multiplying the Rent by the ratio of (A) the number of Parking Spaces that are not available to Tenant (but which Landlord is to provide pursuant to this Exhibit "H") by (B) the total number of Parking Spaces that Landlord is required to provide pursuant to this Exhibit "H". Landlord does not reserve or allocate parking spaces at the Premises nor guarantee its availability on a daily basis; however, Landlord shall not grant any other party parking rights inconsistent with the rights granted to Tenant in this Exhibit "H".

Landlord may elect to establish parking zones in the Parking Areas. Landlord reserves the right upon written notice posted in the Parking Areas to temporarily close the Parking Areas, or portions thereof, to make any repairs or alterations that Landlord may deem appropriate; provided, however, Landlord shall be obligated to provide substitute parking in accordance with the third paragraph of this Exhibit "H" during any such closures, repairs or alterations

Unless caused by the gross negligence or intentional tort of Landlord, Landlord shall have no liability whatsoever for any property damage, loss or theft or personal injury that might occur as a result of or in connection with the use of the Parking Areas by Tenant or any Tenant Party. Tenant shall not have the right to assign its parking rights under this Exhibit "H" to any person, but Tenant shall have the right to make a pro rata portion of its Parking Spaces available to any assignee or subtenant pursuant to an approved Transfer. Tenant shall use reasonable efforts to cause any such approved assignee and subtenant to comply with the rules and regulations for the Parking Areas, and Tenant shall be responsible for the failure of any such approved assignee and subtenant to comply with such rules and regulations.

EXHIBIT "H-1"
to
Lease Agreement



ACKNOWLEDGEMENT OF COMMENCEMENT DATE

LANDLORD: Bayview (TX) Holding LLC

TENANT: Inogen, Inc.

ADDRESS: 1125 East Collins, Suite 200, Richardson, TX 75081

Landlord and Tenant are the parties to the Lease Agreement dated April, 2012 (the "Lease Agreement") and all capitalized terms used in this Acknowledgement are as defined in the Lease.

Landlord has tendered possession of the Premises to Tenant, and the Commencement Date is June 19, 2012. The term of the Lease will commence on the Commencement Date and will end at 5:00 pm on December 31, 2019.

Tenant acknowledges that Landlord has fulfilled all of Landlord's obligations regarding construction of improvements in the Premises.

As stated in the Lease, Basic Rental is as follows:

June 19, 2012 — December 18, 2012	$ 0.00
December 19-31, 2012	$ 8,723.70
January 1, 2013 — December 31, 2013	$20,802.67
January **1,** 2014 — December 31, 2014	$22,102.83
January 1, 2015 — December 31, 2015	$24,053.08
January 1, 2016 — December 31, 2016	$24,703.17
January 1, 2017 — December 31, 2019	$26,003.33

Landlord acknowledges that a security deposit in the amount of $26,003.33 is held along with prepaid rent for January 2013. Pro-rated rent for December will be due December 1, 2012 in the amount of $8,723.70.

Please remit all payments to: Bayview Holding, LLC
P.O. Box 731664
Dallas, TX 75373-1664

If you choose to pay amounts due in connection with your lease by ACH or wire transfer,

please use the following payment information:

Bank: JPMorgan Chase Bank
ABA No.: 021000021
Account Name: Bayview Holding, LLC
Account Number: 958181703
Reference: [Tenant Name]

Landlord requests from Tenant a certificate evidencing combined single limit insurance coverage of $2,000,000 and naming Landlord as "Additional Insured", as required by Section 12.3 of the Lease. Tenant acknowledges that it will be required to furnish Landlord with a new certificate each time any change in coverage occurs and prior to the expiration of the term of each existing certificate.

ACKNOWLEDGED this 20th day of July, 2012.

TENANT:

Inogen, Inc.

By: _____

Title: CFO

Date: 7/31/2012

OWNER:

Bayview (TX) Holding LLC
BY: Holt Lunsford Commercial, Inc.
AS AUTHORIZED SIGNATORY

By: _____

Title: Property Manager

Date: 7-20-12

Exhibit 10.19

203-304-P-A

LICENSE AGREEMENT

This Agreement is entered into as of 23 July 2007 ("Effective Date"), by and between AIR PRODUCTS AND CHEMICALS, INC. ("AIR PRODUCTS"), a corporation organized and existing under the laws of the State of Delaware and having its principal office at 7201 Hamilton Boulevard, Allentown, PA 18195, and INOGEN, INC. ("INOGEN"), a corporation organized under the laws of the State of Delaware and having a place of business at 326 Bollay Drive, Goleta, CA 93117.

WHEREAS, AIR PRODUCTS and INOGEN have entered into a Confidential Disclosure Agreement having an effective date of 6 November 2006, referred to herein as "CDA".

WHEREAS, AIR PRODUCTS has developed and acquired AP Technology for a portable medical oxygen concentrator, some of which AIR PRODUCTS has disclosed to INOGEN under the terms of the CDA;

WHEREAS, AIR PRODUCTS agrees to provide Technical Support to INOGEN for two years;

WHEREAS, INOGEN plans to use AP Technology and AIR PRODUCTS' Technical Support for new product development or to make improvements to INOGEN's existing products;

WHEREAS, INOGEN desires to exclusively license AP Technology in the Field;

WHEREAS, AIR PRODUCTS is under no obligation to a third party that would interfere with AIR PRODUCTS entering into this Agreement, and complying with all the terms and conditions of this Agreement;

WHEREAS, INOGEN is under no obligation to a third party that would interfere with INOGEN entering into this Agreement and complying with all the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth in this Section 1, or the meaning ascribed to them in the referenced Section.

1.1 **Affiliate** — as to either Party, means any other person or party which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Party. For purposes of this definition, control shall mean the power to direct or cause the direction of the management and policies of a Party, either by ownership of voting stock, by contract or otherwise.

1.2 **AP Developed Technology** — means Developed Technology that is created solely by employees, agents or contractors of AIR PRODUCTS with obligations to assign their rights to AIR PRODUCTS.

1.3 **AP Technology** — means the patents and patent applications and their foreign equivalents listed in Appendix A, including any divisionals, re-exams, continuations, continuations-in-part, reissues, renewals and extentions of those patents and patent applications, and the Know How listed in Appendix B. Know How disclosed by AIR PRODUCTS to INOGEN after the Effective Date shall be reduced to writing and added to Appendix B. Notwithstanding anything to the contrary in this Agreement, except for the Prototype described in Appendix B, disclosures of Know How after the Effective Date of this Agreement shall be made at AIR PRODUCTS' discretion.

1.4 **Contact Persons** — means the individual employees identified in Section 8.

1.5 **Developed Technology** — means any Technology created after the Effective Date of the CDA that is an Improvement to AP Technology.

1.6 **Field** — means the oxygen concentrator market for human respiratory use, wherein the oxygen concentrator produces up to 10 liters/minute oxygen-rich gas with an oxygen content of less than 96% by volume of the oxygen-rich gas.

1.7 **Improvement** — means a patented invention or idea, the practice of which infringes or would infringe one or more claims of the patents or patent applications (if issued) that are part of AP Technology.

1.8 **INOGEN Developed Technology** — means Developed Technology that is created solely by employees, agents or contractors of INOGEN.

1.9 **Jointly Developed Technology** — means Technology that is conceived by at least one employee, agent or contractor of each of the Parties.

1.10 **Party or Parties** — means either or both of AIR PRODUCTS and INOGEN.

1.11 **Technology** — means any invention, design, method, material, process, formula, know-how, algorithms, copyrightable works, whether patentable or not, or patented or not, and all intellectual property rights thereto and therein.

1.12 **Term** — defined in Section 12 herein.

1.13 **Territory** — means worldwide.

2. LICENSE

2.1 For the Term of this Agreement and subject to the terms and conditions of this Agreement, AIR PRODUCTS grants to INOGEN and its Affiliates a revocable, nontransferable, exclusive license to AP Technology with the right to grant sublicenses thereunder, to make, have made, use, sell, have sold, import and have imported products and processes inside the Field and within the Territory.

2.2 For the Term of this Agreement, as long as the license grant in Section 2.1 remains an exclusive license, AIR PRODUCTS grants to INOGEN and its Affiliates an exclusive revocable, nontransferable license to AP Developed Technology with the right to grant sublicenses thereunder, to make, have made, use, sell, have sold, import and have imported products and processes inside the Field and within the Territory. For the Term of this Agreement, if the license granted in Section 2.1 becomes a nonexclusive license, then the exclusive license that AIR PRODUCTS granted to INOGEN and its Affiliates to AP Developed Technology (in the first sentence of this Section 2.2) shall become a non-exclusive license.

2.3 AIR PRODUCTS shall maintain the patents and patent applications listed in Appendix A for the Term of the Agreement while the license in Section 2.1 remains exclusive; however, AIR PRODUCTS does not guarantee that any or all of the pending patent applications and/or pending claims in those patent applications will issue as patents. AIR PRODUCTS agrees to prosecute the pending applications listed in Appendix A through to a final rejection in the USPTO, or equivalent in another patent office, but shall not be obligated to continue the prosecution of a patent application after receipt of a final rejection, or equivalent, from any patent office. The foreign prosecution of the pending foreign patent applications listed in Appendix A shall be done solely within AIR PRODUCTS' discretion.

2.4 The aforesaid license grants of Section 2.1 and 2.2 are subject to the rest of the terms and conditions of this License Agreement and a reserved nonexclusive right of AIR PRODUCTS to AP Technology and AP Developed Technology inside the Field, within the Territory, for research and development purposes. As further consideration for AIR

PRODUCTS to disclose and license the AP Technology and AP Developed Technology to INOGEN, INOGEN warrants and represents that INOGEN will not use AP Technology and AP Developed Technology for any purpose other than in furtherance of improving, making, having made, using, selling, having sold, importing and/or having imported products and processes in the Field. Any unauthorized use hereunder shall constitute a material breach of this Agreement.

2.5 INOGEN grants to AIR PRODUCTS and its Affiliates a paid-up, royalty-free, perpetual, irrevocable, nonexclusive license to Jointly Developed Technology that is owned by INOGEN, and INOGEN Developed Technology, with the right to sublicense, to make, have made, use, sell, have sold, import and have imported products and processes, outside the Field and inside the Territory.

3. CONSIDERATION

3.1 In consideration of the licenses granted in Section 2 to INOGEN, INOGEN shall pay to AIR PRODUCTS ten thousand US dollars (US $10,000) due at the time of executing this Agreement.

3.2 Further, in consideration of the licenses granted in Section 2 to INOGEN, INOGEN shall issue and grant to AIR PRODUCTS 3,424,658 shares of INOGEN's Series D Convertible Preferred Stock (the "Shares"). Simultaneously with the execution of this Agreement, INOGEN shall cause AIR PRODUCTS to become party to a Joinder Agreement in the form attached hereto as Exhibit A (the "Joinder Agreement"), pursuant to which Air Products shall become a party to that certain Fifth Amended and Restated Investors' Rights Agreement, Fourth Amended and Restated Right of First Refusal and Co-Sale Agreement, and the Fourth Amended and Restated Voting Agreement (collectively, the "Investor Agreements"), each of which is attached hereto as Exhibit B, and pursuant to which AIR PRODUCTS will obtain certain investor rights (such as registration, information, right of first refusal and co-sale, drag-along, and other rights as described therein). INOGEN hereby represents and warrants to AIR PRODUCTS that the statements in the following subsections of this Section 3.2 are all true and correct as of the date hereof:

3.2.1. Immediately prior to the consummation of the transactions contemplated hereby, the authorized and outstanding capital stock of the Company will consist of the following:

(a) A total of 100,000,000 shares of common stock, $0.001 par value per share (the "Common Stock"), of which 7,134,254 shares are issued and outstanding.

(b) A total of 84,269,152 shares of preferred stock, $0.001 par value per share, of which (i) 2,000,000 shares are designated as Series A Preferred Stock, all of which are issued and outstanding; (ii) 12,765,693 shares are designated as Series B Preferred Stock, 12,692,823 of which are issued and outstanding; (iii) of which 11,508,230 shares are designated as Series C Preferred Stock, 10,238,908 of which are issued and outstanding; and (iv) of which 48,582,878 shares are designated as Series D Preferred Stock, 41,192,635 of which are issued and outstanding and (v) 9,412,351 shares are designated as Series D-1 Preferred stock, none of which are issued or outstanding. The rights, preferences and privileges of the preferred stock are as stated in the Amended and Restated Certificate of Incorporation attached hereto as Exhibit C (the "Charter").

(c) INOGEN has reserved 10,411,000 shares of Common Stock for issuance under the Company's Incentive Stock Option Plan (the "Incentive Plan"). Except as set forth on the capitalization table attached hereto as Exhibit D, there are no outstanding options, warrants, rights (including conversion, preemptive rights or similar rights), or agreements for the purchase or acquisition from INOGEN of any shares of its capital stock or any securities convertible into or ultimately exchangeable or exercisable for any shares of INOGEN's capital stock. Except as set forth on the capitalization table set forth on Exhibit D, and the Investor Agreements, no shares of INOGEN's outstanding capital stock, or stock issuable upon exercise or exchange of any outstanding options, warrants or rights, or other stock issuable by INOGEN, are subject to any rights of first refusal or other rights to purchase such stock (whether in favor of INOGEN or any other person), pursuant to any agreement or commitment of INOGEN.

(d) Except for the Investor Agreements, INOGEN is not a party or otherwise subject to any stockholders agreement or other agreement or understanding, and there is no such agreement or understanding between any persons or entities, which affects or relates to the registration of any securities of INOGEN or to the voting or giving of written consents by a director of INOGEN or with respect to any capital stock of INOGEN.

(e) The capitalization table set forth on Exhibit D includes a complete list of all stockholders, option holders, warrant holders, convertible note holders and other security holders of INOGEN as of immediately prior to the consummation of the transactions contemplated hereby, together with a description of the securities held by each such stockholder. The capitalization table includes complete list of all stockholders, option holders, warrant holders, convertible note holders and other security holders of INOGEN after giving effect to the transactions contemplated hereby.

3.3 If, prior to January 1, 2011, (i) there has not occurred a "Liquidation Event", as described in Section 4.2.2(g) of Inogen's Seventh Amended and Restated Certificate of Incorporation, as the same may be amended from time to time (the "Certificate of Incorporation"), pursuant to which AIR PRODUCTS receives gross proceeds of at least seven million five hundred thousand US dollars (US $7,500,000), or (ii) AIR PRODUCTS has not received the Base Amounts (as defined hereinafter) by the Payment Dates (as defined hereinafter), then, upon the request of AIR PRODUCTS, INOGEN (at its option) shall perform one of the following four options:

3.3.1 pay to AIR PRODUCTS a one-time fee of six hundred thousand US dollars (US $600,000), upon which this Agreement shall automatically terminate; or

3.3.2 pay to AIR PRODUCTS a one-time fee of eight hundred fifty thousand US dollars (US $850,000), upon which the license granted in Section 2.1 shall become a non-exclusive, paid-up license for the Term; or

3.3.3 repurchase the Shares from AIR PRODUCTS for seven million five hundred thousand US dollars (US $ 7,500,000), upon which the license granted in Section 2.1 shall be deemed paid-up for the Term; or

3.3.4 pay to AIR PRODUCTS an annual fee of seven hundred fifty thousand US dollars ($750,000) in advance (each, an "Annual Advance") on or before January 31st of each year beginning with January 31, 2011 for the remaining Term.

3.4 If INOGEN elects to pay the Annual Advances pursuant to Section 3.3.4, and, thereafter a Liquidation Event occurs pursuant to which AIR PRODUCTS receives gross proceeds of less than seven million five hundred thousand US dollars (US $7,500,000), then INOGEN shall have the right to fully pay up the exclusive license granted in Section 2.1 for the Term of the Agreement by making a one-time payment to AIR PRODUCTS equal to the positive difference between seven million five hundred thousand US dollars (US $7,500,000) and the sum of (i) the gross proceeds received by AIR PRODUCTS in connection with such Liquidation Event and (ii) any unused prorated portion of an Annual Advance.

3.5 INOGEN shall retain the exclusive license granted in Section 2.1 for the Term of this Agreement if on or before the dates set forth below (the "Payment Dates") either:

(i) there is a Liquidation Event pursuant to which AIR PRODUCTS receives gross proceeds of at least the "Base Amount" within the Payment Date ranges as defined in Table I below, or

(ii) Inogen elects to repurchase Air Products' Shares (the "Repurchase Option") for a purchase price equal to an amount which Air Products would receive gross proceeds of at least the Base Amounts according to the following Payment Dates (and in such event Air Products would be obligated and required to sell its Shares to Inogen or its assignees for such Base Amounts):

Table I

Base Amounts in US dollars	Payment Date
$5,400,000	On or before December 31, 2008
$6,400,000	At any time between January 1, 2009 and December 31, 2009
$7,500,000	At any time between Janaury 1, 2010 and December 31, 2010

If on or before the Payment Dates there is a Liquidation Event pursuant to which AIR PRODUCTS receives gross proceeds of less than the applicable Base Amounts, INOGEN shall have the right to pay up the exclusive license granted in Section 2.1 for the Term of the Agreement by making a one-time payment to AIR PRODUCTS equal to the positive difference between the applicable Base Amounts and the gross proceeds received by AIR PRODUCTS in connection with such Liquidation Event.

3.6 INOGEN shall have the right to repurchase the Shares at any time at a price of $2.92 per share, subject to proportionate investment if INOGEN consummates a stock split, stock combination, reorganization or similar event.

3.7 From and after the date of this Agreement, upon the request of AIR PRODUCTS, INOGEN shall execute and deliver such instruments, documents or other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Section 3.

3.8 Inogen may exercise its Repurchase Option by giving Air Products written notice thereof. The repurchase price for the Shares shall be equal to the applicable Base Amount, as determined pursuant to Section 3.5 above, and shall be payable by check in immediately available funds or wire transfer. In the event that INOGEN has elected to exercise the Repurchase Option as to the Shares, Air Products shall deliver to INOGEN certificate(s) representing the Shares to be acquired by Inogen within ten (10) days following the date of the notice from Inogen. Inogen shall deliver to Air Products against delivery of the Shares, checks or wire transfers of Inogen payable to Air Products obligated to transfer the Shares in the aggregate amount of the purchase price to be paid as set forth in Section 3.5 above. For

purposes of determining the applicable Base Rate, Inogen shall be deemed to have exercised its Repurchase Option at the time of providing written notice thereof to Air Products. All rights with respect to such Shares following the exercise of the Repurchase Option shall no longer be deemed to be outstanding and held by Air Products and all rights with respect to such Shares shall immediately cease and terminate, except only the right of Air Products to receive the applicable Base Amount. From and after the date of this Agreement, upon the request of Inogen, Air Products shall execute and deliver such instruments, documents or other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Section 3.

4. TECHNICAL SERVICES

4.1 Employees of INOGEN and AIR PRODUCTS shall attend two on-site meetings per year for two years from the Effective Date. One meeting per year will be held at AIR PRODUCTS in Allentown, PA and the other meeting per year will be held at INOGEN in Santa Barbara, CA. Each party is responsible for its own costs. The first meeting will be scheduled upon execution of this Agreement. AIR PRODUCTS shall deliver the Prototype described in Appendix B, to INOGEN at or prior to such first meeting. After the first two years from the Effective Date, subsequent meetings will be arranged upon mutual agreement by the Parties.

4.2 AIR PRODUCTS shall provide up to one hundred seventy (170) person-hours per year of technical support services to INOGEN for product development in the Field for the first 2 years of this Agreement for a maximum total of three hundred and forty (340) person-hours. Reasonable lead time will be necessary to schedule the technical support services.

4.3 Any additional technical services requested by INOGEN during the first 2 years of the Term of this Agreement may be provided by AIR PRODUCTS, at AIR PRODUCTS' discretion, at a rate of two hundred and fifty dollars (US $250) per person-hour.

5. DEVELOPED TECHNOLOGY

5.1 INOGEN shall own INOGEN Developed Technology and it shall be licensed to AIR PRODUCTS in accordance with Section 2.5.

5.2 AIR PRODUCTS shall own AP Developed Technology and it shall be licensed to INOGEN in accordance with Section 2.2.

5.3 INOGEN shall own and AIR PRODUCTS shall assign to INOGEN any and all of the Jointly Developed Technology with AIR PRODUCTS having the license rights granted in Section 2.5, provided that such ownership may shift to AIR PRODUCTS if INOGEN chooses

not to file patent applications and/or AIR PRODUCTS files patents or patent applications to protect some of the Jointly Developed Technology in accordance with this Section 5.3 or Section 5.4. Before INOGEN files any patent application(s) to protect Jointly Developed Technology, INOGEN shall provide AIR PRODUCTS with up to thirty (30) days to review each patent application. AIR PRODUCTS may elect to file its own patent application(s) to further protect the invention, e.g. for use of the invention outside the Field, and if so shall provide Notice to INOGEN of its desire to file patent application(s) prior to the end of the thirty (30) day review period. Upon receiving Notice, INOGEN shall provide AIR PRODUCTS with sixty (60) additional days to prepare its own patent application. The Parties shall coordinate the filing of their patent applications so that neither Party creates prior art against the other Party's patent application(s). INOGEN agrees to assign the patents filed by AIR PRODUCTS covering Jointly Developed Technology to AIR PRODUCTS. Alternatively, after AIR PRODUCTS' review of INOGEN's patent application(s), AIR PRODUCTS may suggest claims which improve the application, with the understanding that INOGEN is under no obligation to include the suggested claims in the patent filing.

5.4 If AIR PRODUCTS desires to file a patent covering Jointly Developed Technology which is not patented by INOGEN, AIR PRODUCTS shall provide Notice to INOGEN's Contact Person identifying the portion of the Jointly Developed Technology that AIR PRODUCTS desires to patent. INOGEN's Contact Person shall respond in writing to AIR PRODUCTS within 30 days of receiving the request whether or not it elects or does not elect to protect the portion of the Jointly Developed Technology. If INOGEN elects not to protect the portion of the Jointly Developed Technology that AIR PRODUCTS would like to protect, then AIR PRODUCTS may file patents or patent applications to protect that portion of the Jointly Developed Technology. (If INOGEN elects to file patent(s) to protect that portion of the Jointly Developed Technology, then Section 5.3 controls.) If INOGEN does not elect to protect that portion of the Jointly Developed Technology, AIR PRODUCTS shall give INOGEN an opportunity to review the application and suggest claims which improve the application, with the understanding that AIR PRODUCTS is under no obligation to include the suggested claims in the patent filing. INOGEN shall submit its comments on the application, if any, within 30 days of its receipt of the application for its review. INOGEN shall assign the patent application(s) filed by AIR PRODUCTS under this Section 5.4 to AIR PRODUCTS. AIR PRODUCTS hereby grants to INOGEN and its Affiliates a perpetual, irrevocable, paid-up, royalty free, non-exclusive license under these patents to make, have made, use, sell, have sold, import and have imported products and processes in the Field, and within the Territory, with the right to sublicense.

5.5 INOGEN and AIR PRODUCTS agree to promptly execute patent application documents and assignment(s) to vest title of patent application(s) in AIR PRODUCTS or INOGEN, as defined in Sections 5.3 and 5.4. Additionally the Parties agree to assist with prosecution of the patent application(s) if requested by the filing Party. The filing Party to whom the patent or patent application is assigned is responsible for all of the costs for preparing, filing, prosecuting and maintaining the patent and patent application.

5.6 Except as described earlier in this Section 5, each Party shall have the first option at its own cost as to whether it shall file, prosecute, institute suit for or defend against infringement, recover damages and/or maintain any patents, patent applications or other intellectual property registrations, in any country, for the Jointly Developed Technology owned by that Party. Both Parties shall maintain written records of its work for use as invention records and shall submit such records to the other Party when requested.

5.7 Except as expressly stated herein, each Party reserves all rights, title and interest in any of its Technology, without any obligation to account to the other Party. Without limiting the generality of the foregoing, except as expressly provided elsewhere in this Agreement, no right, license or interest of any kind is granted by either Party to the other with respect Technology owned by AIR PRODUCTS or Technology owned by INOGEN, respectively. Notwithstanding anything to the contrary herein, upon the termination of this Agreement, other than a termination in accordance with Section 12.1, AIR PRODUCTS and its Affiliates shall have the right to make, have made, use, import, have imported, sell and have sold AP Technology, or sublicense any or all of those rights to a third party in any field and any territory. If this Agreement is terminated other than in accordance with Section 12.1, any intellectual property rights owned by INOGEN created or filed after the execution of the CDA that are infringed by the making, using, selling or importing of AP Technology shall be automatically perpetually, and irrevocably licensed to AIR PRODUCTS, with the right to sublicense, for making, having made, using, selling, having sold, importing or having imported products and processes, within any field and territory, on a paid-up and royalty-free basis.

5.8 If either Party chooses to abandon any patent or patent application filed to protect the Jointly Developed Technology, that Party shall offer the patent or patent application to the other Party at least thirty (30) days prior to the abandonment of the patent or patent application. However, failure to offer the patent or patent application to the other Party shall not be considered a breach and shall incur no liability to either Party.

5.9 Technology that is developed solely by either Party that is not Developed Technology shall be solely owned by the inventing Party and may be disclosed to the other Party under terms of Confidentiality and be the subject of separate license negotiations between the Parties.

6. MARKING/OFFICIAL REGISTRATION

6.1 INOGEN shall mark its products with all applicable patent numbers for AP Technology, AP Developed Technology and Jointly Developed Technology. INOGEN shall make a good faith effort to keep the patent markings up to date and accurate.

6.2 INOGEN, at its expense, is fully responsible for the action(s) necessary for the purpose of obtaining clearance by the appropriate government agencies, also referred to as regulatory approval (e.g. FDA, EMEA), if needed, and obtaining certifications or markings (e.g., UL, CE), if needed, for sales of products.

7. CONFIDENTIALITY

7.1 The disclosure period in Section 3.1 of the CDA is extended until two years after the execution of this License Agreement, to protect the continued disclosure and exchange of confidential information (particularly during the provision of Technical Services) under this License Agreement. The disclosure period may be further extended by the written agreement of the two Parties. The purpose in Section 1 of the CDA is extended to cover the purposes of this License Agreement. All the other terms and conditions of the CDA continue in full, force and effect.

7.2 Jointly Developed Technology is AIR PRODUCTS and INOGEN's Confidential Information that shall not be disclosed by either Party except as necessary to protect the Jointly Developed Technology by filing patent applications, or except in the form of products when they are offered for sale and sold by either Party, provided both Parties agree not to file patent(s) to protect the Jointly Developed Technology prior to the sale of products.

7.3 The Parties agree that unless otherwise agreed to in writing or except as required by law or court order, they will not disclose any of the terms or conditions of this Agreement to third parties, and that the relationship between AIR PRODUCTS and INOGEN is considered Confidential Information. AIR PRODUCTS acknowledges that marking INOGEN's products with AIR PRODUCTS' patent numbers and patent application numbers, which will inherently disclose that there is a relationship between the Parties, is not in violation of this Section 7.3.

7.4 If this Agreement is terminated before INOGEN makes the total payments set forth in Section 3, INOGEN agrees to return to AIR PRODUCTS all documents, including copies containing AIR PRODUCTS' Confidential Information except that one copy may be maintained by INOGEN's legal department for compliance to this Section 7.

8. CONTACT PERSONS

8.1 Each Party shall designate one of its employees as "Contact Person". The persons initially designated as Contact Persons are as follows:

For AIR PRODUCTS:
Carrington Smith
Air Products and Chemicals, Inc.
7201 Hamilton Blvd
Allentown, PA 18195-1501
Fax No: (610) 481-8971

For INOGEN:
Geoff Deane
Inogen, Inc.
326 Bollay Drive
Goleta, CA 93117
Fax No: (805) 562-0516

8.2 Each Party may change its Contact Person by giving Notice to the other Party.

9. INFRINGEMENT OF TECHNOLOGY

9.1 AIR PRODUCTS and INOGEN shall promptly notify each other of suspected infringements and/or unauthorized use of AP Technology, INOGEN Developed Technology, and/or Jointly Developed Technology ("Infringement"), and shall inform the other Party of any evidence of such Infringement. Each Party, as also provided for in Section 5.6, may, but shall not be obligated to take such action to enforce its patents as it determines to be appropriate to abate Infringement, including, without limitation, instituting suit for Infringement, instituting

arbitration proceedings, or taking other action to abate the Infringement, with the costs and expenses of such action to be borne by the Party who takes the action, *provided* that where both Parties agree that action is appropriate, they will in good faith cooperate to jointly bring any such actions and shall share the costs of bringing such actions in such proportions as they may mutually agree. The Parties shall share any recovery of damages and other judgments resulting from all actions brought to abate Infringement in the same proportion as the Parties have respectively borne the expenses of prosecuting such actions.

9.2 If a competitor's product infringes AIR PRODUCTS' and/or INOGEN's patents, AIR PRODUCTS and INOGEN shall discuss strategies to address the infringement, and may agree that it would be better to negotiate a cross-license or license agreement with a competitor that would benefit both Parties.

10. INDEMNIFICATIONS

10.1 INOGEN shall defend and indemnify AIR PRODUCTS and its directors, officers, and employees against all claims, costs and expenses for damage to property of INOGEN, including loss of use thereof, and for bodily injury, including death resulting therefrom, sustained by an employee of INOGEN, whether or not resulting from the negligence of AIR PRODUCTS or its directors, officers or employees, provided however, to the extent such damage results from the gross negligence or willful misconduct of AIR PRODUCTS or its director, officers or employees, such damage shall be excepted from the foregoing obligations.

10.2 AIR PRODUCTS shall defend and indemnify INOGEN and its directors, officers, and employees against all claims, costs and expenses for damage to property of AIR PRODUCTS, including loss of use thereof, and for bodily injury, including death resulting therefrom, sustained by an employee of AIR PRODUCTS, whether or not resulting the negligence of INOGEN or its directors, officers or employees, provided however, to the extent such damage results from the gross negligence or willful misconduct of INOGEN or its director, officers or employees, such damage shall be excepted from the foregoing obligations.

10.3 INOGEN shall defend and indemnify AIR PRODUCTS and its directors, officers, and employees against all claims, costs and expenses for damage to property of third parties, including loss of use thereof, and for bodily injury, including death resulting therefrom, sustained by a third party arising out of the design, manufacture, and sale or other disposal of its products to that third party or the use of the product by that third party.

10.4 Each Party acknowledges that there are hazards associated with the use of oxygen concentrators, including the oxygen-enriched air and nitrogen gases produced thereby, that they understand such hazards, and that it is the responsibility of each Party to warn and protect its employees and others exposed to such hazards by coming into contact with oxygen concentrators.

10.5 INOGEN will maintain or cause others to maintain commercial general liability insurance in an amount of not less than two million US dollars ($2,000,000) covering bodily injury and property damage to third parties with an annual aggregate amount of not less than five million US dollars ($5,000,000). INOGEN shall obtain or cause the policy owner to obtain a waiver of subrogation from the insurer(s) in favor of AIR PRODUCTS, and INOGEN shall have no recourse against AIR PRODUCTS or the other insureds with respect to a loss that is uninsured. INOGEN shall furnish or cause the policy owners to furnish AIR PRODUCTS with Certificates of Insurance evidencing the coverage required by this Section.

11. INDEMNIFICATION FOR PATENT INFRINGEMENT

11.1 INOGEN agrees that it will, at its own expense and to the extent hereinafter stated, defend and hold AIR PRODUCTS free and harmless in any suit or proceeding insofar as the same is based on a claim that any of its products constitutes an infringement of any patent issued in the Territory.

11.2 AIR PRODUCTS offers no guarantee nor warranty that the AP Technology, AP Developed Technology or Jointly Developed Technology does not infringe any patent(s) or patent application(s) owned by one or more third parties in the Territory. It is INOGEN's sole responsibility to perform clearance searches and non-infringement studies, at INOGEN's option, prior to manufacturing and selling any of its products.

12. TERMINATION

12.1 This Agreement shall continue until the last patent included in the AP Technology set forth in Appendix A expires (the "Term") unless otherwise provided for in this Agreement. Upon expiration of the last patent in Appendix A if this Agreement has not been earlier terminated, the license to AIR PRODUCTS' Know How which is part of AP Technology for which the license was granted in Section 2.1 shall become nonexclusive, paid-up and irrevocable.

12.2 Additionally, this Agreement shall be terminable as follows:

(a) In the event either Party shall be in material breach in the performance of any provision of this Agreement ("Default") and such Default is not cured within sixty (60) days following Notice of such Default thereof from the other Party; or

(b) By either Party if the other Party is declared insolvent, bankrupt, or makes an assignment for the benefit of creditors, or a receiver is appointed or any such proceeding is demanded by, for, or against the other Party under any provision of the United States Bankruptcy Act (and if involuntary, such proceeding is not dismissed within sixty (60) days); or

(c) As provided for in Section 3.3.1.

12.3 **Effect of Termination** Upon termination of this Agreement in accordance with Section 12.1, or 12.2, or by operation of law, or otherwise:

(a) Unless otherwise indicated in this Agreement, upon termination, the license granted in Section 2.1 shall terminate.

(b) Sections 2.5, 3.1, 3.2, 5.3 through 5.7, 7, 10, 11, 13, 15.4, 15.10 shall survive such termination or expiration; and

(c) Notwithstanding anything to the contrary herein, upon termination of this Agreement for any reason, the license to AP Developed Technology granted in Section 2.2 automatically expires.

13. LIMITATION ON LIABILITY

13.1 AIR PRODUCTS SHALL NOT BE LIABLE IN CONTRACT OR IN TORT (INCLUDING BUT NOT LIMITED TO AIR PRODUCTS' NEGLIGENCE OR STRICT LIABILITY) FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THIS AGREEMENT, OR ANY BREACH THEREOF, OR ANY DEFECT IN OR FAILURE OR MALFUNCTION OF ANY PRODUCT INCORPORATING AP TECHNOLOGY, AP DEVELOPED TECHNOLOGY, AND JOINTLY DEVELOPED TECHNOLOGY LICENSED HEREIN, WHETHER AIR PRODUCTS HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING BUT NOT LIMITED TO INOGEN'S LOSS OF PROFITS, LOSS OF PRODUCTION OR LOSS OF PRODUCT, AND SUCH LIMITATION ON DAMAGES SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY.

13.2 NOTWITHSTANDING THE FOREGOING, BOTH PARTIES SHALL BE LIABLE TO THE OTHER PARTY FOR ALL DAMAGES AND COSTS CAUSED BY EACH PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR BREACH OF CONFIDENTIALITY.

13.3 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT, THE TOTAL LIABILITY OF AIR PRODUCTS AND ITS DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES AND SUBCONTRACTORS UNDER THIS AGREEMENT FOR BREACH OF CONTRACT (INCLUDING BUT NOT LIMITED TO FAILURE TO MEET WARRANTIES) AND IN TORT, WHETHER IN CONNECTION WITH PERFORMANCE, NONPERFORMANCE OR OTHERWISE, SHALL BE LIMITED TO TEN THOUSAND US DOLLARS (US $10,000). WHEN THE LIABILITIES AND COSTS INCURRED BY AIR PRODUCTS AND ITS DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES AND SUBCONTRACTORS (INCLUDING BUT NOT LIMITED TO COSTS INCURRED IN CORRECTIVE ACTION IN AN EFFORT TO MEET WARRANTIES OR CURE ANY BREACH) EQUAL TEN THOUSAND US DOLLARS (US $10,000), AIR PRODUCTS' TOTAL LIABILITY UNDER THIS AGREEMENT SHALL TERMINATE AND INOGEN SHALL HAVE NO FURTHER RECOURSE AGAINST AIR PRODUCTS OR ITS DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES OR SUBCONTRACTORS.

14. WARRANTIES

14.1 AIR PRODUCTS warrants that as of the effective date, it owns the AP Technology, that it has the right to license the AP Technology to INOGEN.

14.2 AIR PRODUCTS makes no warranties of validity, non-infringement, merchantability nor fitness for a particular use.

15. GENERAL

15.1 **Non-Compete**

(a) During the Term of this Agreement without obtaining prior written permission from AIR PRODUCTS, INOGEN shall not work with another industrial gas company to develop products or technology.

(b) During the Term of this Agreement while the license in Section 2.1 remains exclusive, without obtaining prior written permission from INOGEN, AIR PRODUCTS shall not work with another person or company to develop products using the AP Technology within the Field.

15.2 **Relationship of the Parties** This Agreement shall in no way be construed to constitute either Party as the partner, employee or agent of the other Party nor shall either Party have the authority to bind the other in any respect, accept service of process or other notice on the other's behalf, or make any representation, statement or warranty by or on behalf of the other, it being intended that each shall remain an independent contractor responsible only for its own actions.

15.3 **Assignment** This Agreement and the rights, duties and obligations of the Parties hereto shall not be assignable, transferable or delegable by either Party hereto without the prior written consent of the other, and any purported assignment without such consent shall be void. Notwithstanding the foregoing, either Party may: (i) assign this Agreement to an Affiliate, provided that the assignment shall not constitute a release of the assigning Party and the assigning Party shall remain liable for all assigned obligations in the event of a breach of this Agreement by its assignee; and (ii) assign all of its rights and obligations under this Agreement, but not less than all of its rights and obligations, to an entity that acquires all or substantially all of the business of such Party, whether by way of stock sale, asset sale, reorganization or otherwise, except if such stock sale, asset sale, reorganization or other event involves a competitor of the other Party.

15.4 **Choice of Law; Choice of Forum** This Agreement shall be governed by the law of the Commonwealth of Pennsylvania, without regard to conflicts of law principles. The Parties hereto agree to accept the exclusive jurisdiction of the courts of the State of Delaware for the adjudication of any dispute arising hereunder.

15.5 **Force Majeure** Either Party shall be excused from performance of its obligations hereunder to the extent and for such period of time as such performance is prevented by an act of God, fire, flood, earthquake, transportation disruption, war, insurrection, labor dispute or other cause beyond the reasonable control of such Party, including inability to obtain parts required to perform the work contemplated by this Agreement. If the event of force majeure continues for a period of more than 60 consecutive days, either Party thereafter may terminate the Agreement upon giving at least 10 days prior Notice to the other Party. Each Party shall bear all of its own costs, expenses, losses and damages suffered and incurred as a result of force majeure.

15.6 **Counterparts** This Agreement may be executed in counterparts, each of which when so executed and delivered shall constitute a complete and original instrument but all of which together shall constitute one and the same agreement, and it shall not be necessary when making proof of this Agreement or any counterpart hereof to account for any other counterpart.

15.7 **Binding Nature** This Agreement shall be binding on upon and inure to the benefit of the Parties hereto, their successors and permitted assigns.

15.8 **Authority** Each Party represents that it has full power and authority to enter into and perform this Agreement, and that the person signing this Agreement on behalf of it has been duly authorized and empowered to execute this Agreement.

15.9 **Compliance with Laws** Both Parties will at all times conduct their activities (i) so as not to adversely affect any property or rights of the other Party, and (ii) in compliance with all laws and regulations applicable, including import, export, customs, unfair competition, antitrust, advertising and consumer laws. Specifically, each Party agrees that any technical information not in the public domain (whether written, or otherwise) first received from the other under this Agreement or developed using such technical information, will not, without the prior written permission of the transmitting Party, knowingly be transmitted to any of the countries designated in the United States Government Regulations (15 C.F.R. 370 and 10 C.F.R. 810.7, or their respective successor provisions) as issued from time to time relating to the exportation of technical data.

15.10 **Severability** In the event that any covenant, condition or other provision herein contained is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed to be severable from the remainder of this Agreement and shall in no way affect, impair, or invalidate any other covenant, condition, or other provision herein.

15.11 **Entire Agreement** The terms and provisions contained in this Agreement and the Exhibits and Appendices constitute the entire understanding of the Parties with respect to the transactions and matters contemplated hereby and supersede all previous communications, representations, agreements and understandings relating to the subject matter hereof. No representations, inducements, promises or agreements, whether oral or otherwise, between the Parties not contained herein or incorporated herein by reference will be of any force or effect.

15.12 **Waiver** No provision of or right under this Agreement will be deemed to be waived by any act or acquiescence on the part of either Party, its agents or employees, and may be waived only by an instrument in writing signed by an authorized officer of each Party. No waiver by either Party of any breach of this Agreement by the other Party will be effective as to any other breach, whether of the same or any other term or condition and whether occurring before or after the date of such waiver.

15.13 **Modifications** No modification, amendment, supplement to or waiver of this Agreement, or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by both Parties.

15.14 **Notices** Any Notice that may be given, or is required to be given, under this Agreement, will be in writing and will be sent by facsimile, express mail or sent by certified mail, postage prepaid, return receipt requested and addressed:

If to AIR PRODUCTS:	Air Products and Chemicals, Inc. 7201 Hamilton Blvd. Allentown, PA 18195-1501 Facsimile No.: 610-481-7803 Attn: Law Department
With a copy to:	Corporate Technology Partnerships Air Products and Chemicals, Inc. At the same address above
If to INOGEN:	INOGEN, Inc. 336 Bollay Drive Goleta, CA 93117 Fax No: (805) 562-0516 Attn: Kathy J. Odell
With a copy to:	INOGEN, Inc. 336 Bollay Drive Goleta, CA 93117 Fax No: (805) 562-0516 Attn: Geoff Deane

Each Party may at any time change its address for Notices by sending Notice to the other Party of such change in the manner for sending Notices provided herein. Notices shall be deemed to be given on: (i) the date received if sent by facsimile, if sending party has confirmation of receipt, (ii) the date received if sent by Express Mail or (iii) on the date received, if sent by certified mail, return receipt requested, if sent to the addresses specified above.

15.15 Any dispute between the Parties relating to this Agreement which cannot be resolved with reasonable promptness shall be referred to each Party's senior manager in an effort to obtain prompt resolution. Neither Party shall commence any action against the other until the expiration of 60 days from the date of referral to such senior managers; provided however, this shall not preclude a Party from instituting an action seeking injunctive relief to prevent irreparable damage to such Party.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by a duly authorized representative.

Inogen, Inc.		**AIR PRODUCTS and Chemicals, Inc.**	
By:	/s/ Kathy J. Odell	By:	/s/ John C. Tao
Name:	Kathy J. Odell	Name:	John C. Tao
Title:	CEO	Title:	Director, Corporate Technology Partnerships
Date:	7/23/07	Date:	7/23/07

Exhibit 10.20

203-304-P-A

AMENDMENT TO LICENSE AGREEMENT

This Amendment (the "Amendment") to that certain License Agreement dated as of July 23, 2007 (the "License Agreement"), is entered into by and between AIR PRODUCTS AND CHEMICALS, INC., a Delaware corporation ("AIR PRODUCTS") and INOGEN, INC., a Delaware corporation ("INOGEN"), effective as of October 23, 2009 (the "Amendment Effective Date"). All capitalized terms not otherwise defined in this Amendment shall have the meaning as set forth in the Agreement.

WHEREAS, INOGEN would like to enforce US Patents 6,605,136; 6,824,590; 7,279,029; and 7,473,299 and any patents resulting from reissues or reexamination of these patents (the "Assigned Patents") licensed to INOGEN under the License Agreement against competitors of INOGEN in the Field;

WHEREAS, AIR PRODUCTS does not want to be a named party in any lawsuit involving any of the Assigned Patents;

WHEREAS, the Parties intend to further modify the License Agreement;

WHEREAS, to accomplish the objectives of the preceding WHEREAS clauses, the Parties wish to amend the terms of the License Agreement as set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to this Amendment of the License Agreement as follows:

1. Section 1.14 shall be added and Section 1.3 shall be deleted and replaced in its entirety as follows:

> "1.3 **AP Technology** – means the US and foreign patents and patent applications listed in Appendix A, including any divisionals, re-exams, continuations, continuations-in-part, reissues, renewals and extensions of those patents and patent applications, and the Know How listed in Appendix B."
>
> "1.14 **Pending Litigation** – means any ongoing legal proceeding pending before a state or federal court, irrespective of when filed, involving any patent of the Assigned Patents, including, but not limited to, actions for patent infringement, actions for declaratory relief of patent non-infringement, invalidity or unenforceability, actions to collect or enforce judgments for patent infringement, appeals of reissue and reexamination proceedings decided by the United States Patent and Trademark Office ("USPTO"), and appeals of interference proceedings decided by the USPTO, where the parties to such legal proceeding have not exhausted all appealable issues to the highest possible court."

2. Section 2 of the Agreement is amended whereby Section 2.3 is deleted and replaced in its entirety with new Section 2.3 and new Section 2.3.1, and whereby new Sections 2.6, 2.7 and 2.8 are added as follows:

"2.3 Except as noted in Section 2.3.1, AIR PRODUCTS shall maintain the patents and patent applications listed in Appendix A for the Term of the Agreement while the license in Section 2.1 remains exclusive; however, AIR PRODUCTS does not guarantee that any or all of the pending patent applications and/or pending claims in those patent applications will issue as patents. AIR PRODUCTS agrees to prosecute the pending applications listed in Appendix A through to the final rejection in the USPTO, or equivalent in another patent office, but shall not be obligated to continue the prosecution of the patent application after receipt of a final rejection, or equivalent, from any patent office."

"2.3.1 In the event there is Pending Litigation on January 1, 2011 creating the Delay Period described in Section 3.3 and for the duration of such Delay Period, INOGEN shall reimburse AIR PRODUCTS for fees and third party costs incurred by AIR PRODUCTS for the maintenance and/or prosecution of the patents and patent applications listed in Appendix A up to a maximum of sixty thousand US Dollars (US $60,000) for each year of the Delay Period. AIR PRODUCTS shall invoice INOGEN at the end of each calendar year or the end of the Delay Period whichever comes first, payable to AIR PRODUCTS within 45 days of receipt of invoice. Such reimbursement payments will be credited against any Article 3.3.3 or 3.3.4 fees owed to Air Products.

"2.6 Notwithstanding anything to the contrary in the License Agreement, the license granted to INOGEN as of the Effective Date of the License Agreement to US Patent 5,656,064 and its foreign equivalents listed in Appendix A of the Agreement shall be a revocable, nontransferable, non-exclusive license, with the right to grant sublicenses thereunder, to make, have made, use, sell, have sold, import and have imported products inside the Field and within the Territory."

"2.7 AIR PRODUCTS agrees to assign, transfer and convey to INOGEN its entire right, title, and interest in and to US Patents 6,605,136; 6,824,590; 7,279,029; and 7,473,299 (the "Assigned Patents"), including, the right to collect any and all damages for its own use, including but not limited to the right to collect past damages, of whatever nature recoverable for infringement of any Assigned Patent, including but not limited to lost profits and royalties. Promptly after executing this Amendment, AIR PRODUCTS shall provide to INOGEN the executed assignment for the Assigned Patents. INOGEN maintains its exclusive license to the other patents and applications of the AP Technology under Section 2 of the License Agreement as amended herein subject to the terms and conditions of the License Agreement as amended. INOGEN grants to AIR PRODUCTS and its Affiliates a paid-up, royalty-free, perpetual, irrevocable, exclusive license with the right to grant sublicenses thereunder, to make, have made, use, sell, have sold, import and have imported products and processes outside the Field under the claims of the Assigned

Patents. INOGEN agrees to maintain the Assigned Patents for the life of the Assigned Patents. In the event INOGEN is unable to maintain any of the Assigned Patents, INOGEN shall offer to assign the Assigned Patent(s) it is unable to maintain to AIR PRODUCTS prior to the abandonment of any of them. INOGEN agrees that it will not re-assign the Assigned Patents, other than to its Affiliates, without the prior written approval of AIR PRODUCTS which shall not be unreasonably withheld. INOGEN shall not enforce the Assigned Patents outside of the Field without AIR PRODUCTS prior written permission which shall not be unreasonably withheld."

"2.8 The Parties have each concluded that they have had and will continue to have legal interests that are substantially aligned in (i) seeing that the Assigned Patents are enforced by INOGEN within the Field, (ii) in identifying, investigating, and prosecuting claims of patent infringement of the Assigned Patents within the Field, (iii) in defending any claims of non-infringement of the Assigned Patents in the Field, as well as claims of patent invalidity or unenforceability of the Assigned Patents, and (iv) in maintaining the U.S. and foreign patents and prosecuting the U.S. and foreign patent applications of the Assigned Patents ("Common Interest Matters"). Therefore, the Parties now wish to memorialize and confirm their common legal interests by this Amendment. The Parties may exchange information and materials relating to these Common Interest Matters (collectively, "Confidential Information and Materials"). At the same time, the Parties intend to preserve any privilege otherwise applicable to their respective attorney-client communications or to counsel's work product. Confidential Information and Materials may include any factual information, mental impressions, strategy, research or legal memoranda, opinions, communications and other materials relating to the Common Interest Matters, and may include, without limitation, information and documents that are confidential, proprietary, and/or subject to the attorney-client privilege or the attorney work-product immunity. The Parties have been sharing information regarding such matters pursuant to this common interest, and desire to continue to share such information. The Parties intend to avoid any waiver of the privileges enjoyed by the Parties or any suggestion that there has been such a waiver by virtue of the exchange of Confidential Information and Materials between the Parties. The Parties agree to reasonably cooperate with each other as necessary for INOGEN to enforce the Assigned Patents.

3. Section 4 of the Agreement is amended to add Section 4.4 as follows:

"4.4 Any technical services requested by INOGEN for preparing to and enforcing the Assigned Patents or defending any challenges to the validity of the Assigned Patents may be provided by AIR PRODUCTS, at AIR PRODUCTS' discretion, at a rate of two hundred and fifty dollars (US $250) per hour per research scientist or engineer. INOGEN agrees that AIR PRODUCTS shall not be responsible for any expenses or costs incurred by INOGEN or its counsel associated with INOGEN's enforcement of the Assigned Patents."

4. Section 3 of the Agreement is amended whereby Section 3.3 shall be deleted and replaced in its entirety with new Section 3.3, whereby original Section 3.3.1 shall be deleted, original Section 3.3.3 remains and Sections 3.3.2 and 3.3.4 shall be deleted and replaced in their entirety with new Sections 3.3.2 and 3.3.4 as follows:

"3.3 If, prior to January 1, 2011, or, if there is any Pending Litigation pending as of such date, then such date shall be delayed until one hundred and twenty (120) days after the final conclusion of any and all Pending Litigation but in no event later than January 1, 2015 ("Delay Period") (i) there has not occurred a "Liquidation Event," as described in Section 4.2.2(g) of INOGEN's Ninth Amended and Restated Certificate of Incorporation, as the same may be amended from time to time (the "Certificate of Incorporation"), pursuant to which AIR PRODUCTS receives gross proceeds of at least seven million five hundred thousand US dollars (US $7,500,000), or (ii) AIR PRODUCTS has not received the Base Amounts (as defined hereinafter) by the Payment Dates (as defined hereinafter), then INOGEN shall perform one of the three options provided below in Sections 3.3.2, 3.3.3, and 3.3.4, respectively:"

"3.3.1 Reserved"

"3.3.2 if (i) all asserted claims of any one of the Assigned Patents are held to be invalid by a competent court, or if (ii) any one of the Assigned Patents is asserted and is held to be unenforceable by a competent court, or if (iii) all claims that could be asserted of any one of the Assigned Patents are determined to be unpatentable in a re-examination proceeding before the USPTO, then INOGEN shall have the right but not the obligation to repurchase at least one-third (1/3) of the Shares from Air Products by payment of eight hundred fifty thousand US dollars (US $850,000) by INOGEN to AIR PRODUCTS, the portion of Shares to be repurchased to be determined according to Section 3.3.2.1 and Table 1, whereby upon repurchase of at least one-third (1/3) of the Shares by INOGEN, the license granted to INOGEN in Section 2.1 to the AP Technology other than the Assigned Patents shall become a paid-up, royalty-free, perpetual, irrevocable, non-exclusive license to make, have made, use, sell, have sold, import and have imported products and processes inside the Field under the claims of the AP Technology without the right to grant sublicenses thereunder, and INOGEN shall grant to AIR PRODUCTS and its affiliates a paid-up, royalty-free, perpetual, irrevocable, non-exclusive license to make, have made, use, sell, have sold, import, and have imported products and processes inside the Field under the claims of the Assigned Patents with the right to grant sublicenses thereunder but only to a person or entity that (a) has not entered into a business relationship with INOGEN with respect to the Assigned Patents, or (b) is not a party to any past or Pending Litigation involving any of the Assigned Patents."

"3.3.2.1 For each Assigned Patent, INOGEN shall have the right but not the obligation to repurchase one-third (1/3) of the Shares from AIR PRODUCTS , if (a) all claims that are asserted from the Assigned Patent are held to be invalid under Section 3.3.2 (i), or (b) the Assigned Patent is held to be unenforceable under Section 3.3.2 (ii), or (c) all claims that could be asserted from the Assigned Patent are

determined to be unpatentable under Section 3.3.2 (iii). The Parties contemplate that it is possible INOGEN could at its election repurchase all of the Shares from Air Products if at least one of the triggering events described in Sections 3.3.2 (i), 3.3.2 (ii), and 3.3.2 (iii) occurs for each of the Assigned Patents. For purposes of the Share repurchase, Assigned Patents 7,279, 029 and 7,473,299 shall be considered a single Assigned Patent as shown in Table 1.

Table 1

Portion of Shares included in Repurchase	Assigned Patent	Section 3.3.2 Triggering Event
one-third (1/3)	6,605,136	(i) invalidity; (ii) unenforceability; or (iii) unpatentability
one-third (1/3)	6,824,590	(i) invalidity; (ii) unenforceability; or (iii) unpatentability
one-third (1/3)	7,279,029 & 7,473,299	(i) invalidity; (ii) unenforceability; or (iii) unpatentability

"3.3.3 repurchase the Shares from AIR PRODUCTS for seven million five hundred thousand US dollars (US $7,500,000), upon which the license granted in Section 2.1 shall be deemed paid-up for the Term, or

"3.3.4 pay to AIR PRODUCTS an annual fee of seven hundred fifty thousand US dollars (US $750,000) in advance (each, an "Annual Advance") on or before January 31st of each year for the remainder of the Term beginning with January 31, 2011, unless there is any "Pending Litigation" in which case the Annual Advance will begin no later than January 31, 2015."

5. Section 7.1 shall be deleted and replaced in its entirety with the following:

"7.1 The disclosure period in Section 3.1 of the CDA is extended until three years after the execution of the License Agreement, to protect the continued disclosure and exchange of confidential information (particularly during the provision of Technical Services) under the License Agreement. The disclosure period may be further extended by the written agreement of the two Parties. The purpose in Section 1 of the CDA is extended to cover the purposes of the License Agreement and the enforcement of the Assigned Patents. All the other terms and conditions of the CDA continue in full force and effect."

6. Section 7 of the Agreement is hereby amended to add Section 7.5 as follows:

"7.5 The Parties agree that Confidential Information may be disclosed by a Party to a third party consultant who is bound by a confidential disclosure agreement with terms no less restrictive than the CDA after identifying the third party consultant to the other Party and obtaining permission in writing from that other Party. AIR PRODUCTS hereby grants its permission to INOGEN to make disclosures of its Confidential Information to any employee of Adsorption Research, Inc. (including, but not limited to, Dr. Kent Knaebel and Dr. Heungsoo Shin) for the purpose of preparing to and enforcing the Assigned Patents."

7. Section 9 of the Agreement is hereby amended to add Section 9.3 as follows:

"9.3 The Parties agree that INOGEN is under no obligation to negotiate a cross-license or license agreement with AIR PRODUCTS with respect to infringement of any of the Assigned Patents by a competitor's product."

8. Section 12.2(c) shall be deleted.

9. Appendix A shall be deleted from the Agreement and replaced in its entirety with the Appendix A that is attached hereto.

10. Except as otherwise expressly amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the parties have executed this Agreement by their duly authorized representatives.

INOGEN, INC.

By: /s/ RAYMOND O. HUGGENBERGER
Name: RAYMOND O. HUGGENBERGER
Title: CEO
Date: 10/24/2009

AIR PRODUCTS AND CHEMICALS, INC.

By: /s/ Georges B. Decrop
Name: Georges B. Decrop
Title: Marketing Director
Date: 10/23/2009

Exhibit 10.21

AMENDMENT #2 TO LICENSE AGREEMENT

This Amendment ("Amendment2") to that certain License Agreement dated as of July 23, 2007 as amended effective October 23, 2009 (the "License Agreement"), is entered into by and between AIR PRODUCTS AND CHEMICALS, INC., a Delaware corporation ("AIR PRODUCTS") and INOGEN, INC., a Delaware corporation ("INOGEN"), effective as of October 4, 2010 (the "Amendment2 Effective Date"). All capitalized terms not otherwise defined in this Amendment2 shall have the meaning as set forth in the License Agreement.

WHEREAS, INOGEN and AIR PRODUCTS would like to effectively manage patent prosecution and maintenance costs of the AP Technology;

WHEREAS, INOGEN and AIR PRODUCTS would like to more clearly define one of the defined terms of the License Agreement;

WHEREAS, INOGEN and AIR PRODUCTS would like to further extend the disclosure period for the exchange of confidential information between the Parties;

WHEREAS, the Parties intend to modify the License Agreement;

WHEREAS, to accomplish the objectives of the preceding WHEREAS clauses, the Parties wish to amend the terms of the License Agreement as set forth in this Amendment2.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to this Amendment of the License Agreement as follows:

1. Section 1.14 shall be deleted and replaced in its entirety with the following:

   "1.14 **Pending Litigation** – means any ongoing legal proceeding pending before a state or federal court, irrespective of when filed, involving any patent of the Assigned Patents, including, but not limited to, actions for patent infringement, actions for declaratory relief of patent non-infringement, invalidity or unenforceability, actions to collect or enforce judgments for patent infringement, appeals of reissue and reexamination proceedings decided by the United States Patent and Trademark Office ("USPTO"), and appeals of interference proceedings decided by the USPTO, where the parties to such legal proceeding have not exhausted all appealable issues to the highest possible court. For the purposes of clarity, Pending Litigation involves a third party, unless otherwise agreed to in writing by the Parties."

2. Section 7.1 shall be deleted and replaced in its entirety with the following:

   "7.1 The disclosure period in Section 3.1 of the CDA is extended until one year after the execution of this Amendment2, to protect the continued disclosure and exchange of confidential information (particularly during the provision of Technical Services) under the License Agreement. The disclosure period may be further extended by the written agreement of the two Parties. The purpose in Section 1 of the CDA is extended to cover the purposes of the License Agreement and the enforcement of the Assigned Patents. All the other terms and conditions of the CDA continue in full force and effect."

3. Appendix A shall be deleted from the License Agreement and replaced in its entirety with the Appendix A that is attached hereto. The Appendix A attached hereto is marked-up to show the patents and patent applications that the Parties have agreed to abandon.

4. Except as otherwise expressly amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the parties have executed this Agreement by their duly authorized representatives.

INOGEN, INC.	**AIR PRODUCTS AND CHEMICALS, INC.**
By: /s/ Ray Huggenberger	By: /s/ M. M. Alger
Name: Ray Huggenberger	Name: M. M. Alger
Title: CEO	Title: Vice President and Chief Technology Officer
Date: 10/4/2010	Date: 9/27/2010

Exhibit 10.22

AMENDMENT #3 TO THE LICENSE AGREEMENT

This Amendment #3 to the License Agreement ("Amendment #3") is entered into by and between AIR PRODUCTS AND CHEMICALS, INC ("Air Products"), a corporation organized and existing under the laws of the State of Delaware and having its principal office at 7201 Hamilton Boulevard, Allentown PA 18195 and INOGEN, INC. ("Inogen"), a corporation organized and existing under the laws of the State of Delaware and having its principal office at 326 Bollay Drive, Goleta, California 93117 effective as of March 22, 2011 (the "Effective Date of Amendment #3").

WHEREAS, Air Products and Inogen entered into a Confidential Disclosure Agreement having an effective date of 6 November 2006, referred to as "CDA".

WHEREAS, Air Products and Inogen executed a License Agreement with an effective date of 23 July 2007, and an Amendment to License Agreement with an effective date of 23 October 2009; and an Amendment #2 to License Agreement with an effective date of 4 October 2010 (collectively the "License Agreement")

WHEREAS, in accordance with Section 3.3 of the License Agreement Inogen is past-due on paying Air Products a substantial portion of its consideration under the License Agreement, and represents to Air Products that it would be a substantial financial burden for lnogen to make those payments;

WHEREAS, lnogen would like to restructure its payments under the License Agreement; and Air Products is willing to restructure the payments in exchange for Inogen's commitment to make the payments defined herein and for the termination of certain licenses;

WHEREAS, to accomplish the objectives of the preceding WHEREAS clauses, the Parties wish to terminate (delete) some of the terms of the License Agreement and amend other terms of the License Agreement as set forth in this Amendment #3.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to this Amendment #3 as follows:

A. All of the licenses granted by Air Products to Inogen are terminated; therefore, Sections 2.1, 2.2, 2.3, 2.3.1, 2.4, 2.6, 2.7 and 2.8 of the License Agreement shall be deleted and replaced in their entireties as follows:

2.1 Air Products terminates all licenses to any and all patents and other Technology, including AP Technology and AP Developed Technology that were granted to Inogen and its Affiliates in the License Agreement.

2.2 Reserved.

2.3 Air Products shall have no obligation to maintain nor prosecute any patents or patent applications including but not limited to the ones identified in Appendix A and may abandon any and all of them at Air Products' sole discretion without any input from or notice to Inogen.

2.3.1 Inogen represents that there was no Pending Litigation on January 1, 2011, there is no Pending Litigation as of the Effective Date of this Amendment #3, and there has been no Pending Litigation between January 1, 2011 and the Effective Date of Amendment #3.

2.4 Reserved.

2.6 Air Products agrees that it will not assert against Inogen or Inogen's Affiliates any of its rights to exclude others from making, having made, using, selling, having sold, importing and having imported any products or processes in the Field covered by AP Technology or Developed Technology created before the Effective Date of Amendment #3, including without limitation the foreign patents that claim priority to the Assigned Patents. For clarity, the Assigned Patents are not part of AP Technology or Developed Technology. The foregoing non-assertion covenant in the Field is only transferable and assignable by Inogen in the event of change of control of Inogen after payment of the Total Payment Amount Due (as defined in Section 3.3.1) to Air Products, and only to the new majority owner and only to the assignee of all of the Assigned Patents (defined in Section 2.7), unless the Assigned Patents have been reassigned back to Air Products in accordance with Section 2.7. At any time, if the Assigned Patents are not all owned by Inogen, Air Products or the new majority owner after a change of control, then the non-assertion covenant in this Section 2.6 shall become null and void. For purposes of this Amendment #3, a "change of control" shall mean the transfer of ownership of fifty percent (50%) or more of the outstanding shares of stock entitled to vote for the election of directors (other than restricted shares of stock) from the owning third party or parties to another third party or parties.

2.7 Inogen acknowledges the prior receipt of the assignment of the entire right, title and interest in and to United States Patents 6,605,136; 6,824,590; 7,279,029; and 7,473,299 (the "Assigned Patents") from Air Products, including, the right to collect any and all damages for its own use, including but not limited to the right to collect past damages, of whatever nature recoverable for infringement of any Assigned Patent, including but not limited to lost profits and royalties. Inogen already granted to Air Products and its Affiliates a paid-up, royalty-free, perpetual, irrevocable, exclusive license with the right to grant sublicenses thereunder, to make, have made, use, sell, have sold, import and have imported products and processes outside the Field under the claims of the Assigned Patents. Inogen agreed and continues to agree to maintain the Assigned Patents for the life of the Assigned Patents. In the event Inogen is unable or unwilling to maintain any of the Assigned Patents, Inogen shall provide 30 days notice to Air Products, prior to the abandonment of any of them. Air Products at its discretion may request re-assignment of any such Assigned Patents being abandoned by Inogen, provided that if Air Products requests such reassignment, in consideration therefor Air Products shall reimburse lnogen for all maintenance fees for the Assigned Patents paid by or on behalf of Inogen since the Effective Date of Amendment #3. If Air Products elects to have the patents re-assigned, they are automatically included in the non-assertion covenant set forth in Section 2.6 of this Amendment #3. Inogen agrees that it will maintain ownership of the Assigned Patents (unless the Assigned Patents are abandoned or assigned to Air Products in accordance with the previous three sentences) unless and until there is a change in control (as defined in Section 2.6) of Inogen upon which the Assigned Patents shall only transfer and be assigned by Inogen to the new majority owner only after payment of the Total Payment Amount Due (as defined in Section 3.3.1) to Air

Products. Any assignment of the Assigned Patents by lnogen to a third party is subject to the prior payment of the Total Payment Amount Due to Air Products and the just-described exclusive license granted to Air Products outside the Field and the license granted to Air Products in Section 2.9, and Inogen agrees that it will notify any third party assignee of the Assigned Patents of those perpetual, irrevocable existing licenses and will ensure that such notification forms an integral part of any such agreement to assign the Assigned Patents to that third party. Inogen or any third party assignee shall not enforce the Assigned Patents outside the Field without Air Products prior written permission which also shall be included in any agreement to assign the Assigned Patents to a third party.

2.8 The Parties **no** longer have legal interests that are aligned in (i) seeing that the Assigned Patents are enforced by Inogen within the Field, (ii) in identifying, investigating, and prosecuting claims of patent infringement of the Assigned Patents within the Field, and (iii) in defending any claims of non-infringement of the Assigned Patents in the Field, as well as claims of patent invalidity or unenforceability of the Assigned Patents. Inogen agrees to maintain the Assigned Patents in accordance with Section 2.7. Therefore, the Parties now wish to memorialize and confirm that their common legal interest regarding (i), (ii) and (iii) no longer exists and that the Parties will no longer exchange confidential information and materials related to (I), (ii) and (iii). The Parties intend to preserve any privilege applicable to their respective attorney-client communications or to counsel's work product. The Parties no longer agree to reasonably cooperate with each other as necessary for Inogen to enforce the Assigned Patents. Further to the extent that Inogen elects to perform (i), (ii) or (iii), Inogen agrees that Inogen shall be responsible for all of its own costs, and agrees to indemnify and reimburse Air Products from any and all costs, including legal, travel and administrative fees, and Inogen agrees to reimburse Air Products for Air Products' employees' time should Air Products be compelled by a subpoena from Inogen or otherwise by a court to participate in Inogen's actions related to (i), (ii) or (iii). Given the former community of legal interests, until the Assigned Patents expire or are abandoned, so long as Inogen or Air Products is the owner of the Assigned Patents, Air Products agrees not to cooperate, unless compelled by a court, with any third party in any action (other than an action to enforce this License Agreement as amended herein) between Inogen and such third party related to (i), (ii) and (iii).

B. New Section 2.9 shall be added as follows:

2.9 Inogen grants to Air Products the irrevocable, perpetual and royalty-free right to practice the Assigned Patents in the Field only for non-commercial research and development purposes. This excludes specifically any rights to make, have made, use, sell, have sold, import products or have imported products that infringe the Assigned Patents in the Field for commercial purposes.

C. Air Products acknowledges prior receipt of the $10,000 from Inogen, paid in accordance with Section 3.1.

D. Air Products acknowledges prior receipt of the shares of Inogen's stock (the "Shares") in accordance with Sections 3.2 and 3.2.1.

E. The Parties acknowledge that there has not been a "Liquidation Event" as described in Section 4.2.2(g) of Inogen's Ninth Amended and Restated Certificate of Incorporation, and the Parties also acknowledge that none of the claims of any of the Assigned Patents were held to

be invalid, unenforceable or unpatentable in accordance with Sections 3.3.2 and 3.3.2.1 of the License Agreement. Inogen acknowledges that it has not paid any consideration to Air Products in accordance with Sections 3.3, 3.4, 3.5, 3.6 and 3.8 of the License Agreement. The Parties hereby amend Article 3 to modify the amount of consideration to be paid to Air Products. Therefore, Sections 3.3, 3.3.2, 3.3.2.1, 3.3.3, 3.3.4, 3.4, 3.5, 3.6 and 3.8 shall each be deleted In their entireties, and those Sections and Section 3.3.1, that was previously deleted and reserved, shall be replaced with the following and a new Section 3.3.2.2 shall be added as follows.

3.3 Inogen shareholders Novo NS, Arboretum Ventures II, LP and Arboretum Ventures IIA, LLC shall severally, but not jointly, repurchase the Shares from Air Products for an aggregate of one million, three hundred one thousand, three hundred seventy US dollars and eighty cents (US $1,301,370.80) in accordance with the Securities Purchase Agreement executed concurrently herewith by and among Air Products and each of such purchasers.

3.3.1 Additionally, Inogen shall pay to Air Products one million five hundred thousand US dollars (US $1,500,000) which is the "Total Payment Amount Due" divided into twenty-one installment payments in accordance with the following Payment Schedule:

Payment Schedule

Payment Number	Amount of Payment $US	Air Products Invoice Date	Inogen Payment Due Date
1	212,500	Effective Date of Amendment #3	60 days after the Effective Date of Amendment #3
		1/1/2012	1/31/2012
		4/1/2012	4/30/2012
2-5	53,125 each	7/1/2012	7/31/2012
		10/1/2012	10/31/2012
		1/1/2013	1/31/2013
		4/1/2013	4/30/2013
6-9	53,125 each	7/1/2013	7/31/2013
		10/1/2013	10/31/2013
		1/1/2014	1/31/2014
		4/1/2014	4/30/2014
10-13	53,125 each	7/1/2014	7/31/2014
		10/1/2014	10/31/2014
		1/1/2015	1/31/2015
		4/1/2015	4/30/2015
14-17	81,250 each	7/1/2015	7/31/2015
		10/1/2015	10/31/2015
		1/1/2016	1/31/2016
		4/1/2016	4/30/2016
18-21	81,250 each	7/1/2016	7/31/2016
		10/1/2016	10/31/2016

3.3.2 Invoices for Payments 1 through 21 shall be issued by Air Products on or before the Air Products Invoice Date. Invoices are payable according to instructions on the invoice within thirty (30) days of the date of the invoice but in no event later than the Inogen Payment Due Date (except for the first payment, which is due in 60 days), unless the invoice expressly indicates otherwise. Late payment shall bear interest at an annual rate equal to two (2) percentage points plus the prime rate charged for commercial loans to the most preferred customers by Citibank, N.A. assessed from the date of the issuance of the invoice.

3.3.2.1 Inogen may at any time, without prepayment penalty, pre-pay the net present value (NPV) of the remaining balance of the Total Payment Amount Due to Air Products. NPV shall be calculated using an annual interest rate of equal to two (2) percentage points plus the prime rate charged for commercial loans to the most preferred customers by Citibank, N.A.

3.3.2.2. Upon receipt by Air Products of all payments of Article 3, if the Assigned Patents have not been reassigned to Air Products, the restriction applicable to Inogen regarding the transfer and assignment of the Assigned Patents only to the new majority owner upon a change of control shall automatically be deemed terminated.

3.3.3 If there occurs a Liquidation Event at any time prior to the receipt of the Total Payment Amount Due to Air Products, then the payment of the Total Payment Amount Due shall be immediately accelerated without further notice required and lnogen shall immediately pay the NPV of such unpaid portion of the accelerated Total Payment Amount Due to Air Products. NPV will be calculated as set forth in 3.3.2.1.

3.3.4 Reserved.

3.4 Reserved.

3.5 Reserved.

3.6 Reserved.

3.8 If the License Agreement as amended by this Amendment #3 is terminated before Inogen makes the total payments set forth in Sections 3.3 and 3.3.1, or Inogen fails to pay an installment of the Total Payment Amount Due when due and payable, Air Products shall give written notice to lnogen confirming that Inogen shall be deemed to be in material breach of this License Agreement, as amended, whereupon Inogen shall have fifteen (15) days after receipt of such written notice to cure such breach. If lnogen fails to cure such breach within such fifteen (15) day period, then, in addition to all other of Air Products' rights and remedies at law or in equity, and without election of a remedy or exclusion of its other remedies, Air Products may upon notice to Inogen (i) accelerate the payment of the entire balance of any unpaid amounts, including the Total Payment Amount Due, plus interest and/or (ii) set-off such accelerated amount, or any installment that is due and payable hereunder, against any other monetary obligation owing by Air Products, or its subsidiaries or controlled affiliates, to Inogen or its subsidiaries or controlled affiliates, and/or (iii) require Inogen to immediately execute assignment documents, in form and substance satisfactory to Air Products to assign the Assigned Patents back to Air Products. Air Products agrees that it will not assert against Inogen or Inogen's Affiliates any of its

rights to exclude others from making, having made, using, selling, having sold, importing and having imported any products or processes in the Field covered by the Assigned Patents that are reassigned to Air Products in accordance with this subsection 3.8(iii).

F. The Parties acknowledge and agree that Air Products and Inogen complied with all of the terms of Article 4 including the provision of the prototype and technical support by Air Products to Inogen; therefore, Article 4 (consisting of Sections 4.1, 4.2, 4.3 and 4.4) shall be deleted in its entirety.

Article 4 Reserved.

G. The Parties acknowledge and agree that since the effective date of the CDA, no Jointly Deveic—pid Technology was developed; therefore, Sections 5.2, 5.3, 5.4, 5.5, 5.6, 5.7 and 5.8 shall be deleted in their entireties and Section 5.7 shall be replaced with the following:

5.2 Reserved.

5.3 Reserved.

5.4 Reserved.

5.5 Reserved.

5.6 Reserved.

5.7 Except as expressly stated herein, each Party reserves all rights, title and interest in any of its Technology, without any obligation to account to the other Party. Without limiting the generality of the foregoing, except as expressly provided elsewhere in this Agreement, no right, license or interest of any kind is granted by either Party to the other with respect to Technology owned by Air Products or Technology owned by Inogen, respectively. Notwithstanding anything to the contrary herein, Air Products and its Affiliates shall have the right to make, have made, use, import, have imported, sell and have sold AP Technology (it being acknowledged that the Assigned Patents are not included in AP Technology), or sublicense any or all of those rights to a third party in any field and any territory. Air Products agrees that the non-assertion provisions of Sec. 2.6 will apply to and be binding upon any 3rd party who licenses, sub-licenses or otherwise obtains rights to AP Technology and will ensure that these non-assertion provisions form an integral part of any such agreement between Air Products and that 3 party. Any intellectual property rights owned by Inogen created or filed after the execution of the CDA that are infringed by the making, using, selling or importing of AP Technology (except for the Assigned Patents, in the Field) shall be subject to Inogen's agreement not to assert such rights against Air Products or its licensees for making, having made, using, selling, having sold, importing or having imported products and processes, within any field and territory, on a paid-up and royalty-free basis.

5.8 Reserved.

H. Section 6.1 shall be deleted and replaced with the following:

6.1 Reserved.

I. Sections 7.2, 7.3, 7.4 and 7.5 **shall be deleted in their entireties and Section 7.3 shall** be replaced with the following to refer to the Assigned Patents:

7.2 Reserved.

7.3 As of the Effective Date of Amendment #3, the Parties agree that the terms or conditions of the License Agreement as amended by Amendment #3, and the relationship between Air Products and Inogen is no longer considered Confidential Information to be protected under the CDA.

7.4 Reserved.

7.5 The period of Confidentiality is defined in section 3.2 of the CDA.

J. Article 9 shall be deleted and replaced with the following:

Article 9 Reserved.

9.1 Reserved.

9.2 Reserved.

9.3 Reserved.

K. Section 11.2 shall be deleted in its entirety and replaced with the following to add Assigned Patents thereto:

11.2 Air Products offers no guarantee nor warranty that any product or process covered by the Assigned Patents or AP Technology, used, made or sold by or on behalf of Inogen or its Affiliates did not and do not infringe any patent(s) or patent application(s) owned by one or more third parties in the Territory. It is INOGEN's sole responsibility to perform clearance searches and non-infringement studies, at INOGEN's option, prior to manufacturing and selling any of its products.

L. Sections 12.1, and 12.3 shall be deleted and replaced with the following; and Sections 12.3(b) and 12.3(c) shall be deleted, as follows:

12.1 This Agreement shall continue until the later of the last of the Assigned Patents (U.S. Patent 6,605,136; U.S. Patent No. 6,824,590; U.S. Patent No. 7,279,029 and U.S. Patent No. 7,473,299) expires or after Air Products has received the Total Payment Amount Due.

12.3 **Effect of Termination**. Upon termination of this Agreement in accordance with Section 12.1 or 12.2 or by operation of law or otherwise:

12.3(a) Sections 2.5, 2.7, 2.8, 2.9, 3.3.3, 3.8, 5.7, 15.2, 15.3, 15.4, 15.6, 15.7, 15.8 and 15.10 through 15.15 and Articles 10, 11 and 13 shall survive such termination or expiration. Depending upon the termination date, Article 7 and Section 15.1 may survive for the periods defined in that Article and Section, respectively.

12.3(b) If, and only if Air Products has received all the payments described in Article 3, then Section 2.6 shall survive any termination of this Agreement.

12.3(c) Reserved.

M. Sections 13.1 shall be deleted and amended as follows to add Assigned Patents thereto:

13.1 AIR PRODUCTS SHALL NOT BE LIABLE IN CONTRACT OR IN TORT (INCLUDING BUT NOT LIMITED TO AIR PRODUCTS' NEGLIGENCE OR STRICT LIABILITY) FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THIS AGREEMENT, OR ANY BREACH THEREOF, OR ANY DEFECT IN OR FAILURE OR MALFUNCTION OF ANY PRODUCT MADE BY OR FOR INOGEN, INOGEN'S AFFILIATES OR INOGEN'S SUBLICENSEES INCORPORATING ASSIGNED PATENTS, AP TECHNOLOGY, OR AP DEVELOPED TECHNOLOGY, WHETHER AIR PRODUCTS HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING BUT NOT LIMITED TO INOGEN'S LOSS OF PROFITS, LOSS OF PRODUCTION OR LOSS OF PRODUCT, AND SUCH LIMITATION ON DAMAGES SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY.

N. Section 14.1 shall be deleted.

14.1 Reserved.

O. Sections 15.1 shall be deleted and replaced with the following:

15.1 Reserved.

P. The contact person for Inogen in Section 15.14 shall be updated to delete Kathy J. Odell and add "Raymond Huggenberger, CEO" in her place.

Q. Except as expressly deleted, added or amended herein, all other terms and conditions of the License Agreement shall remain in full force and effect.

R. APPENDIX A shall be deleted and replaced with the attached Appendix A.

IN WITNESS THEREOF, the parties have executed this Assignment Agreement by their duly authorized representatives.

INOGEN, INC.		**AIR PRODUCTS AND CHEMICALS, INC.**	
By:	/s/ Raymond O. Huggenberger	By:	/s/ George E. Lewis
Name:	Raymond O. Huggenberger	Name:	George E. Lewis
Title:	CEO	Title:	Manager, Global GenGases
Date:	3/22/2011	Date:	22 March 2011

Daniel R. Koeppen
858-350-2393
dkoeppen@wsgr.com

Wilson Sonsini
Goodrich & Rosati
12235 El Camino Real
Suite 200
San Diego, CA 92130
T: 858.350.2300
F: 858.350.2399

October 16, 2013

CONFIDENTIAL SUBMISSION
Draft Registration Statement
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Confidential Submission
Pursuant to
Title I, Section 106 under the
Jumpstart Our Business Startups Act
and Section 24(b)(2) of the
Securities Exchange Act of 1934

Re: Inogen, Inc.
Confidential Submission of Draft Registration Statement on Form S-l

Ladies and Gentlemen:

On behalf of Inogen, Inc., a Delaware corporation (the "***Company***"), and in connection with the confidential submission of its draft registration statement on Form S-l (the "***Registration Statement***") on the date hereof, we hereby confidentially submit the draft Registration Statement pursuant to Title I, Section 106 under the Jumpstart Our Business Startups Act (the "***JOBS Act***") and Section 24(b)(2) of the Securities Exchange Act of 1934, as amended, for non-public review by the staff (the "***Staff***") of the Securities and Exchange Commission (the "***Commission***") prior to the public filing of the Registration Statement.

Pursuant to Title I, Section 101 of the JOBS Act, the Company is an "emerging growth company" that had total annual gross revenues of less than $1.0 billion during its fiscal year ended December 31, 2012. Therefore, the Company is permitted to make this confidential submission of the Registration Statement for review by the Staff, provided that the Registration Statement and all amendments thereto shall be publicly filed with the Commission not later than 21 days before the date on which the Company conducts a "road show," as such term is defined in Title 17, Section 230.433(h)(4) of the Code of Federal Regulations.

Please direct all notices and communications with respect to this confidential submission to each of the following:

Alison Bauerlein, Chief Financial Officer and VP, Finance
Inogen, Inc.
326 Bollay Drive
Goleta, California 93117
Telephone: (805) 562-0504
Facsimile: (805) 879-0739
Email: abauerlein@inogen.net

with a copy to:

Daniel R. Koeppen
Wilson Sonsini Goodrich & Rosati
12235 El Camino Real, Suite 200
San Diego, CA 92130
Telephone: (858) 350-2300
Facsimile: (858) 350-2399
Email: dkoeppen@wsgr.com

Please contact the undersigned at 858-350-2393 or dkoeppen@wsgr.com if you have any questions regarding the foregoing.

Very truly yours,

/s/ Daniel R. Koeppen
Daniel R. Koeppen
of Wilson Sonsini Goodrich & Rosati

cc: Alison Bauerlein, Chief Financial Officer and VP, Finance, Inogen, Inc.