UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): May 10, 2011

OMEROS CORPORATION

(Exact name of registrant as specified in its charter)

Washington	**001-34475**	**91-1663741**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

1420 Fifth Avenue, Suite 2600
Seattle, Washington 98101
(Address of principal executive offices, including zip code)

(206) 676-5000
(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement.

Azimuth Opportunity, Ltd. Common Stock Purchase Agreement

On May 10, 2011, we entered into a Common Stock Purchase Agreement (the "Purchase Agreement") with Azimuth Opportunity, Ltd. ("Azimuth") pursuant to which we may, subject to certain customary conditions, require Azimuth to purchase up to $40.0 million of our shares of common stock over the 24-month term of the Purchase Agreement. Such arrangement is sometimes referred to as a committed equity line financing facility. In connection with the entry into the Purchase Agreement, we and Azimuth terminated our common stock purchase agreement and registration rights agreement (the "Prior Azimuth Agreements") dated July 28, 2010 that also permitted us to sell up to $40.0 million of our shares of common stock to Azimuth. We did not sell any shares of our common stock to Azimuth pursuant to the Prior Azimuth Agreements.

Pursuant to the Purchase Agreement entered into on May 10, 2011, from time to time over the 24-month term, and in our sole discretion, we may present Azimuth with draw-down notices requiring Azimuth to purchase a specified dollar amount of shares of our common stock, based on the price per share over 10 consecutive trading days (the "Draw Down Period"), with the total dollar amount of each draw down subject to certain agreed-upon limitations based on the market price of our common stock and a limit of 2.5% of our market capitalization at the time of the draw down, which limit may be waived by our mutual agreement. We are allowed to present Azimuth with up to 24 draw-down notices during the 24-month term, with a minimum of five trading days required between each Draw Down Period. Only one draw down is allowed in each Draw Down Period, unless otherwise mutually agreed upon by us and Azimuth. Except as set forth in the immediately following sentence, we may not issue more than 4,427,562 shares (the "Trading Market Limit") in connection with the committed equity line financing facility. The Purchase Agreement provides that the Trading Market Limit will not be applicable for any purposes of the Purchase Agreement or the transactions contemplated thereby, solely to the extent (and only for so long as) the average purchase price of all shares of common stock issued by us to Azimuth, taking into account all discounts, equals or exceeds $5.02 per share (subject to adjustment), which represents the consolidated closing bid price per share of our common stock as reported on the NASDAQ Global Market on the trading day immediately preceding the closing date of the Purchase Agreement.

Once presented with a draw-down notice, Azimuth is required to purchase a pro-rata portion of the shares on each trading day during the trading period on which the daily volume-weighted average price for our common stock exceeds a threshold price determined solely by us for such draw down. The per share purchase price for these shares equals the daily volume-weighted average price of our common stock on each date during the Draw Down Period on which shares are purchased, less a discount ranging from 3.0% to 6.0%, based on a minimum price that we solely specify. If the daily volume-weighted average price of our common stock falls below the threshold price on any trading day during a Draw Down Period, the Purchase Agreement provides that Azimuth will not be required to purchase the pro-rata portion of shares of common stock allocated to that day. However, at its election, Azimuth could buy the pro-rata portion of shares allocated to that day at the threshold price less the discount described above.

The Purchase Agreement also provides that from time to time and at our sole discretion we may grant Azimuth the right to exercise one or more call options to purchase additional shares of our common stock during each draw down pricing period for the amount of shares based upon the maximum call option dollar amount and the call option threshold price specified by us. Upon Azimuth's exercise of the call option, we would sell to Azimuth the shares of our common stock subject to the call option at a price equal to the greater of the daily volume weighted average price of our common stock on the day Azimuth notifies us of its election to exercise its call option or the threshold price for the call option determined by us, less a discount ranging from 3.0% to 6.0%, based on the call option threshold price.

We have agreed to indemnify Azimuth and its affiliates against certain liabilities, including liabilities under the Securities Act. Azimuth has agreed to indemnify us and our affiliates for losses under securities laws for any material omissions or misstatements with respect to information provided by Azimuth for inclusion in the registration statement covering the resale by Azimuth of shares sold to it under the Purchase Agreement, subject to certain limitations.

Azimuth is an "underwriter" within the meaning of Section 2(a)(11) of the Securities Act. Azimuth shall use an unaffiliated broker-dealer to effectuate all sales, if any, of common stock that it may purchase from us pursuant to the Purchase Agreement.

Placement Agent Engagement Letter

Reedland Capital Partners, an Institutional Division of Financial West Group, member FINRA/SIPC ("FWG/Reedland"), served as our placement agent in connection with the financing arrangement contemplated by the Purchase Agreement. Pursuant to an engagement letter dated May 10, 2011 between us and FWG/Reedland (the "Engagement Letter"), we have agreed to reimburse up to $10,000 of FWG/Reedland's reasonable legal expenses in connection with any filing made pursuant to FINRA Rule 5110, and to pay FWG/Reedland, upon each sale of our common stock to Azimuth under the Purchase Agreement, a fee equal to 0.5% of the aggregate dollar amount of common stock purchased by Azimuth upon settlement of each such sale. We have agreed to indemnify and hold harmless FWG/Reedland against certain liabilities, including certain liabilities under the Securities Act. In connection with the entry into the Engagement Letter, we and FWG/Reedland terminated our engagement letter (the "Prior Engagement Letter") that we previously entered into with FWG/Reedland on July 28, 2010.

The foregoing description of the Purchase Agreement and the Engagement Letter is not complete and is qualified in its entirety by reference to the full text of such agreements, copies of which are filed as Exhibits 10.1 and 10.2, respectively, to this Current Report on Form 8-K and which are incorporated herein by reference.

The related opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation, is filed as Exhibit 5.1 hereto.

Item 1.02 Termination of a Material Definitive Agreement.

In connection with the entry into the Purchase Agreement, we and Azimuth terminated the Prior Azimuth Agreements. Also, in connection with our entry into the Engagement Letter, we and FWG/Reedland terminated the Prior Engagement Letter. A description of the material terms of Prior Azimuth Agreements and the Prior Engagement Letter is contained in our Current Report on Form 8-K filed on July 29, 2010, which is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
5.1	Legal Opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation, dated as of May 10, 2011.
10.1	Common Stock Purchase Agreement, dated as of May 10, 2011, by and between Omeros Corporation and Azimuth Opportunity, Ltd.
10.2	Engagement Letter, dated as of May 10, 2011, by and between Omeros Corporation and Reedland Capital Partners, an Institutional Division of Financial West Group, member FINRA/SIPC

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

OMEROS CORPORATION

By: /s/ Gregory A. Demopulos, M.D.
Gregory A. Demopulos, M.D.
President, Chief Executive Officer and Chairman of the Board of Directors

Date: May 10, 2011

EXHIBIT INDEX

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Exhibit 5.1

May 10, 2011

Omeros Corporation
1420 Fifth Avenue, Suite 2600
Seattle, Washington 98101-2347

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Omeros Corporation, a Washington corporation (the "***Company***"), in connection with the registration of the offer and sale of up to 4,427,562 (or such other amount as expressly provided in Section 2.13 of the Purchase Agreement (as defined below)) shares (the "***Shares***") of the Company's common stock, $0.01 par value per share, pursuant to the Company's shelf Registration Statement on Form S-3 (File No. 333-169856) filed on October 8, 2010 and declared effective by the Securities and Exchange Commission on October 18, 2010 (the "***Registration Statement***").

The Shares may be issued to Azimuth Opportunity, Ltd., an international business company incorporated under the laws of the British Virgin Islands ("***Azimuth***"), pursuant to the Common Stock Purchase Agreement, dated as of May 10, 2011, by and between the Company and Azimuth (the "***Purchase Agreement***") upon the terms and subject to the conditions set forth in the Purchase Agreement.

We have examined copies of the Purchase Agreement and the Registration Statement, the base prospectus that forms a part thereof and the prospectus supplement thereto related to the offering of the Securities, which prospectus supplement is dated as of the date hereof and will be filed by the Company in accordance with Rule 424(b) promulgated under the Securities Act of 1933. We have also examined instruments, documents and records which we deemed relevant and necessary for the basis of our opinion hereinafter expressed.

In such examination, we have assumed (i) the authenticity of original documents and the genuineness of all signatures, (ii) the conformity to the originals of all documents submitted to us as copies, and (iii) the truth, accuracy, and completeness of the information, representations and warranties contained in the records, documents, instruments and certificates we have reviewed.

Based on and subject to the foregoing, we are of the opinion that the Shares have been duly authorized by the Company and, when issued and delivered by the Company against payment therefor in accordance with the terms of the Purchase Agreement, will be validly issued, fully paid and nonassessable.

We express no opinion as to the laws of any other jurisdiction other than the federal laws of the United States of America and the General Corporation Law of the State of Delaware.

We hereby consent to the use of this opinion as an exhibit to the Company's Current Report on Form 8-K, filed on or about May 10, 2011, for incorporation by reference into the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Sincerely,

/s/ Wilson Sonsini Goodrich & Rosati

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

Exhibit 10.1

Execution Version

COMMON STOCK PURCHASE AGREEMENT

Dated as of May 10, 2011

by and between

OMEROS CORPORATION

and

AZIMUTH OPPORTUNITY LTD.

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COMMON STOCK PURCHASE AGREEMENT

This **COMMON STOCK PURCHASE AGREEMENT**, made and entered into on this 10th day of May, 2011 (this "Agreement"), by and between Azimuth Opportunity Ltd., an international business company incorporated under the laws of the British Virgin Islands (the "Investor"), and Omeros Corporation, a corporation organized and existing under the laws of the State of Washington (the "Company"). Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in Annex A hereto.

RECITALS

WHEREAS, the parties desire that, upon the terms and subject to the conditions contained herein, the Company may issue and sell to the Investor and the Investor shall thereupon purchase from the Company up to $40,000,000 of newly issued shares of the Company's common stock, $0.01 par value ("Common Stock"), subject, in all cases, to the Trading Market Limit (except as expressly provided in Section 2.13); and

WHEREAS, the offer and sale of the shares of Common Stock hereunder have been registered by the Company in the Registration Statement, which has been declared effective by order of the Commission under the Securities Act;

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I
PURCHASE AND SALE OF COMMON STOCK

Section 1.1 Purchase and Sale of Stock. Upon the terms and subject to the conditions of this Agreement, during the Investment Period the Company in its discretion may issue and sell to the Investor up to $40,000,000 (the "Total Commitment") of duly authorized, validly issued, fully paid and non-assessable shares of Common Stock (subject in all cases to the Trading Market Limit (except as expressly provided in Section 2.13), the "Aggregate Limit"), by (i) the delivery to the Investor of not more than 24 separate Fixed Request Notices (unless the Investor and the Company mutually agree that a different number of Fixed Request Notices may be delivered) as provided in Article II hereof and (ii) the exercise by the Investor of Optional Amounts, which the Company may in its discretion grant to the Investor and which may be exercised by the Investor, in whole or in part, as provided in Article II hereof. The aggregate of all Fixed Request Amounts and Optional Amount Dollar Amounts shall not exceed the Aggregate Limit.

Section 1.2 Effective Date; Settlement Dates. This Agreement shall become effective and binding upon delivery of counterpart signature pages of this Agreement executed by each of the parties hereto, and by delivery of an opinion of counsel and a certificate of the Company as provided in Section 6.1 hereof, to the offices of Greenberg Traurig, LLP, 200 Park Avenue, New York, New York 10166, at 4:00 p.m., New York time, on the Effective Date. In consideration of and in express reliance upon the representations, warranties and covenants, and otherwise upon the terms and subject to the conditions, of this Agreement, from and after the Effective Date and during the Investment Period (i) the Company shall issue and sell to the

Investor, and the Investor agrees to purchase from the Company, the Shares in respect of each Fixed Request and (ii) the Investor may in its discretion elect to purchase Shares in respect of each Optional Amount. The issuance and sale of Shares to the Investor pursuant to any Fixed Request or Optional Amount shall occur on the applicable Settlement Date in accordance with Sections 2.7 and 2.9 (or on such Trading Day in accordance with Section 2.8, as applicable), provided in each case that all of the conditions precedent thereto set forth in Article VI theretofore shall have been fulfilled or (to the extent permitted by applicable law) waived.

Section 1.3 The Shares. The Company has or will have duly authorized and reserved for issuance, and covenants to continue to so reserve once reserved for issuance, free of all preemptive and other similar rights, at all times during the Investment Period, the requisite aggregate number of authorized but unissued shares of its Common Stock to timely effect the issuance, sale and delivery in full to the Investor of all Shares to be issued in respect of all Fixed Requests and Optional Amounts under this Agreement, in any case prior to the issuance to the Investor of such Shares.

Section 1.4 Current Report; Prospectus Supplement. As soon as practicable, but in any event not later than 5:30 p.m. (New York time) on the first Trading Day immediately following the Effective Date, the Company shall file with the Commission (i) a report on Form 8-K relating to the transactions contemplated by, and describing the material terms and conditions of, this Agreement (the "Current Report"), and (ii) a Prospectus Supplement pursuant to Rule 424(b) under the Securities Act specifically relating to the transactions contemplated by, and describing the material terms and conditions of, this Agreement, containing information previously omitted at the time of effectiveness of the Registration Statement in reliance on Rule 430B under the Securities Act, and disclosing all information relating to the transactions contemplated hereby required to be disclosed in the Registration Statement and the Prospectus as of the Effective Date, including, without limitation, information required to be disclosed in the section captioned "Plan of Distribution" in the Prospectus. The Current Report shall include a copy of this Agreement as an exhibit and shall be incorporated by reference in the Registration Statement and the Prospectus. The Company heretofore has provided the Investor a reasonable opportunity to comment on a draft of such Current Report and Prospectus Supplement and has given due consideration to such comments. Pursuant to Section 5.9 and subject to the provisions of Section 5.8, on the first Trading Day immediately following the last Trading Day of each Pricing Period, the Company shall file with the Commission a Prospectus Supplement pursuant to Rule 424(b) under the Securities Act disclosing the total number of Shares to be issued and sold to the Investor thereunder, the total purchase price therefor and the net proceeds to be received by the Company therefrom.

Section 1.5 Termination of Prior Agreements. Contemporaneously with the entry into this Agreement, and effective as of the Effective Date, both of (i) the Common Stock Purchase Agreement dated July 28, 2010, by and between the Investor and the Company and (ii) the Registration Rights Agreement dated July 28, 2010 by and between the Investor and the Company shall be terminated and be of no further force and effect.

ARTICLE II
FIXED REQUEST TERMS; OPTIONAL AMOUNT

Subject to the satisfaction of the conditions set forth in this Agreement, the parties agree (unless otherwise mutually agreed upon by the parties in writing) as follows:

Section 2.1 Fixed Request Notice. The Company may, from time to time in its sole discretion, no later than 9:30 a.m. (New York time) on the first Trading Day of the Pricing Period, provide to the Investor a Fixed Request notice, substantially in the form attached hereto as Exhibit A (the "Fixed Request Notice"), which Fixed Request Notice shall become effective at 9:30 a.m. (New York time) on the first Trading Day of the Pricing Period specified in the Fixed Request Notice; provided, however, that if the Company delivers the Fixed Request Notice to the Investor later than 9:30 a.m. (New York time) on a Trading Day, then the first Trading Day of such Pricing Period shall not be the Trading Day on which the Investor received such Fixed Request Notice, but rather shall be the next Trading Day (unless a subsequent Trading Day is therein specified). The Fixed Request Notice shall specify the Fixed Amount Requested, establish the Threshold Price for such Fixed Request, designate the first and last Trading Day of the Pricing Period and specify the Optional Amount, if any, that the Company elects to grant to the Investor during the Pricing Period and the applicable Threshold Price for such Optional Amount (the "Optional Amount Threshold Price"). The Threshold Price and the Optional Amount Threshold Price established by the Company in a Fixed Request Notice may be the same or different, in the Company's sole discretion. Upon the terms and subject to the conditions of this Agreement, the Investor is obligated to accept each Fixed Request Notice prepared and delivered in accordance with the provisions of this Agreement.

Section 2.2 Fixed Requests. From time to time during the Investment Period, the Company may in its sole discretion deliver to the Investor a Fixed Request Notice for a specified Fixed Amount Requested, and the applicable discount price (the "Discount Price") shall be determined, in accordance with the price and share amount parameters as set forth below or such other parameters mutually agreed upon by the Investor and the Company, and upon the terms and subject to the conditions of this Agreement, the Investor shall purchase from the Company the Shares subject to such Fixed Request Notice at the Discount Price; provided, however, that (i) if an ex-dividend date is established by the Trading Market in respect of the Common Stock on or between the first Trading Day of the applicable Pricing Period and the applicable Settlement Date, the Discount Price shall be reduced by the per share dividend amount and (ii) unless the parties otherwise mutually agree, the Company may not deliver any single Fixed Request Notice for a Fixed Amount Requested in excess of the lesser of (a) the amount in the applicable Fixed Amount Requested column below and (b) 2.5% of the Market Capitalization:

Threshold Price	Fixed Amount Requested	Discount Price
Equal to or greater than $35.00	Not to exceed $8,000,000	97.000% of the VWAP
Equal to or greater than $30.00 and less than $35.00	Not to exceed $7,000,000	96.750% of the VWAP
Equal to or greater than $25.00 and less than $30.00	Not to exceed $6,000,000	96.500% of the VWAP
Equal to or greater than $20.00 and less than $25.00	Not to exceed $5,000,000	96.250% of the VWAP

Equal to or greater than $15.00 and less than $20.00	Not to exceed $4,000,000	96.000% of the VWAP
Equal to or greater than $10.50 and less than $15.00	Not to exceed $3,000,000	95.800% of the VWAP
Equal to or greater than $9.50 and less than $10.50	Not to exceed $2,100,000	95.700% of the VWAP
Equal to or greater than $8.50 and less than $9.50	Not to exceed $1,900,000	95.600% of the VWAP
Equal to or greater than $7.50 and less than $8.50	Not to exceed $1,700,000	95.500% of the VWAP
Equal to or greater than $6.50 and less than $7.50	Not to exceed $1,500,000	95.250% of the VWAP
Equal to or greater than $5.50 and less than $6.50	Not to exceed $1,300,000	95.000% of the VWAP
Equal to or greater than $4.50 and less than $5.50	Not to exceed $1,100,000	94.500% of the VWAP
Equal to or greater than $3.00 and less than $4.50	Not to exceed $1,000,000	94.000% of the VWAP

Anything to the contrary in this Agreement notwithstanding, unless otherwise mutually agreed upon by the Investor and the Company, at no time shall the Investor be required to purchase more than $8,000,000 worth of Common Stock in respect of any Pricing Period (not including Common Stock subject to any Optional Amount). The date on which the Company delivers any Fixed Request Notice in accordance with this Section 2.2 hereinafter shall be referred to as a "Fixed Request Exercise Date".

Section 2.3 Share Calculation. With respect to the Trading Days during the applicable Pricing Period for which the VWAP equals or exceeds the Threshold Price, the number of Shares to be issued by the Company to the Investor pursuant to a Fixed Request shall equal the aggregate sum of each quotient (calculated for each Trading Day during the applicable Pricing Period for which the VWAP equals or exceeds the Threshold Price) determined pursuant to the following equation (rounded to the nearest whole Share):

N = (A x B)/C, where:

N = the number of Shares to be issued by the Company to the Investor in respect of a Trading Day during the applicable Pricing Period for which the VWAP equals or exceeds the Threshold Price,

A = 0.10 (the "Multiplier"), provided, however, that if the Company and the Investor mutually agree prior to the commencement of a Pricing Period that the number of consecutive Trading Days constituting a Pricing Period shall be less than 10, then the Multiplier correspondingly shall be increased to equal the decimal equivalent (in 10-millionths) of a fraction, the numerator of which is one and the denominator of which equals the number of Trading Days in the reduced Pricing Period (it being hereby acknowledged and agreed that this proviso shall not apply to any unilateral determination by the Company to reduce a Pricing Period, but rather, Section 2.8 hereof shall apply),

B = the total Fixed Amount Requested, and

C = the applicable Discount Price.

Section 2.4 Limitation of Fixed Requests. The Company shall not make more than one Fixed Request in each Pricing Period. Not less than five Trading Days shall elapse between the end of one Pricing Period and the commencement of any other Pricing Period during the Investment Period. There shall be permitted a maximum of 24 Fixed Requests during the Investment Period. Each Fixed Request automatically shall expire immediately following the last Trading Day of each Pricing Period.

Section 2.5 Reduction of Commitment. On the Settlement Date with respect to a Pricing Period, the Investor's Total Commitment under this Agreement automatically (and without the need for any amendment to this Agreement) shall be reduced, on a dollar-for-dollar basis, by the total amount of the Fixed Request Amount and the Optional Amount Dollar Amount, if any, for such Pricing Period paid to the Company at such Settlement Date.

Section 2.6 Below Threshold Price. If the VWAP on any Trading Day in a Pricing Period is lower than the Threshold Price, then for each such Trading Day the Fixed Amount Requested shall be reduced, on a dollar-for-dollar basis, by an amount equal to the product of (x) the Multiplier and (y) the total Fixed Amount Requested, and no Shares shall be purchased or sold with respect to such Trading Day, except as provided below. If trading in the Common Stock on NASDAQ (or any other U.S. national securities exchange on which the Common Stock is then listed) is suspended for any reason for more than three hours on any Trading Day, the Investor may at its option deem the price of the Common Stock to be lower than the Threshold Price for such Trading Day and, for each such Trading Day, the total amount of the Fixed Amount Requested shall be reduced as provided in the immediately preceding sentence, and no Shares shall be purchased or sold with respect to such Trading Day, except as provided below. For each Trading Day during a Pricing Period on which the VWAP is lower (or is deemed to be lower as provided in the immediately preceding sentence) than the Threshold Price, the Investor may in its sole discretion elect to purchase such U.S. dollar amount of Shares equal to the amount by which the Fixed Amount Requested has been reduced in accordance with this Section 2.6, at the Threshold Price multiplied by the applicable percentage determined in accordance with the price and share amount parameters set forth in Section 2.2. The Investor shall inform the Company via facsimile transmission not later than 8:00 p.m. (New York time) on the last Trading Day of such Pricing Period as to the number of Shares, if any, the Investor elects to purchase as provided in this Section 2.6.

Section 2.7 Settlement. The payment for, against simultaneous delivery of, Shares in respect of each Fixed Request shall be settled on the second Trading Day next following the last Trading Day of each Pricing Period, or on such earlier date as the parties may mutually agree (the "Settlement Date"). On each Settlement Date, the Company shall, or shall cause its transfer agent to, electronically transfer the Shares purchased by the Investor by crediting the Investor's or its designees' account at DTC through its Deposit/Withdrawal at Custodian (DWAC) system, which Shares shall be freely tradable and transferable and without restriction on resale, against simultaneous payment therefor to the Company's designated account by wire transfer of immediately available funds; provided that if the Shares are received by the Investor later than 1:00 p.m. (New York time), payment therefor shall be made with next day funds. As set forth in Section 9.1(ii), a failure by the Company to deliver such Shares shall result in the payment of partial damages by the Company to the Investor.

Section 2.8 Reduction of Pricing Period. If during a Pricing Period the Company elects to reduce the number of Trading Days in such Pricing Period (and thereby amend its previously delivered Fixed Request Notice), the Company shall so notify the Investor before 9:00 a.m. (New York time) on any Trading Day during a Pricing Period (a "Reduction Notice") and the last Trading Day of such Pricing Period shall be the Trading Day immediately preceding the Trading Day on which the Investor received such Reduction Notice; provided, however, that if the Company delivers the Reduction Notice later than 9:00 a.m. (New York time) on a Trading Day during a Pricing Period, then the last Trading Day of such Pricing Period instead shall be the Trading Day on which the Investor received such Reduction Notice.

Upon receipt of a Reduction Notice, the Investor (i) shall purchase the Shares in respect of each Trading Day in such reduced Pricing Period for which the VWAP equals or exceeds the Threshold Price in accordance with Section 2.3 hereof; (ii) may elect to purchase the Shares in respect of any Trading Day in such reduced Pricing Period for which the VWAP is (or is deemed to be) lower than the Threshold Price in accordance with Section 2.6 hereof; and (iii) may elect to exercise all or any portion of an Optional Amount on any Trading Day during such reduced Pricing Period in accordance with Sections 2.10 and 2.11 hereof.

In addition, upon receipt of a Reduction Notice, the Investor may elect to purchase such U.S. dollar amount of additional Shares equal to the product determined pursuant to the following equation:

D = (A/B) × (B – C), where:

D = the U.S. dollar amount of additional Shares to be purchased,

A = the Fixed Amount Requested,

B = 10 or, for purposes of this Section 2.8, such lesser number of Trading Days as the parties may mutually agree to, and

C = the number of Trading Days in the reduced Pricing Period,

at a per Share price equal to (x) the Fixed Amount Requested attributable to the reduced Pricing Period divided by (y) the number of Shares to be purchased during such reduced Pricing Period pursuant to clauses (i) and (ii) (as applicable) of the immediately preceding paragraph.

The Investor may also elect to exercise any portion of the applicable Optional Amount which was unexercised during the reduced Pricing Period by issuing an Optional Amount Notice to the Company not later than 10:00 a.m. (New York time) on the first Trading Day next following the last Trading Day of the reduced Pricing Period. The number of Shares to be issued upon exercise of such Optional Amount shall be calculated pursuant to the equation set forth in Section 2.10 hereof, except that "C" shall equal the greater of (i) the VWAP for the Common Stock on the last Trading Day of the reduced Pricing Period or (ii) the Optional Amount Threshold Price.

The payment for, against simultaneous delivery of, Shares to be purchased and sold in accordance with this Section 2.8 shall be settled on the second Trading Day next following the Trading Day on which the Investor receives a Reduction Notice.

Section 2.9 Optional Amount. With respect to any Pricing Period, the Company may in its sole discretion grant to the Investor the right to exercise, from time to time during the Pricing Period (but not more than once on any Trading Day), all or any portion of an Optional Amount. The maximum Optional Amount Dollar Amount and the Optional Amount Threshold Price shall be set forth in the Fixed Request Notice. If an ex-dividend date is established by the Trading Market in respect of the Common Stock on or between the first Trading Day of the applicable Pricing Period and the applicable Settlement Date, the applicable exercise price in respect of the Optional Amount shall be reduced by the per share dividend amount. Each daily Optional Amount exercise shall be aggregated during the Pricing Period and settled on the next Settlement Date. The Optional Amount Threshold Price designated by the Company in its Fixed Request Notice shall apply to each Optional Amount exercised during the applicable Pricing Period.

Section 2.10 Calculation of Optional Amount Shares. The number of shares of Common Stock to be issued in connection with the exercise of an Optional Amount shall be the quotient determined pursuant to the following equation (rounded to the nearest whole Share):

O = A/(B × C), where:

O = the number of shares of Common Stock to be issued in connection with such Optional Amount exercise,

A = the Optional Amount Dollar Amount with respect to which the Investor has delivered an Optional Amount Notice,

B = the applicable percentage determined in accordance with the price and shares amount parameters set forth in Section 2.2 (with the Optional Amount Threshold Price serving as the Threshold Price for such purposes), and

C = the greater of (i) the VWAP for the Common Stock on the day the Investor delivers the Optional Amount Notice and (ii) the Optional Amount Threshold Price.

Section 2.11 Exercise of Optional Amount. If granted by the Company to the Investor with respect to a Pricing Period, all or any portion of the Optional Amount may be exercised by the Investor on any Trading Day during the Pricing Period, subject to the limitations set forth in Section 2.9. As a condition to each exercise of an Optional Amount pursuant to this Section 2.11, the Investor shall issue an Optional Amount Notice to the Company no later than 8:00 p.m. (New York time) on the day of such Optional Amount exercise. If the Investor does not exercise an Optional Amount in full by 8:00 p.m. (New York time) on the last Trading Day of the applicable Pricing Period, such unexercised portion of the Investor's Optional Amount with respect to that Pricing Period automatically shall lapse and terminate.

Section 2.12 Aggregate Limit. Notwithstanding anything to the contrary contained in this Agreement, in no event may the Company issue a Fixed Request Notice or grant an Optional Amount to the extent that the sale of Shares pursuant thereto and pursuant to all prior Fixed Request Notices and Optional Amounts issued hereunder, and as partial damages pursuant to Section 9.1(ii), would cause the Company to sell or the Investor to purchase Shares which in the aggregate are in excess of the Aggregate Limit. If the Company issues a Fixed Request Notice or Optional Amount that otherwise would permit the Investor to purchase shares of Common Stock which would cause the aggregate purchases by Investor hereunder to exceed the Aggregate Limit, such Fixed Request Notice or Optional Amount shall be void ab initio to the extent of the amount by which the dollar value of shares or number of shares, as the case may be, of Common Stock otherwise issuable pursuant to such Fixed Request Notice or Optional Amount together with the dollar value of shares or number of shares, as the case may be, of all other Common Stock purchased by the Investor pursuant hereto, or issued as partial damages pursuant to Section 9.1(ii), would exceed the Aggregate Limit. The Company hereby represents, warrants and covenants that neither it nor any of its Subsidiaries (i) has effected any transaction or series of transactions, (ii) is a party to any pending transaction or series of transactions or (iii) shall enter into any contract, agreement, agreement-in-principle, arrangement or understanding with respect to, or shall effect, any Other Financing which, in any of such cases, may be aggregated with the transactions contemplated by this Agreement for purposes of determining whether approval of the Company's shareholders is required under any bylaw, listed securities maintenance standards or other rules of the Trading Market; provided, however, that the Company shall be permitted to take any action referred to in clause (iii) above if (a) the Company has timely provided the Investor with an Integration Notice as provided in Section 5.6(ii) hereof and (b) unless the Investor has previously terminated this Agreement pursuant to Section 7.2, the Company obtains any requisite shareholder approval which may be required for the Company to consummate such Other Financing described in such Integration Notice.

At the Company's sole discretion, and effective automatically upon delivery of notice thereof by the Company to the Investor, this Agreement may be amended by the Company from time to time to reduce the Aggregate Limit by a specified dollar amount and/or number of shares of Common Stock as shall be determined by the Company in its sole discretion; provided, however, that any such amendment of this Agreement (and any such purported amendment) shall be void and of no force and effect if the effect thereof would restrict, materially delay, conflict with or impair the ability or right of the Company to perform its obligations under this Agreement, including, without limitation, the obligation of the Company to deliver Shares to the Investor in respect of a previously provided Fixed Request Notice or Optional Amount on the applicable Settlement Date. In the event the Company shall have elected to reduce the Aggregate Limit as provided in the immediately preceding sentence, at the Company's sole discretion, and effective automatically upon delivery of notice thereof by the Company to the Investor, the Company may subsequently amend this Agreement to increase the Aggregate Limit up to $40,000,000; provided, however, that in no event shall the Company be entitled to issue Fixed Requests and grant Optional Amounts during the remainder of the Investment Period for an aggregate amount greater than the amount obtained by subtracting (x) the aggregate of all Fixed Request Amounts and Optional Amount Dollar Amounts (including any amounts paid as partial damages pursuant to Section 9.1(ii) hereunder) covered by all Fixed Requests and Optional Amounts theretofore issued or granted by the Company in respect of which a settlement has occurred pursuant to Section 2.7 from (y) $40,000,000, subject in all cases to the Trading Market Limit (except as expressly provided in Section 2.13).

Section 2.13 Trading Market Regulation. Notwithstanding anything in this Agreement to the contrary, the Trading Market Limit shall not be applicable for any purposes of this Agreement or the transactions contemplated hereby, solely to the extent (and only for so long as) the Average Discount Price shall equal or exceed the Base Price (it being hereby acknowledged and agreed that the Trading Market Limit shall be applicable for all purposes of this Agreement and the transactions contemplated hereby at all other times during the term of this Agreement); provided, however, that the Company shall not issue any shares of Common Stock under this Agreement if such issuance would otherwise breach the Company's obligations under the rules and regulations of the Trading Market. "Base Price" shall mean a price per Share equal to $5.02, representing the consolidated closing bid price of the Common Stock as reported on the Trading Market on the Trading Day immediately preceding the Effective Date, subject to (a) upward adjustment (by such amount to be mutually agreed by the Company and the Investor consistent with the rules and regulations of the Trading Market) in the event any shares of Common Stock are issued by the Company as partial damages pursuant to Section 9.1(ii) and (b) adjustment for any stock splits, stock combinations, stock dividends, recapitalizations and other similar transactions that occur on or after the date of this Agreement. The Company hereby represents and warrants to the Investor that the book value per share of Common Stock on the Trading Day immediately preceding the Effective Date is less than the Base Price. "Average Discount Price" shall mean a price per Share (rounded to the nearest tenth of a cent) equal to the quotient obtained by dividing (i) the total aggregate gross purchase price paid by the Investor for all Shares purchased pursuant to all Fixed Requests and Optional Amounts under this Agreement, by (ii) the total aggregate number of Shares issued pursuant to all Fixed Requests and Optional Amounts under this Agreement. The provisions of this Section 2.13 shall be implemented in a manner otherwise than in strict conformity with the terms of this Section 2.13, only if necessary to ensure compliance with the rules and regulations of the Trading Market.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE INVESTOR

The Investor hereby makes the following representations and warranties to the Company:

Section 3.1 Organization and Standing of the Investor. The Investor is an international business company duly organized, validly existing and in good standing under the laws of the British Virgin Islands.

Section 3.2 Authorization and Power. The Investor has the requisite corporate power and authority to enter into and perform its obligations under this Agreement and to purchase the Shares in accordance with the terms hereof. The execution, delivery and performance of this Agreement by the Investor and the consummation by it of the transactions contemplated hereby have been duly authorized by all necessary corporate action, and no further consent or authorization of the Investor, its Board of Directors or shareholders is required. This Agreement has been duly executed and delivered by the Investor. This Agreement constitutes a valid and binding obligation of the Investor enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, conservatorship, receivership, or similar laws relating to, or affecting generally the enforcement of, creditor's rights and remedies or by other equitable principles of general application.

Section 3.3 No Conflicts. The execution, delivery and performance by the Investor of this Agreement and the consummation by the Investor of the transactions contemplated herein do not and shall not (i) result in a violation of such Investor's charter documents, bylaws or other applicable organizational instruments, (ii) conflict with, constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, or give rise to any rights of termination, amendment, acceleration or cancellation of, any material agreement, mortgage, deed of trust, indenture, note, bond, license, lease agreement, instrument or obligation to which the Investor is a party or is bound, (iii) create or impose any lien, charge or encumbrance on any property of the Investor under any agreement or any commitment to which the Investor is party or under which the Investor is bound or under which any of its properties or assets are bound, or (iv) result in a violation of any federal, state, local or foreign statute, rule, or regulation, or any order, judgment or decree of any court or governmental agency applicable to the Investor or by which any of its properties or assets are bound or affected, except, in the case of clauses (ii), (iii) and (iv), for such conflicts, defaults, terminations, amendments, acceleration, cancellations and violations as would not, individually or in the aggregate, prohibit or otherwise interfere with the ability of the Investor to enter into and perform its obligations under this Agreement in any material respect. The Investor is not required under federal, state, local or foreign law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement or to purchase the Shares in accordance with the terms hereof; provided, however, that for purposes of the representation made in this sentence, the Investor is assuming and relying upon the accuracy of the relevant representations and warranties and the compliance with the relevant covenants and agreements of the Company in this Agreement.

Section 3.4 Information. All materials relating to the business, financial condition, management and operations of the Company and materials relating to the offer and sale of the Shares which have been requested by the Investor have been furnished or otherwise made available to the Investor or its advisors (subject to Section 5.12 of this Agreement). The Investor and its advisors have been afforded the opportunity to ask questions of representatives of the Company. The Investor has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Shares. The Investor understands that it (and not the Company) shall be responsible for its own tax liabilities that may arise as a result of this investment or the transactions contemplated by this Agreement. The Investor is aware of all of its obligations under U.S. federal and applicable state securities laws and all rules and regulations promulgated thereunder in connection with this Agreement and the transactions contemplated hereby and the purchase and sale of the Shares.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in the disclosure schedule delivered by the Company to the Investor (which is hereby incorporated by reference in, and constitutes an integral part of, this Agreement) (the "Disclosure Schedule"), the Company hereby makes the following representations and warranties to the Investor:

Section 4.1 Organization, Good Standing and Power. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Washington and has the requisite corporate power and authority to own, lease and operate its properties and assets and to conduct its business as it is now being conducted. The Company and each Subsidiary is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except for any jurisdiction in which the failure to be so qualified would not have a Material Adverse Effect.

Section 4.2 Authorization, Enforcement. The Company has the requisite corporate power and authority to enter into and perform this Agreement and to issue and sell the Shares in accordance with the terms hereof. Except for approvals of the Company's Board of Directors or a committee thereof as may be required in connection with any issuance and sale of Shares to the Investor hereunder (which approvals shall be obtained prior to the delivery of any Fixed Request Notice), the execution, delivery and performance by the Company of this Agreement and the consummation by it of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action and no further consent or authorization of the Company or its Board of Directors or shareholders is required. This Agreement has been duly executed and delivered by the Company and constitutes a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, conservatorship, receivership or similar laws relating to, or affecting generally the enforcement of, creditor's rights and remedies or by other equitable principles of general application.

Section 4.3 Capitalization. The authorized capital stock of the Company and the shares thereof issued and outstanding were as set forth in the Commission Documents as of the dates reflected therein. All of the outstanding shares of Common Stock have been duly authorized and validly issued, and are fully paid and nonassessable. Except as set forth in the Commission Documents, as of the Effective Date, no shares of Common Stock were entitled to preemptive rights or registration rights and there were no outstanding options, warrants, scrip, rights to subscribe to, call or commitments of any character whatsoever relating to, or securities or rights convertible into or exchangeable for, any shares of capital stock of the Company, other than those issued or granted in the ordinary course of business. Except as set forth in the Commission Documents or this Agreement, there were no contracts, commitments, understandings, or arrangements by which the Company is or may become bound to issue additional shares of the capital stock of the Company or options, securities or rights convertible into or exchangeable for any shares of capital stock of the Company, other than as may have been issued or became issuable subsequent to the last filed Commission Document pursuant to the terms of an equity incentive plan maintained by the Company or otherwise those issued or granted in the ordinary course of business (including pursuant to the Company's equity incentive and compensatory arrangements). Except for customary transfer restrictions contained in agreements entered into by the Company to sell restricted securities or as set forth in the Commission Documents, as of the Effective Date, the Company was not a party to, and it had no

knowledge of, any agreement restricting the voting or transfer of any shares of the capital stock of the Company. Except as set forth in the Commission Documents, the offer and sale of all capital stock, convertible or exchangeable securities, rights, warrants or options of the Company issued prior to the Effective Date complied with all applicable federal and state securities laws, and no shareholder has any right of rescission or damages or any "put" or similar right with respect thereto that would have a Material Adverse Effect. The Company has furnished or made available to the Investor via the Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR") true and correct copies of the Company's Articles of Incorporation as in effect on the Effective Date (the "Charter"), and the Company's Bylaws as in effect on the Effective Date (the "Bylaws").

Section 4.4 Issuance of Shares. The Shares to be issued under this Agreement have been or will be duly authorized by all necessary corporate action on the part of the Company and, when paid for in accordance with the terms hereof, the Shares shall be validly issued and outstanding, fully paid and nonassessable, and, when the Shares have been issued to the Investor, the Investor shall be entitled to all rights accorded to a holder of Common Stock pursuant to the Charter and Bylaws.

Section 4.5 No Conflicts. The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated herein do not and shall not (i) result in a violation of any provision of the Company's Charter or Bylaws, (ii) conflict with, constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, or give rise to any rights of termination, amendment, acceleration or cancellation of, any material agreement, mortgage, deed of trust, indenture, note, bond, license, lease agreement, instrument or obligation to which the Company or any of its Significant Subsidiaries is a party or is bound, (iii) create or impose a lien, charge or encumbrance on any property of the Company or any of its Significant Subsidiaries under any agreement or any commitment to which the Company or any of its Significant Subsidiaries is a party or under which the Company or any of its Significant Subsidiaries is bound or under which any of their respective properties or assets are bound, or (iv) result in a violation of any federal, state, local or foreign statute, rule, regulation, order, judgment or decree applicable to the Company or any of its Subsidiaries or by which any property or asset of the Company or any of its Subsidiaries are bound or affected, except, in the case of clauses (ii), (iii) and (iv), for such conflicts, defaults, terminations, amendments, acceleration, cancellations, liens, charges, encumbrances and violations as would not, individually or in the aggregate, have a Material Adverse Effect. The Company is not required under federal, state, local or foreign law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement, or to issue and sell the Shares to the Investor in accordance with the terms hereof (other than any filings which may be required to be made by the Company with the Commission, the Financial Industry Regulatory Authority (the "FINRA") or the Trading Market subsequent to the Effective Date, including but not limited to a Prospectus Supplement under Sections 1.4 and 5.9 of this Agreement, the FINRA Filing under Section 5.1 of this Agreement and any registration statement, prospectus or prospectus supplement which has been or may be filed pursuant to this Agreement); provided, however, that, for purposes of the representation made in this sentence, the Company is assuming and relying upon the accuracy of the representations and warranties of the Investor in this Agreement and the compliance by it with its covenants and agreements contained in this Agreement.

Section 4.6 Commission Documents, Financial Statements. (a) The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act and, except as disclosed in the Commission Documents, as of the Effective Date the Company had timely filed (giving effect to permissible extensions in accordance with Rule 12b-25 under the Exchange Act) all Commission Documents. The Company has delivered or made available to the Investor via EDGAR or otherwise true and complete copies of the Commission Documents filed with the Commission prior to the Effective Date (including, without limitation, the 2010 Form 10-K) and has delivered or made available to the Investor via EDGAR or otherwise true and complete copies of all of the Commission Documents heretofore incorporated by reference in the Registration Statement and the Prospectus. The Company has not provided to the Investor any information which, according to applicable law, rule or regulation, was required to have been disclosed publicly by the Company but which has not been so disclosed, other than with respect to the transactions contemplated by this Agreement. As of its filing date, each Commission Document filed with the Commission and incorporated by reference in the Registration Statement and the Prospectus (including, without limitation, the 2010 Form 10-K) complied in all material respects with the requirements of the Securities Act or the Exchange Act, as applicable, and other federal, state and local laws, rules and regulations applicable to it, and, as of its filing date (or, if amended or superseded by a filing prior to the Effective Date, on the date of such amended or superseded filing), such Commission Document did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. Each Commission Document to be filed with the Commission after the Effective Date and incorporated by reference in the Registration Statement, the Prospectus and any Prospectus Supplement required to be filed pursuant to Sections 1.4 and 5.9 hereof during the Investment Period (including, without limitation, the Current Report), when such document is filed with the Commission or, if applicable, becomes effective, as the case may be, shall comply in all material respects with the requirements of the Securities Act or the Exchange Act, as applicable, and other federal, state and local laws, rules and regulations applicable to it, and shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(b) The financial statements, together with the related notes and schedules, of the Company included in the Commission Documents comply as to form in all material respects with all applicable accounting requirements and the published rules and regulations of the Commission and all other applicable rules and regulations with respect thereto. Such financial statements, together with the related notes and schedules, have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto or (ii) in the case of unaudited interim statements, to the extent they may not include footnotes or may be condensed or summary statements and are subject to normal year-end audit adjustments), and fairly present in all material respects the financial condition of the Company and its consolidated Subsidiaries as of the dates thereof and the results of operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments).

(c) The Company has timely filed with the Commission and made available to the Investor via EDGAR or otherwise all certifications and statements required by (x) Rule 13a-14 or Rule 15d-14 under the Exchange Act or (y) 18 U.S.C. Section 1350 (Section 906 of the Sarbanes-Oxley Act of 2002 ("SOXA")) with respect to all relevant Commission Documents. The Company is in compliance in all material respects with the provisions of SOXA applicable to it as of the date hereof. The Company maintains disclosure controls and procedures required by Rule 13a-15 or Rule 15d-15 under the Exchange Act; and, except as set forth in the Commission Documents such controls and procedures are effective to ensure that all material information concerning the Company and its Subsidiaries is made known on a timely basis to the individuals responsible for the timely and accurate preparation of the Company's Commission filings and other public disclosure documents. As used in this Section 4.6(c), the term "file" shall be broadly construed to include any manner in which a document or information is furnished, supplied or otherwise made available to the Commission.

(d) Ernst & Young LLP, who have expressed their opinions on the audited financial statements and related schedules included or incorporated by reference in the Registration Statement and the Base Prospectus are, with respect to the Company, independent public accountants as required by the Securities Act and is an independent registered public accounting firm within the meaning of SOXA as required by the rules of the Public Company Accounting Oversight Board.

Section 4.7 Subsidiaries. Exhibit 21.1 to the 2010 Form 10-K sets forth each Subsidiary of the Company as of the Effective Date, showing its jurisdiction of incorporation or organization, and the Company does not have any other Subsidiaries as of the Effective Date.

Section 4.8 No Material Adverse Effect. Except as disclosed in any Commission Documents filed since December 31, 2010, or which may be deemed to have resulted from the Company's continued losses from operations, since December 31, 2010, the Company has not experienced or suffered any Material Adverse Effect, and there exists no current state of facts, condition or event which would have a Material Adverse Effect, except (i) as disclosed in any Commission Documents filed since December 31, 2010 or (ii) continued losses from operations.

Section 4.9 Indebtedness. The Commission Documents set forth, as of March 31, 2011, all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments through such date. For the purposes of this Agreement, "Indebtedness" shall mean (a) any liabilities for borrowed money or amounts owed in excess of $10,000,000 (other than trade accounts payable incurred in the ordinary course of business), (b) all guaranties, endorsements, indemnities and other contingent obligations in respect of Indebtedness of others in excess of $10,000,000, whether or not the same are or should be reflected in the Company's balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (c) the present value of any lease payments in excess of $10,000,000 due under leases required to be capitalized in accordance with GAAP. There is no existing or continuing default or event of default in respect of any Indebtedness of the Company or any of its Subsidiaries.

Section 4.10 Title To Assets. Each of the Company and its Subsidiaries has good and valid title to, or has valid rights to lease or otherwise use, all of their respective real and personal property reflected in the Commission Documents, free of mortgages, pledges, charges, liens, security interests or other encumbrances, except for those indicated in the Commission Documents and those that would not have a Material Adverse Effect. All real property and facilities held under lease by the Company or any of its Subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company or any of its Subsidiaries.

Section 4.11 Actions Pending. There is no action, suit, claim, investigation or proceeding pending, or to the knowledge of the Company threatened in writing, against the Company or any Subsidiary which questions the validity of this Agreement or the transactions contemplated hereby or any action taken or to be taken pursuant hereto or thereto. Except as set forth in the Commission Documents, there is no action, suit, claim, investigation or proceeding pending, or to the knowledge of the Company threatened in writing, against or involving the Company, any Subsidiary or any of their respective properties or assets, or involving any officers or directors of the Company or any of its Subsidiaries, including, without limitation, any securities class action lawsuit or shareholder derivative lawsuit related to the Company, in each case which, if determined adversely to the Company, its Subsidiary or any officer or director of the Company or its Subsidiaries, would have a Material Adverse Effect.

Section 4.12 Compliance With Law. The business of the Company and the Subsidiaries has been and is presently being conducted in compliance with all applicable federal, state, local and foreign governmental laws, rules, regulations and ordinances, except as set forth in the Commission Documents and except for such non-compliance which, individually or in the aggregate, would not have a Material Adverse Effect.

Section 4.13 Certain Fees. Except for the placement fee payable by the Company to Reedland Capital Partners, an Institutional Division of Financial West Group, Member FINRA/SIPC ("Reedland"), which shall be set forth in a separate engagement letter between the Company and Reedland (a true and complete fully executed copy of which has heretofore been provided to the Investor), no brokers, finders or financial advisory fees or commissions shall be payable by the Company or any Subsidiary (or any of their respective affiliates) with respect to the transactions contemplated by this Agreement. Except as set forth in this Section 4.13 or as disclosed in Section 4.13 of the Disclosure Schedule or in the Registration Statement, the Prospectus or the Current Report, there are no contracts, agreements or understandings between the Company and any person that would give rise to a valid claim against the Company, the Investor or the Broker-Dealer for a brokerage commission, finder's fee or other like payment in connection with the transactions contemplated by this Agreement or, to the Company's knowledge, any arrangements, agreements, understandings, payments or issuance with respect to the Company or any of its officers, directors, shareholders, partners, employees, Subsidiaries or affiliates that may affect the FINRA's determination of the amount of compensation to be received by any FINRA member (including, without limitation, those FINRA members set forth on Schedule 4.13 of the Disclosure Schedule) or person associated with any FINRA member in connection with the transactions contemplated by this Agreement. Except as set forth in this Section 4.13 or as disclosed in Section 4.13 of the Disclosure Schedule or in the Registration

Statement, the Prospectus or the Current Report, no "items of value" (within the meaning of FINRA Rule 5110) have been received, and no arrangements have been entered into for the future receipt of any items of value, from the Company or any of its officers, directors, shareholders, partners, employees, Subsidiaries or affiliates by any FINRA member (including, without limitation, those FINRA members set forth on Schedule 4.13 of the Disclosure Schedule) or person associated with any FINRA member, during the period commencing 180 days immediately preceding the Effective Date and ending on the date this Agreement is terminated in accordance with Article VII, that may affect the FINRA's determination of the amount of compensation to be received by any FINRA member or person associated with any FINRA member in connection with the transactions contemplated by this Agreement.

Section 4.14 Operation of Business. (a) The Company or one or more of its Subsidiaries possesses such permits, licenses, approvals, consents and other authorizations (including licenses, accreditation and other similar documentation or approvals of any local health departments) issued by the appropriate federal, state, local or foreign regulatory agencies or bodies, including, without limitation, the U.S. Food and Drug Administration ("FDA"), as are necessary to conduct the business now operated by it (collectively, "Governmental Licenses"), except where the failure to possess such Governmental Licenses, individually or in the aggregate, would not have a Material Adverse Effect or as otherwise disclosed in the Commission Documents. The Company and its Subsidiaries are in compliance with the terms and conditions of all such Governmental Licenses and all applicable FDA rules and regulations, guidelines and policies, and all applicable rules and regulations, guidelines and policies of any governmental authority exercising authority comparable to that of the FDA (including any non-governmental authority whose approval or authorization is required under foreign law comparable to that administered by the FDA), except where the failure to so comply, individually or in the aggregate, would not have a Material Adverse Effect or except as otherwise disclosed in the Commission Documents. All of the Governmental Licenses are valid and in full force and effect, except where the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect, individually or in the aggregate, would not have a Material Adverse Effect or as otherwise disclosed in the Commission Documents. As to each product that is subject to FDA regulation or similar applicable legal provisions in any foreign jurisdiction that is developed, manufactured, tested, packaged, labeled, marketed, sold, distributed and/or commercialized by the Company or any of its Subsidiaries, each such product is being developed, manufactured, tested, packaged, labeled, marketed, sold, distributed and/or commercialized in compliance with all applicable requirements of the FDA (and any non-governmental authority whose approval or authorization is required under foreign law comparable to that administered by the FDA), including, but not limited to, those relating to investigational use, premarket notification, premarket approval, good clinical practices, good manufacturing practices, record keeping, filing of reports, and patient privacy and medical record security, except where such non-compliance, individually or in the aggregate, would not have a Material Adverse Effect or as otherwise disclosed in the Commission Documents. As to each product or product candidate of the Company or any of its Subsidiaries subject to FDA regulation or similar legal provision in any foreign jurisdiction, all manufacturing facilities of the Company and its Subsidiaries are operated in compliance with the FDA's Good Manufacturing Practices requirements at 21 C.F.R. Part 210 and 211, as applicable, except where such non-compliance, individually or in the aggregate, would not have a Material Adverse Effect or as otherwise disclosed in the Commission Documents. Except as set forth in the Commission

Documents or the Registration Statement, neither the Company nor any of its Subsidiaries has received any written notice of proceedings relating to the revocation or modification of any such Governmental Licenses or relating to a potential violation of, or failure to comply with, any FDA rules and regulations, guidelines or policies which, if the subject of any unfavorable decision, ruling or finding, individually or in the aggregate, would have a Material Adverse Effect or as otherwise disclosed in the Commission Documents. Except as set forth in the Commission Documents or the Registration Statement, neither the Company nor any of its Subsidiaries has received any correspondence, notice or request from the FDA, including, without limitation, notice that any one or more products or product candidates of the Company or any of its Subsidiaries failed to receive approval from the FDA for use for any one or more indications that, individually or in the aggregate, would have a Material Adverse Effect. This Section 4.14 does not relate to environmental matters, such items being the subject of Section 4.15.

(b) The Company or one or more of its Subsidiaries owns or possesses adequate patents, patent applications, patent rights, licenses, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names, trade dress, logos, copyrights and other intellectual property, including, without limitation, all of the intellectual property described in the Commission Documents as being owned or licensed by the Company (collectively, "Intellectual Property"), necessary to carry on the business now operated by it, except where failure to own, license, or have such rights would not, individually or in the aggregate, have a Material Adverse Effect. Except as set forth in the Commission Documents, there are no actions, suits or judicial proceedings pending, or to the Company's knowledge threatened, relating to patents or proprietary information to which the Company or any of its Subsidiaries is a party or of which any property of the Company or any of its Subsidiaries is subject, and neither the Company nor any of its Subsidiaries has received any notice or is otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which could render any Intellectual Property invalid or inadequate to protect the interest of the Company and its Subsidiaries therein, and which infringement or conflict (if the subject of any unfavorable decision, ruling or finding) or invalidity or inadequacy, individually or in the aggregate, would have a Material Adverse Effect.

(c) Certain clinical trials conducted by, or on behalf of, the Company or any of its Subsidiaries, or in which the Company or any of its Subsidiaries has participated that are described in the Registration Statement or the Commission Documents, or the results of which are referred to in the Registration Statement or the Commission Documents, if any, are the only clinical trials currently being conducted by or on behalf of the Company and its Subsidiaries. All such clinical trials conducted, supervised or monitored by, or on behalf of, the Company or any of its Subsidiaries have been conducted in compliance with all applicable federal, state, local and foreign laws, and the regulations and requirements of any applicable governmental entity, including, but not limited to, FDA good clinical practice and good laboratory practice requirements (or the foreign equivalent requirements) except as set forth in the Commission Documents or except where the failure to so comply, individually or in the aggregate, would not likely result in a Material Adverse Effect. Except as set forth in the Registration Statement or the Commission Documents or as would not likely result in a Material Adverse Effect, neither the Company nor any of its Subsidiaries has received any written notices or correspondence from the

FDA or any other governmental agency requiring the termination or suspension of any clinical trials conducted by, or on behalf of, the Company or any of its Subsidiaries or in which the Company or any of its Subsidiaries has participated that are described in the Registration Statement or the Commission Documents, if any, or the results of which are referred to in the Registration Statement or the Commission Documents. All clinical trials previously conducted by, or on behalf of, the Company or any of its Subsidiaries while conducted by or on behalf of the Company or any of its Subsidiaries, were conducted in compliance with all applicable federal, state, local and foreign laws, and the regulations and requirements of any applicable governmental entity, including, but not limited to, FDA good clinical practice and good laboratory practice requirements, except where the failure to so comply, individually or in the aggregate, would not likely result in a Material Adverse Effect or except as otherwise disclosed in the Commission Documents.

Section 4.15 Environmental Compliance. Except as disclosed in the Commission Documents, the Company and each of its Subsidiaries have obtained all material approvals, authorization, certificates, consents, licenses, orders and permits or other similar authorizations of all governmental authorities, or from any other person, that are required under any Environmental Laws, except for any approvals, authorization, certificates, consents, licenses, orders and permits or other similar authorizations the failure of which to obtain does not or would not have a Material Adverse Effect. "Environmental Laws" shall mean all applicable laws relating to the protection of the environment including, without limitation, all requirements pertaining to reporting, licensing, permitting, controlling, investigating or remediating emissions, discharges, releases or threatened releases of hazardous substances, chemical substances, pollutants, contaminants or toxic substances, materials or wastes, whether solid, liquid or gaseous in nature, into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of hazardous substances, chemical substances, pollutants, contaminants or toxic substances, material or wastes, whether solid, liquid or gaseous in nature. Except for such instances as would not, individually or in the aggregate, have a Material Adverse Effect, to the Company's knowledge, there are no past or present events, conditions, circumstances, incidents, actions or omissions relating to or in any way affecting the Company or its Subsidiaries that violate or would reasonably be expected to violate any Environmental Law after the Effective Date or that would reasonably be expected to give rise to any environmental liability, or otherwise form the basis of any claim, action, demand, suit, proceeding, hearing, study or investigation (i) under any Environmental Law, or (ii) based on or related to the manufacture, processing, distribution, use, treatment, storage (including without limitation underground storage tanks), disposal, transport or handling, or the emission, discharge, release or threatened release of any hazardous substance.

Section 4.16 Material Agreements. Except as set forth in the Commission Documents, neither the Company nor any Subsidiary of the Company is a party to any written or oral contract, instrument, agreement commitment, obligation, plan or arrangement, a copy of which would be required to be filed with the Commission as an exhibit to an annual report on Form 10-K (collectively, "Material Agreements"). Except as set forth in the Commission Documents, the Company and each of its Subsidiaries have performed in all material respects all the obligations required to be performed by them under the Material Agreements, have received no notice of default or an event of default by the Company or any of its Subsidiaries thereunder and are not aware of any basis for the assertion thereof, and neither the Company or any of its

Subsidiaries nor, to the knowledge of the Company, any other contracting party thereto are in default under any Material Agreement now in effect, the result of which would have a Material Adverse Effect. Except as set forth in the Commission Documents, each of the Material Agreements is in full force and effect, and constitutes a legal, valid and binding obligation enforceable in accordance with its terms against the Company and/or any of its Subsidiaries and, to the knowledge of the Company, each other contracting party thereto, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, conservatorship, receivership or similar laws relating to, or affecting generally the enforcement of, creditor's rights and remedies or by other equitable principles of general application.

Section 4.17 Transactions With Affiliates. Except as set forth in the Commission Documents, there are no loans, leases, agreements, contracts, royalty agreements, management contracts, service arrangements or other continuing transactions exceeding $120,000 between (a) the Company or any Subsidiary, on the one hand, and (b) any person or entity who would be covered by Item 404(a) of Regulation S-K, on the other hand. Except as disclosed in the Commission Documents, there are no outstanding amounts payable to or receivable from, or advances by the Company or any of its Subsidiaries to, and neither the Company nor any of its Subsidiaries is otherwise a creditor of or debtor to, any beneficial owner of more than 5% of the outstanding shares of Common Stock, or any director, employee or affiliate of the Company or any of its Subsidiaries, other than (i) reimbursement for reasonable expenses incurred on behalf of the Company or any of its Subsidiaries or (ii) as part of the normal and customary terms of such persons' employment or service as a director with the Company or any of its Subsidiaries.

Section 4.18 Securities Act. The Company has complied with all applicable federal and state securities laws in connection with the offer, issuance and sale of the Shares hereunder.

(i) The Company has prepared and filed with the Commission in accordance with the provisions of the Securities Act the Registration Statement, including a base prospectus relating to the Shares. The Registration Statement was declared effective by order of the Commission on October 18, 2010. As of the date hereof, no stop order suspending the effectiveness of the Registration Statement has been issued by the Commission or is continuing in effect under the Securities Act and no proceedings therefor are pending before or, to the Company's knowledge, threatened by the Commission. No order preventing or suspending the use of the Prospectus or any Permitted Free Writing Prospectus has been issued by the Commission.

(ii) As of the Effective Date, the Company satisfies all of the requirements for the use of Form S-3 under the Securities Act for the offering and sale of the Shares contemplated by this Agreement (without reliance on General Instruction I.B.6. of Form S-3). If, during the term of this Agreement, the Company becomes subject to General Instruction I.B.6. of Form S-3, the Company hereby confirms that for as long as the Company is subject to General Instruction I.B.6. of Form S-3 during the term of this Agreement, the Company shall not offer or sell any securities in reliance on General Instruction I.B.6. of Form S-3 to the extent the aggregate market value of such securities, when aggregated with the aggregate market value of all of the Shares that have been sold pursuant to this Agreement in the 12 calendar months immediately prior to and including such sale in reliance on General Instruction I.B.6. of Form S-3, exceeds the

aggregate market value limitations imposed by General Instruction I.B.6 of Form S-3, calculated in accordance with Instructions 1 and 2 to General Instruction I.B.6 of Form S-3. The Company is not, and has not previously been at any time, a "shell company" (as such term is defined in Rule 405 under the Securities Act). The Commission has not notified the Company of any objection to the use of the form of the Registration Statement pursuant to Rule 401(g)(1) under the Securities Act. The Registration Statement complied in all material respects on the date on which it was declared effective by the Commission, and will comply in all material respects at each deemed effective date with respect to the Investor pursuant to Rule 430B(f)(2) of the Securities Act, with the requirements of the Securities Act, and the Registration Statement (including the documents incorporated by reference therein) did not on the date it was declared effective by the Commission, and shall not at each deemed effective date with respect to the Investor pursuant to Rule 430B(f)(2) of the Securities Act, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided that this representation and warranty does not apply to statements in or omissions from the Registration Statement made in reliance upon and in conformity with information relating to the Investor furnished to the Company in writing by or on behalf of the Investor expressly for use therein. The Registration Statement, as of the Effective Date, meets the requirements set forth in Rule 415(a)(1)(x) under the Securities Act. The Base Prospectus complied in all material respects on its date and on the Effective Date, and will comply in all material respects on each applicable Fixed Request Exercise Date and, when taken together with the applicable Prospectus Supplement and any applicable Permitted Free Writing Prospectus, on each applicable Settlement Date, with the requirements of the Securities Act and did not on its date and on the Effective Date and shall not on each applicable Fixed Request Exercise Date and, when taken together with the applicable Prospectus Supplement and any applicable Permitted Free Writing Prospectus, on each applicable Settlement Date contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that this representation and warranty does not apply to statements in or omissions from the Base Prospectus, each applicable Prospectus Supplement and any Permitted Free Writing Prospectus made in reliance upon and in conformity with information relating to the Investor furnished to the Company in writing by or on behalf of the Investor expressly for use therein.

(iii) Each Prospectus Supplement required to be filed pursuant to Sections 1.4 and 5.9 hereof, when taken together with the Base Prospectus and any applicable Permitted Free Writing Prospectus, on its date and on the applicable Settlement Date, shall comply in all material respects with the provisions of the Securities Act and shall not on its date and on the applicable Settlement Date contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading, except that this representation and warranty does not apply to statements in or omissions from any Prospectus Supplement made in reliance upon and in conformity with information relating to the Investor furnished to the Company in writing by or on behalf of the Investor expressly for use therein.

(iv) At the earliest time after the filing of the Registration Statement that the Company or another offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Securities Act) relating to the Shares, the Company was not and is not an

“ineligible issuer” (as defined in Rule 405 under the Securities Act). Each Permitted Free Writing Prospectus (a) shall conform in all material respects to the requirements of the Securities Act on the date of its first use, (b) when considered together with the Prospectus on each applicable Fixed Request Exercise Date and on each applicable Settlement Date, shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading, and (c) shall not include any information that conflicts with the information contained in the Registration Statement, including any document incorporated by reference therein and any Prospectus Supplement deemed to be a part thereof that has not been superseded or modified. The immediately preceding sentence does not apply to statements in or omissions from any Permitted Free Writing Prospectus made in reliance upon and in conformity with information relating to the Investor furnished to the Company in writing by or on behalf of the Investor expressly for use therein.

(v) Prior to the Effective Date, the Company has not distributed any offering material in connection with the offering and sale of the Shares. From and after the Effective Date and prior to the completion of the distribution of the Shares, the Company shall not distribute any offering material in connection with the offering and sale of the Shares, other than the Registration Statement, the Base Prospectus as supplemented by any Prospectus Supplement or a Permitted Free Writing Prospectus.

Section 4.19 Employees. As of the Effective Date, neither the Company nor any Subsidiary of the Company has any collective bargaining arrangements or agreements covering any of its employees, except as set forth in the Commission Documents. As of the Effective Date, except as disclosed in the Registration Statement or the Commission Documents, no officer, consultant or key employee of the Company or any Subsidiary whose termination, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect, has terminated or, to the knowledge of the Company, has any present intention of terminating his or her employment or engagement with the Company or any Subsidiary.

Section 4.20 Use of Proceeds. The proceeds from the sale of the Shares shall be used by the Company and its Subsidiaries as set forth in the Base Prospectus and any Prospectus Supplement filed pursuant to Sections 1.4 and 5.9.

Section 4.21 Investment Company Act Status. The Company is not, and as a result of the consummation of the transactions contemplated by this Agreement and the application of the proceeds from the sale of the Shares as set forth in the Base Prospectus and any Prospectus Supplement shall not be required to be registered as an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended.

Section 4.22 ERISA. No liability to the Pension Benefit Guaranty Corporation has been incurred with respect to any Plan by the Company or any of its Subsidiaries which has had or would have a Material Adverse Effect. No “prohibited transaction” (as defined in Section 406 of ERISA or Section 4975 of the Code) or “accumulated funding deficiency” (as defined in Section 203 of ERISA) or any of the events set forth in Section 4043(b) of ERISA has occurred with respect to any Plan which has had or would have a Material Adverse Effect, and the

execution and delivery of this Agreement and the issuance and sale of the Shares hereunder shall not result in any of the foregoing events. Each Plan is in compliance in all material respects with applicable law, including ERISA and the Code; the Company has not incurred and does not expect to incur liability under Title IV of ERISA with respect to the termination of, or withdrawal from, any Plan; and each Plan for which the Company would have any liability that is intended to be qualified under Section 401(a) of the Code is so qualified in all material respects and nothing has occurred, whether by action or failure to act, which would cause the loss of such qualifications. As used in this Section 4.22, the term "Plan" shall mean an "employee pension benefit plan" (as defined in Section 3 of ERISA) which is or has been established or maintained, or to which contributions are or have been made, by the Company or any Subsidiary or by any trade or business, whether or not incorporated, which, together with the Company or any Subsidiary, is under common control, as described in Section 414(b) or (c) of the Code.

Section 4.23 Taxes. The Company (i) has filed all necessary federal, state and foreign income and franchise tax returns or has duly requested extensions thereof, except for those the failure of which to file would not have a Material Adverse Effect, (ii) has paid all federal, state, local and foreign taxes due and payable for which it is liable, except to the extent that any such taxes are being contested in good faith and by appropriate proceedings, except for such taxes the failure of which to pay would not have a Material Adverse Effect, and (iii) does not have any tax deficiency or claims outstanding or assessed or, to the Company's knowledge, proposed against it which would have a Material Adverse Effect.

Section 4.24 Insurance. The Company carries, or is covered by, insurance in such amounts and covering such risks as the Company deems is adequate for the conduct of its and its Subsidiaries' businesses and the value of their respective properties and as is customary for companies engaged in similar businesses in similar industries.

Section 4.25 Acknowledgement Regarding Investor's Purchase of Shares. The Company acknowledges and agrees that the Investor is acting solely in the capacity of an arm's length purchaser with respect to this Agreement and the transactions contemplated hereunder. The Company further acknowledges that the Investor is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement and the transactions contemplated hereunder, and any advice given by the Investor or any of its representatives or agents in connection with this Agreement and the transactions contemplated hereunder is merely incidental to the Investor's purchase of the Shares.

ARTICLE V
COVENANTS

The Company covenants with the Investor, and the Investor covenants with the Company, as follows, which covenants of one party are for the benefit of the other party, during the Investment Period:

Section 5.1 Securities Compliance; FINRA Filing.

(i) The Company shall notify the Trading Market in accordance with its applicable rules and regulations of the transactions contemplated by this Agreement, and shall take all necessary action, undertake all proceedings and obtain all registrations, permits, consents and approvals for the legal and valid issuance of the Shares to the Investor in accordance with the terms of this Agreement.

(ii) The Company shall (with the Investor's assistance) assist Reedland with the preparation and filing with the FINRA's Corporate Financing Department via CobraDesk (not later than 24 hours after the Effective Date) of all documents and information required to be filed with the FINRA pursuant to FINRA Rule 5110 with regard to the transactions contemplated by this Agreement (the "FINRA Filing"). Prior to the Effective Date, the Company shall have paid to the FINRA by wire transfer of immediately available funds the applicable filing fee with respect to the FINRA Filing, and the Company shall be solely responsible for payment of such fee. The parties hereby agree to provide each other and Reedland all requisite information and otherwise to assist each other and Reedland in a timely fashion in order for Reedland to complete the preparation and submission of the FINRA Filing in accordance with this Section 5.1(ii) and to assist Reedland in promptly responding to any inquiries or requests from FINRA or its staff. Each party hereto shall (A) promptly notify the other party and Reedland of any communication to that party or its affiliates from the FINRA, including, without limitation, any request from the FINRA or its staff for amendments or supplements to or additional information in respect of the FINRA Filing and permit the other party and Reedland to review in advance any proposed written communication to the FINRA and (B) furnish the other party and Reedland with copies of all written correspondence, filings and communications between them and their affiliates and their respective representatives and advisors, on the one hand, and the FINRA or members of its staff, on the other hand, with respect to this Agreement or the transactions contemplated hereby. Each of the parties hereto agrees to use its commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other party and Reedland in doing, all things necessary, proper or advisable to obtain as promptly as practicable (but in no event later than 60 days after the Effective Date) written confirmation from the FINRA to the effect that the FINRA's Corporate Financing Department has determined not to raise any objection with respect to the fairness and reasonableness of the terms of this Agreement or the transactions contemplated hereby; provided, however, that the Investor shall have no responsibility for the compliance or non-compliance of any Broker-Dealer with FINRA Rule 5110 and shall not be required to (x) disclose to the FINRA or to any other governmental agency, person or entity any business, financial or other information that the Investor deems, in its sole and absolute discretion, to be proprietary, confidential or otherwise sensitive information, (y) amend, modify or change any of the terms or conditions of this Agreement or (z) otherwise take any other action, including, without limitation, modifying the Discount Price thresholds referred to in Section 2.2 or the amount of fees and commissions to be paid to the Broker-Dealer in connection with the transactions contemplated by this Agreement, in each case, in such a manner that would, in the Investor's sole and absolute discretion, render the terms and conditions of this Agreement and the transactions contemplated hereby to be no longer advisable to the Investor. Notwithstanding anything to the contrary contained in this Agreement, the Company shall not be permitted to deliver any Fixed Request Notice to the Investor, and the Investor shall not be obligated to purchase any Shares pursuant to a Fixed Request Notice, unless and until the

parties hereto and Reedland shall have received written confirmation from the FINRA to the effect that the FINRA's Corporate Financing Department has determined not to raise any objection with respect to the fairness and reasonableness of the terms of this Agreement or the transactions contemplated hereby.

Section 5.2 Registration and Listing. The Company shall take all action necessary to cause the Common Stock to continue to be registered as a class of securities under Sections 12(b) or 12(g) of the Exchange Act, shall comply with its reporting and filing obligations under the Exchange Act, and shall not take any action or file any document (whether or not permitted by the Securities Act) to terminate or suspend such registration or to terminate or suspend its reporting and filing obligations under the Exchange Act or Securities Act, except as permitted herein. The Company shall use its reasonable best efforts to continue the listing and trading of its Common Stock and the listing of the Shares purchased by Investor hereunder on the Trading Market (including, without limitation, maintaining sufficient tangible net assets), and shall comply with the Company's reporting, filing and other obligations under the bylaws, listed securities maintenance standards and other rules and regulations of the FINRA and the Trading Market. The Company shall not take any action which could be reasonably expected to result in the delisting or suspension (other than any suspension of trading of limited duration agreed to by the Company, which suspension shall be terminated prior to any Fixed Request Exercise Date or Settlement Date) of the Common Stock on the Trading Market.

Section 5.3 Compliance with Laws.

(i) The Company shall comply, and cause each Subsidiary to comply, (a) with all laws, rules, regulations and orders applicable to the business and operations of the Company and its Subsidiaries except as would not have a Material Adverse Effect and (b) with all applicable provisions of the Securities Act, the Exchange Act, the rules and regulations of the FINRA and the listing standards of the Trading Market. Without limiting the generality of the foregoing, neither the Company nor any of its officers, directors or affiliates has taken or will take, directly or indirectly, any action designed or intended to stabilize or manipulate the price of any security of the Company, or which caused or resulted in, or which would in the future reasonably be expected to cause or result in, stabilization or manipulation of the price of any security of the Company.

(ii) The Investor shall comply with all laws, rules, regulations and orders applicable to the performance by it of its obligations under this Agreement and its investment in the Shares, except as would not, individually or in the aggregate, prohibit or otherwise interfere with the ability of the Investor to enter into and perform its obligations under this Agreement in any material respect. Without limiting the foregoing, the Investor shall comply with all applicable provisions of the Securities Act and the Exchange Act.

Section 5.4 Keeping of Records and Books of Account; Foreign Corrupt Practices Act.

(i) The Company shall keep and cause each Subsidiary to keep adequate records and books of account, in which complete entries shall be made in accordance with GAAP consistently applied, reflecting all financial transactions of the Company and its

Subsidiaries, and in which, for each fiscal year, all proper reserves for depreciation, depletion, obsolescence, amortization, taxes, bad debts and other purposes in connection with its business shall be made. The Company shall maintain a system of internal accounting controls that (a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company; (b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and (c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the Company's financial statements (it being acknowledged and agreed that the identification by the Company and/or its independent registered public accounting firm of any "significant deficiencies" or "material weaknesses" (each as defined by the Public Company Accounting Oversight Board) in the Company's internal controls over its financial reporting shall not, in and of itself, constitute a breach of this Section 5.4(i)).

(ii) Neither the Company, nor any of its Subsidiaries, nor to the knowledge of the Company, any of their respective directors, officers, agents, employees or any other persons acting on their behalf shall, in connection with the operation of the Company's and its Subsidiaries' respective businesses, (a) use any corporate funds for unlawful contributions, payments, gifts or entertainment or to make any unlawful expenditures relating to political activity to government officials, candidates or members of political parties or organizations, (b) pay, accept or receive any unlawful contributions, payments, expenditures or gifts, or (c) violate or operate in noncompliance with any export restrictions, anti-boycott regulations, embargo regulations or other applicable domestic or foreign laws and regulations, except for such violations or noncompliant operations that would not likely result in a Material Adverse Effect.

(iii) Subject to the requirements of Section 5.12 of this Agreement, from time to time from and after the period beginning with the third Trading Day immediately preceding each Fixed Request Exercise Date through and including the applicable Settlement Date, the Company shall make available for inspection and review by the Investor during normal business hours and after reasonable notice, customary documentation reasonably requested by the Investor and/or its appointed counsel or advisors to conduct due diligence.

Section 5.5 Limitations on Holdings and Issuances. Notwithstanding any other provision of this Agreement, the Company shall not issue and the Investor shall not purchase any shares of Common Stock which, when aggregated with all other shares of Common Stock then beneficially owned (as calculated pursuant to Section 13(d) of the Exchange Act and Rule 13d-3 promulgated thereunder) by the Investor and its affiliates, would result in the beneficial ownership by the Investor of more than 9.9% of the then issued and outstanding shares of Common Stock. Promptly following any request by the Company, the Investor shall inform the Company of the number of shares of Common Stock then beneficially owned by the Investor and its affiliates.

Section 5.6 Other Agreements and Other Financings.

(i) The Company shall not enter into, announce or recommend to its shareholders any agreement, plan, arrangement or transaction in or of which the terms thereof would restrict, materially delay, conflict with or impair the ability or right of the Company to perform its obligations under this Agreement, including, without limitation, the obligation of the Company to deliver Shares to the Investor in respect of a previously provided Fixed Request Notice or Optional Amount on the applicable Settlement Date. For the avoidance of doubt, nothing in this Section 5.6(i) shall in any way limit the Company's right to terminate this Agreement in accordance with Section 7.1 (subject in all cases to Section 7.3).

(ii) If the Company enters into any agreement, plan, arrangement or transaction with a third party or seeks to utilize any existing agreement, plan or arrangement with a third party, in each case the principal purpose of which is to implement, effect or consummate, at any time during the period beginning on the first Trading Day of any Pricing Period and ending on the second Trading Day next following the applicable Settlement Date (the "Reference Period"), an Other Financing that does not constitute an Acceptable Financing, the Company shall provide prompt notice thereof (an "Other Financing Notice") to the Investor; provided, however, that such Other Financing Notice must be received by the Investor not later than the earlier of (a) 48 hours after the Company's execution of any agreement, plan, arrangement or transaction relating to such Other Financing (or, with respect to any existing agreement, plan or arrangement, 48 hours after the Company has determined to utilize any such existing agreement, plan or arrangement to implement, effect or consummate such Other Financing) and (b) the second Trading Day immediately preceding the applicable Settlement Date with respect to the applicable Fixed Request Notice; provided, further, that the Company shall notify the Investor within 24 hours (an "Integration Notice") if it enters into any agreement, plan, arrangement or transaction with a third party, the principal purpose of which is to obtain at any time during the Investment Period an Other Financing that may be aggregated with the transactions contemplated by this Agreement for purposes of determining whether approval of the Company's shareholders is required under any bylaw, listed securities maintenance standards or other rules of the Trading Market and, if required under applicable law, including, without limitation, Regulation FD promulgated by the Commission, or under the applicable rules and regulations of the Trading Market, the Company shall publicly disclose such information in accordance with Regulation FD and the applicable rules and regulations of the Trading Market. For purposes of this Section 5.6(ii), any press release issued by, or Commission Document filed by, the Company shall constitute sufficient notice, provided that it is issued or filed, as the case may be, within the time requirements set forth in the first sentence of this Section 5.6(ii) for an Other Financing Notice or an Integration Notice, as applicable. With respect to any Pricing Period for which the Company is required to provide an Other Financing Notice pursuant to the first sentence (including the provisos thereto) of this Section 5.6(ii), the Investor shall (i) have the option to purchase the Shares subject to the Fixed Request at (x) the price therefor in accordance with the terms of this Agreement or (y) the third party's per share purchase price in connection with the Other Financing, net of such third party's discounts, Warrant Value and fees, or (ii) the Investor may elect to not purchase any Shares subject to the Fixed Request for that Pricing Period. An "Other Financing" shall mean (w) the issuance of Common Stock for a purchase price less than, or the issuance of securities convertible into or exchangeable for Common Stock at an exercise or conversion price (as the case may be) less than, the then Current Market Price of the Common

Stock (including, without limitation, pursuant to any "equity line" or other financing that is substantially similar to the financing provided for under this Agreement, or pursuant to any other transaction in which the purchase, conversion or exchange price for such Common Stock is determined using a floating discount or other post-issuance adjustable discount to the then Current Market Price (any such transaction, a "Similar Financing")), in each case, after all fees, discounts, Warrant Value and commissions associated with the transaction (a "Below Market Offering"); (x) an "at-the-market" offering of Common Stock or securities convertible into or exchangeable for Common Stock pursuant to Rule 415(a)(4) under the Securities Act (an "ATM"); (y) the implementation by the Company of any mechanism in respect of any securities convertible into or exchangeable for Common Stock for the reset of the purchase price of the Common Stock to below the then Current Market Price of the Common Stock (including, without limitation, any antidilution or similar adjustment provisions in respect of any Company securities, but specifically excluding customary adjustments for stock splits, stock dividends, stock combinations and similar events) (a "Price Reset Provision"); or (z) the issuance of options, warrants or similar rights of subscription in each case not constituting an Acceptable Financing. "Acceptable Financing" shall mean the issuance by the Company of: (1) debt securities or any class or series of preferred stock of the Company, in each case that are not convertible into or exchangeable for Common Stock or securities convertible into or exchangeable for Common Stock; (2) shares of Common Stock or securities convertible into or exchangeable for Common Stock (including, without limitation, convertible debt securities) other than in connection with a Below Market Offering or an ATM, and the issuance of shares of Common Stock upon the conversion, exercise or exchange thereof; (3) shares of Common Stock or securities convertible into or exchangeable for Common Stock (including, without limitation, convertible debt securities) in connection with an underwritten public offering of securities of the Company or a registered direct public offering of securities of the Company, in each case where the price per share of such Common Stock (or the conversion or exercise price of such securities, as applicable) is fixed concurrently with the execution of definitive documentation relating to such offering, and the issuance of shares of Common Stock upon the conversion, exercise or exchange thereof; (4) shares of Common Stock or securities convertible into or exchangeable for Common Stock in connection with awards under the Company's benefit and equity plans and arrangements or shareholder rights plan (as applicable) and the issuance of shares of Common Stock upon the conversion, exercise or exchange thereof; (5) shares of Common Stock issuable upon the conversion, exercise or exchange of equity awards or convertible, exercisable or exchangeable securities (including, without limitation, convertible debt securities) outstanding as of the Effective Date; (6) shares of Common Stock in connection with stock splits, stock dividends, stock combinations, recapitalizations, reclassifications and similar events; (7) shares of Common Stock or securities convertible into or exercisable or exchangeable for Common Stock (including, without limitation, convertible debt securities) issued in connection with the acquisition, license or sale of one or more other companies, equipment, technologies, other assets or lines of business, and the issuance of shares of Common Stock upon the conversion, exercise or exchange thereof; (8) shares of Common Stock or securities convertible into or exercisable or exchangeable for Common Stock (including, without limitation, convertible debt securities) or similar rights to subscribe for the purchase of shares of Common Stock in connection with technology sharing, collaboration, partnering, licensing, research and joint development agreements (or amendments thereto) with third parties, and the issuance of shares of Common Stock upon the conversion, exercise or exchange thereof (including, for the avoidance of doubt,

any such securities issued to Patobios Limited); and (9) shares of Common Stock or securities convertible into or exchangeable for Common Stock to employees, consultants and/or advisors as consideration for services rendered or to be rendered, and the issuance of shares of Common Stock upon the conversion, exercise or exchange thereof; and (10) shares of Common Stock or securities convertible into or exchangeable for Common Stock issued in connection with capital or equipment financings and/or real property lease arrangements, and the issuance of shares of Common Stock upon the conversion, exercise or exchange thereof.

Section 5.7 Stop Orders. The Company shall advise the Investor promptly (but in no event later than 24 hours) and shall confirm such advice in writing: (i) of the Company's receipt of notice of any request by the Commission for amendment of or a supplement to the Registration Statement, the Prospectus, any Permitted Free Writing Prospectus or for any additional information; (ii) of the Company's receipt of notice of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or prohibiting or suspending the use of the Prospectus or any Prospectus Supplement, or of the suspension of qualification of the Shares for offering or sale in any jurisdiction, or the initiation or contemplated initiation of any proceeding for such purpose; and (iii) of the Company becoming aware of the happening of any event, which makes any statement of a material fact made in the Registration Statement, the Prospectus or any Permitted Free Writing Prospectus untrue or which requires the making of any additions to or changes to the statements then made in the Registration Statement, the Prospectus or any Permitted Free Writing Prospectus in order to state a material fact required by the Securities Act to be stated therein or necessary in order to make the statements then made therein (in the case of the Prospectus, in light of the circumstances under which they were made) not misleading, or of the necessity to amend the Registration Statement or supplement the Prospectus or any Permitted Free Writing Prospectus to comply with the Securities Act or any other law. The Company shall not be required to disclose to the Investor the substance or specific reasons of any of the events set forth in clauses (i) through (iii) of the immediately preceding sentence, but rather, shall only be required to disclose that the event has occurred. The Company shall not issue any Fixed Request during the continuation of any of the foregoing events. If at any time the Commission shall issue any stop order suspending the effectiveness of the Registration Statement or prohibiting or suspending the use of the Prospectus or any Prospectus Supplement, the Company shall use commercially reasonable efforts to obtain the withdrawal of such order at the earliest possible time. The Company shall also advise the Investor promptly (but in no event later than 24 hours) and shall confirm such advice in writing of the Company becoming aware of the happening of any event, which makes any statement made in the FINRA Filing untrue or which requires the making of any additions to or changes to the statements then made in the FINRA Filing in order to comply with FINRA Rule 5110.

Section 5.8 Amendments to the Registration Statement; Prospectus Supplements; Free Writing Prospectuses.

(i) Except as provided in this Agreement and other than periodic and current reports required to be filed pursuant to the Exchange Act, the Company shall not file with the Commission any amendment to the Registration Statement that relates to the Investor, the Agreement or the transactions contemplated hereby or file with the Commission any Prospectus Supplement that relates to the Investor, this Agreement or the transactions contemplated hereby

with respect to which (a) the Investor shall not previously have been advised, (b) the Company shall not have given due consideration to any comments thereon received from the Investor or its counsel, or (c) the Investor shall reasonably object after being so advised, unless the Company reasonably has determined that it is necessary to amend the Registration Statement or make any supplement to the Prospectus to comply with the Securities Act or any other applicable law or regulation, in which case the Company shall promptly (but in no event later than 24 hours) so inform the Investor, the Investor shall be provided with a reasonable opportunity to review and comment upon any disclosure relating to the Investor and the Company shall expeditiously furnish to the Investor an electronic copy thereof. In addition, for so long as, in the reasonable opinion of counsel for the Investor, the Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) is required to be delivered in connection with any purchase or sale of Shares by the Investor, the Company shall not file any Prospectus Supplement with respect to the Shares without delivering or making available a copy of such Prospectus Supplement, together with the Base Prospectus, to the Investor promptly.

(ii) The Company has not made, and agrees that unless it obtains the prior written consent of the Investor it will not make, an offer relating to the Shares that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a Free Writing Prospectus required to be filed by the Company or the Investor with the Commission or retained by the Company or the Investor under Rule 433 under the Securities Act. The Investor has not made, and agrees that unless it obtains the prior written consent of the Company it will not make an offer relating to the Shares that would constitute a Free Writing Prospectus required to be filed by the Company with the Commission or retained by the Company under Rule 433 under the Securities Act. Any such Issuer Free Writing Prospectus or other Free Writing Prospectus consented to by the Investor or the Company is referred to in this Agreement as a "Permitted Free Writing Prospectus." The Company agrees that (x) it has treated and will treat, as the case may be, each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus and (y) it has complied and will comply, as the case may be, with the requirements of Rules 164 and 433 under the Securities Act applicable to any Permitted Free Writing Prospectus, including in respect of timely filing with the Commission, legending and record keeping.

Section 5.9 Prospectus Delivery. The Company shall file with the Commission a Prospectus Supplement pursuant to Rule 424(b) under the Securities Act on the first Trading Day immediately following the last Trading Day of each Pricing Period. The Company shall provide the Investor a reasonable opportunity to comment on a draft of each such Prospectus Supplement and any Issuer Free Writing Prospectus, shall give due consideration to all such comments and, subject to the provisions of Section 5.8 hereof, shall deliver or make available to the Investor, without charge, an electronic copy of each form of Prospectus Supplement, together with the Base Prospectus, and any Permitted Free Writing Prospectus on each applicable Settlement Date. The Company consents to the use of the Prospectus (and of any Prospectus Supplement thereto) in accordance with the provisions of the Securities Act and with the securities or "blue sky" laws of the jurisdictions in which the Shares may be sold by the Investor, in connection with the offering and sale of the Shares and for such period of time thereafter as the Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) is required by the Securities Act to be delivered in connection with sales of the Shares. If during such period of time any event shall occur that in the judgment of the Company and its counsel is required to be set forth in the Registration Statement or the Prospectus or any Permitted Free Writing

Prospectus or should be set forth therein in order to make the statements made therein (in the case of the Prospectus or Permitted Free Writing Prospectus, in light of the circumstances under which they were made) not misleading, or if it is necessary to amend the Registration Statement or supplement or amend the Prospectus or any Permitted Free Writing Prospectus to comply with the Securities Act or any other applicable law or regulation, the Company shall forthwith prepare and, subject to Section 5.8 above, file with the Commission an appropriate amendment to the Registration Statement or Prospectus Supplement to the Prospectus (or supplement to the Permitted Free Writing Prospectus) and shall expeditiously furnish or make available to the Investor an electronic copy thereof.

Section 5.10 Selling Restrictions.

(i) The Investor covenants that from and after the date hereof through and including the 90th day next following the termination of this Agreement (the "Restricted Period"), neither the Investor nor any of its affiliates (within the meaning of the Exchange Act) nor any entity managed or controlled by the Investor shall, directly or indirectly, sell any securities of the Company, except the Shares that it owns or has the right to purchase as provided in a Fixed Request Notice. During the Restricted Period, neither the Investor or any of its affiliates nor any entity managed or controlled by the Investor shall sell any shares of Common Stock of the Company it does not "own" or have the unconditional right to receive under the terms of this Agreement (within the meaning of Rule 200 of Regulation SHO promulgated by the Commission under the Exchange Act), including Shares in any account of the Investor or in any account directly or indirectly managed or controlled by the Investor or any of its affiliates or any entity managed or controlled by the Investor. Without limiting the generality of the foregoing, prior to and during the Restricted Period, neither the Investor nor any of its affiliates nor any entity managed or controlled by the Investor or any of its affiliates shall enter into a short position with respect to shares of Common Stock of the Company, including in any account of the Investor's or in any account directly or indirectly managed or controlled by the Investor or any of its affiliates or any entity managed or controlled by the Investor or any of its affiliates, except that the Investor may sell Shares that it is obligated to purchase under a pending Fixed Request Notice but has not yet taken possession of so long as the Investor (or the Broker-Dealer, as applicable) covers any such sales with the Shares purchased pursuant to such Fixed Request Notice; provided, however, that the Investor (or the Broker-Dealer, as applicable) shall not be required to cover any such sales with the Shares purchased pursuant to such Fixed Request Notice if (a) the Fixed Request is terminated by mutual agreement of the Company and the Investor and, as a result of such termination, no Shares are delivered to the Investor under this Agreement or (b) the Company otherwise fails to deliver such Shares to the Investor on the applicable Settlement Date upon the terms and subject to the provisions of this Agreement. Prior to and during the Restricted Period, the Investor shall not grant any option to purchase or acquire any right to dispose or otherwise dispose for value of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for, or warrants to purchase, any shares of Common Stock, or enter into any swap, hedge or other agreement that transfers, in whole or in part, the economic risk of ownership of the Common Stock, except for such sales expressly permitted by this Section 5.10(i).

(ii) In addition to the foregoing, in connection with any sale of the Company's securities (including any sale permitted by paragraph (i) above), the Investor shall comply in all respects with all applicable laws, rules, regulations and orders, including, without limitation, the requirements of the Securities Act and the Exchange Act.

Section 5.11 Effective Registration Statement. During the Investment Period, the Company shall use its best efforts to maintain the continuous effectiveness of the Registration Statement under the Securities Act.

Section 5.12 Non-Public Information. Neither the Company nor any of its directors, officers or agents shall disclose any material non-public information about the Company to the Investor, unless a timely public announcement thereof is made by the Company in the manner contemplated by Regulation FD.

Section 5.13 Broker/Dealer. The Investor shall use one or more broker-dealers to effectuate all sales, if any, of the Shares that it may purchase from the Company pursuant to this Agreement which (or whom) shall be unaffiliated with the Investor and not then currently engaged or used by the Company (collectively, the "Broker-Dealer"). The Investor shall provide the Company with all information regarding the Broker-Dealer reasonably requested by the Company. The Investor shall be solely responsible for all fees and commissions of the Broker-Dealer, which shall not exceed customary brokerage fees and commissions.

Section 5.14 Disclosure Schedule.

(i) During the Investment Period, the Company shall from time to time update the Disclosure Schedule as may be required to satisfy the condition set forth in Section 6.3(i). For purposes of this Section 5.14, any disclosure made in a schedule to the Compliance Certificate substantially in the form attached hereto as Exhibit D shall be deemed to be an update of the Disclosure Schedule. Notwithstanding anything in this Agreement to the contrary, no update to the Disclosure Schedule pursuant to this Section 5.14 shall cure any breach of a representation or warranty of the Company contained in this Agreement and shall not affect any of the Investor's rights or remedies with respect thereto.

(ii) Notwithstanding anything to the contrary contained in the Disclosure Schedule or in this Agreement, the information and disclosure contained in any Schedule of the Disclosure Schedule shall be deemed to be disclosed and incorporated by reference in any other Schedule of the Disclosure Schedule as though fully set forth in such Schedule for which applicability of such information and disclosure is readily apparent on its face. The fact that any item of information is disclosed in the Disclosure Schedule shall not be construed to mean that such information is required to be disclosed by this Agreement. Except as expressly set forth in this Agreement, such information and the thresholds (whether based on quantity, qualitative characterization, dollar amounts or otherwise) set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement.

ARTICLE VI
OPINION OF COUNSEL AND CERTIFICATE; CONDITIONS TO THE SALE AND PURCHASE OF THE SHARES

Section 6.1 Opinion of Counsel and Certificate. Simultaneously with the execution and delivery of this Agreement, the Investor has received (i) an opinion of outside counsel to the Company, dated the Effective Date, in the form mutually agreed to by the parties hereto, and (ii) a certificate from the Company, dated the Effective Date, in the form of Exhibit C hereto.

Section 6.2 Conditions Precedent to the Obligation of the Company. The obligation hereunder of the Company to issue and sell the Shares to the Investor under any Fixed Request or Optional Amount is subject to the satisfaction or (to the extent permitted by applicable law) waiver of each of the conditions set forth below. These conditions are for the Company's sole benefit and (to the extent permitted by applicable law) may be waived by the Company at any time in its sole discretion.

(i) **Accuracy of the Investor's Representations and Warranties**. The representations and warranties of the Investor contained in this Agreement (a) that are not qualified by "materiality" shall have been true and correct in all material respects when made and shall be true and correct in all material respects as of the applicable Fixed Request Exercise Date and the applicable Settlement Date with the same force and effect as if made on such dates, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct in all material respects as of such other date and (b) that are qualified by "materiality" shall have been true and correct when made and shall be true and correct as of the applicable Fixed Request Exercise Date and the applicable Settlement Date with the same force and effect as if made on such dates, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct as of such other date.

(ii) **Registration Statement**. The Registration Statement is effective and neither the Company nor the Investor shall have received notice that the Commission has issued or intends to issue a stop order with respect to the Registration Statement. The Company shall have a maximum dollar amount certain of Common Stock registered under the Registration Statement which are in an amount (a) as of the Effective Date, not less than the Total Commitment and (b) as of the applicable Fixed Request Exercise Date, not less than the maximum dollar amount worth of Shares issuable pursuant to the applicable Fixed Request Notice and applicable Optional Amount, if any. The Current Report shall have been filed with the Commission, as required pursuant to Section 1.4, and all Prospectus Supplements shall have been filed with the Commission, as required pursuant to Sections 1.4 and 5.9 hereof, to disclose the sale of the Shares prior to each Settlement Date, as applicable. Any other material required to be filed by the Company or any other offering participant pursuant to Rule 433(d) under the Securities Act shall have been filed with the Commission within the applicable time periods prescribed for such filings by Rule 433 under the Securities Act.

(iii) **Performance by the Investor**. The Investor shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Investor at or prior to the applicable Fixed Request Exercise Date and the applicable Settlement Date.

(iv) **No Injunction**. No statute, regulation, order, decree, writ, ruling or injunction shall have been enacted, entered, promulgated, threatened or endorsed by any court or governmental authority of competent jurisdiction which prohibits the consummation of or which would materially modify or delay any of the transactions contemplated by this Agreement.

(v) **No Suspension, Etc**. Trading in the Common Stock shall not have been suspended by the Commission or the Trading Market (except for any suspension of trading of limited duration agreed to by the Company, which suspension shall be terminated prior to the applicable Fixed Request Exercise Date and applicable Settlement Date), and, at any time prior to the applicable Fixed Request Exercise Date and applicable Settlement Date, none of the events described in clauses (i), (ii) and (iii) or the last sentence of Section 5.7 shall have occurred, trading in securities generally as reported on the Trading Market shall not have been suspended or limited, nor shall a banking moratorium have been declared either by the United States or New York State authorities, nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity or crisis of such magnitude in its effect on, or any material adverse change in, any financial, credit or securities market which, in each case, in the reasonable judgment of the Company, makes it impracticable or inadvisable to issue the Shares.

(vi) **No Proceedings or Litigation**. No action, suit or proceeding before any arbitrator or any court or governmental authority shall have been commenced or threatened, and no inquiry or investigation by any governmental authority shall have been commenced or threatened, against the Company or any Subsidiary, or any of the officers, directors or affiliates of the Company or any Subsidiary, seeking to restrain, prevent or change the transactions contemplated by this Agreement, or seeking damages in connection with such transactions.

(vii) **Aggregate Limit**. The issuance and sale of the Shares issuable pursuant to such Fixed Request Notice or Optional Amount shall not violate Sections 2.2, 2.12, 2.13 and 5.5 hereof.

(viii) **No Unresolved FINRA Objection**. There shall not exist any unresolved objection raised by the FINRA's Corporate Financing Department with respect to the fairness and reasonableness of the terms of this Agreement or the transactions contemplated hereby, and the parties hereto and Reedland shall have obtained written confirmation thereof from the FINRA.

Section 6.3 Conditions Precedent to the Obligation of the Investor. The obligation hereunder of the Investor to accept a Fixed Request Notice or Optional Amount grant and to acquire and pay for the Shares is subject to the satisfaction or (to the extent permitted by applicable law) waiver, at or before each Fixed Request Exercise Date and each Settlement Date, of each of the conditions set forth below. These conditions are for the Investor's sole benefit and (to the extent permitted by applicable law) may be waived by the Investor at any time in its sole discretion.

(i) **Accuracy of the Company's Representations and Warranties**. The representations and warranties of the Company contained in this Agreement, as modified by the Disclosure Schedule (a) that are not qualified by "materiality" or "Material Adverse Effect" shall have been true and correct in all material respects when made and shall be true and correct in all material respects as of the applicable Fixed Request Exercise Date and the applicable Settlement Date with the same force and effect as if made on such dates, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct in all material respects as of such other date and (b) that are qualified by "materiality" or "Material Adverse Effect" shall have been true and correct when made and shall be true and correct as of the applicable Fixed Request Exercise Date and the applicable Settlement Date with the same force and effect as if made on such dates, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct as of such other date.

(ii) **Registration Statement**. The Registration Statement is effective and neither the Company nor the Investor shall have received notice that the Commission has issued or intends to issue a stop order with respect to the Registration Statement. The Company shall have a maximum dollar amount certain of Common Stock registered under the Registration Statement which are in an amount (a) as of the Effective Date, not less than the Total Commitment and (b) as of the applicable Fixed Request Exercise Date, not less than the maximum dollar amount worth of Shares issuable pursuant to the applicable Fixed Request Notice and applicable Optional Amount, if any. As of the applicable Fixed Request Exercise Date and the applicable Settlement Date, the Investor shall be permitted to utilize the Prospectus to resell all of the Shares it then owns or has the right to acquire pursuant to all Fixed Request Notices issued pursuant to this Agreement. The Current Report shall have been filed with the Commission, as required pursuant to Section 1.4, and all Prospectus Supplements shall have been filed with the Commission, as required pursuant to Sections 1.4 and 5.9 hereof, to disclose the sale of the Shares prior to each Settlement Date, as applicable, and an electronic copy of each such Prospectus Supplement together with the Base Prospectus shall have been delivered or made available to the Investor in accordance with Section 5.9 hereof. Any other material required to be filed by the Company or any other offering participant pursuant to Rule 433(d) under the Securities Act shall have been filed with the Commission within the applicable time periods prescribed for such filings by Rule 433 under the Securities Act.

(iii) **No Suspension**. Trading in the Common Stock shall not have been suspended by the Commission or the Trading Market (except for any suspension of trading of limited duration agreed to by the Company, which suspension shall be terminated prior to the applicable Fixed Request Exercise Date and applicable Settlement Date), and the Company shall not have received any notice that the listing or quotation of the Common Stock on the Trading Market shall be terminated on a date certain (which termination shall be final and non-appealable). At any time prior to the applicable Fixed Request Exercise Date and applicable Settlement Date, none of the events described in clauses (i), (ii) and (iii) or the last sentence of Section 5.7 shall have occurred, trading in securities generally as reported on the Trading Market shall not have been suspended or limited, nor shall a banking moratorium have been declared either by the United States or New York State authorities, nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity or crisis of such magnitude in its effect on, or any material adverse change in, any financial, credit or securities market which, in each case, in the reasonable judgment of the Investor, makes it impracticable or inadvisable to purchase the Shares.

(iv) **Performance of the Company**. The Company shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company at or prior to the applicable Fixed Request Exercise Date and the applicable Settlement Date and shall have delivered to the Investor on the applicable Settlement Date the Compliance Certificate substantially in the form attached hereto as Exhibit D.

(v) **No Injunction**. No statute, rule, regulation, order, decree, writ, ruling or injunction shall have been enacted, entered, promulgated, threatened or endorsed by any court or governmental authority of competent jurisdiction which prohibits the consummation of or which would materially modify or delay any of the transactions contemplated by this Agreement.

(vi) **No Proceedings or Litigation**. No action, suit or proceeding before any arbitrator or any court or governmental authority shall have been commenced or threatened, and no inquiry or investigation by any governmental authority shall have been commenced or threatened, against the Company or any Subsidiary, or any of the officers, directors or affiliates of the Company or any Subsidiary, seeking to restrain, prevent or change the transactions contemplated by this Agreement, or seeking damages in connection with such transactions.

(vii) **Aggregate Limit**. The issuance and sale of the Shares issuable pursuant to such Fixed Request Notice or Optional Amount shall not violate Sections 2.2, 2.12, 2.13 and 5.5 hereof.

(viii) **Shares Authorized and Delivered**. The Shares issuable pursuant to such Fixed Request Notice or Optional Amount shall have been duly authorized by all necessary corporate action of the Company. The Company shall have delivered all Shares relating to all prior Fixed Request Notices and Optional Amounts, as applicable.

(ix) **Listing of Shares**. The Company shall have submitted to the Trading Market, at or prior to the applicable Fixed Request Exercise Date, a notification form of listing of additional shares related to the Shares issuable pursuant to such Fixed Request and Optional Amount, in accordance with the bylaws, listed securities maintenance standards and other rules of the Trading Market and, prior to the applicable Settlement Date, such Shares shall have been approved for listing or quotation on the Trading Market (if such approval is required for the listing or quotation thereof on the Trading Market), subject only to notice of issuance.

(x) **Opinions of Counsel; Bring-Down**. Subsequent to the filing of the Current Report pursuant to Section 1.4 and prior to the first Fixed Request Exercise Date, the Investor shall have received an opinion from outside counsel to the Company in the form mutually agreed to by the parties hereto. On each Settlement Date, the Investor shall have received an opinion "bring down" from outside counsel to the Company in the form mutually agreed to by the parties hereto.

(xi) **No Unresolved FINRA Objection**. There shall not exist any unresolved objection raised by the FINRA's Corporate Financing Department with respect to the fairness and reasonableness of the terms of this Agreement or the transactions contemplated hereby, and the parties hereto and Reedland shall have obtained written confirmation thereof from the FINRA.

ARTICLE VII
TERMINATION

Section 7.1 Term, Termination by Mutual Consent. Unless earlier terminated as provided hereunder, this Agreement shall terminate automatically on the earliest of (i) the first day of the month next following the 24-month anniversary of the Effective Date (the "Investment Period"), (ii) the date that the entire dollar amount of Common Stock registered under the Registration Statement have been issued and sold and (iii) the date the Investor shall have purchased the Total Commitment of shares of Common Stock (subject in all cases to the Trading Market Limit, except as expressly provided in Section 2.13). Subject to Section 7.3, this Agreement may be terminated at any time (A) by the mutual written consent of the parties, effective as of the date of such mutual written consent unless otherwise provided in such written consent, it being hereby acknowledged and agreed that the Investor may not consent to such termination during a Pricing Period or prior to a Settlement Date in the event the Investor has instructed the Broker-Dealer to effect an open-market sale of Shares which are subject to a pending Fixed Request Notice but which have not yet been physically delivered by the Company (and/or credited by book-entry) to the Investor in accordance with the terms and subject to the conditions of this Agreement, or (B) by either the Company or the Investor effective upon written notice to the other party under Section 9.4, if the FINRA's Corporate Financing Department has raised any objection with respect to the fairness and reasonableness of the terms of the transactions contemplated by this Agreement, or has otherwise failed to confirm in writing that it has determined not to raise any such objection, and such objection shall not have been resolved, or such confirmation of no objection shall not have been obtained, prior to (1) the 60th day immediately following the Effective Date, in the case of an objection raised or confirmation failure occurring prior to the first Fixed Request Exercise Date, or (2) prior to the 60th day immediately following the receipt by the Company or the Investor of notice of such objection, in the case of an objection raised after the first Fixed Request Exercise Date; provided however, that (x) the party seeking to terminate this Agreement pursuant to this clause (B) of Section 7.1 shall have used its commercially reasonable efforts to resolve such objection and/or to obtain such confirmation of no objection in accordance with and subject to the provisions of Section 5.1(ii) of this Agreement and (y) the right to terminate this Agreement pursuant to this clause (B) of Section 7.1 shall not be available to any party whose action or failure to act has been a principal cause of, or has resulted in, such objection or confirmation failure and such action or failure to act constitutes a breach of this Agreement. Subject to Section 7.3, the Company may terminate this Agreement effective upon one Trading Day's prior written notice to the Investor delivered in accordance with Section 9.4; provided, however, that (i) such termination shall not occur during a Pricing Period or, subsequent to the issuance of a Fixed Request Notice, prior to the Settlement Date related to such Fixed Request Notice and (ii) prior to issuing any press release, or making any public statement or announcement, with respect to such termination, the Company shall consult with the Investor and shall obtain the Investor's consent to the form and substance of such press release or other disclosure, which consent shall not be unreasonably delayed or withheld.

Section 7.2 Other Termination. If the Company provides the Investor with an Other Financing Notice or an Integration Notice, in each case pursuant to Section 5.6(ii) of this Agreement, or if the Company otherwise enters into any agreement, plan, arrangement or transaction with a third party or determines to utilize any existing agreement, plan or arrangement with a third party, in each case the principal purpose of which is to implement, effect or consummate outside a Pricing Period, but otherwise during the Investment Period, a Similar Financing, an ATM or a Price Reset Provision (in which case the Company shall so notify the Investor within 48 hours thereof), then in all such cases, subject to Section 7.3, the Investor shall have the right to terminate this Agreement within the subsequent 30-day period (the "Event Period"), effective upon one Trading Day's prior written notice delivered to the Company in accordance with Section 9.4 at any time during the Event Period. The Company shall promptly (but in no event later than 24 hours) notify the Investor (and, if required under applicable law, including, without limitation, Regulation FD promulgated by the Commission, or under the applicable rules and regulations of the Trading Market, the Company shall publicly disclose such information in accordance with Regulation FD and the applicable rules and regulations of the Trading Market), and, subject to Section 7.3, the Investor shall have the right to terminate this Agreement at any time after receipt of such notification, if: (i) any condition, occurrence, state of facts or event constituting a Material Adverse Effect has occurred; (ii) a Material Change in Ownership has occurred or the Company enters into a definitive agreement providing for a Material Change in Ownership; or (iii) a default or event of default has occurred and is continuing under the terms of any agreement, contract, note or other instrument to which the Company or any of its Subsidiaries is a party with respect to any indebtedness for borrowed money representing more than 10% of the Company's consolidated assets, in any such case, upon one Trading Day's prior written notice delivered to the Company in accordance with Section 9.4 hereof.

Section 7.3 Effect of Termination. In the event of termination by the Company or the Investor pursuant to Section 7.1 or 7.2, as applicable, written notice thereof shall forthwith be given to the other party as provided in Section 9.4 and the transactions contemplated by this Agreement shall be terminated without further action by either party. If this Agreement is terminated as provided in Section 7.1 or 7.2 herein, this Agreement shall become void and of no further force and effect, except that (i) the provisions of Article VIII (Indemnification), Section 9.1 (Fees and Expenses), Section 9.2 (Specific Enforcement, Consent to Jurisdiction, Waiver of Jury Trial), Section 9.4 (Notices), Section 9.8 (Governing Law), Section 9.9 (Survival), Section 9.11 (Publicity), Section 9.12 (Severability) and this Article VII (Termination) shall remain in full force and effect notwithstanding such termination, (ii) if the Investor owns any Shares at the time of such termination, the covenants and agreements of the Company and the Investor, as applicable, contained in Section 5.1(i) (Securities Compliance; FINRA Filing), Section 5.3 (Compliance with Laws), Section 5.7 (Stop Orders), Section 5.8 (Amendments to the Registration Statement; Prospectus Supplements; Free Writing Prospectuses), Section 5.9 (Prospectus Delivery), Section 5.11 (Effective Registration Statement), Section 5.12 (Non-Public Information) and Section 5.13 (Broker/Dealer) shall remain in full force and effect notwithstanding such termination for a period of six months following such termination, (iii) the covenants and agreements of the Investor contained in Section 5.10 (Selling Restrictions) shall remain in full force and effect notwithstanding such termination for a period of 90 days following such termination, and (iv) if the Investor owns any Shares at the time of such termination, the covenants and agreements of the Company contained in Section 5.2

(Registration and Listing) shall remain in full force and effect notwithstanding such termination for a period of 30 days following such termination. Notwithstanding anything in this Agreement to the contrary, no termination of this Agreement by any party shall affect any cash fees paid to the Investor or its counsel pursuant to Section 9.1, in each case all of which fees shall be non-refundable, regardless of whether any Fixed Requests are issued by the Company or settled hereunder. Nothing in this Section 7.3 shall be deemed to release the Company or the Investor from any liability for any breach under this Agreement, or to impair the rights of the Company and the Investor to compel specific performance by the other party of its obligations under this Agreement.

ARTICLE VIII
INDEMNIFICATION

Section 8.1 General Indemnity.

(i) **Indemnification by the Company**. The Company shall indemnify and hold harmless the Investor, each affiliate, employee, representative and advisor of and to the Investor, and each person, if any, who controls the Investor within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act from and against all losses, claims, damages, liabilities and expenses (including reasonable costs of defense and investigation and all attorneys' fees) to which the Investor and each such other person may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages, liabilities and expenses (or actions in respect thereof) arise out of or are based upon (a) any violation of United States federal or state securities laws or the rules and regulations of the Trading Market in connection with the transactions contemplated by this Agreement by the Company or any of its Subsidiaries, affiliates, officers, directors or employees, (b) any untrue statement or alleged untrue statement of a material fact contained, or incorporated by reference, in the Registration Statement or any amendment thereto or any omission or alleged omission to state therein, or in any document incorporated by reference therein, a material fact required to be stated therein or necessary to make the statements therein not misleading, or (c) any untrue statement or alleged untrue statement of a material fact contained, or incorporated by reference, in the Prospectus, any Issuer Free Writing Prospectus, or in any amendment thereof or supplement thereto, or in any "issuer information" (as defined in Rule 433 under the Securities Act) of the Company, which "issuer information" is required to be, or is, filed with the Commission or otherwise contained in any Free Writing Prospectus, or any amendment or supplement thereto, or any omission or alleged omission to state therein, or in any document incorporated by reference therein, a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that (A) the Company shall not be liable under this Section 8.1(i) to the extent that a court of competent jurisdiction shall have determined by a final judgment (from which no further appeals are available) that such loss, claim, damage, liability or expense resulted directly and solely from any such acts or failures to act, undertaken or omitted to be taken by the Investor or such person through its gross negligence, bad faith or willful or reckless misconduct, (B) the foregoing indemnity shall not apply to any loss, claim, damage, liability or expense to the extent, but only to the extent, arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with written information furnished to the Company by or on behalf of the Investor expressly for use in the Current Report,

any Prospectus Supplement or any Permitted Free Writing Prospectus, or any amendment thereof or supplement thereto, and (C) with respect to the Prospectus, the foregoing indemnity shall not inure to the benefit of the Investor or any such person from whom the person asserting any loss, claim, damage, liability or expense purchased Common Stock, if copies of all Prospectus Supplements required to be filed pursuant to Section 1.4 and 5.9, together with the Base Prospectus, were timely delivered or made available to the Investor pursuant hereto and a copy of the Base Prospectus, together with a Prospectus Supplement (as applicable), was not sent or given by or on behalf of the Investor or any such person to such person, if required by law to have been delivered, at or prior to the written confirmation of the sale of the Common Stock to such person, and if delivery of the Base Prospectus, together with a Prospectus Supplement (as applicable), would have cured the defect giving rise to such loss, claim, damage, liability or expense.

Subject to Section 8.2, the Company shall reimburse the Investor and each such controlling person promptly upon demand (with accompanying presentation of documentary evidence) for all legal and other costs and expenses reasonably incurred by the Investor or such indemnified persons in investigating, defending against, or preparing to defend against any such claim, action, suit or proceeding with respect to which it is entitled to indemnification.

(ii) **Indemnification by the Investor**. The Investor shall indemnify and hold harmless the Company, each of its directors and officers, and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act from and against all losses, claims, damages, liabilities and expenses (including reasonable costs of defense and investigation and all attorneys fees) to which the Company and each such other person may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages, liabilities and expenses (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Current Report or any Prospectus Supplement or Permitted Free Writing Prospectus, or in any amendment thereof or supplement thereto, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, in each case, to the extent, but only to the extent, the untrue statement, alleged untrue statement, omission or alleged omission was made in reliance upon, and in conformity with, written information furnished by the Investor to the Company expressly for inclusion in the Current Report or such Prospectus Supplement or Permitted Free Writing Prospectus, or any amendment thereof or supplement thereto.

Subject to Section 8.2, the Investor shall reimburse the Company and each such director, officer or controlling person promptly upon demand for all legal and other costs and expenses reasonably incurred by the Company or such indemnified persons in investigating, defending against, or preparing to defend against any such claim, action, suit or proceeding with respect to which it is entitled to indemnification.

Section 8.2 Indemnification Procedures. Promptly after a person receives notice of a claim or the commencement of an action for which the person intends to seek indemnification under Section 8.1, the person will notify the indemnifying party in writing of the claim or commencement of the action, suit or proceeding; provided, however, that failure to notify the

indemnifying party will not relieve the indemnifying party from liability under Section 8.1, except to the extent it has been materially prejudiced by the failure to give notice. The indemnifying party will be entitled to participate in the defense of any claim, action, suit or proceeding as to which indemnification is being sought, and if the indemnifying party acknowledges in writing the obligation to indemnify the party against whom the claim or action is brought, the indemnifying party may (but will not be required to) assume the defense against the claim, action, suit or proceeding with counsel satisfactory to it. After an indemnifying party notifies an indemnified party that the indemnifying party wishes to assume the defense of a claim, action, suit or proceeding, the indemnifying party will not be liable for any legal or other expenses incurred by the indemnified party in connection with the defense against the claim, action, suit or proceeding except that if, in the opinion of counsel to the indemnifying party, it would be inappropriate under the applicable rules of professional responsibility for the same counsel to represent the indemnifying party and one or more of the indemnified parties. In such event, the indemnifying party will pay the reasonable fees and expenses of not more than one separate counsel for all of the indemnified parties. Each indemnified party, as a condition to receiving indemnification as provided in Section 8.1, will cooperate in all reasonable respects with the indemnifying party in the defense of any action or claim as to which indemnification is sought. No indemnifying party will be liable for any settlement of any action effected without its prior written consent. No indemnifying party will, without the prior written consent of the indemnified party, effect any settlement of a pending or threatened action with respect to which an indemnified party is, or is informed that it may be, made a party and for which it would be entitled to indemnification, unless the settlement includes an unconditional release of the indemnified party from all liability and claims which are the subject matter of the pending or threatened action.

If for any reason the indemnification provided for in this Agreement is not available to, or is not sufficient to hold harmless, an indemnified party in respect of any loss or liability referred to in Section 8.1 as to which such indemnified party is entitled to indemnification thereunder, each indemnifying party shall, in lieu of indemnifying the indemnified party, contribute to the amount paid or payable by the indemnified party as a result of such loss or liability, (i) in the proportion which is appropriate to reflect the relative benefits received by the indemnifying party, on the one hand, and by the indemnified party, on the other hand, from the sale of Shares which is the subject of the claim, action, suit or proceeding which resulted in the loss or liability or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above, but also the relative fault of the indemnifying party, on the one hand, and the indemnified party, on the other hand, with respect to the statements or omissions which are the subject of the claim, action, suit or proceeding that resulted in the loss or liability, as well as any other relevant equitable considerations.

The remedies provided for in Section 8.1 and this Section 8.2 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified person at law or in equity.

ARTICLE IX
MISCELLANEOUS

Section 9.1 Fees and Expenses.

(i) Each party shall bear its own fees and expenses related to the transactions contemplated by this Agreement; provided, however, that the Company shall pay, on the Effective Date, by wire transfer of immediately available funds to the FINRA, the applicable filing fee with respect to the FINRA Filing. The Company shall pay all U.S. federal, state and local stamp and other similar transfer and other taxes and duties levied in connection with issuance of the Shares pursuant hereto.

(ii) If the Company issues a Fixed Request Notice and fails to deliver the Shares (which have been approved for listing or quotation on the Trading Market, if such an approval is required for the listing or quotation thereof on the Trading Market) to the Investor on the applicable Settlement Date and such failure continues for 10 Trading Days, the Company shall pay the Investor, in cash (or, at the option of the Investor, in shares of Common Stock which have not been registered under the Securities Act valued at the applicable Discount Price of the Shares failed to be delivered; provided that the issuance thereof by the Company would not violate the Securities Act or any applicable U.S. federal or state securities laws), as partial damages for such failure and not as a penalty, an amount equal to 2.0% of the payment required to be paid by the Investor on such Settlement Date (i.e., the sum of the Fixed Amount Requested and the Optional Amount Dollar Amount) for the initial 30 days following such Settlement Date until the Shares (which have been approved for listing or quotation on the Trading Market, if such an approval is required for the listing or quotation thereof on the Trading Market) have been delivered, and an additional 2.0% for each additional 30-day period thereafter until the Shares (which have been approved for listing or quotation on the Trading Market, if such an approval is required for the listing or quotation thereof on the Trading Market) have been delivered, which amount shall be prorated for such periods less than 30 days (subject in all cases to the Trading Market Limit, except as expressly provided in Section 2.13). Nothing in this Section 9.1(ii) shall be deemed to release the Company from any liability for any breach under this Agreement, or to impair the rights of the Investor to compel specific performance by the Company of its obligations under this Agreement.

Section 9.2 Specific Enforcement, Consent to Jurisdiction, Waiver of Jury Trial.

(i) The Company and the Investor acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that either party shall be entitled to an injunction or injunctions to prevent or cure breaches of the provisions of this Agreement by the other party and to enforce specifically the terms and provisions hereof this being in addition to any other remedy to which either party may be entitled by law or equity.

(ii) Each of the Company and the Investor (a) hereby irrevocably submits to the jurisdiction of the U.S. District Court and other courts of the United States sitting in the State of New York for the purposes of any suit, action or proceeding arising out of or relating to this

Agreement, and (b) hereby waives, and agrees not to assert in any such suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such court, that the suit, action or proceeding is brought in an inconvenient forum or that the venue of the suit, action or proceeding is improper. Each of the Company and the Investor consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing in this Section 9.2 shall affect or limit any right to serve process in any other manner permitted by law.

(iii) EACH OF THE COMPANY AND THE INVESTOR HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR DISPUTES RELATING HERETO. EACH OF THE COMPANY AND THE INVESTOR (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.2.

Section 9.3 Entire Agreement; Amendment. This Agreement, together with the exhibits referred to herein and as modified by the Disclosure Schedule, represents the entire agreement of the parties with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by either party relative to subject matter hereof not expressly set forth herein. No provision of this Agreement may be amended other than by a written instrument signed by both parties hereto. The Disclosure Schedule and all exhibits to this Agreement are hereby incorporated by reference in, and made a part of, this Agreement as if set forth in full herein.

Section 9.4 Notices. Any notice, demand, request, waiver or other communication required or permitted to be given hereunder shall be in writing and shall be effective (a) upon hand delivery or facsimile (with facsimile machine confirmation of delivery received) at the address or number designated below (if delivered on a business day during normal business hours where such notice is to be received), or the first business day following such delivery (if delivered other than on a business day during normal business hours where such notice is to be received) or (b) on the second business day following the date of mailing by express courier service, fully prepaid, addressed to such address, or upon actual receipt of such mailing, whichever shall first occur. The address for such communications shall be:

If to the Company: Omeros Corporation
1420 Fifth Avenue, Suite 2600
Seattle, Washington 98101
Telephone Number: (206) 676-5000
Fax: (206) 676-5005
Attention: Gregory A. Demopulos, M.D.
President and Chief Executive Officer
Marcia S. Kelbon, Esq.
General Counsel

With copies to: Wilson Sonsini Goodrich & Rosati,
Professional Corporation
701 Fifth Avenue, Suite 5100
Seattle, Washington 98104
Telephone Number: (206) 883-2500
Fax: (206) 883-2699
Attention: Craig E. Sherman, Esq.
Michael Nordtvedt, Esq.

If to the Investor: Azimuth Opportunity Ltd.
c/o Folio Administrators Limited
Folio House
P.O. Box 800
Road Town, Tortola VG1110
British Virgin Islands
Telephone Number: (284) 494-7065 Ext. 250
Fax: (284) 494-8356/7422
Attention: Tamara Singh

With copies to: Greenberg Traurig, LLP
The MetLife Building
200 Park Avenue
New York, NY 10166
Telephone Number: (212) 801-9200
Fax: (212) 801-6400
Attention: Anthony J. Marsico, Esq.

Either party hereto may from time to time change its address for notices by giving at least 10 days advance written notice of such changed address to the other party hereto.

Section 9.5 Waivers. No waiver by either party of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any other provisions, condition or requirement hereof nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter. No provision of this Agreement may be waived other than in a written instrument signed by the party against whom enforcement of such waiver is sought.

Section 9.6 Headings; Construction. The article, section and subsection headings in this Agreement are for convenience only and shall not constitute a part of this Agreement for any other purpose and shall not be deemed to limit or affect any of the provisions hereof. Unless the context clearly indicates otherwise, each pronoun herein shall be deemed to include the masculine, feminine, neuter, singular and plural forms thereof. The terms "including," "includes," "include" and words of like import shall be construed broadly as if followed by the words "without limitation." The terms "herein," "hereunder," "hereof" and words of like import refer to this entire Agreement instead of just the provision in which they are found. The parties agree that each of them and their respective counsel has reviewed and had an opportunity to revise this Agreement and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement. In addition, each and every reference to share prices and shares of Common Stock in this Agreement shall be subject to adjustment for any stock splits, stock combinations, stock dividends, recapitalizations and other similar transactions that occur on or after the date of this Agreement.

Section 9.7 Successors and Assigns. The Investor may not assign this Agreement to any person without the prior consent of the Company, in the Company's sole discretion. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. The assignment by a party to this Agreement of any rights hereunder shall not affect the obligations of such party under this Agreement.

Section 9.8 Governing Law. This Agreement shall be governed by and construed in accordance with the internal procedural and substantive laws of the State of New York, without giving effect to the choice of law provisions of such state that would cause the application of the laws of any other jurisdiction.

Section 9.9 Survival. The representations, warranties, covenants and agreements of the Company and the Investor contained in this Agreement shall survive the execution and delivery hereof until the termination of this Agreement; provided, however, that (i) the provisions of Article VII (Termination), Article VIII (Indemnification), Section 9.1 (Fees and Expenses), Section 9.2 (Specific Enforcement, Consent to Jurisdiction, Waiver of Jury Trial), Section 9.4 (Notices), Section 9.8 (Governing Law), Section 9.11 (Publicity), Section 9.12 (Severability) and this Section 9.9 (Survival) shall remain in full force and effect notwithstanding such termination, (ii) if the Investor owns any Shares at the time of such termination, the covenants and agreements of the Company and the Investor, as applicable, contained in Section 5.1(i) (Securities Compliance; FINRA Filing), Section 5.3 (Compliance with Laws), Section 5.7 (Stop Orders), Section 5.8 (Amendments to the Registration Statement; Prospectus Supplements; Free Writing Prospectuses), Section 5.9 (Prospectus Delivery), Section 5.11 (Effective Registration Statement), Section 5.12 (Non-Public Information) and Section 5.13 (Broker/Dealer) shall remain in full force and effect notwithstanding such termination for a period of six months following such termination, (iii) the covenants and agreements of the Investor contained in Section 5.10 (Selling Restrictions) shall remain in full force and effect notwithstanding such termination for a period of 90 days following such termination, and (iv) if the Investor owns any Shares at the time of such termination, the covenants and agreements of the Company contained in Section 5.2 (Registration and Listing) shall remain in full force and effect notwithstanding such termination for a period of 30 days following such termination.

Section 9.10 Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute one and the same original and binding instrument and shall become effective when all counterparts have been signed by each party and delivered to the other parties hereto, it being understood that all parties hereto need not sign the same counterpart. In the event any signature is delivered by facsimile, digital or electronic transmission, such transmission shall constitute delivery of the manually executed original and the party using such means of delivery shall thereafter cause four additional executed signature pages to be physically delivered to the other parties within five days of the execution and delivery hereof. Failure to provide or delay in the delivery of such additional executed signature pages shall not adversely affect the efficacy of the original delivery.

Section 9.11 Publicity. The Investor shall have the right to approve, prior to issuance or filing, any press release, Commission filing or any other public disclosure made by or on behalf of the Company relating to the Investor, its purchases hereunder or any aspect of this Agreement or the transactions contemplated hereby (unless the same disclosure has been previously reviewed and approved by the Investor); provided, however, that except as otherwise provided in this Agreement, the Company shall be entitled, without the prior approval of the Investor, to make any press release or other public disclosure (including any filings with the Commission) with respect thereto as is required by applicable law and regulations (including the regulations of the Trading Market), so long as prior to making any such press release or other public disclosure, if reasonably practicable, the Company and its counsel shall have provided the Investor and its counsel with a reasonable opportunity to review and comment upon, and shall have consulted with the Investor and its counsel on the form and substance of, such press release or other disclosure.

Section 9.12 Severability. The provisions of this Agreement are severable and, in the event that any court of competent jurisdiction shall determine that any one or more of the provisions or part of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement, and this Agreement shall be reformed and construed as if such invalid or illegal or unenforceable provision, or part of such provision, had never been contained herein, so that such provisions would be valid, legal and enforceable to the maximum extent possible.

Section 9.13 No Third Party Beneficiaries. Except as expressly provided in Article VIII, this Agreement is intended only for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

Section 9.14 Further Assurances. From and after the date of this Agreement, upon the request of the Investor or the Company, each of the Company and the Investor shall execute and deliver such instrument, documents and other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officer as of the date first above written.

OMEROS CORPORATION:

By: /s/ Gregory A. Demopulos, M.D.
Name: Gregory A. Demopulos, M.D.
Title: President and Chief Executive Officer

AZIMUTH OPPORTUNITY LTD.:

By: /s/ Peter Poole
Name: Peter Poole
Title: Director

ANNEX A TO THE
COMMON STOCK PURCHASE AGREEMENT
DEFINITIONS

"Acceptable Financing" shall have the meaning assigned to such term in Section 5.6(ii) hereof.

"Aggregate Limit" shall have the meaning assigned to such term in Section 1.1 hereof.

"Agreement" shall have the meaning assigned to such term in the Preamble.

"ATM" shall have the meaning assigned to such term in Section 5.6(ii) hereof.

"Average Discount Price" shall have the meaning assigned to such term in Section 2.13 hereof.

"Base Price" shall have the meaning assigned to such term in Section 2.13 hereof.

"Base Prospectus" shall mean the Company's prospectus, dated October 18, 2010, a preliminary form of which is included in the Registration Statement, including the documents incorporated by reference therein.

"Below Market Offering" shall have the meaning assigned to such term in Section 5.6(ii) hereof.

"Broker-Dealer" shall have the meaning assigned to such term in Section 5.13 hereof.

"Bylaws" shall have the meaning assigned to such term in Section 4.3 hereof.

"Charter" shall have the meaning assigned to such term in Section 4.3 hereof.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Commission" shall mean the Securities and Exchange Commission or any successor entity.

"Commission Documents" shall mean (1) all reports, schedules, registrations, forms, statements, information and other documents filed by the Company with the Commission pursuant to the reporting requirements of the Exchange Act, including all material filed pursuant to Section 13(a) or 15(d) of the Exchange Act, which have been filed by the Company since December 31, 2010 and which hereafter shall be filed by the Company during the Investment Period, including, without limitation, the Current Report, the Form 10-K filed by the Company for its fiscal year ended December 31, 2010 (the "2010 Form 10-K") the Form 10-Q filed by the Company for its fiscal quarter ended March 31, 2011, and the Forms 8-K filed by the Company on February 22 and March 31, 2011, (2) the Registration Statement, as the same may be amended from time to time, the Prospectus and each Prospectus Supplement, and each Permitted Free Writing Prospectus and (3) all information contained in such filings and all documents and disclosures that have been and heretofore shall be incorporated by reference therein.

"Common Stock" shall have the meaning assigned to such term in the Recitals.

"Company" shall have the meaning assigned to such term in the Preamble.

"Current Market Price" means, with respect to any particular measurement date, the closing price of a share of Common Stock as reported on the Trading Market for the Trading Day immediately preceding such measurement date.

"Current Report" shall have the meaning assigned to such term in Section 1.4 hereof.

"Disclosure Schedule" shall have the meaning assigned to such term in Article IV hereof.

"Discount Price" shall have the meaning assigned to such term in Section 2.2 hereof.

"EDGAR" shall have the meaning assigned to such term in Section 4.3 hereof.

"Effective Date" shall mean the date of this Agreement.

"Environmental Laws" shall have the meaning assigned to such term in Section 4.15 hereof.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"Event Period" shall have the meaning assigned to such term in Section 7.2 hereof.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder.

"FDA" shall have the meaning assigned to such term in Section 4.14(a) hereof.

"FINRA" shall have the meaning assigned to such term in Section 4.5 hereof.

"FINRA Filing" shall have the meaning assigned to such term in Section 5.1 hereof.

"Fixed Amount Requested" shall mean the amount of a Fixed Request requested by the Company in a Fixed Request Notice delivered pursuant to Section 2.1 hereof.

"Fixed Request" means the transactions contemplated under Sections 2.1 through 2.8 of this Agreement.

"Fixed Request Amount" means the actual amount of proceeds received by the Company pursuant to a Fixed Request under this Agreement.

"Fixed Request Exercise Date" shall have the meaning assigned to such term in Section 2.2 hereof.

"Fixed Request Notice" shall have the meaning assigned to such term in Section 2.1 hereof.

"Free Writing Prospectus" shall mean a "free writing prospectus" as defined in Rule 405 promulgated under the Securities Act.

"GAAP" shall mean generally accepted accounting principles in the United States of America as applied by the Company.

"Governmental Licenses" shall have the meaning assigned to such term in Section 4.14(a) hereof.

"Indebtedness" shall have the meaning assigned to such term in Section 4.9 hereof.

"Integration Notice" shall have the meaning assigned to such term in Section 5.6(ii) hereof.

"Intellectual Property" shall have the meaning assigned to such term in Section 4.14(b) hereof.

"Investment Period" shall have the meaning assigned to such term in Section 7.1 hereof.

"Investor" shall have the meaning assigned to such term in the Preamble.

"Issuer Free Writing Prospectus" shall mean an "issuer free writing prospectus," as defined in Rule 433 promulgated under the Securities Act, relating to the Shares that (i) is required to be filed with the Commission by the Company or (ii) is exempt from filing pursuant to Rule 433(d)(5)(i) under the Securities Act, in each case, in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g) under the Securities Act.

"Market Capitalization" shall be calculated on the Trading Day preceding the applicable Pricing Period and shall be the product of (x) the number of shares of Common Stock outstanding and (y) the closing bid price of the Common Stock, both as determined by Bloomberg Financial LP using the DES and HP functions.

"Material Adverse Effect" shall mean any condition, occurrence, state of facts or event having, or insofar as reasonably can be foreseen would likely have, any effect on the business, operations, properties or condition (financial or otherwise) of the Company that is material and adverse to the Company and its Subsidiaries, taken as a whole, and/or any condition, occurrence, state of facts or event that would prohibit or otherwise materially interfere with or delay the ability of the Company to perform any of its obligations under this Agreement; provided, however, that none of the following, individually or in the aggregate, shall be taken into account in determining whether a Material Adverse Effect has occurred or insofar as reasonably can be foreseen would likely occur: (i) changes in conditions in the U.S. or global capital, credit or financial markets generally, including changes in the availability of capital or currency exchange rates, provided such changes shall not have affected the Company in a materially disproportionate manner as compared to other similarly situated companies; (ii) changes generally affecting the biotechnology or pharmaceutical industries, provided such changes shall not have affected the Company in a materially disproportionate manner as compared to other similarly situated companies; (iii) any effect of the announcement of this Agreement or the

consummation of the transactions contemplated by this Agreement on the Company's relationships, contractual or otherwise, with customers, suppliers, vendors, bank lenders, strategic venture partners, employees or consultants; and (v) the receipt of any notice that the Common Stock may be ineligible to continue listing or quotation on the Trading Market, other than a final and non-appealable notice that the listing or quotation of the Common Stock on the Trading Market shall be terminated on a date certain.

"Material Agreements" shall have the meaning assigned to such term in Section 4.16 hereof.

"Material Change in Ownership" shall mean the occurrence of any one or more of the following: (i) the acquisition by any person, including any syndicate or group deemed to be a "person" under Section 13(d)(3) of the Exchange Act, of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, of shares of capital stock or other securities of the Company entitling such person to exercise, upon an event of default or default or otherwise, 50% or more of the total voting power of all series and classes of capital stock and other securities of the Company entitled to vote generally in the election of directors, other than any such acquisition by the Company, any Subsidiary of the Company or any employee benefit plan of the Company; (ii) any consolidation or merger of the Company with or into any other person, any merger of another person into the Company, or any conveyance, transfer, sale, lease or other disposition of all or substantially all of the properties and assets of the Company to another person, other than (a) any such transaction (x) that does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of capital stock of the Company and (y) pursuant to which holders of capital stock of the Company immediately prior to such transaction have the entitlement to exercise, directly or indirectly, 50% or more of the total voting power of all shares of capital stock of the Company entitled to vote generally in the election of directors of the continuing or surviving person immediately after such transaction or (b) any merger which is effected solely to change the jurisdiction of incorporation of the Company and results in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into shares of common stock of the surviving entity; (iii) during any consecutive two-year period, individuals who at the beginning of that two-year period constituted the Board of Directors (together with any new directors whose election to the Board of Directors, or whose nomination for election by the shareholders of the Company, was approved by a vote of a majority of the directors then still in office who were either directors at the beginning of such period or whose elections or nominations for election were previously so approved) cease for any reason to constitute a majority of the Board of Directors then in office; or (iv) the Company is liquidated or dissolved or a resolution is passed by the Company's shareholders approving a plan of liquidation or dissolution of the Company. Beneficial ownership shall be determined in accordance with Rule 13d-3 promulgated by the SEC under the Exchange Act. The term "person" shall include any syndicate or group which would be deemed to be a "person" under Section 13(d)(3) of the Exchange Act.

"Multiplier" shall have the meaning assigned to such term in Section 2.3 hereof.

"NASDAQ" means the NASDAQ Global Market or any successor thereto.

"Optional Amount" means the transactions contemplated under Sections 2.9 through 2.11 of this Agreement.

"Optional Amount Dollar Amount" shall mean the actual amount of proceeds received by the Company pursuant to the exercise of an Optional Amount under this Agreement.

"Optional Amount Notice" shall mean a notice sent to the Company with regard to the Investor's election to exercise all or any portion of an Optional Amount, as provided in Section 2.11 hereof and substantially in the form attached hereto as Exhibit B.

"Optional Amount Threshold Price" shall have the meaning assigned to such term in Section 2.1 hereof.

"Other Financing" shall have the meaning assigned to such term in Section 5.6(ii) hereof.

"Other Financing Notice" shall have the meaning assigned to such term in Section 5.6(ii) hereof.

"Permitted Free Writing Prospectus" shall have the meaning assigned to such term in Section 5.8(ii) hereof.

"Plan" shall have the meaning assigned to such term in Section 4.22 hereof.

"Price Reset Provision" shall have the meaning assigned to such term in Section 5.6(ii) hereof.

"Pricing Period" shall mean a period of 10 consecutive Trading Days commencing on the Pricing Period start date set forth in the Fixed Request Notice, or such other period mutually agreed upon by the Investor and the Company.

"Prospectus" shall mean the Base Prospectus, as supplemented by any Prospectus Supplement, including the documents incorporated by reference therein, together with any Permitted Free Writing Prospectus.

"Prospectus Supplement" shall mean any prospectus supplement to the Base Prospectus filed with the Commission pursuant to Rule 424(b) under the Securities Act, including the documents incorporated by reference therein.

"Reduction Notice" shall have the meaning assigned to such term in Section 2.8 hereof.

"Reedland" shall have the meaning assigned to such term in Section 4.13 hereof.

"Reference Period" shall have the meaning assigned to such term in Section 5.6(ii) hereof.

"Registration Statement" shall mean the registration statement on Form S-3, Commission File Number 333-169856, filed by the Company with the Commission under the Securities Act for the registration of the Shares, as such Registration Statement may be amended and

supplemented from time to time (including any related registration statements filed pursuant to Rule 462(b) under the Securities Act), including all documents filed as part thereof or incorporated by reference therein, and including all information deemed to be a part thereof at the time of effectiveness pursuant to Rule 430A, Rule 430B or Rule 430C under the Securities Act.

"Restricted Period" shall have the meaning assigned to such term in Section 5.10 hereof.

"Securities Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder.

"Settlement Date" shall have the meaning assigned to such term in Section 2.7 hereof.

"Shares" shall mean shares of Common Stock issuable to the Investor upon exercise of a Fixed Request and shares of Common Stock issuable to the Investor upon exercise of an Optional Amount.

"Significant Subsidiary" means any Subsidiary of the Company that would constitute a Significant Subsidiary of the Company within the meaning of Rule 1-02 of Regulation S-X of the Commission.

"Similar Financing" shall have the meaning assigned to such term in Section 5.6(ii) hereof.

"SOXA" shall have the meaning assigned to such term in Section 4.6(c) hereof.

"Subsidiary" shall mean any corporation or other entity of which at least a majority of the securities or other ownership interest having ordinary voting power (absolutely or contingently) for the election of directors or other persons performing similar functions are at the time owned directly or indirectly by the Company and/or any of its other Subsidiaries.

"Threshold Price" is the lowest price (except to the extent otherwise provided in Section 2.6) at which the Company may sell Shares during the applicable Pricing Period as set forth in a Fixed Request Notice (not taking into account the applicable percentage discount during such Pricing Period determined in accordance with Section 2.2); provided, however, that at no time shall the Threshold Price be lower than $3.00 per share unless the Company and the Investor shall mutually agree.

"Total Commitment" shall have the meaning assigned to such term in Section 1.1 hereof.

"Trading Day" shall mean a full trading day (beginning at 9:30 a.m., New York City time, and ending at 4:00 p.m., New York City time) on the NASDAQ.

"Trading Market" means the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE Amex Equities, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange (or any successors to any of the foregoing), whichever is at the time the principal trading exchange or market for the Common Stock.

"Trading Market Limit" means, at any time, 4,427,562 shares of duly authorized, validly issued, fully paid and non-assessable shares of Common Stock (as adjusted for any stock splits, stock combinations, stock dividends, recapitalizations and other similar transactions that occur on or after the date of this Agreement); provided, however, that the Trading Market Limit shall not exceed under any circumstances that number of shares of Common Stock that the Company may issue pursuant to this Agreement and the transactions contemplated hereby without (a) breaching the Company's obligations under the rules and regulations of the Trading Market or (b) obtaining shareholder approval under the applicable rules and regulations of the Trading Market.

"VWAP" shall mean the daily volume weighted average price (based on a Trading Day from 9:30 a.m. to 4:00 p.m. (New York time)) of the Company on the NASDAQ as reported by Bloomberg Financial L.P. using the AQR function.

"Warrant Value" shall mean the fair value of all warrants, options and other similar rights issued to a third party in connection with an Other Financing, determined by using a standard Black-Scholes option-pricing model using an expected volatility percentage as shall be mutually agreed by the Investor and the Company. In the case of a dispute relating to such expected volatility assumption, the Investor shall obtain applicable volatility data from three investment banking firms of nationally recognized reputation, and the parties hereto shall use the average thereof for purposes of determining the expected volatility percentage in connection with the Black-Scholes calculation referred to in the immediately preceding sentence.

EXHIBIT A TO THE
COMMON STOCK PURCHASE AGREEMENT
FORM OF FIXED REQUEST NOTICE

Reference is made to the Common Stock Purchase Agreement dated as of May 10, 2011, (the "Purchase Agreement") between Omeros Corporation, a corporation organized and existing under the laws of the State of Washington (the "Company"), and Azimuth Opportunity Ltd., an international business company incorporated under the laws of the British Virgin Islands. Capitalized terms used and not otherwise defined herein shall have the meanings given such terms in the Purchase Agreement.

In accordance with and pursuant to Section 2.1 of the Purchase Agreement, the Company hereby issues this Fixed Request Notice to exercise a Fixed Request for the Fixed Amount Requested indicated below.

Fixed Amount Requested: _____

Optional Amount Dollar Amount: _____

Pricing Period start date: _____

Pricing Period end date: _____

Settlement Date: _____

Fixed Request Threshold Price: _____

Optional Amount Threshold Price: _____

Dollar Amount of Common Stock Currently Unissued under the Registration Statement _____

Dollar Amount of Common Stock Currently Available under the Aggregate Limit: _____

Dated: _____

By: _____

Name:
Title:

Address:
Facsimile No.:

AGREED AND ACCEPTED

By: _____

Name:
Title:

EXHIBIT B TO THE
COMMON STOCK PURCHASE AGREEMENT
FORM OF OPTIONAL AMOUNT NOTICE

To: _____
Fax#: _____

Reference is made to the Common Stock Purchase Agreement dated as of May 10, 2011 (the "Purchase Agreement") between Omeros Corporation, a corporation organized and existing under the laws of the State of Washington (the "Company"), and Azimuth Opportunity Ltd., an international business company incorporated under the laws of the British Virgin Islands (the "Investor"). Capitalized terms used and not otherwise defined herein shall have the meanings given such terms in the Purchase Agreement.

In accordance with and pursuant to Section 2.11 of the Purchase Agreement, the Investor hereby issues this Optional Amount Notice to exercise an Optional Amount for the Optional Amount Dollar Amount indicated below.

Optional Amount Dollar Amount Exercised _____

Number of Shares to be purchased _____

VWAP on the date hereof: _____

Discount Price: _____

Settlement Date: _____

Threshold Price: _____

Dated: _____

By: _____

Name:
Title:

Address:
Facsimile No.:

EXHIBIT C TO THE
COMMON STOCK PURCHASE AGREEMENT
CERTIFICATE OF THE COMPANY

CLOSING CERTIFICATE

_____ 201__

The undersigned, the [_____] of Omeros Corporation, a corporation organized and existing under the laws of the State of Washington (the "Company"), delivers this certificate in connection with the Common Stock Purchase Agreement, dated as of May 10, 2011 (the "Agreement"), by and between the Company and Azimuth Opportunity Ltd., an international business company incorporated under the laws of the British Virgin Islands (the "Investor"), and hereby certifies on the date hereof that (capitalized terms used herein without definition have the meanings assigned to them in the Agreement):

1. Attached hereto as **Exhibit A** is a true, complete and correct copy of the Articles of Incorporation of the Company as filed with the Secretary of State of the State of Washington. The Articles of Incorporation of the Company have not been further amended or restated, and no document with respect to any amendment to the Articles of Incorporation of the Company has been filed in the office of the Secretary of State of the State of Washington since the date shown on the face of the state certification relating to the Company's Articles of Incorporation, which is in full force and effect on the date hereof, and no action has been taken by the Company in contemplation of any such amendment or the dissolution, merger or consolidation of the Company.

2. Attached hereto as **Exhibit B** is a true and complete copy of the Bylaws of the Company, as amended and restated through, and as in full force and effect on, the date hereof, and no proposal for any amendment, repeal or other modification to the Bylaws of the Company has been taken or is currently pending before the Board of Directors or shareholders of the Company.

3. The Board of Directors of the Company has approved the transactions contemplated by the Agreement; said approval has not been amended, rescinded or modified and remains in full force and effect as of the date hereof.

4. Each person who, as an officer of the Company, or as attorney-in-fact of an officer of the Company, signed (i) the Agreement and (ii) any other document delivered prior hereto or on the date hereof in connection with the transactions contemplated by the Agreement, was duly elected, qualified and acting as such officer or duly appointed and acting as such attorney-in-fact, and the signature of each such person appearing on any such document is his genuine signature.

IN WITNESS WHEREOF, I have signed my name as of the date first above written.

_____
By:
Title:

EXHIBIT D TO THE
COMMON STOCK PURCHASE AGREEMENT
COMPLIANCE CERTIFICATE

In connection with the issuance of shares of common stock of Omeros Corporation, a corporation organized and existing under the laws of the State of Washington (the "Company"), pursuant to the Fixed Request Notice, dated [_____], delivered by the Company to Azimuth Opportunity Ltd. (the "Investor") pursuant to Article II of the Common Stock Purchase Agreement, dated May 10, 2011, by and between the Company and the Investor (the "Agreement"), the undersigned hereby certifies as follows:

1. The undersigned is the duly appointed [_____] of the Company.

2. Except as set forth in the attached Disclosure Schedule, the representations and warranties of the Company set forth in Article IV of the Agreement (i) that are not qualified by "materiality" or "Material Adverse Effect" are true and correct in all material respects as of [insert Fixed Request Exercise Date] and as of the date hereof with the same force and effect as if made on such dates, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties are true and correct in all material respects as of such other date and (ii) that are qualified by "materiality" or "Material Adverse Effect" are true and correct as of [insert Fixed Request Exercise Date] and as of the date hereof with the same force and effect as if made on such dates, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties are true and correct as of such other date.

3. The Company has performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by the Agreement to be performed, satisfied or complied with by the Company at or prior to [insert Fixed Request Exercise Date] and the date hereof.

Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Agreement.

The undersigned has executed this Certificate this [__] day of [_____], 201[__].

By: _____

Name: _____

Title: _____

DISCLOSURE SCHEDULE
RELATING TO THE COMMON STOCK
PURCHASE AGREEMENT, DATED AS OF MAY 10, 2011
BETWEEN OMEROS CORPORATION AND AZIMUTH OPPORTUNITY LTD.

This disclosure schedule is made and given pursuant to Article IV of the Common Stock Purchase Agreement, dated as of May 10, 2011 (the "Agreement"), by and between Omeros Corporation, a Washington corporation (the "Company"), and Azimuth Opportunity Ltd., an international business company incorporated under the laws of the British Virgin Islands. Unless the context otherwise requires, all capitalized terms are used herein as defined in the Agreement. The numbers below correspond to the section numbers of representations and warranties in the Agreement most directly modified by the below exceptions.

Section 4.7 Subsidiaries.

The following are Subsidiaries of the Company as of the Effective Date which are not listed on Exhibit 21.1 to the 2010 Form 10-K:

Artemeros Sp. z o.o.

Omeros Poland Sp. z o.o.

4510 E. Thousand Oaks Blvd
Westlake Village, CA 91362

May 10, 2011

Omeros Corporation
1420 Fifth Avenue, Suite 2600
Seattle, Washington 98101

Re: Engagement of Reedland Capital Partners, an Institutional Division of Financial West Group as Placement Agent Omeros Corporation

Ladies/Gentlemen:

This letter (this "Engagement Letter") will confirm our agreement with Omeros Corporation (the "Company") with respect to the engagement of Reedland Capital Partners, an Institutional Division of Financial West Group ("FWG/Reedland") as the Company's placement agent, solely in connection with the placement of the Company's common stock to Azimuth Opportunity Ltd. (collectively with its affiliated funds, the "Investor"), as more fully described herein. FWG/Reedland hereby agrees, on a best efforts basis and subject to the satisfactory completion of our continuing due diligence, to place up to Forty Million Dollars ($40,000,000) of the Company's authorized but unissued common stock (the "Common Stock" or "Common Shares") with the Investor, as more particularly set forth below and subject to the terms and conditions of this Engagement Letter.

The Common Stock will be offered and sold on such terms as the Company and the Investor may agree upon in that certain "Common Stock Purchase Agreement", dated May 10, 2011, by and between the Company and the Investor (the "Purchase Agreement") and the offering and sale of such Common Stock shall be registered under the Securities Act of 1933, as amended, pursuant to a registration statement on Form S-3 (File No. 333-169856) filed with the Securities and Exchange Commission (the "Registration Statement"). FWG/Reedland will use no offering materials other than the Company's publicly filed reports and the Registration Statement, including the prospectus contained therein or any prospectus supplement thereto, or any amendment or supplement to the Registration Statement or the prospectus contained therein, as the Company will have approved prior to their use. The parties hereto agree that the Common Shares will be offered and sold by the Company in compliance with all applicable federal and state securities laws and regulations. The placement of the Common Stock by FWG/Reedland to the Investor as contemplated hereby may be referred to herein as the "Offering".

The term of FWG/Reedland's engagement (the "Engagement Period") as placement agent for the offer and sale of the Common Stock to the Investor will commence on the date of actual receipt by FWG/Reedland of an executed copy of this Engagement Letter from the Company and, unless extended pursuant to the further written agreement of

the parties, will expire upon the earliest of (i) April 1, 2013, (ii) the date that all the shares of Common Stock under the Registration Statement have been issued and sold, (iii) the date that the Investor has purchased an aggregate of $40,000,000 of shares of Common Stock, or that number of shares which is one share less than twenty percent (20.0%) of the total issued and outstanding shares of Common Stock as of the effective date of the Purchase Agreement, whichever occurs first, pursuant to the Purchase Agreement, (iv) the date that the Offering is terminated by the Company or the Investor or (v) at the Company's election, the date that FWG/Reedland breaches any representation or covenant in this Engagement Letter. To the extent the Company so requests, FWG/Reedland will assist with each settlement of the purchase of the Common Stock pursuant to the Offering (each, a "Closing"). There may be multiple Closings of the Offering during the Engagement Period.

Upon the date of each Closing of the purchase of the Common Shares, the Company hereby agrees to pay FWG/Reedland a cash commission equal to one-half of one percent (0.50%) of the aggregate dollar amount paid to the Company for the Common Shares purchased by the Investor in connection therewith. Such cash commission(s) shall be payable to FWG/Reedland at the direction of the Company via wire transfer in accordance with the wiring instructions annexed hereto as Exhibit B.

Additionally, within ten (10) days of FWG/Reedland's request, the Company shall reimburse FWG/Reedland for its reasonable, documented, out-of-pocket legal expenses incurred in connection with the preparation of any filings required to be made on behalf of FWG/Reedland in connection with the Offering pursuant to FINRA Rule 5110, up to a maximum of Ten Thousand Dollars ($10,000).

This Engagement Letter is for the confidential use of the Company and FWG/Reedland only, and may not be disclosed by the Company or by FWG/Reedland (in whole or in part) for any reason to any person other than their respective Board of Directors, executive management or other employees with a need to know, or its attorneys, accountants or financial advisors, and then only on a confidential basis in connection with the proposed Offering, except where disclosure is required by applicable law, stock exchange rule or regulation, or is previously agreed to in writing by the Company and FWG/Reedland. The parties hereto acknowledge and agree that, notwithstanding the preceding sentence, (i) the arrangement contemplated hereby will be disclosed by the Company in its SEC filings, which shall be incorporated by reference in the Registration Statement, and this Engagement Letter may be filed with the SEC and (ii) the arrangement contemplated hereby may also be disclosed by the Company in its reports filed pursuant to the Securities Exchange Act of 1934, as amended. The terms of this Engagement Letter will be governed by and interpreted in accordance with the laws of the State of California, and any disputes arising hereunder shall be exclusively and finally settled by an arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules in San Francisco, California. The arbitration shall be conducted by a single arbitrator mutually agreed upon by the parties. The determination, finding, judgment, and/or award made by the arbitrator shall be made in writing, shall state the basis for such determination, shall be signed by the arbitrator and shall be final and binding on all parties, and there shall be no appeal or reexamination thereof, except for fraud, perjury, evident partiality, or misconduct by an arbitrator prejudicing the rights of any party and to correct manifest clerical errors. The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, its reasonable attorneys' fees and costs.

During the Engagement Period and for 60 days thereafter, the Company agrees that any reference to FWG/Reedland in any press release or other written communications issued by the Company to the public relating to the Offering will refer to FWG/Reedland as “Reedland Capital Partners, an Institutional Division of Financial West Group, Member FINRA/SIPC”. Additionally, the Company acknowledges that FWG/Reedland may, at its option and expense (and only after the first public disclosure or announcement of the Offering by the Company) place announcements and advertisements or otherwise publicize FWG/Reedland’s role in facilitating the Offering (which may include the reproduction of the Company’s logo), stating that FWG/Reedland acted as placement agent in connection with such transaction; provided, however, that FWG/Reedland shall first submit a copy of any such announcement or advertisement to the Company for its approval, which approval shall not be unreasonably withheld.

The Company hereby agrees that: (1) within one (1) day of each date that the Company provides the Investor with a “Fixed Notice Request” (as defined in the Purchase Agreement) it will provide FWG/Reedland with a copy of such Fixed Notice Request by facsimile to (415) 383-4799 (Attn: Jason Cohen), and (2) it will comply in all material respects with all applicable federal and state securities laws and regulations with respect to the Offering. FWG/Reedland hereby agrees and represents and warrants that: (1) FWG/Reedland is an institutional division of Financial West Group (member FINRA/SIPC), which is a broker/dealer registered by FINRA in accordance with all applicable laws and regulations in each jurisdiction in which FWG/Reedland intends to use its best efforts to place the Offering, including, without limitation, in the State of Washington, and payment of the commission contemplated under this agreement will not jeopardize the Company’s compliance with applicable federal and state securities laws or regulations; (2) FWG/Reedland shall not make any representations to the Investor about the Company other than information included in the Company’s public filings or otherwise conveyed to FWG/Reedland by the Company in writing for use in connection with the Offering; (3) FWG/Reedland will not do any advertising or make any general solicitation on behalf of the Company in connection with the Offering; (4) FWG/Reedland shall comply with all applicable federal and state securities laws and regulations with respect to the Offering; (5) FWG/Reedland is not affiliated with the Investor or the Company; and (6) FWG/Reedland shall keep confidential any nonpublic material information about the Company conveyed to FWG/Reedland by the Company. In further consideration of FWG/Reedland’s placement of the Common Shares, the Company and FWG/Reedland agree to be fully bound by all of the indemnification provisions set forth on Exhibit A, a copy of which is attached hereto and is fully incorporated herein by this reference.

The parties acknowledge and agree that nothing contained herein shall modify or affect the rights or obligations of the Company and the Investor under the Purchase Agreement. This Engagement Letter and all rights and obligations hereunder may not be assigned by either party without the prior written consent of the other party. This Engagement Letter may be executed in counterparts and/or via facsimile transmission or the exchange of PDF copies.

If the foregoing is acceptable, please sign and return to us a copy of this Engagement Letter, which will represent the entire agreement between the Company and FWG/Reedland with respect to the matters addressed herein and will supersede all previous oral or written agreements or understandings of any nature whatsoever between the parties.

[THIS SPACE INTENTIONALLY LEFT BLANK]

We look forward to working with you.

Sincerely,

Reedland Capital Partners
An Institutional Division of
Financial West Group

By: /s/ Robert Schacter
Robert Schacter
Senior Vice President (FWG)

Omeros Corporation

By: /s/ Gregory A. Demopulos, M.D.
Name: Gregory A. Demopulos, M.D.
Title: President and Chief Executive Officer

Agreed & Accepted:

Financial West Group

By: /s/ Thomas Krueger
Thomas Krueger
Chief Compliance Officer

Exhibit A to Engagement Letter

Company Indemnification Provisions

Omeros Corporation (the "Company") agrees to indemnify and hold harmless Reedland Capital Partners, an Institutional Division of Financial West Group ("FWG/Reedland"), and its directors, officers, and each person, if any, who controls FWG/Reedland within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20(a) of the Securities Exchange Act of 1934, as amended (collectively, the "Indemnitees" and each individually an "Indemnitee"), to the fullest extent permitted by applicable law, from and against any and all claims, demands, causes of action, obligations, losses, damages, liabilities, costs or expenses arising in law, equity or otherwise, of any nature whatsoever, including without limitation, any and all reasonable legal, accounting and other professional fees and related costs and disbursements and other costs, expenses, or disbursements relating thereto (collectively, the "Liabilities"), directly or indirectly , based upon or arising out of:

a) any untrue statement or alleged untrue statement of a material fact contained, or incorporated by reference, in the Registration Statement of the Company (the "Registration Statement") relating to the Common Stock being placed by FWG/Reedland with the Investor (as defined in the Engagement Letter between FWG/Reedland and the Company to which this Exhibit A is an integral part (the "Engagement Letter")) in connection with that certain Common Stock Purchase Agreement dated May 10, 2011, between the Company and Azimuth Opportunity Ltd. (the "Purchase Agreement"), including the prospectus contained therein or any prospectus supplement thereto, or any amendment or supplement to the Registration Statement; or

b) the omission or alleged omission to state in the Registration Statement or any document incorporated by reference in the Registration Statement, a material fact required to be stated therein or necessary, in light of the circumstances under which they were made, to make the statements therein not misleading.

Notwithstanding anything to the contrary contained herein, (a) the foregoing indemnity shall not apply and the Company shall not be liable to the extent that a court of competent jurisdiction shall have determined by a final judgment (with no appeals available) that such Liability resulted directly from any such acts or failures to act, undertaken or omitted to be taken by any Indemnitee through its gross negligence, bad faith or willful misconduct, (b) the foregoing indemnity shall not apply to any Liability to the extent arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with written information furnished to the Company by FWG/Reedland expressly for use in the Registration Statement, the prospectus contained therein or any prospectus supplement thereto (or any amendment or supplement thereto), and (c) with respect to the Prospectus (as defined in the Purchase Agreement), the foregoing indemnity shall not inure to the benefit of any Indemnitee or any such person from whom the person

asserting any Liability purchased Common Stock, if copies of the Prospectus were timely delivered to FWG/Reedland and a copy of the Prospectus (as then amended or supplemented, including, without limitation, by any Free Writing Prospectus (as defined in the Purchase Agreement), if the Company shall have furnished any amendments or supplements thereto) was not sent or given by or on behalf of FWG/Reedland or any such person to such person, if required by law so to have been delivered, at or prior to the written confirmation of the sale of the Common Stock to such person, and if the Prospectus (as so amended or supplemented) would have cured the defect giving rise to such Liability.

The Company may, at its own expense, seek reimbursement of amounts already paid to such Indemnitee once and to the extent the relevant Liabilities are determined in a final judgment by court of competent jurisdiction (not subject to further appeal) to have not been indemnifiable hereunder. The Company further agrees to reimburse each Indemnitee for reasonable costs, expenses and/or legal fees incurred in seeking or obtaining payments for any Liabilities indemnifiable hereunder including, without limitation, investigation, litigation, and enforcement and execution of a judgment, or in successfully contesting any claim by the Company for any amounts previously paid, in a manner not inconsistent with the terms hereof.

In order to provide for just and equitable contribution, if a claim for indemnification pursuant to these indemnification provisions has been made but it is found in final judgment by a court of competent jurisdiction (not subject to further appeal) that such indemnification is due pursuant to the terms hereof but may not be enforced in such case, then the Company, on the one hand, and the claiming Indemnitees on the other hand, will contribute to the losses, claims, damages, obligations, penalties, judgments, awards, liabilities, costs, expenses and disbursements (collectively, the “Losses”) to which such Indemnitees may be subject. Said contribution will be made in accordance with all relative benefits received by, and the fault of, the Company on the one hand, and such Indemnitees on the other hand, in connection with the statements, acts or omissions which resulted in such Losses, together with the relevant equitable considerations and will be determined pursuant to the arbitration provisions set forth in the Engagement Letter. No person found liable for fraudulent misrepresentation will be entitled to contribution from any person who is not also found liable for such fraudulent misrepresentation.

If any action, suit, proceeding, or investigation commenced which gives rise to a claim for indemnification and which, in any Indemnitee’s reasonable judgment upon written advice of counsel, gives rise to a conflict of interest between the Company and the Indemnitees, then the Indemnitees will have the right to retain legal counsel of their own choice to represent and advise them, and the Company will pay the reasonable fees, expenses and disbursements of no more than one (1) law firm for all Indemnitees incurred from time to time in the manner set forth above. Such law firm will, to the extent consistent with their professional responsibilities, cooperate with the Company and any counsel designated by the Company. The Company will not be liable for any settlement of any claim, action, suit or proceeding effected without its prior written consent; provided, however, that the Company will be liable for any payment of any award or settlement of any actual, potential or threatened claim against any Indemnitee made

with the Company's prior written consent. Neither the Company nor any affiliate thereof will, without the prior written consent of the Indemnitee seeking indemnification, settle or compromise any actual, potential or threatened claim for which indemnification is sought hereunder, or permit a default or consent to the entry of any judgment in respect thereof, unless such settlement, compromise or consent includes, as an unconditional term thereof, the giving by the claimant to the Indemnitees of an unconditional release from all liability in respect of such claim.

Neither termination nor completion of the engagement of FWG/Reedland pursuant to the Engagement Letter will affect these indemnification provisions, which will survive any such termination or completion and remain operative and in full force and effect.

Exhibit B to Engagement Letter

Reedland Wiring Instructions

(Financial West Group)