UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 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): June 17, 2007

Lexicon Pharmaceuticals, Inc.

(Exact name of registrant as specified in its charter)

Delaware	000-30111	76-0474169
(State or other jurisdiction of incorporation or organization)	(Commission File Number)	(I.R.S. Employer Identification Number)

8800 Technology Forest Place
The Woodlands, Texas 77381
(Address of principal executive offices and Zip Code)

(281) 863-3000
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

☐ 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

On June 17, 2007, we entered into a series of agreements with Invus, L.P. (“Invus”) under which Invus will make an investment in our common stock and have certain rights as described below.

Securities Purchase Agreement

We entered into a Securities Purchase Agreement (the “Securities Purchase Agreement”) with Invus under which we have agreed, subject to Stockholder Approval as described below and customary closing conditions, to issue and sell to Invus shares in an initial investment (the “Initial Investment”) and permit Invus to require, subject to specific conditions, that we conduct certain rights offerings (the “Rights Offerings”).

Initial Investment

In the Initial Investment, Invus will purchase shares of our common stock for a total of approximately $205 million in two parts as follows:

(a) a number of shares of our common stock that, when added to the shares of common stock already owned by Invus and its affiliates (including the 3,891,108 shares owned on the date of the Securities Purchase Agreement and any shares issued upon exercise of the Warrants described below but excluding, for the avoidance of doubt, the shares of common stock to be issued pursuant to paragraph (b) below), equal 19.9% of the aggregate number of shares of our common stock outstanding as of the closing of the Initial Investment (which is expected to be approximately 16,500,000 shares) for a per share purchase price equal to $3.0915; and

(b) a number of shares of our common stock that, when added to the number of shares of common stock already owned by Invus and its affiliates and the number of shares subject to paragraph (a) above, equal 40% of the aggregate number of shares of our common stock outstanding as of the closing of the Initial Investment (which is expected to be approximately 34,325,000 shares) for a per share purchase price equal to $4.50.

Pending the closing of the Initial Investment, Invus and its affiliates have agreed not to acquire additional shares of our common stock, subject to certain exceptions, except for shares, if any, acquired upon exercise of the Warrants.

Rights Offerings

For a period of 90 days following the date (the “First Rights Offering Trigger Date”) which is 27 months after the closing of the Initial Investment, Invus will have the right to require us to make a pro rata offering of non-transferable rights to acquire common stock to all of our stockholders (the “First Rights Offering”) in an aggregate amount to be designated by Invus not to exceed an amount equal to (a) the quotient of (i) $550,000,000, *minus* the amount of the Initial Investment, *minus* the aggregate amount paid by Invus upon the exercise of any Warrants, divided by (ii) two (which quotient is expected to be approximately $172.5 million), *minus* (b) the aggregate net proceeds received in all Qualified Offerings (as defined below), if any, completed prior to the First Rights Offering Trigger Date. The price per share of the First Rights Offering would be designated by Invus in a range between $4.50 and a then-current average market price of our common stock. The First Rights Offering Trigger Date could be changed to as early as 24 months after the closing of the Initial Investment with the approval of the members of our board of directors who are not affiliated with Invus (the “Unaffiliated Board”). All stockholders would have oversubscription rights with respect to the First Rights Offering, and Invus would be required to purchase the entire portion of the First Rights Offering that is not subscribed for by other stockholders.

A “Qualified Offering” consists of a bona fide financing transaction comprised of our issuance of shares of our common stock at a price greater than $4.50 per share, which transaction is not entered into in connection with our entry into any other transaction (including, a collaboration or license for the discovery, development or commercialization of pharmaceutical products) involving the purchaser of such common stock.

For a period of 90 days following the date (the “Second Rights Offering Trigger Date”) which is 12 months after the later of (a) the First Rights Offering Trigger Date or (b) the date on which Invus exercised its right to require us to conduct the First Rights Offering, Invus would have the right to require us to make a pro rata offering of non-transferable rights to acquire common stock to all of our stockholders (the “Second Rights Offering” and, together with the First Rights Offering, the “Rights Offerings”) in an aggregate amount to be designated by Invus not to exceed an amount equal to $550,000,000, *minus* the amount of the Initial Investment, *minus* the aggregate amount paid by the Investor upon the exercise of any Warrants, *minus* the amount of the First Rights Offering, *minus* the aggregate net proceeds received in all Qualified Offerings, if any, completed prior to the Second Rights Offering Trigger Date. The price per share of the Second Rights Offering would be designated by Invus in a range between $4.50 and a then-current average market price of our common stock. All stockholders would have oversubscription rights with respect to the Second Rights Offering, and Invus would be required to purchase the entire portion of the Second Rights Offering that is not subscribed for by other stockholders.

Stockholder Approval

The parties’ obligations to issue and purchase shares of common stock under the Initial Investment and to conduct and participate in the Rights Offerings would be subject to the approval by our stockholders of the Initial Investment, the Rights Offerings and an amendment to our certificate of incorporation increasing the number of authorized shares of common stock to a level sufficient to complete the Initial Investment and the Rights Offerings (the “Stockholder Approval”).

Further Issuances of Common Stock

Until the later of the completion of the Second Rights Offering or the expiration of the 90-day period following the Second Rights Offering Trigger Date, we will not, without Invus’ prior consent, issue any shares of our common stock at a price below $4.50 per share, subject to certain exceptions.

Warrants

In connection with the Securities Purchase Agreement, we entered into a Warrant Agreement with Invus under which we have issued to Invus warrants (the “Warrants”) to purchase 16,498,353 shares of our common stock at an exercise price of $3.0915 per share. As indicated above, purchases of shares upon exercise of the Warrants prior to the closing of the Initial Investment will reduce the number of shares purchased at the same price in the Initial Investment. If the Initial Investment is completed, any Warrants not exercised prior to the closing of the Initial Investment will automatically terminate. In addition, the Warrants will expire: (a) 30 business days after the stockholders meeting called to approve the Initial Investment, the Rights Offerings and the amendment to our certificate of incorporation (so long as (i) we have not breached the Securities Purchase Agreement, (ii) our board of directors has not withdrawn its recommendation that our stockholders vote in favor of the Invus investment and (iii) certain alternative transactions have not been publicly proposed or consummated; (b) three years after the

termination of the Securities Purchase Agreement if it is terminated for our breach or due to its termination date; and (iii) nine months following the stockholders meeting called to approve the Initial Investment, the Rights Offerings and the amendment to our certificate of incorporation, if our board of directors has withdrawn its recommendation that our stockholders vote in favor of the Invus investment or certain alternative transactions have been publicly proposed or consummated. If the Initial Investment does not occur, and subject to certain exceptions, Invus and its affiliates will be subject to certain standstill restrictions for a period of one year following the exercise of the Warrants.

Registration Rights Agreement

In connection with the Securities Purchase Agreement and the Warrants, we entered into a Registration Rights Agreement with Invus under which we granted Invus certain registration rights with respect to shares of common stock purchased under the Securities Purchase Agreement and the Warrants. These registration rights are transferable to any third party to whom Invus transfers a number of restricted shares of common stock that would result in such third party owning in excess of 3% of the total number of outstanding shares of common stock. Holders of such registration rights would have the rights to initiate (a) up to five demand registrations if the closing of the Initial Investment occurs, (b) up to three demand registrations if any of the Warrants have been exercised, but the closing of the Initial Investment does not occur, and (c) an unlimited number of demand registrations if the number of shares of common stock owned by Invus exceeds 50% of the total number of outstanding shares of our common stock. At the registration rights holder’s request, any such demand registrations may also include a shelf registration. Holders of such registration rights would also have piggyback registration rights, subject to customary terms.

Stockholders’ Agreement

In connection with the Securities Purchase Agreement, we entered into a Stockholders’ Agreement with Invus under which Invus will have the right to designate three members of our board of directors at the closing of the Initial Investment and, from and after the first anniversary of the closing of the Initial Investment, the right to designate the greater of three members or 30% (or the percentage of all the outstanding shares of common stock represented by Invus’ ownership, if less than 30%) of all members of our board of directors, rounded up to the nearest whole number of directors and, from and after the time that the number of shares of our common stock owned by Invus exceeds 50% of the total number of shares of our common stock then outstanding (not counting for such purpose any shares acquired by Invus from third parties in excess of 40% (or, if higher, its then pro rata amount) of the total number of outstanding shares of common stock, as permitted by the standstill provisions of the Stockholders Agreement), the right to designate a number of directors equal to its percentage ownership of our common stock, rounded up to the nearest whole number of directors. If requested by Invus, the directors appointed by Invus would have proportionate representation on the board of any subsidiary and on each committee of our board of directors and on the board of directors of any subsidiary, subject to the relevant requirements of the Securities and Exchange Commission and the Nasdaq Stock Market. Invus’ rights with respect to the designation of members of our board of directors, the boards of directors of any subsidiary and any committees thereof will terminate if Invus’ percentage ownership of the total number of outstanding shares of common stock falls below 10%.

In addition, Invus will have preemptive rights under the Stockholders’ Agreement to participate in future equity issuances by us (including any Qualified Offering), subject to certain exceptions, so as to maintain its then-current percentage ownership in our capital stock. Invus will be required to exercise its preemptive rights in advance with respect to certain marketed offerings, in which case it will be obligated to buy its pro rata share of the offering (or such lesser amount specified in its exercise of such rights) so

long as the sale of the shares were priced within a range within 10% above or below the market price on the date we notified Invus of the offering and met certain other conditions.

Invus will be subject to standstill provisions restricting its ability to acquire additional shares of common stock from third parties to an amount that would result in its ownership of our common stock not exceeding 49% of the total number of shares outstanding. These standstill provisions will not apply to the Rights Offerings or any other investment approved by the Unaffiliated Board, and will terminate if any third party makes a public proposal to acquire (by purchase, exchange, merger or otherwise) assets or business constituting 50% or more of our revenues, net income or assets or 50% of any class of our equity securities or acquires beneficial ownership (by purchase, exchange, merger or otherwise) of assets or business constituting 20% or more of our revenues, net income or assets or 20% of any class of our equity securities or our board of directors approves any such transaction.

Without the consent of the Unaffiliated Board, and subject to certain exceptions, Invus will not sell any shares of common stock to third parties that would result in any such third party (or any person or group including such third party) owning more than 14.9% of the total number of outstanding shares of our common stock.

Invus will be obligated to vote all of its shares of common stock in favor of the directors nominated by our board of directors. With respect to all other matters submitted to a vote of the holders of our common stock after the closing of the Initial Investment, Invus will be obligated to vote any shares that it acquired from third parties in excess of 40% (or, if higher, its then pro rata amount) of the total number of outstanding shares of common stock, as permitted by the standstill provisions of the Stockholders Agreement, in the same proportion as all the votes cast by other holders of common stock, unless Invus and we (acting with the approval of the Unaffiliated Board) agree otherwise.

As long as Invus holds at least 15% of the total number of outstanding shares of our common stock, Invus will be entitled to certain minority protections, including consent rights over (a) the creation or issuance of any new class of shares of our capital stock (or securities convertible into or exercisable for shares of our capital stock) having rights, preferences or privileges senior to or on parity with the common stock, (b) any amendment to our certificate of incorporation or bylaws in a manner adversely affecting Invus' rights under the agreements described herein, (c) the redemption, acquisition or other purchase of our capital stock (or securities convertible into or exercisable for shares of our capital stock), (d) any increase in the size of our board of directors to more than 12 members and (e) any shareholder rights plan that does not exclude Invus.

The provisions relating to designation of members of our board of directors, and of the boards of directors of our subsidiaries, preemptive rights, transfer restrictions, voting restrictions and standstill restrictions will terminate on the 10-year anniversary of the closing of the Initial Investment or at such time that Invus' percentage ownership of the total number of outstanding shares of our common stock falls below 10%. If any of the Warrants have been exercised, but the closing of the Initial Investment does not occur, then the provisions relating to the board of directors, preemptive rights, minority rights, transfer restrictions, voting restrictions and standstill restrictions will terminate. If the number of shares of common stock owned by Invus exceeds 50% of the total number of outstanding shares of our common stock (not counting for such purpose any shares acquired by Invus from third parties in excess of 40% (or, if higher, its then pro rata amount) of the total number of outstanding shares of common stock), then the provisions relating to transfer restrictions, voting restrictions and standstill restrictions will terminate.

Exemption from Registration under the Securities Act

The Warrants were granted, and the common stock issuable to Invus pursuant to the Initial Investment, the Rights Offerings and upon exercise of the Warrants will be issued, in reliance upon the exemption provided by Section 4(2) of the Securities Act of 1933, as amended.

Proxy Statement and Participants in Solicitation

We will file a proxy statement and other documents with the Securities and Exchange Commission relating to the Stockholder Approval.**Stockholders are urged to carefully read the proxy statement when it becomes available, because it will contain important information regarding Lexicon, the Invus transactions and other matters being submitted for Stockholder Approval**. A definitive proxy statement will be sent to stockholders seeking their approval of the Invus transactions and other matters being submitted for Stockholder Approval. Stockholders may obtain a free copy of the proxy statement (when it is available) and other documents containing information about Lexicon, without charge, at the SEC's web site at www.sec.gov. Copies of the definitive proxy statement and the SEC filings that will be incorporated by reference in the proxy statement may also be obtained for free by directing a request to Lexicon Pharmaceuticals, Inc. 8800 Technology Forest Place, The Woodlands, Texas 77381, Attention: Corporate Communications.

Lexicon and its officers and directors may be deemed to be participants in the solicitation of proxies from the stockholders. Information about these persons can be found in Lexicon's Annual Report on Form 10-K filed with the SEC, and additional information about such persons may be obtained from the proxy statement when it becomes available.

Item 3.02 Unregistered Sales of Equity Securities

The information set forth in Item 1.01 is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit No.		Description
*10.1	—	Securities Purchase Agreement dated June 17, 2007 between Lexicon Pharmaceuticals, Inc. and Invus, L.P.
10.2	—	Warrant Agreement dated June 17, 2007 between Lexicon Pharmaceuticals, Inc. and Invus, L.P.
10.3	—	Registration Rights Agreement dated June 17, 2007 between Lexicon Pharmaceuticals, Inc. and Invus, L.P.
10.4	—	Stockholders' Agreement dated June 17, 2007 between Lexicon Pharmaceuticals, Inc. and Invus, L.P.

* We agree to supplementally furnish the staff, on a confidential basis, a copy of any omitted schedule upon the staff's request.

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 thereunto duly authorized.

Lexicon Pharmaceuticals, Inc.

Date: June 18, 2007

By: /s/ Jeffrey L. Wade
Jeffrey L. Wade
Executive Vice President and General Counsel

Index to Exhibits

Exhibit No.		Description
*10.1	—	Securities Purchase Agreement dated June 17, 2007 between Lexicon Pharmaceuticals, Inc. and Invus, L.P.
10.2	—	Warrant Agreement dated June 17, 2007 between Lexicon Pharmaceuticals, Inc. and Invus, L.P.
10.3	—	Registration Rights Agreement dated June 17, 2007 between Lexicon Pharmaceuticals, Inc. and Invus, L.P.
10.4	—	Stockholders' Agreement dated June 17, 2007 between Lexicon Pharmaceuticals, Inc. and Invus, L.P.

* We agree to supplementally furnish the staff, on a confidential basis, a copy of any omitted schedule upon the staff's request.

Exhibit 10.1

SECURITIES PURCHASE AGREEMENT

Dated as of June 17, 2007

between

Lexicon Pharmaceuticals, Inc.

and

Invus, L.P.

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions 1

ARTICLE II

PURCHASE AND SALE OF THE INITIAL SHARES

SECTION 2.01. Initial Investment 9
SECTION 2.02. Initial Closing 10
SECTION 2.03. Closing Deliveries by the Company 10
SECTION 2.04. Closing Deliveries by the Investor 10

ARTICLE III

RIGHTS OFFERINGS

SECTION 3.01. First Rights Offering 11
SECTION 3.02. Second Rights Offering 13
SECTION 3.03. Additional Terms Applicable to the Rights and Rights Shares 16

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

SECTION 4.01. Organization and Qualification; Subsidiaries 17
SECTION 4.02. Certificate of Incorporation and By-laws 17
SECTION 4.03. Capitalization 18
SECTION 4.04. Authority 19
SECTION 4.05. No Conflict; Required Filings and Consents 19
SECTION 4.06. Permits; Compliance 20
SECTION 4.07. SEC Filings; Financial Statements 21
SECTION 4.08. Absence of Certain Changes or Events 23
SECTION 4.09. Absence of Litigation 23
SECTION 4.10. Employee Benefit Plans 24
SECTION 4.11. Labor Matters 25
SECTION 4.12. Property and Leases 25
SECTION 4.13. Intellectual Property 26
SECTION 4.14. Taxes 27
SECTION 4.15. Environmental Matters 28
SECTION 4.16. Contracts; Debt Instruments 29
SECTION 4.17. Related Party Transactions 30

	Page
SECTION 4.18. Insurance	30
SECTION 4.19. Controls	31
SECTION 4.20. Private Offering	31
SECTION 4.21. Vote Required	31
SECTION 4.22. Section 203 of the DGCL; Takeover Statute	31
SECTION 4.23. Fairness Opinion	32
SECTION 4.24. Brokers	32
SECTION 4.25. Proxy Statement	32
SECTION 4.26. Independent Directors	32

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF INVESTOR

SECTION 5.01. Organization	33
SECTION 5.02. Authority	33
SECTION 5.03. No Conflict; Required Filings and Consents	33
SECTION 5.04. Investment Purpose	34
SECTION 5.05. Sophistication and Financial Condition of the Investor	34
SECTION 5.06. Available Funds	34
SECTION 5.07. Proxy Statement	34
SECTION 5.08. Ownership of Company Capital Stock	34
SECTION 5.09. Brokers	34

ARTICLE VI

CONDUCT OF BUSINESS PENDING THE CLOSING

SECTION 6.01. Conduct of Business by the Company Pending the Closing	34
SECTION 6.02. Further Issuances of Company Common Stock; Alternative Transactions	36
SECTION 6.03. No Contrary Agreements or Actions	38

ARTICLE VII

ADDITIONAL AGREEMENTS

SECTION 7.01. Stockholders’ Meeting	38
SECTION 7.02. Proxy Statement; Other SEC Filings	39
SECTION 7.03. Access to Information; Confidentiality	40
SECTION 7.04. Amendment to Certificate of Incorporation	40
SECTION 7.05. Additional Listing Application	41
SECTION 7.06. Further Action; Reasonable Best Efforts; Consents; Filings	41
SECTION 7.07. Public Announcements	42
SECTION 7.08. Certain Notices	42

Page

ARTICLE VIII

CONDITIONS

SECTION 8.01. Conditions to the Obligations of Each Party 42
SECTION 8.02. Conditions to the Obligations of the Investor 43
SECTION 8.03. Conditions to the Obligations of the Company 44

ARTICLE IX

TERMINATION, AMENDMENT AND WAIVER

SECTION 9.01. Termination 45
SECTION 9.02. Effect of Termination 46
SECTION 9.03. Amendment 46
SECTION 9.04. Waiver 46

ARTICLE X

GENERAL PROVISIONS

SECTION 10.01. Survival of Representations and Warranties; Indemnification 46
SECTION 10.02. Notices 49
SECTION 10.03. Severability 50
SECTION 10.04. Entire Agreement; Assignment 50
SECTION 10.05. Parties in Interest 50
SECTION 10.06. Specific Performance 51
SECTION 10.07. Governing Law 51
SECTION 10.08. Waiver of Jury Trial 51
SECTION 10.09. Delays or Omissions 51
SECTION 10.10. Interpretation 51
SECTION 10.11. Counterparts 52

EXHIBITS

Exhibit A Form of Warrant Agreement
Exhibit B Form of Registration Rights Agreement
Exhibit C Form of Stockholders Agreement
Exhibit D Form of Certificate of Amendment to the Certificate of Incorporation
Exhibit E Form of Opinion of Counsel to Company

SCHEDULES

Company Disclosure Schedule

SECURITIES PURCHASE AGREEMENT

This SECURITIES PURCHASE AGREEMENT, dated as of June 17, 2007 (this "Agreement"), among Invus, L.P., a Bermuda limited partnership (the "Investor") and Lexicon Pharmaceuticals, Inc., a Delaware corporation (the "Company").

WHEREAS, the Company desires to sell to the Investor, and the Investor desires to purchase from the Company, in the Initial Investment (as defined herein) pursuant to the terms and conditions set forth in this Agreement, the Initial Shares (as defined herein);

WHEREAS, the Company desires to grant to the Investor the opportunity, pursuant to the terms and conditions set forth in this Agreement, to make further investments in the Company through participation in the Rights Offerings (as defined herein) and the Investor has committed to purchase any shares of Company Common Stock offered in the Rights Offerings that are not subscribed for and purchased by other stockholders; and

WHEREAS, concurrently with execution and delivery of this Agreement the Company will enter into a warrant agreement with the Investor in the form attached as Exhibit A (the "Warrant Agreement"), which will govern the terms of warrants to purchase an aggregate of 16,498,353 shares of Company Common Stock (the "Warrants") to be issued by the Company to the Investor;

WHEREAS, concurrently with the execution and delivery of this Agreement, the Company will enter into a registration rights agreement, in the form attached as Exhibit B, with the Investor with respect to the shares of Company Common Stock held from time to time by the Investor, including the Warrant Shares, the Initial Shares and the shares of Company Common Stock the Investor may acquire in connection with the Rights Offerings, and a stockholders' agreement with the Investor, in the form attached as Exhibit C (the "Stockholders' Agreement").

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the Investor and the Company hereby agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. (a) For purposes of this Agreement:

"affiliate" of a specified person means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified person.

"Ancillary Agreements" means the Warrant Agreement, the Registration Rights Agreement and the Stockholders' Agreement.

"beneficial owner" (and related terms such as "beneficially owned" or "beneficial ownership") has the meaning ascribed to such term under Rule 13d-3 of the Exchange Act.

"By-Laws" means the Restated By-Laws of the Company, effective as of February 3, 2000, as amended from time to time.

"business day" means any day that is not a Saturday or a Sunday and on which the principal offices of the SEC in Washington, D.C. are open to accept filings, or, in the case of determining a date when any payment is due, any day that is not a Saturday or a Sunday and on which banks are not authorized to close in New York City.

"Board" means the Board of Directors of the Company.

"Certificate of Amendment" means a Certificate of Amendment to the Certificate of Incorporation increasing the total number of shares the Company has authority to issue attached as Exhibit D.

"Certificate of Incorporation" means the Restated Certificate of Incorporation of the Company, dated as of April 5, 2000, as amended from time to time.

"Charter Amendment" means the amendment to the Certificate of Incorporation to be effected by the filing of the Certificate of Amendment.

"Closing" means any of the Initial Closing, the First Rights Offering Closing and the Second Rights Offering Closing.

"Closing Date" means any of the Initial Closing Date, the First Rights Offering Closing Date and the Second Rights Offering Closing Date.

"Code" means the Internal Revenue Code of 1986, as amended.

"Company Common Stock" means the common stock, par value $0.001 per share, of the Company.

"contracts" means any agreement, contract, lease, power of attorney, note, loan, evidence of indebtedness, purchase order, letter of credit, settlement agreement, franchise agreement, undertaking, covenant not to compete, employment agreement, license agreement, instrument, obligation, commitment, understanding, policy which constitutes an executory obligation, purchase and sales order, quotation which constitutes an executory commitment, and other executory commitments to which a person is a party or to which any of the assets of such person are subject, whether oral or written, express or implied, and pursuant to which such person is legally bound.

"control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, or as trustee or executor, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, as trustee or executor, by contract, credit arrangement or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such person.

"DGCL" means the General Corporation Law of the State of Delaware, as in effect from time to time.

"Environmental Laws" means any United States federal, state, local or foreign Laws relating to pollution or the protection, investigation or restoration of the environment or natural resources or relating to the protection of human health as relating to exposure to Hazardous Substances.

"Equity Interest" means any share, capital stock, partnership, member or similar interest in any person, and any option, warrant, right or security (including debt securities) convertible, exchangeable or exercisable therefor.

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

"First Rights Offering Amount" means an aggregate amount to be designated by the Investor in connection with the First Rights Offering, not to exceed an amount equal to (a) the quotient of (i) $550,000,000, *minus* the Share Purchase Price, *minus* the aggregate amount paid by the Investor upon the exercise of any Warrants, divided by (ii) two, *minus* (b) the aggregate net proceeds received in all Qualified Offerings, if any, completed prior to the First Rights Offering Trigger Date.

"First Rights Offering Oversubscription Shares" shall mean the total number of First Rights Shares less the total number of shares of Company Common Stock subject to validly exercised First Rights and issuable pursuant to the First Rights Primary Subscription.

"First Rights Offering Trigger Date" means the date which is twenty-seven (27) months following the Initial Investment Closing Date; *provided*, that the Investor and the Company (with the approval of the Unaffiliated Board) shall have the right to change such date to any mutually agreed upon date within the period starting on the second anniversary of the Initial Closing and ending on the date which is 27 months following the Initial Investment Closing Date.

"Hazardous Substances" means (i) those substances defined in or regulated under the following federal statutes and their state counterparts, as each may be amended from time to time, and all regulations thereunder: the Hazardous Materials Transportation Act, the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Clean Water Act, the Safe Drinking Water Act, the Atomic Energy Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Occupational Health and Safety Act, and the Clean Air Act; (ii) petroleum and petroleum products, including crude oil and any fractions thereof; (iii) natural gas, synthetic gas, and any mixtures thereof; (iv) polychlorinated biphenyls, asbestos and radon and other radioactive materials; (v) medical or biological waste; and (vi) any substance, material, or waste defined as toxic or hazardous or as a pollutant or contaminant, or regulated by any Governmental Authority pursuant to any Environmental Law or that could reasonably be expected to result in liability under any Environmental Law.

"Independent Directors" means directors who comply with the standard of independence necessary for a director to qualify as an "Independent Director" as such term (or

any replacement term) is used under the rules and listing standards of the Nasdaq Stock Market or any other securities exchange on which the Company Common Stock is then listed as such rules and listing standards may be amended from time to time.

"Initial Shares" means the shares of Company Common Stock to be issued and sold by the Company and purchased by the Investor pursuant to Section 2.01.

"Intellectual Property" means United States and non-United States (i) inventions and discoveries (whether or not patentable and whether or not reduced to practice), improvements thereto, and patents, patent applications, invention disclosures, and other rights of invention, worldwide, including any reissues, divisions, continuations and continuations-in-part, provisionals, reexamined patents or other applications or patents claiming the benefit of the filing date of any such application or patent, (ii) trademarks, service marks, trade names, trade dress, logos, Internet domain names, product names and slogans, including any common law rights, registrations, and applications for registration for any of the foregoing, and the goodwill associated with all of the foregoing, worldwide, (iii) copyrightable works, all rights in copyrights, including moral rights, copyrights, website content, packaging design and art work, and other rights of authorship and exploitation, and any applications, registrations and renewals in connection therewith, worldwide, (iv) confidential and proprietary information, including customer and supplier lists and related information, pricing and cost information, business and marketing plans, research and development, advertising statistics, any other financial, marketing and business data, technical data, databases, specifications, designs, drawings, methods, schematics and know-how (collectively, "Trade Secrets"), (v) to the extent not covered by subsections (i) through (iv), above, software and website content, (vi) all claims, causes of action and rights to sue for past, present and future infringement, misappropriation or unconsented use of any of the Intellectual Property, the right to file applications and obtain registrations, and all products, proceeds and revenues arising from or relating to any and all of the foregoing, throughout the world, and (vii) the rights to use the names and likenesses of natural persons and any other proprietary, intellectual property and other rights relating to any or all of the foregoing anywhere in the world.

"IRS" means the United States Internal Revenue Service.

"knowledge of the Company" means the actual knowledge of the executive officers of the Company and those individuals identified on Section 1.01(a) of the Disclosure Schedule.

"Liens" means any charge, mortgage, pledge, deed of trust, hypothecation, right of others, claim, security interest, encumbrance, burden, title defect, title retention agreement, lease, sublease, license, occupancy agreement, easement, covenant, condition, encroachment, voting trust agreement, interest, option, right of first offer, negotiation or refusal, proxy, lien or other similar restrictions or limitations.

"Material Adverse Effect" means any event, circumstance, change or effect that, either individually or combined with all other events, circumstances, changes or effects, (i) has a

material adverse effect on the business, operations, assets, liabilities (including contingent liabilities), condition (financial or otherwise) or results of operations of the Company and the Subsidiaries, taken as a whole, or (ii) materially impairs the ability of the Company to consummate the Transactions and perform its other obligations under this Agreement; *provided*, *however*, that "Material Adverse Effect" shall not include any event, circumstance, change or effect to the extent arising out of (A) any events, circumstances, changes or effects occurring after the date hereof that affect the biopharmaceutical industry generally to the extent not disproportionately impacting the Company and its Subsidiaries and (B) any changes in general economic, legal, regulatory or political conditions occurring after the date hereof to the extent not disproportionately impacting the Company and its Subsidiaries.

"Other Filings" means all filings made by, or required to be made by, the Company with the SEC other than the Proxy Statement.

"Oversubscription Pro Rata Number" shall mean, for each holder of a Right exercising Rights Offering Oversubscription rights, a fraction the numerator of which is the total number of shares of Company Common Stock owned by such holder and the denominator of which is the total number of outstanding shares of Company Common Stock held by all holders of Rights who have validly exercised Rights Offering Oversubscription rights in the relevant Rights Offering (it being understood that no shares shall be deemed owned by more than one holder for purposes hereof).

"Permitted Liens" means (i) liens for current Taxes not yet due and payable and Liens for Taxes being contested in good faith through proper proceedings (for which contested Taxes adequate reserves have been made in accordance with GAAP), (ii) inchoate mechanics' and materialmen's liens for construction in progress, and, (iii) such (A) inchoate workmen's, repairmen's, warehousemen's and carriers' liens arising in the ordinary course of business of the Company or any Subsidiary consistent with past practice, and (B) zoning restrictions, survey exceptions, utility easements, rights of way and similar Liens that are typical for the applicable property type and locality (excluding, in each case, any mortgages or other Liens securing borrowed money) which do not materially interfere with the current use of such Owned Real Property or Leased Real Property.

"person" includes an individual, corporation, partnership, limited partnership, limited liability company, syndicate, person (including a "person" or "group" each within the meaning of Section 13(d)(3) of the Exchange Act), trust, association or entity or government, political subdivision, agency or instrumentality of a government.

"Plans" means any (i) employee benefit plans (as defined in Section 3(3) of ERISA) and all bonus, incentive, stock option, stock purchase, restricted stock, phantom stock, or other stock-based compensation, deferred compensation, retiree medical or life insurance, supplemental executive retirement, severance or other benefit plans, programs, trusts or arrangements, and all employment, consulting, termination, severance, retention, change in control, transaction bonus, compensation or other contracts or agreements, to which the Company or any of its affiliates is a party, or which are sponsored by the Company or any of its affiliates for the benefit of any current or former employee, officer or director of the Company or any Subsidiary, and (ii) any material contracts, arrangements, agreements, policies, practices or

understandings between the Company or any of its affiliates and any current or former employee of the Company or of any Subsidiary, including any contracts, arrangements or understandings or change in control arrangements relating to a sale of the Company.

"Pro Rata Number" means, for each holder of a Right, a fraction the numerator of which is the total number of shares of Company Common Stock owned by such holder and the denominator of which is the total number of outstanding shares of Company Common Stock on the record date for the distribution of the applicable Rights (it being understood that no shares shall be deemed owned by more than one holder for purposes hereof).

"Qualified Offering" means a bona fide financing transaction by the Company comprised of an issuance of Company Common Stock by the Company (excluding any shares issued pursuant to stock options or other stock-based awards issued to employees, consultants, officers or directors of the Company or any Subsidiary, warrants outstanding as of the date hereof, the issuance of the Initial Shares, the issuance of any Warrant Shares and the Rights Offerings) at a price greater than $4.50 per share (appropriately adjusted for any stock splits, reverse splits, stock dividends, combinations or similar transactions occurring after the date hereof and prior to any such Qualified Offering) and which transaction is not entered into in connection with the entry by the Company into any other transaction (including, a collaboration or license for the discovery, development or commercialization of pharmaceutical products) involving the purchaser of such Company Common Stock.

"Release" has the meaning given to such term in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 USC Section 9601(22), but without giving effect to 42 USC 9601 Subsections (22)(A), (B), (C) and (D).

"Rights Offering Trigger Date" means any of the First Rights Offering Trigger Date or the Second Rights Offering Trigger Date.

"Second Rights Offering Amount" means an aggregate amount to be designated by the Investor in connection with the Second Rights Offering, not to exceed an amount equal to $550,000,000, *minus* the Share Purchase Price, *minus* the aggregate amount paid by the Investor upon the exercise of any Warrants, *minus* the First Rights Offering Amount, *minus* the aggregate net proceeds received in all Qualified Offerings, if any, completed prior to the Second Rights Offering Trigger Date.

"Second Rights Offering Oversubscription Shares" means the total number of Second Rights Shares less the total number of shares of Company Common Stock subject to validly exercised Second Rights and issuable pursuant to the Second Rights Primary Subscription.

"Second Rights Offering Trigger Date" means the date which is twelve (12) months following (i) the delivery of a First Rights Offering Notice or (ii) if such notice is not delivered, the First Rights Offering Trigger Date.

"subsidiary" or "subsidiaries" of any person means any corporation, partnership, limited liability company, joint venture, association or other legal entity of which such person (either alone or together with any other subsidiary) owns, directly or indirectly, more than 50%

of the stock or other equity interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such corporation or other legal entity.

"Tax Returns" means any return, declaration, report or other form or statement (including any attached schedules) filed with or submitted to, or required to be filed with or submitted to, any Governmental Authority in respect of Taxes, including any information return, claim for refund, amended return or declaration of estimated Tax.

"Taxes" means any and all taxes, fees, levies, duties, tariffs, imposts and other similar charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any Governmental Authority or taxing authority, including taxes or other charges on or with respect to income, franchise, windfall or other profits, gross receipts, property (real or personal), sales, use, capital stock, payroll, employment, occupation, severance, disability, premium, environmental (including taxes under Code Section 59A), social security, workers' compensation, estimated, unemployment compensation or net worth; alternative or add-on minimum; taxes or other charges in the nature of excise, withholding, ad valorem, stamp, transfer, value-added or gains taxes; license, registration and documentation fees; and customers' duties, tariffs and similar charges.

"Transactions" means the transactions contemplated by this Agreement and the Ancillary Agreements, including the purchase and sale of the Initial Shares as contemplated by this Agreement and the issuance of the Initial Shares by the Company, the distribution of the Rights in the Rights Offerings and the issuance of the Rights Shares, and the performance by the parties of their respective obligations under this Agreement and the Ancillary Agreements.

"Unaffiliated Board" means a majority of (a) the members of the Board not designated by the Investor pursuant to the Stockholders' Agreement and present at any validly convened meeting at which an action by such members is to be taken or (b) all of the members of the Board not designated by the Investor pursuant to the Stockholders' Agreement, if action is taken by written consent as permitted under the By-Laws.

"Warrant Shares" means any shares of Company Common Stock issued upon the exercise of the Warrants.

(b) The following terms have the meaning set forth in the Sections set forth below:

Defined Term	**Location of Definition**
Action	§ 4.09
Agreement	Preamble
Alternative Transaction	§ 6.02(b)
Board Recommendation	§ 7.01
Blue Sky Laws	§ 4.05(b)
Investor Director Designees	§ 8.02(f)

Defined Term	Location of Definition
Claim Notice	§ 10.01(d)
Company	Preamble
Company Material Contract	§ 4.16(b)
Company Options	§ 4.03(a)
Company Preferred Stock	§ 4.03(a)
Company Stock Option Plans	§ 4.03(a)
Confidentiality Agreement	§ 7.03(b)
Disclosure Schedule	Article IV
Exchange Act	§ 4.05(b)
FDA	§ 4.06(a)
First Rights	§ 3.01(a)
First Rights Offering	§ 3.01(a)
First Rights Offering Amount	§ 3.01(a)
First Rights Offering Backstop Shares	§ 3.01(b)
First Rights Offering Closing	§ 3.01(e)
First Rights Offering Closing Date	§ 3.01(e)
First Rights Offering Expiration Date	§ 3.01(d)
First Rights Offering Market Price	§ 3.01(a)
First Rights Offering Notice	§ 3.01(a)
First Rights Offering Oversubscription	§ 3.01(a)
First Rights Offering Price	§ 3.01(a)
First Rights Primary Subscription	§ 3.01(a)
First Rights Offering Registration Statement	§ 3.01(c)
First Rights Shares	§ 3.01(a)
GAAP	§ 4.07(b)
Governmental Authority	§ 4.05(b)
HSR Act	§ 4.05(b)
Indemnified Party	§ 10.01(d)
Indemnifying Party	§ 10.01(d)
Infringe	§ 4.13(c)
Intervening Event	§ 7.01(b)
Initial Investment	§ 2.01
Initial Closing	§ 2.02
Initial Investment Closing Date	§ 2.02
Investor	Preamble
Investor Director Designees	§ 8.02(f)
Law	§ 4.05(a)
Leased Real Property	§ 4.12(a)
Licenses	§ 4.13(b)
Morgan Stanley	§ 4.23
Owned Real Property	§ 4.12(a)
Permits	§ 4.06(a)
PBGC	§ 4.10(d)
Proxy Statement	§ 4.05(b)

Defined Term	Location of Definition
Recommendation Change	§ 7.01(b)
Registered IP	§ 4.13(a)
Representatives	§ 6.02(b)
Rights	§ 3.02(a)
Rights Offerings	§ 3.02(a)
Rights Offering Notices	§ 1.01(a)3.02(a)
Rights Offering Oversubscription	§ 3.02(a)
Rights Offering Registration Statements	§ 3.02(c)
Rights Shares	§ 3.02(a)
SEC	§ 4.05(b)
SEC Reports	§ 4.07(a)
Second Rights	§ 3.02(a)
Second Rights Offering	§ 3.02(a)
Second Rights Offering Backstop Shares	§ 3.02(b)
Second Rights Offering Closing	§ 3.02(e)
Second Rights Offering Closing Date	§ 3.02(e)
Second Rights Offering Expiration Date	§ 3.02(d)
Second Rights Offering	§ 3.02(a)
Second Rights Offering Market Price	§ 3.02(a)
Second Rights Offering Notice	§ 3.02(a)
Second Rights Offering Oversubscription	§ 3.02(a)
Second Rights Offering Price	§ 3.02(a)
Second Rights Primary Subscription	§ 3.02(a)
Second Rights Offering Registration Statement	§ 3.02(c)
Second Rights Shares	§ 3.02(a)
Securities Act	§ 4.07(a)
Share Purchase Price	§ 2.04(a)
SOX	§ 4.19
Stockholders' Agreement	Recitals
Stockholder Approval	§ 7.01(a)
Stockholders' Meeting	§ 7.01(a)
Subsidiary	§ 4.01(a)
Termination Date	§ 9.01
Title IV Plan	§ 4.10(d)
Third Party Claim	§ 10.01(d)
Warrant Agreement	Recitals
Warrants	Recitals

ARTICLE II

PURCHASE AND SALE OF THE INITIAL SHARES

SECTION 2.01. Initial Investment. Upon the terms and subject to the conditions of this Agreement, at the Initial Closing, the Company shall issue and sell to the Investor, and the Investor shall purchase, accept and acquire from the Company (the "Initial Investment"):

(a) a number of shares of Company Common Stock that, when added to the shares of Company Common Stock already owned by the Investor and its affiliates (including any Warrant Shares issued prior to the Initial Closing but excluding, for the avoidance of doubt, the shares of Company Common Stock to be issued pursuant to Section 2.01(b)), equal 19.9% of the aggregate number of shares of Company Common Stock outstanding as of the Initial Investment Closing Date (which, based on the information contained in Section 4.03 hereof, is expected to be approximately 16,500,000 shares) for a per share purchase price equal to $3.0915 (appropriately adjusted for any stock splits, reverse splits, stock dividends, combinations or similar transactions occurring after the date hereof and prior to the Initial Closing); and

(b) a number of shares of Company Common Stock that, when added to the number of shares of Company Common Stock already owned by the Investor and its affiliates and the number of shares subject to clause (a) above, equal 40% of the aggregate number of shares of Company Common Stock outstanding as of the Initial Investment Closing Date (which, based on the information contained in Section 4.03 hereof, is expected to be approximately 34,325,000 shares) for a per share purchase price equal to $4.50 (appropriately adjusted for any stock splits, reverse splits, stock dividends, combinations or similar transactions occurring after the date hereof and prior to the Initial Closing).

SECTION 2.02. Initial Closing. Unless this Agreement shall have been terminated in accordance with Section 9.01, and subject to the satisfaction or waiver of the conditions set forth in Article VIII, the closing of the issuance, purchase and sale of the Initial Shares contemplated by this Article II (the "Initial Closing") will take place at 11:00 a.m., New York time, on the third business day after the satisfaction or waiver of the conditions set forth in Article VIII (other than those that by their terms are to be satisfied at the Initial Closing) (such date, the "Initial Investment Closing Date"), at the offices of Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017, unless another time, date or place is agreed to in writing by the Investor and the Company.

SECTION 2.03. Closing Deliveries by the Company. At the Initial Closing, the Company shall deliver or cause to be delivered to the Investor:

(a) duly executed certificates evidencing the Initial Shares, registered in the name of the Investor;

(b) executed counterparts of the Stockholder Agreement;

(c) a receipt for the Share Purchase Price; and

(d) the documents, instruments, writings and payments contemplated or required to be delivered by the Company at the Initial Closing pursuant to Section 8.02.

SECTION 2.04. Closing Deliveries by the Investor. At the Initial Closing, the Investor shall deliver to the Company:

(a) the aggregate purchase price payable for the Initial Shares (the "Share Purchase Price") by wire transfer in immediately available funds to an account specified by the Company in writing no less than three business days prior to the Initial Closing;

(b) executed counterparts of the Stockholders' Agreement;

(c) a receipt for the Initial Shares; and

(d) the documents, instruments and writings contemplated or required to be delivered by the Investor at the Initial Closing pursuant to Section 8.03.

ARTICLE III

RIGHTS OFFERINGS

SECTION 3.01. First Rights Offering.

(a) For a period of 90 days following the First Rights Offering Trigger Date, the Investor shall have the right, but not the obligation, exercisable by a written notice (the "First Rights Offering Notice") to the Company in accordance with Section 10.02, to require the Company to make a pro rata offering (the "First Rights Offering") to all holders of Company Common Stock (including the Investor and its affiliates) of non-transferable subscription rights (the "First Rights") entitling the holders thereof to purchase shares of Company Common Stock, on the terms set forth herein, (i) in an aggregate amount equal to the First Rights Offering Amount, and (ii) at a price per share (the "First Rights Offering Price") to be designated by the Investor; *provided*, that the First Rights Offering Price shall be any price (A) at or above the lower of $4.50 (as adjusted for any stock splits, reverse splits, stock dividends, combinations or similar transactions occurring after the date hereof and prior to the First Rights Offering) and the average of the volume weighted average trading prices of the Company Common Stock on the Nasdaq Stock Market for the ten (10) full trading days immediately prior to the date of the delivery of the First Rights Offering Notice (the "First Rights Offering Market Price") and (B) at or below the higher of $4.50 (as adjusted for any stock splits, reverse splits, stock dividends, combinations or similar transactions occurring after the date hereof and prior to the First Rights Offering) and the First Rights Offering Market Price. The number of shares of Common Stock to be offered in the First Rights Offering (the "First Rights Shares") shall be equal to the quotient of the First Rights Offering Amount divided by the First Rights Offering Price, rounded up to the nearest 100 shares. Each First Right shall entitle the holder thereof (including the Investor and its affiliates) to purchase, at the election of such holder, (x) all or any lesser amount of such holder's Pro Rata Number of the First Rights Shares (the "First Rights Primary Subscription") and (y) so long as such holder has subscribed for all of its First Rights Primary Subscription, but subject to Section 3.03(b), an amount of First Rights Offering Oversubscription Shares to be specified by such holder, up to but not exceeding such holder's Oversubscription Pro Rata Number of First Rights Offering Oversubscription Shares (the "First Rights Offering Oversubscription"), in each case, at the First Rights Offering Price.

(b) In connection with the First Rights Offering, upon the terms and subject to the conditions of this Agreement, the Investor shall be required to purchase that number of First Rights Shares (the "First Rights Offering Backstop Shares") that remain unsubscribed for at the First Rights Offering Expiration Date at the First Rights Offering Price. As soon as reasonably practicable following the First Rights Offering Expiration Date, the Company and the subscription agent for the First Rights Offering shall determine the number of First Rights Offering Backstop Shares and shall provide written notice thereof to the Investor, in accordance with Section 10.02.

(c) As soon as reasonably practicable after receiving the First Rights Offering Notice, the Company shall prepare and file with the SEC a registration statement (such registration statement, including each amendment and supplement thereto, the "First Rights Offering Registration Statement") on Form S-3 (or, if Form S-3 is not then available to the Company, on such form of registration statement as is then available to effect a registration of securities), in form and substance reasonably satisfactory to the Investor, covering the issuance of the First Rights and the First Rights Shares. The Company will not permit any securities other than the First Rights and the First Rights Shares to be included in the First Rights Offering Registration Statement. The First Rights Offering Registration Statement (and each amendment or supplement thereto, and each request for acceleration of effectiveness thereof) will be provided to the Investor prior to its filing with or other submission to the SEC. The First Rights Offering Registration Statement will comply in all material respects with the requirements of the Securities Act and the rules and regulations thereunder and other applicable Laws. The Company promptly will correct any information included in the First Rights Offering Registration Statement if, and to the extent that, such information becomes false or misleading in any material respect, and the Company will take all steps necessary to cause the First Rights Offering Registration Statement, as so corrected, to be filed with the SEC and, upon its effectiveness, to be disseminated to the distributees of the First Rights, in each case as and to the extent required by applicable federal securities laws. The Investor will be given a reasonable opportunity to review and comment upon the First Rights Offering Registration Statement in each instance before it is filed with the SEC. In addition, the Company will provide the Investor with any written comments or other written communications that the Company receives from time to time from the SEC or its staff with respect to the First Rights Offering Registration Statement promptly after the receipt of such comments or other communications. The Company will use its reasonable best efforts to cause the First Rights Offering Registration Statement to be filed pursuant to this Section 3.01 and to be declared effective by the SEC as soon as possible after the First Rights Offering Registration Statement is filed with the SEC.

(d) As soon as reasonably practicable following the effective date of the First Rights Offering Registration Statement, the Company will commence the First Rights Offering. The First Rights will expire at 5:00 p.m. New York City time 30 days after the commencement of the First Rights Offering or on such other date as the Investor and the Company may reasonably agree (the "First Rights Offering Expiration Date"). All other terms and conditions of the First Rights shall be reasonably satisfactory to both the Company and the Investor.

(e) Unless this Agreement shall have been terminated in accordance with Section 9.01, and subject to the satisfaction or waiver of the conditions set forth in Article VIII, the closing of the issuance, purchase and sale of the First Rights Shares contemplated by this

Section 3.01 (the "First Rights Offering Closing") will take place at 11:00 a.m., New York time, on the third business day after the satisfaction or waiver of the conditions set forth in Article VIII (other than those that by their terms are to be satisfied at the First Rights Offering Closing) (such date, the "First Rights Offering Closing Date"), at the offices of Simpson, Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017, unless another time, date or place is agreed to in writing by the Investor and the Company; *provided*, that the Investor shall not be obligated to purchase the First Rights Offering Backstop Shares earlier than ten (10) business days following the receipt by the Investor of the notice required by Section 3.01(b) specifying the number of First Rights Offering Backstop Shares to be acquired by the Investor.

(f) At the First Rights Offering Closing, the Company shall deliver or cause to be delivered to the Investor:

(i) duly executed certificates evidencing all of the First Rights Shares purchased by the Investor, registered in the name of the Investor;

(ii) a receipt for the portion of the aggregate First Rights Offering Price payable by the Investor; and

(iii) the documents, instruments, writings and payments contemplated or required to be delivered by the Company at the First Rights Offering Closing pursuant to Section 8.02.

(g) At the First Rights Offering Closing, the Investor shall deliver to the Company:

(i) the portion of the aggregate First Rights Offering Price payable by the Investor by wire transfer in immediately available funds, to an account specified by the Company in writing no less than three business days prior to the First Rights Offering Closing;

(ii) a receipt for the First Rights Shares purchased by the Investor; and

(iii) the documents, instruments, writings and payments contemplated or required to be delivered by the Investor at the First Rights Offering Closing pursuant to Section 8.03.

SECTION 3.02. Second Rights Offering.

(a) For a period of 90 days following the Second Rights Offering Trigger Date, the Investor shall have the right, but not the obligation, exercisable by written notice (the "Second Rights Offering Notice" and, together with the First Rights Offering notice, the "Rights Offering Notices") to the Company in accordance with Section 10.02, to require the Company to make a pro rata offering (the "Second Rights Offering" and, together with the First Rights Offering, the "Rights Offerings") to all holders of Company Common Stock (including the Investor and its affiliates) of non-transferable subscription rights (the "Second Rights" and, together with the First Rights, the "Rights") entitling the holders thereof to purchase shares of Company Common Stock, on the terms set forth herein, (i) in an aggregate amount equal to the

Second Rights Offering Amount, and (ii) at a price per share (the "Second Rights Offering Price") to be designated by the Investor; *provided*, that the Second Rights Offering Price shall be any price (A) at or above the lower of $4.50 (as adjusted for any stock splits, reverse splits, stock dividends, combinations or similar transactions occurring after the date hereof and prior to the Second Rights Offering) and the average of the volume weighted average trading prices of the Company Common Stock on the Nasdaq Stock Market for the ten (10) full trading days immediately prior to the date of delivery of the Second Rights Offering Notice (the "Second Rights Offering Market Price") and (B) at or below the higher of $4.50 (as adjusted for any stock splits, reverse splits, stock dividends, combinations or similar transactions occurring after the date hereof and prior to the Second Rights Offering) and the Second Rights Offering Market Price. The number of shares of Common Stock to be offered in the Second Rights Offering (the "Second Rights Shares" and, together with the First Rights Shares, the "Rights Shares") shall be equal to the quotient of the Second Rights Offering Amount divided by the Second Rights Offering Price, rounded up to the nearest 100 shares. Each Second Right shall entitle the holder thereof (including the Investor and its affiliates) to purchase, at the election of such holder, (x) all or any lesser amount of such holder's Pro Rata Number of the Second Rights Shares (the "Second Rights Primary Subscription") and (y) so long as such holder has subscribed for all of its Second Rights Primary Subscription, but subject to Section 3.03(b), an amount of Second Rights Offering Oversubscription Shares to be specified by such holder, up to but not exceeding such holder's Oversubscription Pro Rata Number of Second Rights Offering Oversubscription Shares (the "Second Rights Offering Oversubscription" and, together with the First Rights Offering Oversubscription, the "Rights Offering Oversubscription"), in each case, at the Second Rights Offering Price.

(b) In connection with the Second Rights Offering, upon the terms and subject to the conditions of this Agreement, the Investor shall be required to purchase that number of Second Rights Shares (the "Second Rights Offering Backstop Shares") that remain unsubscribed for at Second Rights Offering Expiration Date at the Second Rights Offering Price. As soon as reasonably practicable following the Second Rights Offering Expiration Date, the Company and the subscription agent for the Second Rights Offering shall determine the number of Second Rights Offering Backstop Shares and shall provide written notice thereof to the Investor, in accordance with Section 10.02.

(c) As soon as reasonably practicable after receiving the Second Rights Offering Notice, the Company shall prepare and file with the SEC a registration statement (such registration statement, including each amendment and supplement thereto, the "Second Rights Offering Registration Statement" and, together with the First Rights Offering Registration Statement, the "Rights Offering Registration Statements")) on Form S-3 (or, if Form S-3 is not then available to the Company, on such form of registration statement as is then available to effect a registration of securities), in form and substance reasonably satisfactory to the Investor, covering the issuance of the Second Rights and the Second Rights Shares. The Company will not permit any securities other than the Second Rights and the Second Rights Shares to be included in the Second Rights Offering Registration Statement. The Second Rights Offering Registration Statement (and each amendment or supplement thereto, and each request for acceleration of effectiveness thereof) will be provided to the Investor prior to its filing with or other submission to the SEC. The Second Rights Offering Registration Statement will comply in all material respects with the requirements of the Securities Act and the rules and regulations thereunder and

other applicable Laws. The Company promptly will correct any information included in the Second Rights Offering Registration Statement if, and to the extent that, such information becomes false or misleading in any material respect, and the Company will take all steps necessary to cause the Second Rights Offering Registration Statement, as so corrected, to be filed with the SEC and, upon its effectiveness, to be disseminated to the distributees of the Second Rights, in each case as and to the extent required by applicable federal securities laws. The Investor will be given a reasonable opportunity to review and comment upon the Second Rights Offering Registration Statement in each instance before it is filed with the SEC. In addition, the Company will provide the Investor with any written comments or other written communications that the Company receives from time to time from the SEC or its staff with respect to the Second Rights Offering Registration Statement promptly after the receipt of such comments or other communications. The Company will use its reasonable best efforts to cause the Second Rights Offering Registration Statement to be filed pursuant to this Section 3.01 and to be declared effective by the SEC as soon as possible after the Second Rights Offering Registration Statement is filed with the SEC.

(d) As soon as reasonably practicable following the effective date of the Second Rights Offering Registration Statement, the Company will commence the Second Rights Offering. The Second Rights will expire at 5:00 p.m. New York City time 30 days after the commencement of the Second Rights Offering or on such other date as the Investor and the Company may reasonably agree (the "Second Rights Offering Expiration Date"). All other terms and conditions of the Second Rights shall be reasonably satisfactory to both the Company and the Investor.

(e) Unless this Agreement shall have been terminated in accordance with Section 9.01, and subject to the satisfaction or waiver of the conditions set forth in Article VIII, the closing of the issuance, purchase and sale of the Second Rights Shares contemplated by this Section 3.02 (the "Second Rights Offering Closing") will take place at 11:00 a.m., New York time, on the third business day after the satisfaction or waiver of the conditions set forth in Article VIII (other than those that by their terms are to be satisfied at the Second Rights Closing) (such date, the "Second Rights Offering Closing Date"), at the offices of Simpson, Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017, unless another time, date or place is agreed to in writing by the Investor and the Company; *provided*, that the Investor shall not be obligated to purchase the Second Rights Offering Backstop Shares earlier than ten (10) business days following the receipt by the Investor of the notice required by Section 3.01(b) specifying the number of Second Rights Offering Backstop Shares to be acquired by the Investor.

(f) At the Second Rights Offering Closing, the Company shall deliver or cause to be delivered to the Investor:

(i) duly executed certificates evidencing all of the Second Rights Shares purchased by the Investor, registered in the name of the Investor;

(ii) a receipt for the portion of the aggregate Second Rights Offering Price payable by the Investor;

(iii) the documents, instruments, writings and payments contemplated or required to be delivered by the Company at the Second Rights Offering Closing pursuant to Section 8.02

(g) At the Second Rights Offering Closing, the Investor shall deliver to the Company:

(i) the portion of the Second Rights Offering Price payable by the Investor by wire transfer in immediately available funds, to an account specified by the Company in writing no less than three business days prior to the Second Rights Offering Closing;

(ii) a receipt for the Second Rights Shares purchased by the Investor; and

(iii) the documents, instruments, writings and payments contemplated or required to be delivered by the Investor at the Second Rights Offering Closing pursuant to Section 8.03.

SECTION 3.03. Additional Terms Applicable to the Rights and Rights Shares. (a) The Rights will be issued only to, and exercisable only by, each person who is a holder of record of Company Common Stock on the record date for the distribution of the rights, which shall be the date the Investor delivers the applicable Rights Offering Notice. Beneficial owners of shares of Company Common Stock held in the name of any depository or nominee as of the record date shall be entitled to exercise Rights through their respective depository or nominee. Rights may not be sold, pledged, hypothecated or otherwise transferred, directly or indirectly, and any attempt to do so will cause such Rights to be forfeited and the rights to subscribe for shares of Company Common Stock thereunder irrevocably waived.

(b) Notwithstanding anything to the contrary herein, if the Investor elects to exercise less than all its Rights, (i) it shall be entitled to designate whether the shares with respect to which the Rights are exercised shall be Unrestricted Shares (as defined in the Stockholders' Agreement) or Restricted Shares (as defined in the Stockholders' Agreement), in each case up to the number of Unrestricted Shares or Restricted Shares in respect of which the Investor holds Rights, (ii) the shares of Company Common Stock received upon exercise of the Rights shall accordingly be Unrestricted Shares or Restricted Shares, and (iii) the Investor shall not be required to exercise Rights with respect to any Restricted Shares to be entitled to exercise its Rights Offering Oversubscription rights with respect to its Unrestricted Shares.

(c) In connection with each Rights Offering, the Company shall, at its expense, engage a financial advisor reasonably acceptable to the Investor to provide financial advisory services as may customarily be required in connection with such offering. Following the commencement of any Rights Offering, the Company shall furnish or make available to the Investor, promptly after such information becomes available to the Company, all information and progress reports regarding the Rights Offering as shall be received by the Company, including any reports received by the Company from any transfer agents, underwriters, advisors or other third parties retained by the Company in connection with such Rights Offering, and all such

other information regarding the Rights Offering as the Investor shall from time to time reasonably request.

(d) No later than five business days prior to the applicable Rights Offering Trigger Date, the Company shall provide to the Investor an amended Disclosure Schedule, which shall set forth in reasonable detail (comparable to the Disclosure Schedule delivered as of the date hereof) all applicable disclosures required for the representations and warranties contained in Article IV to be true and correct as of such Rights Offering Trigger Date and shall be reasonably acceptable to the Investor. If, after receiving such amended Disclosure Schedule, the Investor delivers a Rights Offering Notice, it shall be deemed to have accepted such amended Disclosure Schedule and such amended Disclosure Schedule shall be applicable for all purposes under this Agreement; *provided*, that the Disclosure Schedule shall not be deemed amended or supplemented hereunder for any Closing occurring prior to such Rights Offering Trigger Date.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

As an inducement to the Investor to enter into this Agreement, except as set forth in the disclosure schedule, dated as of the date hereof and delivered by the Company to the Investor (as such disclosure schedule may be amended in accordance with Section 3.03(d), the "Disclosure Schedule"), the Company hereby represents and warrants to the Investor as of the date hereof and as of the Initial Closing Date and, with respect to the representations and warranties contained in Sections 4.01 through 4.19, as of each Rights Offering Trigger Date and as of each Rights Offering Closing Date that:

SECTION 4.01. Organization and Qualification; Subsidiaries. (a) Each of the Company and each material subsidiary of the Company (each, a "Subsidiary") is an entity duly organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization and has the requisite corporate or other power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted. The Company and each Subsidiary is duly qualified or licensed as a foreign corporation or other entity to do business, and is in good standing, in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its business makes such qualification, licensing or good standing necessary, except for such failures to be so qualified or licensed and in good standing that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) A true and complete list of each Subsidiary, together with the jurisdiction of incorporation of each Subsidiary and the percentage of the outstanding capital stock or other Equity Interest of each Subsidiary owned by the Company and each other Subsidiary, is set forth in Section 4.01(b) of the Disclosure Schedule. The Company does not directly or indirectly own any Equity Interest, or any interest convertible into or exchangeable or exercisable for any Equity Interest in, any person except for the Subsidiaries.

SECTION 4.02. Certificate of Incorporation and By-laws. The Company has heretofore made available to the Investor a complete and correct copy of the Certificate of Incorporation and the By-laws of the Company and of the certificates of incorporation and by-laws or equivalent organizational documents, of each Subsidiary, in each case, as amended to date. As of the date hereof, such certificates of incorporation, by-law or equivalent organizational documents of each Subsidiary are in full force and effect. The Certificate of Incorporation and By-laws of the Company are in full force and effect and, as of each Closing, the Certificate of Incorporation and the By-laws shall be in full force and effect. Neither the Company nor any Subsidiary is in violation of any of the provisions of its Certificate of Incorporation, By-laws or equivalent organizational documents, as applicable. True and complete copies of all minute books of the Company and each Subsidiary containing minutes for the period from January 1, 2005 until the date of this Agreement have been made available by the Company to the Investor.

SECTION 4.03. Capitalization. (a) The authorized capital stock of the Company consists of 120,000,000 shares of Company Common Stock and 5,000,000 shares of preferred stock, par value $0.01 per share (the "Company Preferred Stock"). As of June 17, 2007, (i) 85,961,249 shares of Company Common Stock (other than treasury shares) were issued and outstanding, all of which were validly issued, fully paid, nonassessable and free of preemptive rights, (ii) no shares of Company Common Stock were held in the treasury of the Company, and (iii) no shares of Company Common Stock were held by the Subsidiaries. As of June 17, 2007, 16,657,756 shares of Company Common Stock were issuable (and such number was reserved for issuance) upon exercise of outstanding employee stock options or stock incentive rights granted pursuant to the 2000 Equity Incentive Plan, the 2000 Non-Employee Directors' Stock Option Plan and the Coelacanth Corporation 1999 Stock Option Plans, in each case as amended through the date of this Agreement (collectively, the "Company Stock Option Plans"), 807,380 additional shares of Company Common Stock were reserved for issuance under the Company Stock Option Plans and 16,483 shares of Company Common Stock were issuable upon exercise of warrants outstanding as of the date hereof. No shares of Company Preferred Stock are issued and outstanding. Except as set forth in this Section 4.03 and as set forth in Section 4.03(a) of the Disclosure Schedule, there are no options, warrants or other rights, agreements, arrangements or commitments of any character to which the Company or any Subsidiary is a party or by which the Company or any Subsidiary is bound relating to the issued or unissued capital stock or other Equity Interests of the Company or any Subsidiary, or securities convertible into or exchangeable for such capital stock or other Equity Interests, or obligating the Company or any Subsidiary to issue or sell any shares of its capital stock or other Equity Interests, or securities convertible into or exchangeable for such capital stock of, or other Equity Interests in, the Company or any Subsidiary. Since June 17, 2007, the Company has not issued any shares of its capital stock, or securities convertible into or exchangeable for such capital stock or other Equity Interests, other than those shares of capital stock reserved for issuance as set forth in this Section 4.03 or as set forth in Section 4.03(a) of the Disclosure Schedule. Set forth in Section 4.03(a) of the Disclosure Schedule is a true and complete list, as of June 17, 2007, of the prices at which outstanding options issued under the Company Stock Option Plans (the "Company Options") may be exercised under the applicable Company Stock Option Plan, the number of Company Options outstanding at each such price and the vesting schedule of the Company Options for each "executive officer" of the Company (within the meaning of such term under Section 16 of the Exchange Act). All shares of Company Common Stock subject to issuance as aforesaid, upon issuance on the terms and conditions specified in the instruments pursuant to which they are issuable, will be duly authorized, validly issued, fully paid and nonassessable. Except as set forth in Section 4.03(a) of the Disclosure Schedule, there are no outstanding contractual obligations of

the Company or any Subsidiary (A) restricting the transfer of, (B) affecting the voting rights of, (C) requiring the repurchase, redemption or disposition of, or containing any right of first refusal with respect to, (D) requiring the registration for sale of, or (E) granting any preemptive or antidilutive right with respect to, any shares of Company Common Stock or any capital stock of, or other Equity Interests in, the Company or any Subsidiary. Except as set forth in Section 4.03(a) of the Disclosure Schedule, there are no outstanding contractual obligations of the Company or any Subsidiary to provide funds to, or make any investment (in the form of a loan, capital contribution or otherwise) in, any Subsidiary or any other person, other than guarantees by the Company of any indebtedness or other obligations of any wholly-owned Subsidiary. Each outstanding share of capital stock of, or other Equity Interest in, each Subsidiary is duly authorized, validly issued, and, if applicable, fully paid and, in the case of corporations, nonassessable and free of preemptive rights, and is owned, beneficially and of record, by the Company or another Subsidiary free and clear of all security interests, liens, claims, pledges, options, rights of first refusal, agreements, limitations on the Company's or such other Subsidiary's voting rights, charges and other encumbrances of any nature whatsoever.

(b) The Initial Shares and the Rights Shares, when issued, paid for and delivered in accordance with the terms of this Agreement, and the Warrant Shares, when issued, paid for and delivered in accordance with the terms of the Warrant Agreement, will be duly authorized, validly issued, fully paid and nonassessable and not subject to preemptive rights.

SECTION 4.04. Authority. The Company has all necessary power and authority to execute and deliver this Agreement and the Ancillary Agreements, to perform its obligations hereunder and thereunder and to consummate the Transactions. The Company's execution and delivery of this Agreement and the Ancillary Agreements and the consummation by the Company of the Transactions have been duly and validly authorized by all necessary corporate action and no other corporate proceedings on the part of the Company are necessary to authorize this Agreement or the Ancillary Agreements to which the Company is a party, to consummate the Transactions (other than with respect to the issuance of the Initial Shares and the Rights Offerings, the approval of a majority of the votes cast at the Stockholders' Meeting). The Board has approved this Agreement, each Ancillary Agreement and the Transactions and has directed that the Transactions be submitted to the Company's stockholders for approval at a meeting of such stockholders. This Agreement and the Warrant Agreement have been, and at each Closing each of the other Ancillary Agreements will be, duly authorized and validly executed and delivered by the Company and, assuming the due authorization, execution and delivery thereof by the Investor, each of this Agreement and the Warrant Agreement constitute, and at each Closing each of the other Ancillary Agreements to which the Company is a party will constitute, a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

SECTION 4.05. No Conflict; Required Filings and Consents. (a) The execution and delivery by the Company of this Agreement and the Ancillary Agreements do not, and the performance of its obligations hereunder and thereunder will not, (i) conflict with or violate the Certificate of Incorporation or By-laws or equivalent organizational documents of the Company or any Subsidiary, (ii) assuming that all consents, approvals, authorizations and other actions described in subsection (b) have been obtained and all filings and obligations described in subsection (b) have been made, conflict with or violate any foreign or domestic statute, law

(including common law), ordinance, regulation, rule, code, executive order, injunction, judgment, decree or other order ("Law") applicable to the Company or any Subsidiary or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) require any consent or approval under, result in any breach of or constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, or give to others any right of termination, amendment, acceleration or cancellation of, or give to others a right to require any payment to be made under, or result in the creation of a lien or other encumbrance on any property or asset of the Company or any Subsidiary pursuant to, any note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation, except, with respect to clauses (ii) and (iii), for any such conflicts, violations, breaches, defaults or other occurrences which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) The execution and delivery by the Company of this Agreement and the Ancillary Agreements do not, and the performance of its obligations hereunder and thereunder will not, require any consent, approval, authorization or permit of, or filing with or notification to, any United States federal, state, county or local or any foreign government, governmental, Tax, regulatory or administrative authority, agency, instrumentality or commission or any court, tribunal, or judicial or arbitral body (a "Governmental Authority"), except (i) for (A) applicable requirements, if any, of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act"), state securities or "blue sky" laws ("Blue Sky Laws"), (B) the pre-merger notification requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), (C) the filing with the Securities and Exchange Commission (the "SEC") of a proxy statement relating to the issuance of the Initial Shares and the Rights Offerings to be sent to the Company's stockholders (as amended or supplemented from time to time, the "Proxy Statement"), and (D) any filings required under the rules and regulations of the Nasdaq Stock Market, and (ii) where the failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications, would not, individually or in the aggregate, reasonably be expected to (A) prevent or materially delay consummation of the Transactions, (B) otherwise prevent or materially delay performance by the Company of any of its material obligations under this Agreement or any Ancillary Agreement, or (C) have a Material Adverse Effect.

SECTION 4.06. Permits; Compliance.

(a) Each of the Company and the Subsidiaries is in possession of all franchises, grants, authorizations, licenses, permits, easements, variances, exceptions, consents, certificates, approvals and orders (including licenses, accreditation and other similar documentation or approvals of any local health departments) of any Governmental Authority (including the United States Food and Drug Administration ("FDA")), necessary for each of the Company or the Subsidiaries to own, lease and operate its properties or to carry on its business as it is now being conducted and substantially as described in the Company's SEC Reports filed prior to the date hereof (the "Permits"), and all such Permits are valid, and in full force and effect, except where the failure to have, or the suspension or cancellation of, or failure to be valid or in full force and effect of, any of the Permits would not, individually or in the aggregate, reasonably be expected to (A) prevent or materially delay consummation of the Transactions, (B) otherwise prevent or materially delay performance by the Company of any of its material

obligations under this Agreement or any Ancillary Agreement or (C) have a Material Adverse Effect. No suspension or cancellation of any of the Permits is pending or, to the knowledge of the Company, threatened, except where the failure to have, or the suspension or cancellation of, any of the Permits would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither the Company nor any Subsidiary is in conflict with, or in default, breach or violation of, (i) any Law applicable to the Company or any Subsidiary (including all applicable FDA rules and regulations, guidelines and policies) or by which any property or asset of the Company or any Subsidiary is bound or affected, or (ii) any Permits, except, in each case, for any such conflicts, defaults or violations that would not, individually or in the aggregate, reasonably be expected to (A) prevent or materially delay consummation of the Transactions, (B) otherwise prevent or materially delay performance by the Company of any of its material obligations under this Agreement or any Ancillary Agreement or (C) have a Material Adverse Effect. Since the enactment of SOX, the Company and each of its officers and directors have been and are in compliance in all material respects with (A) the applicable provisions of SOX and the related rules and regulations promulgated thereunder and under the Exchange Act and (B) the applicable listing and corporate governance rules and regulations of the Nasdaq Stock Market.

(b) All clinical trials conducted by the Company or any of its Subsidiaries or in which the Company or any of its Subsidiaries has participated that are described in the SEC Reports, or the results of which are referred to in the SEC Reports, if any, are the only clinical trials currently being conducted by or on behalf of the Company and its Subsidiaries. All pre-clinical studies and clinical trials conducted, supervised or monitored by the Company or any of its Subsidiaries have been conducted in compliance in all material respects 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, as and to the extent applicable. Neither the Company nor any of its Subsidiaries has received any notices or correspondence from the FDA or any other Governmental Authority requiring the termination, suspension or modification 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 SEC Reports, if any, or the results of which are referred to in the SEC Reports.

SECTION 4.07. SEC Filings; Financial Statements. (a) The Company has timely filed all forms, reports and documents (including all exhibits) required to be filed by it with the SEC since January 1, 2005 (the "SEC Reports"). The SEC Reports (i) were prepared in accordance with the requirements of the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (the "Securities Act") or the Exchange Act, as the case may be, and (ii) did not, at the time they were filed, 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 made therein, in the light of the circumstances under which they were made, not misleading. No Subsidiary is required to file any form, report or other document with the SEC. The Company is eligible to register securities on Form S-3 under the Securities Act.

(b) Each of the consolidated financial statements (including, in each case, any notes thereto) contained in the SEC Reports was prepared in accordance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the

periods indicated (except as may be indicated in the notes thereto), and each fairly presented the consolidated financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries as at the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein (subject, in the case of unaudited statements, to normal year-end adjustments which individually or in the aggregate did not have, and would not reasonably be expected to have, a Material Adverse Effect). The books and records of the Company and each Subsidiary have been, and are being, maintained in accordance with applicable legal and accounting requirements in all material respects.

(c) Except as and to the extent set forth on the most recent consolidated balance sheet of the Company and the consolidated Subsidiaries included in the SEC Reports filed and publicly available before the date hereof or the applicable Rights Offering Trigger Date, including the notes thereto, none of the Company or any consolidated Subsidiary has any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise), except for liabilities or obligations incurred since the most recently completed fiscal year end, that would not, individually or in the aggregate, reasonably be expected to (A) prevent or materially delay consummation of the Transactions, (B) otherwise prevent or materially delay performance by the Company of any of its material obligations under this Agreement or any Ancillary Agreement or (C) have a Material Adverse Effect.

(d) The Company has previously made available to the Investor a complete and correct copy of any amendment or modification which has not yet been filed with the SEC to any agreement, document or other instrument which previously had been filed by the Company with the SEC pursuant to the Securities Act or the Exchange Act.

(e) Neither the Company nor, to the knowledge of the Company, any of the Company's or any Subsidiary's employees, is the subject of any formal or informal investigation by the SEC, and, to the knowledge of the Company, no such investigation has been threatened or fact exists which would reasonably be expected to result in the institution of any such investigation. Written correspondence (other than any transmittal letter or other correspondence that does not address substantively any comments or questions from, or ongoing discussions with, the SEC), with the SEC since January 1, 2005, or the Rights Offering Trigger Date, as applicable, has been made available to the Investor. To the knowledge of the Company, no complaints seeking relief under Section 806 of SOX have been filed with the United States Secretary of Labor and no employee has threatened to file any such complaint.

(f) The Company has made available to the Investor true and complete copies of (i) any written communications or presentations, however transmitted, delivered to the Board or the Audit Committee of the Board or the Company's external auditor that discusses any potential material weakness or potential significant deficiency in the Company's or any Subsidiary's disclosure controls and procedures or internal control over financial reporting or the Company's compliance, or ability to timely comply, with Section 404 of SOX, (ii) formal documentation of its internal controls over financial reporting, in each case as in effect as of January 1, 2005, (iii) all notices received from its external auditor prior to the date hereof of any significant deficiencies or material weaknesses in the Company's internal control over financial reporting since January 1, 2005, and any other management letter or similar correspondence from any independent auditor of the Company or any of its Subsidiaries received since January 1, 2005, and prior to the date hereof.

SECTION 4.08. Absence of Certain Changes or Events. (a) Since the date of the most recent audited financial statements included in the SEC Reports filed and publicly available prior to the date hereof or the applicable Rights Offering Trigger Date, through each applicable Closing Date, there has not occurred any Material Adverse Effect or an event or development that would reasonably be expected to have a Material Adverse Effect or any event or development that would reasonably be expected to prevent or materially delay the performance of this Agreements or any Ancillary Agreement.

(b) Since March 31, 2007, through the date of this Agreement, each of the Company and the Subsidiaries has conducted its business in the ordinary course consistent with past practice and the Company and the Subsidiaries have not (A) sold, pledged, disposed, transferred, leased, licensed, guaranteed or encumbered any material property or assets of the Company or any Subsidiary, except in the ordinary course of business consistent with past practice, (B) acquired (including by merger, consolidation, or acquisition of stock or assets or any other business combination) any corporation, partnership, other business organization or any division thereof, (C) incurred any indebtedness for borrowed money which, individually or together with all such other indebtedness, exceeds $2,000,000, (D) granted any security interest in any of their material assets except for such security interests as would constitute a Permitted Lien, (E) made or authorized any capital expenditure or purchase of fixed assets in excess of $250,000, other than in the ordinary course of business, (F) increased the compensation or benefits payable to or to become payable to any of its current or former directors or officers of the Company or any Subsidiary or granted any rights to severance or termination pay to, or entered into any employment or severance agreement with, any current or former director or officer of the Company or any Subsidiary, or taken any action to amend or waive any performance or vesting criteria or accelerate vesting, exercisability or funding under any Plan, or (G) pre-paid any long-term debt or paid, discharged or satisfied any claims, liabilities or obligations (absolute, accrued, contingent or otherwise), in each case exceeding $250,000, except for such payments, discharges or satisfaction of claims as were in the ordinary course of business consistent with past practice.

SECTION 4.09. Absence of Litigation. There is no litigation, suit, claim, action, formal complaint, prosecution, indictment, formal investigation, arbitration or proceeding (whether civil, criminal or administrative, an "Action") pending or, to the knowledge of the Company, threatened against the Company or any Subsidiary, or any property or asset of the Company or any Subsidiary, or for which the Company or any Subsidiary is obligated to indemnify a third party, before any Governmental Authority that (i) has had or would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or (ii) challenges the validity or propriety or seeks to materially delay or prevent the consummation of the Transactions and which is reasonably expected to be adversely determined against the Company. Neither the Company nor any Subsidiary nor any property or asset of the Company or any Subsidiary is subject to any order of, consent decree, settlement agreement or similar written agreement with, any Governmental Authority, or any order, writ, judgment, injunction, decree, ruling, determination or award of any Governmental Authority that would, individually or in the aggregate, reasonably be expected to (A) prevent or materially delay consummation of the Transactions, (B) otherwise prevent or materially delay performance by the Company of any of

its material obligations under this Agreement or any Ancillary Agreement or (C) result in a Material Adverse Effect.

SECTION 4.10. Employee Benefit Plans. (a) Section 4.10(a) of the Disclosure Schedule lists all bonus, incentive, stock-based compensation, deferred compensation, supplemental executive retirement, severance, employment, retention, change in control, compensation or other contracts, agreements, arrangements, plans, practices, understandings or policies to which the Company or any of its affiliates are a party or which are sponsored by the Company or any of its affiliates for the benefit of any current or former director or officer of the Company or any Subsidiary.

(b) Each Plan has been operated and administered in all material respects in accordance with its terms and the requirements of all applicable Laws, including ERISA and the Code. No action, claim or proceeding is pending or, to the knowledge of the Company, threatened with respect to any Plan (other than claims for benefits in the ordinary course) that would result in any material liability to the Company and, to the knowledge of the Company, no fact or event exists that would give rise to any such action, claim or proceeding.

(c) Each Plan that is intended to be qualified under Section 401(a) of the Code has timely received a favorable determination letter from the IRS and each trust established in connection with any Plan that is intended to be exempt from federal income taxation under Section 501(a) of the Code has received a determination letter from the IRS that it is so exempt, and, to the knowledge of the Company, no fact or event has occurred since the date of such determination letter or letters from the IRS that would reasonably be expected to adversely affect the qualified status of any such Plan or the exempt status of any such trust.

(d) With respect to any Plan which is an "employee pension benefit plan" as defined in Section 3(2) of ERISA and which is subject to Part 3 of Title I or to Title IV of ERISA (a "Title IV Plan"), (i) there is no lien under Section 412(n) of the Code by reason of an accumulated funding deficiency, whether or not waived, under Section 412 of the Code, (ii) no liability (other than liability for premiums) to the Pension Benefit Guaranty Corporation ("PBGC") has been incurred and all premiums required to be paid to the PBGC have been paid by or on behalf of such Title IV Plan, (iii) the assets of each Title IV Plan equal or exceed the benefit liabilities of such Title IV Plan determined on a termination basis, and (iv) the Company has received no actual notice from the PBGC that an event or condition exists which (A) would constitute grounds for termination of such Title IV Plan by the PBGC or (B) has caused a partial termination of such Title IV Plan.

(e) None of the Plans provides medical, health or life insurance or any other welfare-type benefits for current or future retired or terminated employees of the Company or its Subsidiaries or their spouses of dependents (other than in accordance with Part 6 of Title I of ERISA or Code Section 4980B).

(f) Except as set forth in Section 4.10(f) of the Disclosure Schedule, the Transactions contemplated hereby (either directly or upon the occurrence of some other or subsequent event) will not entitle any current or former employee, officer or director of the Company and its Subsidiaries to any amount (whether in cash or property) that would be

received under any Plan, or increase the amount of or accelerate the time of payment of vesting thereof or of any other benefit, right or entitlement.

(g) No amount or acceleration referred to in subsection (f) above (whether or not disclosed on Section 4.10(f) of the Disclosure Schedule) would (i) be characterized as an “excess parachute payment” (as defined in Section 280G(b)(1) of the Code) or (ii) not be deductible under Section 162(a)(1), 162(m) or 404 of the Code.

(h) (i) all of the options issued under the Company Stock Option Plans are either (A) unvested or (B) were issued at no less than fair market value on the date of grant, and (ii) no shares of restricted Common Stock issued by the Company provide for a deferral opportunity beyond vesting.

SECTION 4.11. Labor Matters. (i) Neither the Company nor any Subsidiary is a party to any collective bargaining agreement or other labor union contract applicable to persons employed by the Company or any Subsidiary, nor, to the knowledge of the Company, are there any activities or proceedings of any labor union to organize any such employees, and (ii) neither the Company nor any Subsidiary has materially breached or otherwise failed to comply with any material provision of any such agreement or contract, and there are no material grievances outstanding against the Company or any Subsidiary under such agreement or contract. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (A) there are no controversies pending or, to the knowledge of the Company, threatened between the Company or any Subsidiary and any of their respective employees, and (B) there is no organized strike, slowdown, work stoppage or lockout by or with respect to any employees of the Company or any Subsidiary.

SECTION 4.12. Property and Leases. (a) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) each of the Company and its Subsidiaries is the record owner of, and has good and marketable fee title to all real property owned by the Company or any Subsidiary (“Owned Real Property”) (including all improvements located thereon), and valid and enforceable leasehold interests in all real property that any of the Company or its Subsidiaries leases or subleases, or otherwise has any right, title or interest in or to (“Leased Real Property”), and (ii) none of the Owned Real Property or Leased Real Property is subject to any Liens (other than Permitted Liens) or any other easements, rights of way, licenses, grants, building or use restrictions, exceptions, reservations, limitations or other impediments. No person other than the Company or a Subsidiary leases, has a tenancy or otherwise occupies, or has the right to occupy or use, the Owned Real Property and Leased Real Property.

(b) With respect to each Leased Real Property, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) each lease or sublease under which the Company or any Subsidiary holds a leasehold interest in or to such Leased Real Property is legal, valid, binding, enforceable and in full force and effect, (ii) there exists no default under any such lease or sublease by the Company or any Subsidiary which has not been cured, and there has not occurred any event that (with the lapse of time or the giving of notice or both) would constitute, and no party to any such lease has given the Company or any Subsidiary written notice of or made a claim with respect to, a default on the part of the

Company or any of its Subsidiaries under any such lease or sublease, (iii) to the knowledge of the Company, no party (other than the Company or any Subsidiary) is in default, and there has not occurred any event that (with the lapse of time or giving of notice or both) would constitute a default by any such party under any such lease or sublease, and (iv) a true, correct and complete copy of each such lease and sublease (including any renewal notices delivered thereunder) and any guaranty given with respect thereto has been furnished or made available to the Investor.

(c) Except in each case as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, all Owned Real Property and Leased Real Property is in good and usable condition, subject to normal wear and tear and normal industry practice with respect to maintenance, and has such rights of egress and ingress, and such easements, rights of way and grants, as are necessary to allow such real property to be operated, and the business of the Company and each of its Subsidiaries conducted with respect thereto to be conducted, as now operated and conducted.

SECTION 4.13. Intellectual Property. (a) Section 4.13(a) of the Disclosure Schedule lists all material (i) registered trademarks and service marks and applications therefor, (ii) registered copyrights and applications therefor, (iii) issued patents and patent applications, and (iv) domain names, in each case, that are owned by the Company or any Subsidiary (collectively, the "Registered IP"). To the knowledge of the Company, each registered trademark, service mark, registered copyright and issued patent within the Registered IP is valid, enforceable and duly maintained. Neither the Company nor any Subsidiary has received written notice of any challenge to the validity or enforceability of the Registered IP or of any default with respect to the maintenance thereof.

(b) Section 4.13(b) of the Disclosure Schedule lists all material licenses to Intellectual Property (other than licenses for "off-the-shelf" software that are generally commercially available) to which the Company or any Subsidiary is a party, pursuant to which (i) the Company or such Subsidiary permits any person to have access to or use any of the Intellectual Property owned, compiled or developed by the Company or such Subsidiary, independently or in collaboration with any person, or (ii) any person permits the Company or such Subsidiary to have access to or use any Intellectual Property not owned, compiled or developed by the Company or such Subsidiary, independently or in collaboration with any person (collectively, the "Licenses"). The Company has made available to the Investor copies of all Licenses. Neither the Company nor any Subsidiary, nor, to the knowledge of the Company, any other party thereto, is in default under any License in any material respect, and each License is in full force and effect.

(c) To the knowledge of the Company, the conduct of the Company and the Subsidiaries as currently conducted does not infringe, misappropriate or violate ("Infringe") the Intellectual Property rights of any person in any material respect. Neither the Company nor any Subsidiary has received any written notice from any person alleging an Infringement of the Intellectual Property rights of such person, or asserting that the Company or any Subsidiary requires a license to use Intellectual Property owned or exclusively licensed by such person.

(d) The Company or the Subsidiaries own all right, title and interest in and to the Registered IP, free and clear of all Liens (other than Permitted Liens and encumbrances

arising pursuant to Licenses). The Company or the Subsidiaries own all right, title and interest in and to, or have the valid right to use, free and clear of all Liens (other than Permitted Liens and encumbrances arising pursuant to Licenses), all material Intellectual Property necessary for or used in the conduct of their business.

(e) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect:

(i) The Company and the Subsidiaries have used reasonable measures to protect the proprietary nature of the Intellectual Property that they own, develop or use, including through the execution of appropriate ownership, invention assignment and confidentiality agreements with employees, contractors and persons involved in the creation, compilation, development or use of Intellectual Property by or on behalf of the Company and any Subsidiary, and the execution of appropriate agreements respecting confidentiality with all persons to whom any confidential Intellectual Property owned, compiled, developed or used by the Company or any Subsidiary is or may be disclosed.

(ii) To the knowledge of the Company, no person is Infringing upon any Intellectual Property owned or exclusively licensed by the Company or any Subsidiary.

(f) The execution and delivery by the Company of this Agreement and the Ancillary Agreements do not, and the performance of its obligations hereunder and thereunder will not, adversely affect the ownership of (i) any Intellectual Property currently owned or used by the Company or any Subsidiary or (ii) the Company's or the Subsidiaries' rights to use, pursuant to any License, any Intellectual Property owned by any person.

SECTION 4.14. Taxes(a) . (a) All material Tax Returns required to be filed by, or on behalf of, the Company or any of its Subsidiaries have been timely filed, or will be timely filed, in accordance with all applicable laws, and all such Tax Returns are, or shall be at the time of filing, complete and correct in all material respects. The Company and each of its Subsidiaries has timely paid (or has had paid on its behalf) in full all material Taxes due and payable (whether or not shown on such Tax Returns), or, where payment is not yet due, has made adequate provision for all material Taxes in the Financial Statements of the Company in accordance with GAAP. There are no material Liens with respect to Taxes upon any of the assets or properties of either the Company or its Subsidiaries, other than with respect to Taxes not yet due and payable.

(b) No deficiencies for any material Taxes have been proposed or assessed in writing against or with respect to any Taxes due by or Tax Returns of the Company or any of its Subsidiaries, and there is no outstanding audit, assessment, dispute or claim concerning any material Tax liability of the Company or any of its Subsidiaries either within the Company's knowledge or claimed, pending or raised by an authority in writing. No written claim has ever been made by any Governmental Authority in a jurisdiction where neither the Company nor any of its Subsidiaries files Tax Returns that it is or may be subject to taxation by that jurisdiction.

(c) Neither the Company nor any of its Subsidiaries (A) is or has ever been a member of an affiliated group (other than a group the common parent of which is the Company) filing a consolidated federal income Tax Return or (B) has any liability for Taxes of any person arising from the application of Treasury Regulation Section 1.1502-6 or any analogous provision of state, local or foreign law, or as a transferee or successor, by contract, or otherwise.

(d) None of the Company or any of its Subsidiaries is a party to, is bound by or has any obligation under any Tax sharing or Tax indemnity agreement or similar contract or arrangement.

(e) None of the Company or any of its Subsidiaries has been either a "distributing corporation" or a "controlled corporation" in a distribution occurring during the last five years in which the parties to such distribution treated the distribution as one to which Section 355 of the Code is applicable.

(f) All material Taxes required to be withheld, collected or deposited by or with respect to the Company and each of its Subsidiaries have been timely withheld, collected or deposited as the case may be, and to the extent required, have been paid to the relevant taxing authority.

(g) No closing agreement pursuant to Section 7121 of the Code (or any similar provision of state, local or foreign law) has been entered into by or with respect to the Company or any of its Subsidiaries.

(h) Neither the Company nor any of its Subsidiaries has granted any waiver of any federal, state, local or foreign statute of limitations with respect to, or any extension of a period for the assessment of, any Tax.

(i) The Company will not be required to include amounts in income, or exclude items of deduction, in a taxable period beginning after the applicable Closing Date as a result of (i) a change in method of accounting occurring prior to the applicable Closing Date, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the applicable Closing Date, (iii) a prepaid amount received, or paid, prior to the applicable Closing Date or (iv) deferred gains arising prior to the applicable Closing Date.

(j) Neither the Company nor any Subsidiary has been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(l)(A)(ii) of the Code.

(k) Neither the Company nor any of its Subsidiaries has engaged in any transaction that could give rise to (i) a list maintenance obligation with respect to any Person under Section 6112 of the Code or the regulations thereunder, or (ii) a disclosure obligation as a "reportable transaction" under Section 6011 of the Code and the regulations thereunder.

SECTION 4.15. Environmental Matters. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (i) neither the Company nor any Subsidiary has violated or is subject to any liability with respect to, any Environmental Law; (ii) there has not been a Release or threatened Release of any Hazardous

Substances at any properties or facilities currently or formerly owned or operated by the Company or any Subsidiary; (iii) neither the Company nor any Subsidiary is liable for any off-site Releases of Hazardous Substances; (iv) the Company and its Subsidiaries have all permits, licenses and other authorizations required for their current operations under any Environmental Law and are in compliance with all such permits, licenses and authorizations; (v) none of the Company or any Subsidiary is subject to any Action under any Environmental Law or has received any written notice, demand, letter, claim or request for information alleging that the Company, any Subsidiary, any property or facility currently or formerly owned or operated by the Company or any Subsidiary, or any of their current or former operations is or was in violation of, or subject to liability under, any Environmental Law and to the knowledge of the Company, no such Action, notice, demand, letter, claim or request is threatened; (vi) none of the Company or any Subsidiary (A) has entered into or agreed to any consent decree or order or is subject to any judgment, decree or order relating to compliance with Environmental Laws, any permits, licenses or authorizations under Environmental Laws, or the investigation, remediation or removal of Hazardous Substances or (B) has assumed or provided indemnity against any liability under any Environmental Law or relating to any Hazardous Substances; and (vii) the execution and delivery of this Agreement and the Ancillary Agreements and the consummation of the Transactions do not require any action pursuant to any so called property transfer law, including the New Jersey Industrial Site Recovery Act.

SECTION 4.16. Contracts; Debt Instruments. (a) Except as filed as exhibits to the SEC Reports prior to the date of this Agreement or as set forth in Section 4.16 of the Disclosure Schedule, as of the date of the Disclosure Schedule or applicable amendment to the Disclosure Schedule provided in accordance with Section 3.03(d), none of the Company or any Subsidiary are a party to or bound by any contract:

(i) which contains any non-compete provisions with respect to any line of business or any or geographic area with respect to the Company, any Subsidiary or any of the Company’s affiliates, or restricts the conduct of any line of business by the Company, any Subsidiary or any of the Company’s affiliates or any geographic area in which the Company, any Subsidiary or any of the Company’s affiliates may conduct business, or contains any grant of exclusive rights to a third party, in each case in any material respect;

(ii) which would prohibit or materially delay the consummation of the Transactions;

(iii) which is a “material contract” (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC); or

(iv) which

(A) involves aggregate annual expenditures or other payments in excess of $1,000,000, except (1) those contracts cancelable (without material penalty, cost or other liability) within ninety (90) days and (2) purchase orders for inventory entered into in the ordinary course of business consistent with past practice,

(B) contain minimum purchase conditions or requirements in excess of $1,000,000 or other terms that restrict or limit the purchasing relationships of the Company or any Subsidiary, except (1) those contracts cancelable (without material penalty, cost or other liability) within ninety (90) days and (2) purchase orders for inventory entered into in the ordinary course of business consistent with past practice, or

(C) is a License; and

(v) which provides for collaboration, alliance, licensing, marketing, distribution, manufacturing, joint development or similar arrangements with other pharmaceutical or biotechnology companies, research institutes, academic institutions or a Governmental Authority relating to pharmaceutical products (including any drug or drug candidate or biotherapeutic product or biotherapeutic product candidate) or involves payments or receipts reasonably expected to exceed $1,000,000.

(b) Each contract of the type described above in this Section 4.16, whether or not filed as an exhibit to any SEC Report or otherwise set forth in Section 4.16 of the Disclosure Schedule, is referred to herein as a "Company Material Contract." Each Company Material Contract is valid and binding on the Company and each Subsidiary party thereto and, to the Company's knowledge, each other party thereto, and is in full force and effect, and the Company and each Subsidiary has in all material respects performed all obligations required to be performed by it under each Company Material Contract and, to the Company's knowledge, each other party to each Company Material Contract has in all material respects performed all obligations required to be performed by it under such Company Material Contract, except as would not, individually or in the aggregate, reasonably be expected to (1) prevent or materially delay consummation of the Transactions, (2) otherwise prevent or materially delay performance by the Company of any of its material obligations under this Agreement or any Ancillary Agreement or (3) result in a Material Adverse Effect. None of the Company or any Subsidiary knows of, or has received notice of, any violation or default under (or any condition which with the passage of time or the giving of notice or both would cause such a violation of or default under) any Company Material Contract or any other contract or by which it or any of its properties or assets is bound, except for violations or defaults that would not, individually or in the aggregate, reasonably be expected to (1) prevent or materially delay consummation of the Transactions, (2) otherwise prevent or materially delay performance by the Company of any of its material obligations under this Agreement or any Ancillary Agreement or (3) result in a Material Adverse Effect.

SECTION 4.17. Related Party Transactions. Except as filed as exhibits to the SEC Reports, neither the Company nor any Subsidiary is a party to any agreement or arrangement with or for the benefit of any person who, to the Company's knowledge, based on a review of Schedule 13Ds and Schedule 13Gs filed under the Exchange Act, is a holder of 5% or more of the outstanding equity securities of the Company or any officer, director, partner or affiliate of any such person (other than employee compensation and benefits arrangement in the ordinary course of business and disclosed to the Investor).

SECTION 4.18. Insurance. The Company and the Subsidiaries maintain, with reputable insurers or through self-insurance, insurance in such amounts, including deductible arrangements, and of such a character as is customary for companies engaged in the same or similar business. All policies of title, fire, liability, casualty, business interruption, workers' compensation and other forms of insurance including, but not limited to, directors and officers insurance, held by the Company and its Subsidiaries, are in full force and effect in accordance with their terms. Neither the Company nor any of its Subsidiaries is in default under any provisions of any such policy of insurance and neither the Company nor any of its Subsidiaries has received notice of cancellation of any such insurance.

SECTION 4.19. Controls. The Company's disclosure controls and procedures (as defined in rules 13a- 15(e) and 15d-15(e) under the Exchange Act) are sufficiently effective to ensure that the information required to be disclosed by the Company in the reports it files under the Exchange Act is gathered, analyzed and disclosed with adequate timeliness, accuracy and completeness. The Company has disclosed, based on its most recent evaluation, to the Company's external auditors, the Audit Committee of the Board and to the Investor (i) any potential significant deficiencies and potential material weaknesses in the design or operation of its or its Subsidiaries' systems of internal control over financial reporting which are reasonably expected to adversely affect in any material respect the Company's or any of its Subsidiaries' ability to record, process, summarize and report financial information, and (ii) any fraud or allegation of fraud, whether or not material, that involves management or other employees who have a significant role in the Company's or any Subsidiary's internal controls over financial reporting. Except as disclosed in the Company's SEC Reports filed on or prior to the date hereof, there have been no material changes in the Company's disclosure controls and procedures or internal control over financial reporting. The Company is in compliance in all material respects with all applicable provisions of Section 404 of the Sarbanes-Oxley Act of 2002 ("SOX"). To the knowledge of the Company, there is no reason to believe that the Company's external auditors and its chief executive officer and chief financial officer will not be able to give, without qualification, the certifications and attestations required pursuant to the rules and regulations adopted pursuant to Section 404 of SOX, in any subsequent applicable filing under the Exchange Act.

SECTION 4.20. Private Offering. None of the Company, any of the Subsidiaries, nor anyone acting on their behalf, has offered or sold or will offer or sell any securities, or has taken or will take any other action, which would reasonably be expected to subject the offer, issuance or sale of the Initial Shares, as contemplated hereby, to the registration provisions of the Securities Act.

SECTION 4.21. Vote Required. No vote or approval of the holders of any class or series of capital stock or other Equity Interests of the Company is required with respect to the approval of the Charter Amendment, the issuance of the Initial Shares, the Rights Offerings and any other matters relating to the Transactions, which require the approval of the stockholders of the Company, except for (i) approval of the Charter Amendment by the affirmative vote of a majority of the outstanding shares of Company Common Stock entitled to vote thereon, and (ii) approval of the issuance of the Initial Shares and the Rights Offerings by the affirmative vote of a majority of the votes cast at the Stockholders' Meeting at which a quorum is present.

SECTION 4.22. Section 203 of the DGCL; Takeover Statute. The Board of Directors has taken all actions necessary or advisable to ensure that the restrictions of Section 203 of the Delaware General Corporation Law do not apply to any of the Transactions contemplated by this Agreement or the Ancillary Agreements (including, but not limited to, the purchase of the Initial Shares, the distribution of the Rights in the Rights Offerings, and the issuance of the Rights Shares upon the exercise of the Rights). The execution, delivery and performance of this Agreement and the Ancillary Agreements will not cause to be applicable to the Company any "fair price," "moratorium," "control share acquisition" or other similar antitakeover statute or regulation enacted under state or federal laws.

SECTION 4.23. Fairness Opinion. The Board of Directors has received the opinion of Morgan Stanley & Co. Incorporated ("Morgan Stanley"), financial advisor to the Board of Directors, to the effect that, as of the date of such opinion, the aggregate Share Purchase Price to be received by the Company in exchange for the issuance and sale of the Initial Shares and the Warrant Shares is fair, from a financial point of view, to the Company.

SECTION 4.24. Brokers. No broker, finder or investment banker (other than Morgan Stanley) is entitled to any brokerage, finder's or other fee or commission in connection with the Transactions based upon arrangements made by or on behalf of the Company. The Company has heretofore made available to the Investor a true and complete copy of all agreements between the Company and Morgan Stanley pursuant to which such firm would be entitled to any payment relating to the Transactions or any other transaction contemplated by this Agreement or any Ancillary Agreement.

SECTION 4.25. Proxy Statement. The Proxy Statement shall not, at the date the Proxy Statement (or any amendment or supplement thereto) is first mailed to stockholders of the Company and at the time of the Stockholders' Meeting, as the case may be, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading except that no representation or warranty is made by the Company with respect to any information regarding the Investor that is supplied by the Investor in writing specifically for inclusion in the Proxy Statement. The Proxy Statement, and any amendments or supplements thereto, when filed by the Company with the SEC, or when distributed or otherwise disseminated to the Company's stockholders, as applicable, shall comply as to form in all material respects with the requirements of the Exchange Act, the rules and regulations thereunder and other applicable Laws.

SECTION 4.26. Independent Directors. The Board has determined that the persons tentatively identified by the Investor to be its Investor Director Designees to the Board under the Stockholders' Agreement qualify as Independent Directors in accordance with the Stockholders' Agreement and has not changed such determination regarding such persons , absent the Board's discovery of materially different facts regarding such persons.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF INVESTOR

As an inducement to the Company to enter into this Agreement, the Investor hereby represents and warrants to the Company that:

SECTION 5.01. Organization. The Investor is a limited partnership duly organized, validly existing and in good standing under the Laws of Bermuda.

SECTION 5.02. Authority. The Investor has all necessary power and authority to execute and deliver this Agreement and the Ancillary Agreements, to perform its obligations hereunder and thereunder and to consummate the Transactions. The Investor's execution and delivery of this Agreement and the Ancillary Agreements and the consummation by it of the Transactions have been duly and validly authorized by all necessary limited partnership action, and no other limited partnership proceedings on the part of the Investor are necessary to authorize this Agreement or the Ancillary Agreements or to consummate the Transactions. This Agreement has been, and at each Closing each of the Ancillary Agreements will be, duly and validly executed and delivered by it and, assuming due authorization, execution and delivery by the Company, this Agreement constitutes, and at each Closing each of the Ancillary Agreements will constitute, a legal, valid and binding obligation of the Investor enforceable against it in accordance with its terms.

SECTION 5.03. No Conflict; Required Filings and Consents. (a) The execution and delivery by the Investor of this Agreement and the Ancillary Agreements do not, and the performance of its obligations hereunder and thereunder will not, (i) conflict with or violate its organizational documents, (ii) assuming that all consents, approvals, authorizations and other actions described in subsection (b) have been obtained and all filings and obligations described in subsection (b) have been made, conflict with or violate any Law applicable to it or by which any of its properties or assets is bound or affected, or (iii) result in any breach of, or constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of a lien or other encumbrance on any of its properties or assets pursuant to, any note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation or by which it or any of its properties or assets is bound or affected, except, with respect to clauses (ii) and (iii), for any such conflicts, violations, breaches, defaults or other occurrences which would not, individually or in the aggregate, reasonably be expected to (1) prevent or materially delay consummation of the Transactions, (2) otherwise prevent or materially delay its performance of any of its material obligations under this Agreement or any Ancillary Agreement, or (3) have a material adverse effect on the Investor.

(b) The execution and delivery by the Investor of this Agreement and the Ancillary Agreements do not, and the performance of its obligations hereunder and thereunder will not, require any consent, approval, authorization or permit of, or filing with, or notification to, any Governmental Authority, except (i) for (A) applicable requirements, if any, of the Exchange Act and the Blue Sky Laws, (B) the pre-merger notification requirements, if any, of the HSR Act, (C) the filing with the SEC of the Proxy Statement, and (D) any filings required under the rules and regulations of the Nasdaq Stock Market, and (ii) where the failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications, would not, individually or in the aggregate, reasonably be expected to (1) prevent or materially delay consummation of the Transactions, (2) otherwise prevent or materially delay its performance of any of its material obligations under this Agreement or any Ancillary Agreement, or (3) have a material adverse effect on the Investor.

SECTION 5.04. Investment Purpose. The Investor is acquiring the Initial Shares for its own account solely for the purpose of investment and not with a view to, or for resale in connection with, any distribution of the Shares, the Rights Shares or any interest therein.

SECTION 5.05. Sophistication and Financial Condition of the Investor. The Investor is an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act, a sophisticated investor and, by virtue of its business or financial experience, is capable of evaluating the merits and risks of the investment in the Initial Shares. The Investor has been provided an opportunity to ask questions of and receive answers from representatives of the Company concerning the terms and conditions of this Agreement and the purchase of the Initial Shares and Rights Shares contemplated hereby.

SECTION 5.06. Available Funds. The Investor has, or will have on or prior to each Closing, sufficient funds in its possession to permit it to acquire and pay for the Initial Shares, the First Rights Shares or the Second Rights Shares, as applicable, to be purchased by it and to perform its obligations under this Agreement, except for any obligations that, pursuant to the provisions of this Agreement are to be performed at a later date.

SECTION 5.07. Proxy Statement. None of the information supplied by the Investor in writing specifically for inclusion in the Proxy Statement shall, at the date the Proxy Statement (or any amendment or supplement thereto) is first mailed to stockholders of the Company and at the time of the Stockholders' Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

SECTION 5.08. Ownership of Company Capital Stock. As of the date of this Agreement, the Investor and its affiliates, taken together, are the beneficial owners of 3,891,108 shares of Company Common Stock.

SECTION 5.09. Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the Transactions based upon arrangements made by or on behalf of the Investor.

ARTICLE VI

CONDUCT OF BUSINESS PENDING THE CLOSING

SECTION 6.01. Conduct of Business by the Company Pending the Closing. The Company agrees that, between the date of this Agreement and the Initial Closing, except as set forth in Section 6.01 of the Disclosure Schedule or as contemplated by any other provision of this Agreement, and except as provided below, the businesses of the Company and the Subsidiaries shall be conducted in, and the Company and the Subsidiaries shall not take any action except in, the ordinary course of business consistent with past practice; and the Company shall use its reasonable efforts to preserve substantially intact the business organization of the

Company and the Subsidiaries, to keep available the services of the current officers, employees and consultants of the Company and the Subsidiaries and to preserve the current relationships of the Company and the Subsidiaries with customers, suppliers and other persons with which the Company or any Subsidiary has significant business relations. Except as contemplated by this Agreement and Section 6.01 of the Disclosure Schedule, neither the Company nor any Subsidiary shall, between the date of this Agreement and the Initial Closing, directly or indirectly, do, or propose to do, any of the following without the prior written consent of the Investor:

(a) amend or otherwise change its Certificate of Incorporation or By-laws or equivalent organizational documents;

(b) (i) issue, sell, pledge, dispose of, grant, encumber, or authorize the issuance, sale, pledge, disposition, grant or encumbrance of, any shares of any class of capital stock or other Equity Interests in or of the Company or any Subsidiary, or any options, warrants, convertible securities or other rights of any kind to acquire any shares of such capital stock or other Equity Interests, or any other ownership interest (including any phantom interest or other interest represented by contract), of the Company or any Subsidiary (except for the issuance of options to newly-hired employees in the ordinary course of business, the issuance of shares of Company Common Stock issuable pursuant to the Company Stock Option Plans, warrants outstanding on the date hereof and the Warrants), or (ii) sell, pledge, dispose of, transfer, lease, license, guarantee or encumber, or authorize the sale, pledge, disposition, transfer, lease, license, guarantee or encumbrance of, any material property or assets of the Company or any Subsidiary, except (A) pursuant to existing contracts or commitments or the sale or purchase of goods in the ordinary course of business, (B) for sales, transfers, leases, licenses, mortgages, pledges, dispositions or encumbrances in the ordinary course of business that, in the case of the Owned Real Property and Leased Real Property, are in an amount not to exceed $3,000,000 in the aggregate and (C)(1) the payment of any dividend or the making of any other distributions by any Subsidiary to the Company or another Subsidiary, (2) the payment by any Subsidiary of any indebtedness owed to the Company, (3) the making of any loans by, or advances from, any Subsidiary to the Company, or (4) the transfer by any Subsidiary of any of its property or assets to the Company;

(c) declare, set aside, make or pay any dividend or other distribution (except by a wholly-owned Subsidiary to the Company or to another wholly-owned Subsidiary of the Company), payable in cash, stock, property or otherwise, with respect to any of its capital stock or enter into any agreement with respect to the voting of its capital stock;

(d) reclassify, combine, split, subdivide or redeem, or purchase or otherwise acquire, directly or indirectly, any of its capital stock or other Equity Interests;

(e) (i) acquire (including by merger, consolidation, or acquisition of stock or assets or any other business combination) any corporation, partnership, other business organization or any division thereof, (ii) incur any indebtedness for borrowed money or issue any debt securities or assume, guarantee or endorse, or otherwise as an accommodation become responsible for, the obligations of any person, or make any loans or advances, or grant any security interest in any of its assets except in the ordinary course of business, (iii) (A) terminate,

cancel or request or agree to any material change in any Company Material Contract other than in the ordinary course of business, or (B) enter into any material contract or agreement other than in the ordinary course of business except, in each case, for any contract that is terminable without penalty upon not more than 90 days notice, (iv) make or authorize any capital expenditure or purchases of fixed assets in excess of $500,000 in the aggregate other than as set forth on the capital expenditure plan attached in Section 6.01(e)(4) of the Disclosure Schedule, or (v) enter into or amend any contract, agreement, commitment or arrangement with respect to any matter set forth in this Section 6.01(e);

(f) except as may be required by contractual commitments or corporate policies with respect to severance or termination pay in existence on the date of this Agreement as disclosed in Section 4.10 of the Disclosure Schedule, (i) increase the compensation payable to or to become payable to any of its current or former directors or officers of the Company or any Subsidiary, (ii) grant any rights to severance or termination pay to, or enter into any employment or severance agreement with, any current or former director or officer of the Company or any Subsidiary, or establish, adopt, enter into or amend any Plan, except to the extent required by applicable Law or the terms of a collective bargaining agreement in existence on the date of this Agreement, or (iii) take any affirmative action to amend or waive any performance or vesting criteria or accelerate vesting, exercisability or funding under any Plan;

(g) pre-pay any long-term debt, except in the ordinary course of business in an amount not to exceed $2,000,000 in the aggregate for the Company and the Subsidiaries taken as a whole, or pay, discharge or satisfy any claims, liabilities or obligations (absolute, accrued, contingent or otherwise), except in the ordinary course of business;

(h) adopt, or propose to adopt, or maintain any shareholders' rights plan, "poison pill" or other similar plan or agreement, unless the Investor is exempted from the provisions of such shareholders' rights plan, "poison pill," or other similar plan or agreement

(i) modify, amend, terminate, or release or assign any material rights or claims with respect to any confidentiality or standstill agreement;

(j) to the extent required or applicable, take any action to exempt or make not subject to (i) the restrictions of Section 203 of the DGCL or (ii) any other state takeover law or state law that purports to limit or restrict business combinations or the ability to acquire or vote shares, any person (other than the Investor or any of its affiliates) or any action taken thereby, which person or action would have otherwise been subject to the restrictive provisions thereof and not exempt therefrom; or

(k) announce an intention, enter into any agreement or otherwise make a commitment, to do any of the foregoing.

SECTION 6.02. Further Issuances of Company Common Stock; Alternative Transactions (a) Until the later of the completion of the Second Rights Offering as contemplated by Section 3.02, or the expiration of the 90-day period following the Second Rights Offering Trigger Date, during which the Investor may exercise its right to require the Company to conduct such offering, the prior written consent of the Investor shall be required for the issuance by the

Company of any shares of Company Common Stock for a per share price of less than $4.50 (as adjusted for any stock splits, reverse splits, stock dividends, combinations or similar transactions occurring after the date hereof and prior to the Second Rights Offering); *provided*, that the provisions of this Section 6.02 shall not apply to the issuance of Company Common Stock (i) pursuant to employee or director stock option, incentive compensation or similar plans approved by the Board or a duly authorized committee thereof or such committee or (ii) to persons involved in the pharmaceutical industry in connection with simultaneous strategic transactions involving such persons in the ordinary course.

(b) The Company agrees that, until the earlier of the Initial Closing or the termination of this Agreement, neither it nor any Subsidiary nor any of their respective directors, officers, employees, agents or representatives, including any financial advisor, attorney or other advisor ("Representatives") shall, directly or indirectly, (i) solicit, initiate or knowingly encourage or take any other action designed to result in or facilitate any significant investment in the Company by another person, any significant acquisition of shares of Company Common Stock or any merger, reorganization, liquidation or other transaction that would be inconsistent with the Transactions (an "Alternative Transaction"), (ii) enter into, continue or otherwise participate in any discussions or negotiations regarding, or furnish to any person any information in connection with, or otherwise cooperate in any way with, any Alternative Transaction, (iii) approve, recommend or endorse, or enter into any agreement relating to, any Alternative Transaction or (iv) waive, terminate, modify or fail to enforce any provision of any "standstill" or similar obligation of any person other than the Investor.

The Company and its Subsidiaries and their respective Representatives shall immediately cease any discussions or negotiations with any person regarding any Alternative Transaction. Notwithstanding anything to the contrary in this Section 6.02(b), at any time prior to obtaining the Stockholder Approval, the Company may, in response to an unsolicited bona fide written Alternative Transaction received after the date hereof, which did not arise in connection with a breach of this Section 6.02(b) and which the Board determines in good faith, after consultation with its outside counsel and financial advisors and after taking into account any amendment to this Agreement or any other transaction proposed by the Investor, failure to take such action would result in a breach of the Board's fiduciary duties under applicable Law, furnish non-public information with respect to the Company and its Subsidiaries to the person making such Alternative Transaction pursuant to a customary confidentiality agreement in compliance with this Section 6.02(b) and participate in discussions or negotiations with such person and its Representatives regarding such Alternative Transaction; *provided*, *however*, that the Company shall simultaneously provide to the Investor any non-public information that is provided to the person making such Alternative Transaction or its Representatives which was not previously provided to the Investor. The Company shall promptly (and in any event within 24 hours) advise the Investor orally and in writing of (i) any inquiries, proposals or offers relating to, or that would reasonably be expected to lead to, any Alternative Transaction, (ii) any request for information relating to the Company or its Subsidiaries relating to any possible Alternative Transaction, including in each case the identity of the person making any such Alternative Transaction or indication or inquiry or offer or request and the material terms and conditions of any such Alternative Transaction or indication or inquiry or offer. The Company shall keep the Investor informed on a current basis of the status (including any material changes to the terms thereof) of any such discussions or negotiations regarding any such Alternative Transaction or

indication or inquiry or offer or any material developments relating thereto (the Company agreeing that it shall not, and shall cause its Subsidiaries not to, enter into any confidentiality agreement with any person which prohibits the Company from providing such information to the Investor).

SECTION 6.03. No Contrary Agreements or Actions. The Company shall not, and shall cause its Subsidiaries not to, enter into any letter of intent, agreement in principle, acquisition agreement, contract or other similar agreement concerning any transaction that is materially inconsistent with, or would limit, prohibit or materially delay, the Transactions.

ARTICLE VII

ADDITIONAL AGREEMENTS

SECTION 7.01. Stockholders' Meeting. (a) The Company, acting through the Board, shall, in accordance with applicable Law and the Company's Certificate of Incorporation and By-laws, (i) duly call, give notice of, convene and hold a special meeting of its stockholders as promptly as practicable after the date of this Agreement for the purpose of considering, taking action on, and voting on the approval of the Charter Amendment, the issuance of the Initial Shares, the Rights Offerings and any other matters relating to the Transactions, which require the approval of the stockholders of the Company (such meeting, including any adjournment or postponement thereof, the "Stockholders' Meeting"), (ii) submit the Charter Amendment, the issuance of the Initial Shares, the Rights Offerings and any other matters relating to the Transactions, which require the approval of the stockholders of the Company, to a vote of the Company's stockholders, and (iii) subject to Section 7.01(b), (A) include in the Proxy Statement the recommendation of the Board (the "Board Recommendation") that the stockholders of the Company approve the Charter Amendment, the issuance of the Initial Shares, the Rights Offerings and any other matters relating to the Transactions, which require the approval of the stockholders of the Company (such approval by the Company's stockholders, the "Stockholder Approval") and (B) use all reasonable efforts to obtain the Stockholder Approval, including postponing or adjourning the Stockholders' Meeting to obtain a quorum or to solicit additional proxies or calling, giving notice of, convening and holding additional Stockholders' Meetings. At the Stockholders' Meeting, no matters shall be noticed or submitted to the stockholders other than the Charter Amendment, the issuance of the Initial Shares, the Rights Offerings and any other matters relating to the Transactions, which require the approval of the stockholders of the Company or a proposal to adjourn or postpone the meeting, for purposes of soliciting additional proxies in favor of the approval of the Charter Amendment, the issuance of the Initial Shares, the Rights Offerings and any other matters relating to the Transactions, which require the approval of the stockholders of the Company. The Company shall call, give notice of, convene and hold the Stockholders' Meeting and submit the Charter Amendment, the issuance of the Initial Shares, the Rights Offerings and any other matters relating to the Transactions, which require the approval of the stockholders of the Company.

(b) Notwithstanding anything to the contrary contained in this Agreement, at any time prior to obtaining the Stockholder Approval, the Board may, in response to a material development or change in circumstances occurring or arising after the date hereof that was neither known to the Board nor reasonably foreseeable as of or prior to the date hereof (such

material development or change in circumstances, an "Intervening Event"), withdraw or modify the Board Recommendation in a manner adverse to the Investor (a "Recommendation Change"), if the Board has concluded in good faith, after consultation with its outside legal advisors, that, in light of such Intervening Event, the failure of the Board to effect such a Recommendation Change would result in a breach of the Board's fiduciary duties under applicable Law; *provided*, that the Company shall not be entitled to exercise its right to make a Recommendation Change pursuant to this sentence unless the Company has (a) provided to the Investor at least three business days' prior written notice advising the Investor that the Board intends to take such action and specifying the reasons therefor in reasonable detail and (b) during such three business day period, if requested by the Investor, engaged in good faith negotiations with the Investor to amend this Agreement in a manner, or enter into any other transaction with the Investor, that obviates the need for a Recommendation Change as a result of the Intervening Event.

(c) Any Recommendation Change shall not change the approval of this Agreement or the Ancillary Agreements or any other approval of the Board, including in any respect that would have the effect of causing any state (including Delaware) corporate takeover statute or other similar statute to be applicable to the Transactions. Unless this agreement is terminated pursuant to, an in accordance with Section 9.01(d), (i) the obligation of the Company to call, give notice of, convene and hold the Stockholders' Meeting shall not be limited or otherwise affected by a Recommendation Change, and (ii) in any case in which the Board makes a Recommendation Change pursuant to this Section 7.01, the Company shall nevertheless submit the Charter Amendment, the issuance of the Initial Shares and the Rights Offerings to a vote of its stockholders at the Stockholders' Meeting.

SECTION 7.02. Proxy Statement; Other SEC Filings. As promptly as practicable after the date of this Agreement, the Company shall file (after receiving the Investor's consent thereto, not to be unreasonably withheld or delayed) a preliminary Proxy Statement with the SEC under the Exchange Act, and shall use its reasonable best efforts to have the Proxy Statement cleared by the SEC. In addition, the Company shall prepare and file with the SEC any Other Filings as and when required or requested by the SEC. The Investor and the Company shall cooperate with each other in the preparation of the Proxy Statement and any Other Filings, and the Company shall promptly notify the Investor of the receipt of any comments of the SEC with respect to the Proxy Statement or any Other Filings and of any requests by the SEC for any amendment or supplement thereto or for additional information and shall provide to the Investor copies of all correspondence between the Company or any representative of the Company and the SEC. The Company shall give the Investor and its counsel the opportunity to review the Proxy Statement and any Other Filings for a reasonable time prior to their being filed with the SEC and shall give the Investor and its counsel the opportunity to review all amendments and supplements to the Proxy Statement and all responses to requests for additional information and replies to comments for a reasonable time prior to their being filed with, or sent to, the SEC. The Company shall in good faith consider the Investor's comments on any such documents. Each of the Company and the Investor agrees to use its reasonable best efforts, after consultation with the other parties hereto, to respond promptly to all such comments of and requests by the SEC and the Company agrees to use its reasonable best efforts to cause the Proxy Statement and all required amendments and supplements thereto to be mailed to the holders of shares of Company Common Stock entitled to vote at the Stockholders' Meeting at the earliest practicable time. All documents that the Company is responsible for filing in connection with the transactions contemplated herein will comply as to form and substance in all material respects with the applicable requirements of the Exchange Act, the rules and regulations thereunder and other applicable Laws.

Without limiting the generality of the foregoing, each of the Company and the Investor will furnish to the other party such other information relating to it and its affiliates and the transactions contemplated hereby and such further and supplemental information as may be reasonably requested by the other party and shall promptly notify the other party of any change in such information. The Company, as to itself and its Subsidiaries, and the Investor, as to itself and each of its subsidiaries, agrees that none of the information supplied or to be supplied by it for inclusion or incorporation by reference in the Proxy Statement or any amendment or supplement thereto will, at the date of mailing to stockholders and at the time of the Stockholders' Meeting, contain (i) any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) any statement which, at the time and in the light of the circumstances under which such statement is made, will be false or misleading with respect to any material fact, or which will omit to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier statement in the Proxy Statement or any amendment or supplement thereto. If at any time prior to the Stockholders' Meeting there shall occur any event that should be set forth in an amendment or supplement to the Proxy Statement, the Company shall promptly prepare and, to the extent required by law, rule or regulation, the Company shall mail to its stockholders such an amendment or supplement; *provided*, that no such amendment or supplement to the Proxy Statement will be made by the Company without the Investor's prior consent, not to be unreasonably withheld or delayed.

SECTION 7.03. Access to Information; Confidentiality. (a) From the date hereof to the Initial Closing and in compliance with applicable Laws, the Company shall, and shall cause the Subsidiaries and the officers, directors, employees, auditors and agents of the Company and the Subsidiaries to, afford the officers, employees, accountants, counsel, investment bankers and other agents of the Investor reasonable access at all reasonable times to the officers, employees, agents, properties, offices and other facilities, books and records of the Company and each Subsidiary, and shall furnish the Investor with such financial, operating and other data and information as the Investor, through its officers, employees or agents, may reasonably request.

(b) All information obtained by the Investor pursuant to this Section 7.03 shall be kept confidential in accordance with the confidentiality agreement, dated as of March 6, 2007 (the "Confidentiality Agreement"), between The Invus Group, L.L.C. and the Company.

(c) No investigation pursuant to this Section 7.03 shall affect any representation or warranty in this Agreement of any party hereto or any condition to the obligations of the parties hereto.

SECTION 7.04. Amendment to Certificate of Incorporation. After obtaining the Stockholder Approval, the Company shall file the Certificate of Amendment with the Secretary of State of the State of Delaware and shall take all such further action as is necessary to cause the Certificate of Amendment to become effective in accordance with the DGCL.

SECTION 7.05. Additional Listing Application. Prior to the Initial Closing, the Company shall file a notification form for the listing of additional shares in connection with the Transactions and shall take such further action as is necessary to cause the shares of Company Common Stock issuable pursuant to this Agreement and upon the exercise of the Rights and Warrants to be listed on the Nasdaq Stock Market.

SECTION 7.06. Further Action; Reasonable Best Efforts; Consents; Filings. (a) Upon the terms and subject to the conditions hereof, each of the parties hereto shall use its reasonable best efforts to (i) take, or cause to be taken, all appropriate action, and to do, or cause to be done, all things necessary, proper or advisable under applicable Laws to consummate and make effective the Transactions, (ii) obtain from any Governmental Authorities any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained or made by the Investor or the Company or any of their respective Subsidiaries, or to avoid any action or proceeding by any Governmental Authority (including those in connection with the HSR Act), in connection with the authorization, execution and delivery of this Agreement and each Ancillary Agreement and the consummation of the Transactions contemplated herein and therein, including the Transactions, and (iii) make promptly its respective filings, and thereafter make any other submissions, required under (x) the Exchange Act, and any other applicable federal or state securities Laws, and (y) the HSR Act (in respect of which the parties will file a Notification and Report Form as soon as practicable but in no event later than ten (10) days after the date of this Agreement) and (z) any other applicable Law; *provided*, *however*, that the Investor and the Company shall cooperate with each other in connection with the making of all such filings, including providing copies of all such documents to the non-filing party and its advisors prior to filing and, if requested, to accept all reasonable additions, deletions or changes suggested in connection therewith.

(b) The parties hereto shall cooperate and assist one another in connection with all actions to be taken pursuant to Section 7.06(a), including the preparation and making of the filings referred to therein and, if requested, amending or furnishing additional information thereunder, including, subject to applicable Law, providing copies of all related documents to the non-filing party and their advisors prior to filing, and to the extent practicable none of the parties will file any such document or have any communication with any Governmental Authority without prior consultation with the other parties. Each party shall keep the others apprised of the content and status of any communications with, and communications from, any Governmental Authority with respect to the Transactions. To the extent practicable and permitted by a Governmental Authority, each party hereto shall permit representatives of the other party to participate in meetings (whether by telephone or in person) with such Governmental Authority.

(c) The Company, the Subsidiaries and the Investor shall give any notices to third parties, and use all reasonable efforts to obtain any third party consents, (i) necessary, proper or advisable to consummate the Transactions contemplated in this Agreement and each Ancillary Agreement or (ii) required to be disclosed in the Disclosure Schedule. In the event that either party shall fail to obtain any third party consent described in the first sentence of this Section 7.06(c), such party shall use all reasonable efforts, and shall take any such actions reasonably requested by the other party hereto, to minimize any adverse effect upon the Company, the Subsidiaries and the Investor, and their respective businesses resulting, or which would reasonably be expected to result after the Initial Closing, from the failure to obtain such consent.

(d) From the date of this Agreement until the Initial Closing, the Company shall promptly notify the Investor in writing of any pending or, to the knowledge of the Company, threatened Action by any Governmental Authority or any other person (i) challenging or seeking material damages in connection with the Transactions or (ii) seeking to restrain or prohibit the consummation of the Transactions, which in either case would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect prior to or after the Initial Closing.

SECTION 7.07. Public Announcements. The parties shall mutually agree on the form of press release to be issued in connection with the execution of this Agreement. The Investor and the Company agree that no public release or announcement concerning the Transactions shall be issued by either party without the prior consent of the other party, except as such release or announcement may be required by Law or the rules or regulations of the Nasdaq Stock Market, in which case the party required to make the release or announcement shall use its reasonable best efforts to allow the other party reasonable time to comment on and approve such release or announcement in advance of such issuance.

SECTION 7.08. Certain Notices. From and after the date of this Agreement until the Initial Closing, each party shall promptly notify the other party of (i) the occurrence of any material adverse effect with respect to it, (ii) the occurrence, or non-occurrence, of any event or any breach or misrepresentation that would reasonably be expected to cause any condition to the obligations of such party to effect the Transactions not to be satisfied or (iii) the failure of such party to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it pursuant to this Agreement or any Ancillary Agreement that would reasonably be expected to result in any condition to the obligations of such party to effect the Transactions not to be satisfied; *provided*, *however*, that the delivery of any notice pursuant to this Section 7.8 shall not cure any breach of any representation or warranty requiring disclosure of such matter prior to the date of this Agreement or otherwise limit or affect the remedies available hereunder to the party receiving such notice.

ARTICLE VIII

CONDITIONS

SECTION 8.01. Conditions to the Obligations of Each Party. Except as specifically provided in this Section 8.01, the obligations of each party to effect the transactions contemplated to occur at each Closing shall be subject to the satisfaction or waiver, at or prior to each Closing, of the following conditions:

(a) Stockholder Approval. Solely in connection with the Initial Closing, the Charter Amendment, the issuance of the Initial Shares, the Rights Offerings and any other matters relating to the Transactions, which require the approval of the stockholders of the Company, shall have been approved and adopted by the requisite affirmative vote of the stockholders of the Company in accordance with the DGCL, the Certificate of Incorporation of the Company and Rule 4350(i)(D) of the Nasdaq Stock Market;

(b) No Order. No Governmental Authority in the United States shall have enacted, issued, promulgated, enforced or entered any Law (whether temporary, preliminary or permanent) which is then in effect and has the effect of making the Transactions illegal or otherwise restricting, preventing or prohibiting consummation of the Transactions;

(c) HSR Act. Any waiting period (and any extension thereof) under the HSR Act applicable to the consummation of the Transactions subject to each Closing shall have expired or been terminated; and

(d) Court Proceedings. No Action shall be pending or threatened before any Governmental Authority wherein an unfavorable injunction, judgment, order, decree, ruling or charge would reasonably be expected to (i) prevent consummation of any of the Transactions contemplated by this Agreement or any Ancillary Agreement, (ii) cause any of the Transactions contemplated by this Agreement or any Ancillary Agreement to be rescinded following consummation thereof, or (iii) materially adversely affect the rights and powers of the Investor and its affiliates to own the Initial Shares, the Rights or the Rights Shares, and exercise all of its rights as a stockholder of the Company and as a party to the Ancillary Agreements (*provided*, that this clause (iii) may be waived by the Investor in its sole discretion), and in each case, no such injunction, judgment, order, decree, ruling or charge shall be in effect; *provided*, *however*, that, in each case, any such threatened Action would reasonably be expected to be adversely determined against the Company, the Investor or their respective affiliates.

SECTION 8.02. Conditions to the Obligations of the Investor. The obligations of the Investor to consummate the transactions contemplated to occur at each Closing are subject to the satisfaction or waiver of the following additional conditions:

(a) Representations and Warranties. Each of the representations and warranties of the Company contained in this Agreement and each Ancillary Agreement that are qualified by materiality or Material Adverse Effect shall be true and correct as of the date hereof (in the case of the Initial Investment) and as of the applicable Rights Offering Trigger Date (in the case of each Rights Offering) and as of each Closing as though made on and as of such Closing (except that those representations and warranties which address matters only as of a particular date need only be true and correct as of such date), and all representations and warranties which are not so qualified shall be true and correct in all material respects (except that those representations and warranties which address matters only as of a particular date need only remain true and correct in all material respects as of such date);

(b) Agreements and Covenants. Each of the Company and each Subsidiary shall have performed in all material respects all obligations, and complied in all material respects with its agreements and covenants to be performed or complied with by it under this Agreement and the Ancillary Agreements on or prior to each Closing;

(c) Officer Certificate. The Company shall have delivered to the Investor a certificate, dated as of the applicable Closing Date, signed by the President of the Company, certifying as to the satisfaction of the conditions specified in Sections 8.02(a), (b) and (f);

(d) Ancillary Agreements. Solely in connection with the Initial Closing, each of the Ancillary Agreements shall have been duly executed and delivered by the Company;

(e) Board of Directors. Solely in connection with the Initial Closing, the Board shall have duly adopted resolutions increasing the number of board members comprising the entire Board to 11 and shall have taken such action as is necessary to cause three persons designated by the Investor for election or appointment to the Board (the "Investor Director Designees") to be so elected or appointed in accordance with the Stockholders' Agreement.

(f) Certificate of Amendment. Solely in connection with the Initial Closing, the Certificate of Amendment shall have been duly filed with the Secretary of State of the State of Delaware and shall have become effective.

(g) Opinion of Counsel. A favorable opinion of counsel to the Company reasonably satisfactory to the Investor, dated as of the applicable Closing Date and covering the matters attached hereto as Exhibit E, shall have been delivered to the Investor.

(h) Certified Resolutions. Solely in connection with the Initial Closing, certified copies of resolutions duly adopted by the Board and stockholders of the Company authorizing the execution, delivery and performance of this Agreement, the Ancillary Agreements and the Transactions shall have been delivered to the Investor;

(i) Incumbency Certificate. Solely in connection with the Initial Closing, a certificate of the Secretary of the Company, as to the incumbency of the officer(s) (who shall not be such Secretary) executing this Agreement, the Ancillary Agreements and the other instruments, documents, certificates and agreements contemplated hereby or thereby shall have been delivered to the Investor;

(j) Good Standing. A certificate of good standing of the Company and each Subsidiary, certified by the Secretary of State or Clerk of the State Corporation Commission of each state or commonwealth in which the Company or each Subsidiary, as applicable, is incorporated or organized or qualified to do business, in each case as of a date not more than two business days prior to the applicable Closing Date; and

(k) Consents and Approvals. Solely in connection with the Initial Closing, all consents, approvals and authorizations of any person with respect to the Transactions set forth on Section 8.02(k) of the Disclosure Schedule shall have been obtained and a copy thereof shall have been delivered to the Investor.

SECTION 8.03. Conditions to the Obligations of the Company. The obligations of the Company to consummate the transactions contemplated to occur at each Closing are subject to the satisfaction or waiver of the following additional conditions:

(a) Representations and Warranties. Each of the representations and warranties of the Investor contained in this Agreement and each Ancillary Agreement that are qualified by materiality or material adverse effect shall be true and correct as of the date hereof (in the case of the Initial Investment) and as of the applicable Rights Offering Trigger Date (in the case of each Rights Offering) and as of each Closing as though made on and as of such Closing (except that those representations and warranties which address matters only as of a

particular date need only be true and correct as of such date), and all representations and warranties which are not so qualified shall be true and correct in all material respects (except that those representations and warranties which address matters only as of a particular date need only remain true and correct in all material respects as of such date);

(b) Agreements and Covenants. The Investor shall have performed, in all material respects, all obligations or complied with, in all material respects, all agreements and covenants to be performed or complied with by it under this Agreement on or prior to each Closing;

(c) Officer Certificate. The Investor shall have delivered to the Company a certificate, dated as of the applicable Closing Date, signed by the President or any Vice President of the Investor, certifying as to the satisfaction of the conditions specified in Sections 8.03(a) and 8.03(b); and

(d) Ancillary Agreements. Solely in connection with the Initial Closing, each of the Ancillary Agreements shall have been duly executed and delivered by the Investor.

ARTICLE IX

TERMINATION, AMENDMENT AND WAIVER

SECTION 9.01. Termination. This Agreement may be terminated any time prior to the Initial Closing, whether or not the Stockholder Approval has been obtained (the date of any such termination, the "Termination Date"):

(a) By mutual written consent of the Investor and the Company; or

(b) By either the Investor or the Company if (i) the Initial Closing shall not have occurred on or before November 15, 2007;*provided*, *however*, that the right to terminate this Agreement under this Section 9.01(b) shall not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Initial Closing to occur on or before such date or (ii) any Governmental Authority in the United States shall have enacted, issued, promulgated, enforced or entered any order, decree, judgment, injunction or ruling which is then in effect and is final and nonappealable and has the effect of making consummation of the Transactions illegal or otherwise preventing or prohibiting consummation of the Transactions; or

(c) By the Investor or the Company, if the Stockholder Approval is not obtained upon a vote taken thereon at the Stockholders' Meeting duly convened therefor;

(d) By the Investor, if prior to obtaining the Stockholder Approval, a Recommendation Change shall have occurred;

(e) By the Investor, if since the date of this Agreement, there shall have been any event, development or change of circumstance that constitutes, has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and such Material Adverse Effect is not cured within 20 days after the Company receives written notice thereof from the Investor;

(f) By the Investor, if (i) the Company shall have breached any representation, covenant or agreement set forth in this Agreement, (ii) such breach is not cured within 20 days after the Company receives written notice thereof from the Investor, and (iii) such breach or misrepresentation would cause the conditions set forth in Section 8.02(a) or Section 8.02(b) not to be satisfied; or

(g) By the Company, if (i) the Investor shall have breached any representation, covenant or agreement set forth in this Agreement, (ii) such breach is not cured within 20 days after the Investor receives written notice thereof from the Company, and (iii) such breach or misrepresentation would cause the conditions set forth in Section 8.03(a) or Section 8.03(b) not to be satisfied.

SECTION 9.02. Effect of Termination. In the event of the termination of this Agreement pursuant to Section 9.01, this Agreement shall forthwith become void, and there shall be no liability or obligation on the part of any party hereto, except (i) with respect to Article IX and Article X, which shall survive any such termination and remain in full force and effect, and (ii) with respect to any liabilities or damages incurred or suffered by a party as a result of the material breach by the other party of any of its representations, warranties, covenants or other agreements set forth in this Agreement or any Ancillary Agreement.

SECTION 9.03. Amendment. This Agreement may be amended by the parties hereto by action taken by or on behalf of their respective Boards of Directors, or equivalent governing body, at any time prior to the Initial Closing; *provided*, *however*, that, after the Stockholder Approval is obtained, no amendment may become effective that would by Law require approval of the stockholders of the Company, without approval of such stockholders. This Agreement may not be amended except by an instrument in writing signed by the parties hereto.

SECTION 9.04. Waiver. At any time prior to each Closing, any party hereto may (i) extend the time for the performance of any obligation or other act of the other party hereto applicable to such Closing, (ii) waive any inaccuracy in the representations and warranties of the other party contained herein or in any document delivered by the other party pursuant to this Agreement, and (iii) waive compliance with any agreement of the other party or condition to such party’s obligations contained herein applicable to such closing. Any such extension or waiver shall be valid if set forth in an instrument in writing signed by the party or parties to be bound thereby.

ARTICLE X

GENERAL PROVISIONS

SECTION 10.01. Survival of Representations and Warranties; Indemnification. (a) All representations and warranties contained in this Agreement shall be deemed made at each Closing as if made at such time and shall survive each Closing for 12 months, except that (i) with

respect to claims notified to the Company before the expiration of the applicable representation or warranty, such claims shall survive until the date they are finally liquidated or otherwise resolved, (ii) Sections 4.10 and 4.14 shall survive until 30 days after the expiration of the applicable statute of limitations, and (iii) Sections 4.01, 4.02, 4.03, 4.04 and 4.21 shall survive indefinitely. A claim shall be made or commenced hereunder by the Indemnified Party delivering to the Company a written notice specifying in reasonable detail the nature of the claim, the amount claimed (if known or reasonably estimable), and the factual basis for the claim. The indemnity contained in Section 10.01(b) shall not be construed to limit or restrict the right of the Investor to seek damages or any other remedy available at law or equity for any breach by the Company of any of its representations, warranties, covenants or agreements under this Agreement.

(b) The Company agrees to indemnify and hold harmless the Investor, its partners, affiliates, officers, directors, employees and duly authorized agents and its affiliates and each other person controlling the Investor or any of its affiliates within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act and any partner of the Investor from and against all losses, claims, damages, costs, expenses (including reasonable counsel fees and disbursements) or liabilities, which are related to or arise out of any untrue statement or alleged untrue statement of a material fact contained in the Proxy Statement or any Rights Offering Registration Statement (including any prospectus related 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 not misleading, except to the extent such Losses are caused by any such untrue statement or omission or alleged untrue statement or omission based upon information relating to the Investor that is supplied by the Investor in writing specifically for inclusion in such Proxy Statement or Rights Offering Registration Statement (including any prospectus related thereto).

(c) The Investor agrees to indemnify and hold harmless the Company, its Subsidiaries and each of their respective officers, directors, employees, duly authorized agents and affiliates from and against all losses, claims, damages, costs, expenses (including reasonable counsel fees and disbursements) or liabilities, which are related to or arise out of any untrue statement or alleged untrue statement of a material fact contained in the Proxy Statement or any Rights Offering Registration Statement (including any prospectus related 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 not misleading, to the extent, but only to the extent, that such Losses are caused by any such untrue statement or omission, or alleged untrue statement or omission, based upon information relating to the Investor that is supplied by the Investor in writing specifically for inclusion in such Proxy Statement or Rights Offering Registration Statement (including any prospectus related thereto).

(d) A party claiming indemnification under this Agreement (an "Indemnified Party") with respect to any claims asserted against the Indemnified Party by a third party ("Third Party Claim") that would give rise to a right of indemnification under this Agreement shall promptly (i) notify the party required to indemnify the Indemnified Party (the "Indemnifying Party") of the Third Party Claim, and (ii) transmit to the Indemnifying Party a written notice ('Claim Notice") describing in reasonable detail the nature of the Third Party Claim, a copy of all papers served with respect to such claim (if any), and the basis of the Indemnified Party's

request for indemnification under this Agreement. Failure to provide such Claim Notice shall not affect the right of the Indemnified Party's indemnification hereunder, except to the extent the Indemnifying Party demonstrates actual and material prejudice as a result of such failure. The Indemnifying Party shall have the right to defend the Indemnified Party against such Third Party Claim provided that the Indemnifying Party has acknowledged in writing its obligation to fully indemnify the Indemnified Party with respect to such Third Party Claim pursuant to this Section 10.01.

(e) If the Indemnifying Party notifies the Indemnified Party that the Indemnifying Party elects to assume the defense of the Third Party Claim, then the Indemnifying Party shall have the right to defend such Third Party Claim with counsel selected by the Indemnifying Party, who is reasonably acceptable to the Indemnified Party, by all appropriate proceedings, which proceedings shall be prosecuted reasonably diligently by the Indemnifying Party to a final conclusion or settled at the discretion of the Indemnifying Party in accordance with this Section 10.01(e), *provided*, *however*, that the Indemnifying Party shall not consent to the entry of a judgment or enter into any settlement with respect to the matter (i) (A) which does not contain a complete release of all Indemnified Parties, (B) contains a finding of responsibility or liability on the part of any Indemnified Party or the violation of any applicable legal requirement, (C) provides any material sanction or material restriction upon the conduct of any business by any Indemnified Party, or (D) provides for any relief other than monetary damages which are paid in full by the Indemnifying Party , or (ii) without the prior written consent of the Indemnified Party. If requested by the Indemnifying Party, the Indemnified Party agrees, at the sole cost and expense of the Indemnifying Party, to reasonably cooperate with the Indemnifying Party and its counsel in contesting any Third Party Claim which the Indemnifying Party elects to contest, including the making of any related counterclaim against the Person asserting the Third Party Claim or any cross complaint against any person. The Indemnified Party may participate in, but not control, any defense or settlement of any Third Party Claim controlled by the Indemnifying Party pursuant to this Section 10.01, and the Indemnified Party shall bear its own costs and expenses with respect to such participation; *provided*, *however*, that if in the opinion of counsel of the Indemnified Party there is a reasonable likelihood of a conflict of interest between the Indemnifying Party and the Indemnified Party, the Indemnifying Party shall bear the reasonable costs and expenses of one counsel to the Indemnified Party in connection with such defense. Notwithstanding the foregoing, the Indemnifying Party shall not be entitled to assume the defense of any Third Party Claim if the Third Party Claim seeks an order, injunction or other equitable relief or relief for other than money damages against the Indemnified Party that the Indemnified Party reasonably determines, after conferring with its outside counsel, cannot be separated from any related claim for money damages.

(f) If the Indemnifying Party fails to notify the Indemnified Party within the thirty (30) days after receipt of any Claim Notice that the Indemnifying Party elects to defend the Indemnified Party pursuant to Section 10.01(e), or if the Indemnifying Party elects to defend the Indemnified Party pursuant to Section 10.01(e) but fails to reasonably diligently defend or settle the Third Party Claim, then the Indemnified Party shall have the right to defend the Third Party Claim by all appropriate proceedings, which proceedings shall be promptly and vigorously defended by the Indemnified Party to a final conclusion or settled (with the reasonable costs and expenses of such defense borne by the Indemnifying Party). The Indemnified Party shall have full control of such defense and proceedings; *provided*, *however*, that the Indemnified Party may

not enter into any compromise or settlement of such Third Party Claim if indemnification is to be sought hereunder, without the Indemnifying Party's consent, which shall not be unreasonably withheld or delayed. The Indemnifying Party may participate in, but not control, any defense or settlement controlled by the Indemnified Party pursuant to this Section 10.01(f), and the Indemnifying Party shall bear its own costs and expenses with respect to such participation.

(g) The parties agree to treat all indemnification payments made under this Section 10.01 or otherwise under this Agreement as an adjustment to the Share Purchase Price or as capital contributions for Tax purposes.

SECTION 10.02. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by fax, by a recognized overnight courier service or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 10.02):

if to the Investor:

Invus, L.P.
c/o The Invus Group, L.L.C.
750 Lexington Avenue (30th Floor)
New York, New York 10022
Attention: Mr. Ray Debbane
Mr. Christopher Sobecki

with a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, NY 10017
Fax: (212) 455-2502
Attention: Mr. Robert Spatt
Mr. Peter Malloy

if to the Company:

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: Executive Vice President and Chief Executive Officer
Fax: (281) 863-8095

with copies to each of:

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381

Attn: Executive Vice President and General Counsel
Fax: (281) 863-8010

and

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: President and Chief Financial Officer
Fax: (281) 863-8095

and

Vinson & Elkins L.L.P.
First City Tower
1001 Fannin Street, Suite 2500
Houston, TX 77002-6760
Attn: Mr. David Palmer Oelman
Fax: (713) 615-5861

SECTION 10.03. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the Transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the Transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 10.04. Entire Agreement; Assignment. This Agreement, the Confidentiality Agreement and the Ancillary Agreements constitute the entire agreement between the parties with respect to the subject matter hereof and thereof and supersede, except as set forth in Section 7.03(b), all prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof and thereof. This Agreement shall not be assigned by operation of Law or otherwise without the express written consent of the parties hereto (which consent may be granted to withheld in the sole discretion of any party) and any such assignment or attempted assignment without such consent shall be void; *provided*, *however*, that the Investor may assign its right, title and interest under this Agreement to one or more subsidiaries, or to any corporation, partnership or limited liability company that is an affiliate of the Investor; *provided*, *further*, that no such assignment shall relieve the Investor of any of its obligations hereunder.

SECTION 10.05. Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

SECTION 10.06. Specific Performance. The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

SECTION 10.07. Governing Law. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of New York. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined exclusively in any New York state or federal court, in each case sitting in the Borough of Manhattan. The parties hereto hereby (a) submit to the exclusive jurisdiction of any New York state or federal court, in each case sitting in the Borough of Manhattan, for the purpose of any Action arising out of or relating to this Agreement brought by any party hereto, and (b) irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the Transactions contemplated hereby may not be enforced in or by any of the above-named courts.

SECTION 10.08. Waiver of Jury Trial. Each of the parties hereto hereby waives to the fullest extent permitted by applicable Law any right it may have to a trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Agreement or the Transactions contemplated hereby. Each of the parties hereto (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 that foregoing waiver and (b) acknowledges that it and the other parties hereto have been induced to enter into this Agreement and the Transactions contemplated hereby, as applicable, by, among other things, the mutual waivers and certifications in this Section 10.08.

SECTION 10.09. Delays or Omissions. It is agreed that no delay or omission to exercise any right, power or remedy accruing to any party, upon any breach, default or noncompliance by another party under this Agreement, shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach, default or noncompliance, or any acquiescence therein, or of or in any similar breach, default or noncompliance thereafter occurring. It is further agreed that any waiver, permit, consent or approval of any kind or character on the Investor’s part of any breach, default or noncompliance under this Agreement or any waiver on such party’s part of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement, by law, or otherwise afforded to any party, shall be cumulative and not alternative.

SECTION 10.10. Interpretation. The words “hereof”, “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. When reference is made in this Agreement to an Article or a Section, such reference shall be to an Article or Section of this Agreement, unless otherwise indicated. The table of contents, table of defined terms and headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. The language used in this Agreement shall be deemed to be the

language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation."

SECTION 10.11. Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, and by the parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

[signature page follows]

IN WITNESS WHEREOF, the Investor and the Company have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

COMPANY:

LEXICON PHARMACEUTICALS, INC.,
a Delaware limited liability company

By /s/ Arthur T. Sands
Name: Arthur T. Sands, M.D., Ph.D.
Title: President and Chief Executive Officer

INVESTOR:

INVUS, L.P.,
a Bermuda limited partnership

By /s/ Raymond Debbane
Name: Raymond Debbane
Title: President of Invus Advisors, LLC,
its General Partner

[Signature Page to Stock Purchase Agreement]

EXHIBIT D

SECOND CERTIFICATE OF AMENDMENT

TO

RESTATED CERTIFICATE OF INCORPORATION

OF

LEXICON PHARMACEUTICALS, INC.

LEXICON PHARMACEUTICALS, INC. (the "Corporation"), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware ("DGCL"), hereby certifies as follows pursuant to Section 242 of the DGCL:

FIRST: That at a meeting of the Board of Directors of the Corporation, resolutions were duly adopted setting forth a proposed amendment of the Corporation's Restated Certificate of Incorporation, as amended, declaring such amendment to be advisable and calling a meeting of the Corporation's stockholders for consideration thereof. The resolution setting forth the proposed amendment is as follows:

> RESOLVED that, subject to the approval of the stockholders of the Corporation, the Corporation's restated certificate of incorporation, as amended, be further amended by changing Section 4.01(a) of Article IV thereof so that, as amended, such Section shall be and read as follows:
>
> > "(a) The total number of shares of stock that the Corporation shall have the authority to issue is 255,000,000 shares of capital stock, consisting of (i) 5,000,000 shares of preferred stock, par value $0.01 per share (the "Preferred Stock"), and (ii) 250,000,000 shares of common stock, par value $0.001 per share (the "Common Stock")."

SECOND: That thereafter, pursuant to a resolution of its Board of Directors, a special meeting of the Corporation's stockholders was duly called and held upon notice in accordance with the provisions of Section 222 of the DGCL, at which meeting the necessary number of shares as required by applicable law were voted in favor of such amendment.

THIRD: That such amendment was duly adopted in accordance with the provisions of Section 242 of the DGCL.

IN WITNESS WHEREOF, the Corporation has caused this Second Certificate of Amendment to be signed by Jeffrey L. Wade, its Executive Vice President and General Counsel, this ___ day of __________, 2007.

LEXICON PHARMACEUTICALS, INC.

By: ____________________________________

Jeffrey L. Wade
Executive Vice President and General Counsel

EXHIBIT E

MATTERS TO BE COVERED IN OPINION OF
COUNSEL TO THE COMPANY
TO BE DELIVERED TO INVESTORS

1. The Company has been duly incorporated and is validly existing and in good standing under the laws of the State of Delaware. The Company has the requisite corporate power and authority to enter into the Securities Purchase Agreement and the Ancillary Agreements and to perform its obligations thereunder.

2. The execution, delivery and performance of the Securities Purchase Agreement and each Ancillary Agreement have been duly authorized by all necessary corporate action of the Company, each such agreement has been duly executed and delivered by the Company.

3. The [Initial Shares and the Warrant Shares][Rights and the Rights Shares] have been duly authorized by all necessary corporate action of the Company and the [Initial Shares and the Warrant Shares][Rights and the Rights Shares] have been, or upon issuance, delivery and payment therefor in accordance with the provisions of the Securities Purchase Agreement will be, validly issued, fully paid and non-assessable and not subject to preemptive rights arising under the Certificate of Incorporation, the By-Laws or the DGCL.

4. Assuming the truthfulness of the representations of the Investor and the Company set forth in the Securities Purchase Agreement, the Warrant Shares and the Initial Shares, upon issuance, delivery and payment therefor in accordance with the provisions of the Securities Purchase Agreement, will be issued in a transaction exempt from the registration requirements of the Securities Act.

5. The execution and delivery of the Securities Purchase Agreement and each of the Ancillary Agreements do not, and the performance by the Company of its obligations thereunder, including the issuance of the Warrant Shares, the Initial Shares and the Rights Shares, will not:

(i) conflict with or violate the Certificate of Incorporation or By-laws of the Company [or any statute, rule or regulation that is specifically applicable to the Company solely by virtue of the nature of its business, and/or its specific assets or property][2] or any order, writ, judgment or decree known to us to which the Company is subject; or

(ii) require any consent or approval under, result in any breach of or constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, or give to others any right of termination, amendment, acceleration or cancellation of, or give to others a right to require any payment to be made under, or result in the creation of a lien or other encumbrance on any property or asset of the Company or any Subsidiary pursuant to, any note, bond,

---

2 Bracketed opinion language to be given by internal counsel

mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation filed as an exhibit to the Company's Annual Report on Form 10-K for the year ended December 31, 2006.

6. No vote or approval of the holders of any class or series of capital stock or other Equity Interests of the Company is required under the DGCL or the rules of Nasdaq with respect to the approval of the Charter Amendment, the issuance of the Warrant Shares, the Initial Shares, the Rights and Rights Shares and any other matters relating to the Transactions, except for (i) approval of the Charter Amendment by the affirmative vote of the holders of a majority of the outstanding shares of Company Common Stock entitled to vote thereon and (ii) approval of the issuance of the Initial Shares and the Rights Shares by the affirmative vote of the holders of a majority of the votes cast at the Stockholders' Meeting at which a quorum is present.

7. The Charter Amendment has become effective in accordance with the provisions of the DGCL.

8. Each of the [First][Second] Rights Offering Registration Statement, as of the date it first became effective under the Securities Act, and the prospectus related thereto as of ___________ ___, 200_, in each case other than financial statements and other financial data and schedules which are or should be contained therein, as to which we express no opinion, appeared on its face, to comply as to form, in all material respects, to the requirements of the Securities Act.

[Opinion to include other opinions in connection with the First Rights Offering Closing or the Second Rights Offering Closing covering matters customary for registered offerings of securities, in form and substance reasonably satisfactory to the Investor.]

Exhibit 10.2

WARRANT AGREEMENT

Dated as of June 17, 2007

among

Lexicon Pharmaceuticals, Inc.

and

Invus, L.P.

TABLE OF CONTENTS

	Page
SECTION 1. Definitions	1
SECTION 2. Issuance of Warrants	4
SECTION 3. Registration	4
SECTION 4. Registration of Transfers and Exchanges	5
SECTION 5. Warrants; Exercise of Warrants	6
SECTION 6. Payment of Taxes	7
SECTION 7. Mutilated or Missing Warrant Certificates	7
SECTION 8. Reservation of Warrant Shares	7
SECTION 9. Adjustment of Exercise Price and Number of Warrant Shares Issuable	8
SECTION 10. Standstill	14
SECTION 11. Furnishing of Information	15
SECTION 12. Fractional Interests	15
SECTION 13. Notices to Warrant Holders	16
SECTION 14. Notices to the Company and Warrant Holders	17
SECTION 15. Supplements and Amendments	18
SECTION 16. Assignment	18
SECTION 17. Successors and Assigns	19
SECTION 18. Termination	19
SECTION 19. Governing Law	19
SECTION 20. Benefits of This Agreement	19
SECTION 21. Interpretation	19
SECTION 22. Counterparts	20

WARRANT AGREEMENT

WARRANT AGREEMENT (the "Agreement") dated as of June 17, 2007 among Lexicon Pharmaceuticals, Inc., a Delaware corporation (the "Company"), and Invus, L.P., a Bermuda limited partnership or its permitted assigns (the "Investor").

WHEREAS, the Company proposes to issue to the Investor warrants (the "Warrants") to purchase 16,498,353 shares (the "Warrant Shares") of common stock, par value $0.001 of the Company (the "Company Common Stock"), at a per share purchase price equal to $3.0915, subject to adjustment as provided herein (the "Exercise Price");

WHEREAS, concurrently with the execution and delivery of this Agreement, the Company and the Investor will enter into (a) a securities purchase agreement, dated as of the date hereof (the "Securities Purchase Agreement"), upon the terms and subject to the conditions of which, (i) the Company will issue and sell to the Investor, and the Investor will purchase, a number of shares of Company Common Stock, together with any shares already owned by the Investor and its affiliates (including those issued upon exercise of any Warrants), equal to 40% of the outstanding shares of Company Common Stock and (ii) the Investor will have the right to cause the Company to conduct up to two offering of rights to acquire Company Common Stock, (b) a registration rights agreement (the "Registration Rights Agreement) providing for certain registration rights with respect to the Company Common Stock issuable pursuant to the Purchase Agreement and upon the exercise of the Warrants, and (c) a stockholders agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the Investor and the Company hereby agree as follows:

SECTION 1. Definitions.

(a) For purposes of this Agreement:

"Acquisition Proposal" means any inquiry, proposal or offer from any person relating to (i) any direct or indirect acquisition or purchase, in one transaction or a series of related transactions, of assets (including equity securities of any subsidiary of the Company) or businesses that constitute 20% or more of the revenues, net income or assets of the Company and its subsidiaries, taken as a whole, or 20% or more of any class of equity securities of the Company, (ii) any tender offer or exchange offer that if consummated would result in any person beneficially owning 20% or more of any class of equity securities of the Company, or (iii) any merger, consolidation, business combination, recapitalization, liquidation, dissolution, joint venture, share exchange or similar transaction involving the Company or any of its subsidiaries pursuant to which any person or the stockholders of any person would beneficially own 20% or more of any class of equity securities of the Company or of any resulting parent company of the Company, in each case other than the Transactions (as such term is defined in the Securities Purchase Agreement).

"Action" means any litigation, suit, claim, action, formal complaint, prosecution, indictment, formal investigation, arbitration or proceeding, whether civil, criminal or administrative.

"affiliate" shall mean, with respect to any person, a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified person.

"business day" means any day that is not a Saturday or a Sunday and on which the principal offices of the SEC in Washington, D.C. are open to accept filings, or, in the case of determining a date when any payment is due, any day that is not a Saturday or a Sunday and on which banks are not authorized to close in New York City.

"Certificate of Incorporation" means the Restated Certificate of Incorporation of the Company, dated as of April 5, 2000, as amended from time to time.

"Commission" means the Securities and Exchange Commission.

"control," when used with respect to any person, means the possession, directly or indirectly, or as trustee or executor, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, as trustee or executor, by contract, credit arrangement or otherwise; including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such person.

"Current Market Value" per share of Company Common Stock or of any other security at any date shall be (i) if the Security is registered under the Exchange Act, the average of the daily Market Prices for each business day during the period commencing 15 business days before such date and ending on the date one day prior to such date or, if the Security has been registered under the Exchange Act for less than 15 consecutive business days before such date, then the average of the daily Market Prices for all of the business days before such date for which daily Market Prices are available. If the Market Price is not determinable for at least 10 business days in such period, the Current Market Value of the Security shall be determined as if the Security was not registered under the Exchange Act, or (ii) if the Security is not registered under the Exchange Act, (i) the value of the Security determined in good faith by the Board of Directors of the Company and certified in a board resolution, based on the most recently completed arm's length transaction between the Company and a person other than an affiliate of the Company in which such determination is necessary and the closing of which occurs on such date or shall have occurred within the six months preceding such date, (ii) if no such transaction shall have occurred on such date or within such six-month period, the value of the Security most recently determined as of a date within the six months preceding such date by an Independent Financial Expert or (iii) if neither clause (i) nor (ii) is applicable, the value of the Security determined as of such date by an Independent Financial Expert.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Independent Financial Expert" shall mean a nationally recognized investment banking firm designated by the Company and reasonably acceptable to the Holders of a majority of the Warrants (a) that does not (and whose directors, officers, employees and affiliates do not) have a direct or indirect material financial interest in the Company, (b) that has not been, and, at

the time it is called upon to serve as an Independent Financial Expert under this Agreement is not (and none of whose directors, officers, employees or affiliates is) a promoter, director or officer of the Company, (c) that has not been retained by the Company or any Holder or affiliate of a Holder for any purpose, other than to perform an equity valuation, within the preceding twelve months, and (d) that, in the reasonable judgment of the Board of Directors of the Company, is otherwise qualified to serve as an independent financial advisor. Any such person may receive customary compensation and indemnification by the Company for opinions or services it provides as an Independent Financial Expert.

"Initial Closing" means the closing of the issuance, purchase and sale of the Initial Shares (as such term is defined in the Securities Purchase Agreement) as contemplated by the Securities Purchase Agreement.

"Law" means any statute, law (including common law), ordinance, regulation, rule, code, executive order, injunction, judgment, decree or other order issued or promulgated by any national, supranational, state, federal, provincial, local or municipal government or any administrative or regulatory body with authority therefrom with jurisdiction over the Company or the Investor, as the case may be (including any requirements under the the General Corporation Law of the State of Delaware, as in effect from time to time, and the Exchange Act).

"Market Price" for any Security on each business day means (a) if such Security is listed or admitted to trading on any securities exchange, the closing price, regular way, on such day on the principal exchange on which such Security is traded, or if no sale takes place on such day, the average of the closing bid and asked prices on such day, (b) if such Security is not then listed or admitted to trading on any securities exchange, the last reported sale price on such day, or if there is no such last reported sale price on such day, the average of the closing bid and the asked prices on such day, as reported by a reputable quotation source designated by the Company, or (c) if neither clause (a) nor (a) is applicable, the average of the reported high bid and low asked prices on such day, as reported by a reputable quotation service, or a newspaper of general circulation in the Borough of Manhattan, City of New York, customarily published on each business day, designated by the Company. If there are no such prices on a business day, then the Market Price shall not be determinable for such business day.

"Nasdaq Regulation" means the rules and regulations of the Nasdaq Stock Market or any other applicable securities exchange on which the Company Common Stock is then listed.

"Representative" means, as to any person, such person's affiliates and its and their directors, officers, employees, agents, advisors (including financial advisors, counsel and accountants) and such person's financing sources.

"Security" means shares of Company Common Stock or of any other security.

"subsidiary" or "subsidiaries" of any person means any corporation, partnership, limited liability company, joint venture, association or other legal entity of which such person (either alone or together with any other subsidiary) owns, directly or indirectly, more than 50% of the stock or other equity interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such corporation or other legal entity.

(b) The following terms have the meaning set forth in the Sections set forth below:

Defined Term	Location of Definition
Agreement	Preamble
Company Common Stock	Recitals
Company	Preamble
Consideration	§ 9(c)
Exercise Payment	§ 5(d)
Exercise Period	§ 5(c)
Exercise Price	Recitals
Holders	§ 2
Investor	Preamble
Offer	§ 9(k)
Offer Period	§ 9(k)
Permitted Transferees	§ 4(a)
Per Share Consideration	§ 9(k)
Purchase Date	§ 9(k)
Registration Rights Agreement	Recitals
Reorganizations	§ 9(h)
Securities Purchase Agreement	Recitals
Transfer Agent	§ 8(b)
Warrant Certificates	§ 2
Warrant Number	§ 9
Warrant Register	§ 2
Warrants	Recitals
Warrant Shares	Recitals

SECTION 2. Issuance of Warrants. Immediately upon execution and delivery hereof, the Company shall issue and deliver to the Investor certificates evidencing the Warrants (the "Warrant Certificates"). The Warrant Certificates (a) shall be in registered form, numbered sequentially, and shall be substantially in the form set forth as Appendix A and (b) shall be dated the date of issuance by the Company. The Warrant Certificates shall be signed on behalf of the Company by its Chairman of the Board of Directors of the Company or its Chief Executive Officer, President or a Vice President and by the Secretary or an Assistant Secretary of the Company under the Company's corporate seal. The seal of the Company may be in the form of a facsimile thereof and may be impressed, affixed, imprinted or otherwise reproduced on the Warrant Certificates.

SECTION 3. Registration. Upon issuance of the Warrant Certificates, the Company shall number and register the Warrant Certificates in a register (the 'Warrant Register"), which

shall be kept at the Company's principal office and shall record the registered holder(s) of the Warrant Certificates (the "Holders"). The Warrants shall be registered initially in such name or names as the Investor shall designate.

SECTION 4. Registration of Transfers and Exchanges.

(a) Without the prior approval of the Unaffiliated Board (as such term is defined in the Securities Purchase Agreement), the Warrants may not be transferred by the Investor to any person, except to one or more of the Investor's subsidiaries, or to any corporation, partnership or limited liability company that is an affiliate of the Investor (such persons, collectively, the "Permitted Transferees"), and any transfer or attempted transfer without such consent shall be void. Notwithstanding the foregoing, this Agreement shall not restrict the transfer of any Warrant Shares.

(b) Prior to any proposed transfer of the Warrants as permitted by this Section 4, the transferring Holder will deliver to the Company a Certificate of Transfer in the form attached to the Warrant Certificate and, if so requested by the Company, such other information relating to the proposed transfer and the identity of the proposed transferee as the Company may reasonably request in order to confirm that the Warrants may be sold or otherwise transferred in the manner proposed. Upon original issuance thereof, and until such time as the same shall have been registered under the Securities Act or sold pursuant to Rule 144 promulgated thereunder (or any similar rule or regulation) each Warrant Certificate shall bear a legend in substantially the following form:

THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SECURITIES GENERALLY MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR PURSUANT TO AN APPLICABLE EXEMPTION FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT.

(c) The Company shall from time to time promptly register the transfer of any outstanding Warrant Certificates in the Warrant Register upon surrender thereof accompanied by a written instrument or instruments of transfer, duly executed by the registered Holder or Holders thereof or by the duly appointed legal representative thereof or by a duly authorized attorney. Upon any such registration of transfer, a new Warrant Certificate shall be issued to the transferee(s) and the surrendered Warrant Certificate shall be canceled and disposed of by the Company.

(d) Warrant Certificates may be exchanged at the option of the Holder(s) thereof, when surrendered to the Company at its office for another Warrant Certificate or other Warrant Certificates of like series and tenor and representing in the aggregate a like number of Warrants. The Warrant Certificates surrendered for exchange shall be canceled and disposed of by the Company.

(e) The Holders of the Warrants are entitled to certain registration rights with

respect to the Company Common Stock issuable upon the exercise thereof, which are set forth in the Registration Rights Agreement. By accepting a Warrant Certificate issued pursuant to this Agreement, the Holder agrees that upon exercise of some or all of the Warrants evidenced by such Warrant Certificate, such Holder will be bound by the Registration Rights Agreement as a holder of Registrable Securities thereunder. A copy of the Registration Rights Agreement may be obtained upon written request to the Company.

SECTION 5. Warrants; Exercise of Warrants.

(a) Subject to the terms of this Agreement, each Holder shall have the right, which may be exercised at any time or from time to time during the applicable Exercise Period to receive from the Company the number of fully paid and nonassessable Warrant Shares (and such other consideration) which the Holder may at the time be entitled to receive upon the exercise of such Warrants and payment of the Exercise Price.

(b) Each Warrant may be exercised in full or from time to time in part and, in the event that a Warrant is exercised in respect of fewer than all of the Warrant Shares issuable on such exercise at any time prior to the expiration of the Exercise Period, a new certificate evidencing the remaining Warrant or Warrants shall be issued and delivered pursuant to the provisions of this Section 5 and Section 2 hereof. The Warrants shall become void and all rights and obligations thereunder and all rights in respect thereof under this Agreement shall cease (i) to the extent the Warrants are not exercised during the Exercise Period or (ii) upon the occurrence of the Initial Closing under the Securities Purchase Agreement.

(c) The period during which the Warrants shall be exercisable (the "Exercise Period") shall commence on the date hereof and expire at 5:00 p.m. N.Y. time, on the date of the earliest to occur of:

(i) the Initial Closing;

(ii) the date that is thirty (30) business days following the Stockholders' Meeting (as defined in the Securities Purchase Agreement) at which a vote on the transactions contemplated by the Securities Purchase Agreement is taken, so long as the Company has not materially breached its representations, warranties or covenants under the Securities Purchase Agreement, the Board of Directors of the Company has not made a Recommendation Change (as defined in the Securities Purchase Agreement), no Person has consummated, announced or made public any Acquisition Proposal and the Board of Directors of the Company has not approved or recommended, or proposed to approve or recommend, any Acquisition Proposal;

(iii) the date that is three (3) years following the termination of the Securities Purchase Agreement other than due to a material breach thereof by the Investor;

(iv) the date that is nine (9) months following the Stockholders Meeting if, prior thereto, the Board of Directors of the Company has made a Recommendation Change or any Person has consummated, announced or made

public any Acquisition Proposal, so long as the Company has not materially breached its representations, warranties or covenants under the Securities Purchase Agreement; or

(v) the termination of the Securities Purchase Agreement due to a material breach thereof by the Investor.

(d) The Warrants may be exercised upon surrender to the Company (at its office address set forth in Section 14 hereof) of the Warrant Certificates with the form of election to purchase attached thereto duly filled in and signed, and upon payment to the Company of an amount (the "Exercise Payment") equal to the Exercise Price multiplied by the number of Warrant Shares being purchased pursuant to such exercise, payable in cash, by wire transfer, of the Exercise Payment to an account designated by the Company.

(e) Subject to the provisions of Section 6 hereof, upon such surrender of the Warrant Certificates and payment of the Exercise Price, the Company shall issue and cause to be delivered with all reasonable dispatch to or upon the written order of the Holders and in such name or names as such Holders may designate a certificate or certificates for the number of full Warrant Shares issuable upon the exercise of the Warrants (and such other consideration as may be deliverable upon exercise of the Warrants) together with cash for fractional Warrant Shares as provided in Section 12. Such certificate or certificates shall be deemed to have been issued and the person so named therein shall be deemed to have become a holder of record of such Warrant Shares as of the date of the surrender of the Warrant Certificates and payment of the Exercise Payment, irrespective of the date of delivery of such certificate or certificates for Warrant Shares.

(f) Upon exercise of the Warrants, the Warrant Certificates shall be surrendered and shall be cancelled and disposed of by the Company. The Company shall keep copies of this Agreement and any notices given or received hereunder available for inspection by the Holders during normal business hours at its office.

SECTION 6. Payment of Taxes. The Company will pay all documentary stamp taxes and other governmental charges (excluding all foreign, federal or state income, franchise, property, estate, inheritance, gift or similar taxes) in connection with the issuance or delivery of the Warrant Certificates hereunder, as well as all such taxes attributable to the initial issuance or delivery of Warrant Shares upon the exercise of the Warrants and payment of the Exercise Price.

SECTION 7. Mutilated or Missing Warrant Certificates. If any Warrant Certificate or certificate evidencing Warrant Shares shall be mutilated, lost, stolen or destroyed, the Company shall issue, in exchange and substitution therefor and upon cancellation of the mutilated Warrant Certificate or other certificate, or in lieu of and substitution for the Warrant Certificate or other certificate lost, stolen or destroyed, a new Warrant Certificate or other certificate of like tenor and representing an equivalent number of Warrants or Warrant Shares.

SECTION 8. Reservation of Warrant Shares.

(a) The Company shall at all times reserve and keep available, free from preemptive rights, out of the aggregate of its authorized but unissued Company Common Stock or its authorized and issued Company Common Stock held in its treasury, for the purpose of

enabling it to satisfy any obligation to issue the Warrant Shares upon exercise of the Warrants, the maximum number of shares of Company Common Stock which may then be deliverable upon the exercise of all outstanding Warrants.

(b) The Company or, if appointed, the transfer agent for the Company Common Stock and each transfer agent for any shares of the Company's capital stock issuable upon the exercise of any of the Warrants (collectively, the "Transfer Agent") will be irrevocably authorized and directed at all times to reserve such number of authorized shares as shall be required for such purpose. The Company shall keep a copy of this Agreement on file with the Transfer Agent. The Company will supply the Transfer Agent with duly executed certificates for such purposes and will provide or otherwise make available all other consideration that may be deliverable upon exercise of the Warrants. The Company will furnish such Transfer Agent a copy of all notices of adjustments and certificates related thereto, transmitted to each Holder pursuant to Section 13 hereof.

(c) Before taking any action which would cause an adjustment pursuant to Section 9 hereof to reduce the Exercise Price below the then par value of the Warrant Shares, the Company shall take any corporate action which may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares at the Exercise Price as so adjusted.

(d) The Company covenants that all the Warrant Shares and other capital stock issued upon exercise of the Warrants will, upon payment of the Exercise Price therefor and issue, be validly authorized and issued, fully paid, nonassessable, free of preemptive rights and free from all taxes, liens, charges and security interests with respect to the issue thereof.

(e) The Company shall from time to time take all action which may be necessary or appropriate so that the Company Common Stock issuable upon conversion of the Warrant Shares following an exercise of the Warrants, will be listed on the Nasdaq Stock market and any other securities exchanges and markets, if any, on which other shares of the same class of Company Common Stock of the Company are then listed or admitted for quotation.

(f) The Company shall not by any action including, without limitation, amending its Certificate of Incorporation, any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of the Warrant, but shall at all times in good faith assist in the carrying out of all such terms and in the taking of all such action, as may be necessary or appropriate to protect the rights of the Holder against impairment. Without limiting the generality of the foregoing, the Company shall take all such action as may be necessary or appropriate in order that the Company may validly issue fully paid and nonassessable shares of Company Common Stock upon the exercise of this Warrant at the then Exercise Price therefor.

SECTION 9. Adjustment of Exercise Price and Number of Warrant Shares Issuable. The Exercise Price and the number of shares of Company Common Stock issuable upon the exercise of each Warrant (the "Warrant Number") are subject to adjustment from time to time upon the occurrence of the events enumerated in, or as otherwise provided in, this Section 9. The Warrant Number is initially one.

(a) Adjustment for Change in Capital Stock. If the Company:

(i) pays a dividend or makes a distribution on its Company Common Stock in shares of its Company Common Stock;

(ii) subdivides or reclassifies its outstanding shares of Company Common Stock into a greater number of shares;

(iii) combines or reclassifies its outstanding shares of Company Common Stock into a smaller number of shares;

(iv) makes a distribution on its Company Common Stock in shares of its capital stock other than Company Common Stock; or

(v) issues by reclassification of its Company Common Stock any shares of its capital stock;

then the Exercise Price in effect immediately prior to such action shall be proportionately adjusted so that the holder of any Warrant thereafter exercised may receive the aggregate number and kind of shares of capital stock of the Company which he or it would have owned immediately following such action if such Warrant had been exercised immediately prior to such action.

The adjustment shall become effective immediately after the record date in the case of a dividend or distribution and immediately after the effective date in the case of a subdivision, combination or reclassification.

If after an adjustment, a holder of a Warrant upon exercise of it would receive shares of two or more classes of capital stock of the Company, the Company shall determine the allocation of the adjusted Exercise Price between the classes of capital stock. After such allocation, the exercise privilege and the Exercise Price of each class of capital stock shall thereafter be subject to adjustment on terms comparable to those applicable to Company Common Stock in this Section 9.

Such adjustment shall be made successively whenever any event listed above shall occur. If the occurrence of any event listed above results in an adjustment under subsections (b) or (c) below, no further adjustment shall be made under this subsection (a).

(b) Adjustment for Rights Issue. If the Company distributes any rights, options or warrants (whether or not immediately exercisable) to all holders of its Company Common Stock entitling them to purchase shares of Company Common Stock at a price per share less than the Current Market Value per share within 60 days after the record date relating to such distribution, the Exercise Price shall be adjusted in accordance with the formula:

$$E' = E \times \frac{O + \frac{N \times P}{M}}{O + N}$$

where:

E’ = the adjusted Exercise Price.

E = the then current Exercise Price.

O = the number of shares of Company Common Stock outstanding on the record date for any such distribution.

N = the number of additional shares of Company Common Stock issuable upon exercise of such rights, options or warrants.

P = the exercise price per share of such rights, options or warrants.

M = the Current Market Value per share of Company Common Stock on the record date for any such distribution.

The adjustment shall be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the record date for the determination of stockholders entitled to receive the rights, options or warrants. If at the end of the period during which such rights, options or warrants are exercisable, not all rights, options or warrants shall have been exercised, the Exercise Price shall be immediately readjusted to what it would have been if “N” in the above formula had been the number of shares actually issued. No adjustment shall be required under this subsection (b) if at the time of such distribution the Company makes the same distribution to Holders of Warrants as it makes to holders of shares of Company Common Stock pro rata based on the number of shares of Company Common Stock for which such Warrants are exercisable (whether or not currently exercisable). No adjustment shall be made pursuant to this subsection (b) which shall be have the effect of decreasing the number of Warrant Shares purchasable upon exercise of each Warrant.

(c) Adjustment for Other Distributions. If the Company distributes to all holders of its Company Common Stock (i) any evidences of indebtedness of the Company or any of its subsidiaries, (ii) any cash or other assets of the Company or any of its subsidiaries, (iii) shares of its capital stock or any other properties or securities or (iv) any rights, options or warrants to acquire any of the foregoing or to acquire any other securities of the Company (the items described in the foregoing clauses (i)-(iv) being collectively referred to as the “Consideration”), the Exercise Price shall be adjusted in accordance with the formula:

$$E' = E \times \frac{M-F}{M}$$

where:

E’ = the adjusted Exercise Price.

E = the then current Exercise Price.

M = the Current Market Value per share of Company Common Stock on the record date mentioned below.

F = the fair market value on the record date mentioned below of the Consideration distributable to the holder of one share of Company Common Stock.

The adjustment shall be made successively whenever any such distribution is made and shall become effective immediately after the record date for the determination of stockholders

entitled to receive the distribution. If an adjustment is made pursuant to this subsection (c) as a result of the issuance of rights, options or warrants and at the end of the period during which any such rights, options or warrants are exercisable, not all such rights, options or warrants shall have been exercised, the Exercise Price shall be immediately readjusted as if "F" in the above formula was the fair market value on the record date of the indebtedness or assets actually distributed upon exercise of such rights, options or warrants divided by the number of shares of Company Common Stock outstanding on the record date. No adjustment shall be required under this subsection (c) if at the time of such distribution the Company makes the same distribution to Holders of Warrants as it makes to holders of shares of Company Common Stock pro rata based on the number of shares of Company Common Stock for which such Warrants are exercisable (weather or not currently exercisable). No adjustment shall be made pursuant to this subsection (c) which shall be have the effect of decreasing the number of Warrant Shares purchasable upon exercise of each Warrant.

This subsection does not apply to any distribution referred to in subsection (a) of this Section 9 or to rights, options or warrants referred to in subsection (b) of this Section 9.

(d) When De Minimis Adjustment May Be Deferred No adjustment in the Exercise Price need be made unless the adjustment would require an increase or decrease of at least 1% in the Exercise Price. No adjustment in the Warrant Number need be made unless the adjustment would require an increase or decrease of at least 0.5% in the Warrant Number. Any adjustments that are not made shall be carried forward and taken into account in any subsequent adjustment, provided that no such adjustment shall be deferred beyond the date on which a Warrant is exercised.

All calculations under this Section 9 shall be made to the nearest 1/1000th of a share.

(e) When No Adjustment Required. If an adjustment is made upon the establishment of a record date or issuance date for a distribution or issuance subject to subsections (a), (b) or (c) hereof and such distribution or issuance is subsequently cancelled, the Warrant Number then in effect shall be readjusted, effective as of the date when the Board of Directors of the Company determines to cancel such distribution, to that which would have been in effect if such record date had not been fixed.

To the extent the Warrants become convertible into cash, no adjustment need be made thereafter as to the amount of cash into which such Warrants are exercisable. Interest will not accrue on the cash.

(f) Notice of Adjustment. Whenever the Exercise Price or the Warrant Number is adjusted, the Company shall provide the notices required by Section 13 hereof.

(g) When Issuance or Payment May Be Deferred In any case in which this Section 9 shall require that an adjustment in the Exercise Price and Warrant Number be made effective as of a record date for a specified event, the Company may elect to defer until the occurrence of such event (i) issuing to the Holder of any Warrant exercised after such record date the Warrant Shares and other capital stock of the Company, if any, issuable upon such exercise

over and above the Warrant Shares and other capital stock of the Company, if any, issuable upon such exercise on the basis of the Warrant Number prior to such adjustment, and (ii) paying to such Holder any amount in cash in lieu of a fractional share pursuant to Section 12; *provided*, *however*, that the Company shall deliver to such Holder a due bill or other appropriate instrument evidencing such Holder's right to receive such additional Warrant Shares, other capital stock and cash upon the occurrence of the event requiring such adjustment.

(h) Reorganizations. In case of any capital reorganization, other than in the cases referred to in Sections 9(a), (b) or (c) hereof, or the consolidation or merger of the Company with or into another corporation (other than a merger or consolidation which does not result in any reclassification of the outstanding shares of Company Common Stock into shares of other stock or other securities or property) (collectively such actions being hereinafter referred to as "Reorganizations"), there shall thereafter be deliverable upon exercise of any Warrant (in lieu of the number of shares of Company Common Stock theretofore deliverable) the number of shares of stock or other securities or property to which a holder of the number of shares of Company Common Stock that would otherwise have been deliverable upon the exercise of such Warrant would have been entitled upon such Reorganization if such Warrant had been exercised in full immediately prior to such Reorganization. In case of any Reorganization, appropriate adjustment, as determined in good faith by the Board of Directors of the Company, whose determination shall be described in a duly adopted resolution certified by the Company's Secretary or Assistant Secretary, shall be made in the application of the provisions herein set forth with respect to the rights and interests of Holders so that the provisions set forth herein shall thereafter be applicable, as nearly as possible, in relation to any shares or other property thereafter deliverable upon exercise of Warrants.

The Company shall not effect any such Reorganization unless prior to or simultaneously with the consummation thereof the successor corporation (if other than the Company) resulting from such Reorganization or other appropriate corporation or entity shall expressly assume, by a supplemental Warrant Agreement or other acknowledgement executed and delivered to the Holder(s), the obligation to deliver to each such Holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such Holder may be entitled to purchase, and all other obligations and liabilities under this Agreement.

(i) Adjustment in Number of Shares. Upon each adjustment of the Exercise Price pursuant to this Section 9, each Warrant outstanding prior to the making of the adjustment in the Exercise Price shall thereafter evidence the right to receive upon payment of the adjusted Exercise Price that number of shares of Company Common Stock (calculated to the nearest thousandth) obtained from the following formula:

$$N' = N \times \frac{E}{E'}$$

where:

N' = the adjustment number of Warrant Shares issuable upon exercise of a Warrant by payment of the adjusted Exercise Price.

N = the number of Warrant Shares previously issuable upon exercise of a Warrant by payment of the Exercise Price prior to adjustment.

E’ = the adjusted Exercise Price.

E = the Exercise Price prior to adjustment.

(j) Adjustments in Other Securities. If as a result of any event or for any other reason, any adjustment is made which increases the number of shares of Company Common Stock issuable upon conversion, exercise or exchange of, or in the conversion or exercise price or exchange ratio applicable to, any outstanding securities of the Company that are convertible into, or exercisable or exchangeable for, Company Common Stock of the Company, then a corresponding adjustment shall be made hereunder to increase the number of shares of Company Common Stock issuable upon exercise of the Warrants, but only to the extent that no such adjustment has been made pursuant to Sections 9(a), (b) or (c) hereof with respect to such event or for such other reason.

(k) Tender Offers; Exchange Offers. In the event that the Company or any subsidiary of the Company shall purchase shares of Company Common Stock pursuant to a tender offer or an exchange offer for a price per share of Company Common Stock that is greater than the then Current Market Value per share of shares of Company Common Stock in effect at the end of the trading day immediately following the day on which such tender offer or exchange offer expires, then the Company, or such subsidiary of the Company, shall, within (10) business days of the expiry of such tender offer or exchange offer, offer to purchase the Warrants for comparable consideration per share of Company Common Stock based on the number of shares of Company Common Stock which the Holders of such Warrants would receive upon exercise of such Warrants (the “Offer”) (such amount less the Exercise Price in respect of such share, the “Per Share Consideration”); *provided*, *however*, if a tender offer is made for only a portion of the outstanding shares of Company Common Stock, then such offer shall be made for such shares of Company Common Stock issuable upon exercise of the Warrants in the same pro rata proportion; *provided*, *further*, that the Company shall not be required to make such an Offer if the Per Share Consideration is an amount less than the then-existing Exercise Price per share.

The Offer shall remain open for a period of twenty (20) business days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the “Offer Period”). No later than five (5) business days after the termination of the Offer Period (the “Purchase Date”), the Company shall purchase such Warrants for the applicable Per Share Consideration.

(l) Other Events. If any event shall occur as to which the other provisions of this Section 9 are not strictly applicable but the failure to make any adjustment would have the effect of depriving holders of the benefit of all or a portion of the exercise rights in respect of any Warrant in accordance with the essential intent and principles of this Section 9, then, in each such case, the Company shall appoint an Independent Financial Expert, which shall give its opinion upon the adjustment, if any, on a basis consistent with the essential intent and principles established in this Section 9 necessary to preserve, without dilution, such exercise rights. Upon receipt of such opinion, the Company will promptly mail a copy thereof to the Holders and shall make the adjustments described therein.

(m) Miscellaneous. For purpose of this Section 9 the term “shares of Company

Common Stock" shall mean (i) shares of any class of stock designated as Company Common Stock of the Company at the date of this Agreement, and (ii) shares of any other class of stock resulting from successive changes or reclassification of such shares consisting solely of changes in par value, or from par value to no par value, or from no par value to par value. In the event that at any time, as a result of an adjustment made pursuant to this Section 9, the holders of Warrants shall become entitled to purchase any securities of the Company other than, or in addition to, shares of Company Common Stock, thereafter the number or amount of such other securities so purchasable upon exercise of each Warrant shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Warrant Shares contained in subsections (a) through (l) of this Section 9, inclusive, and the provisions of Sections 5, 6 and 8 with respect to the Warrant Shares or the Company Common Stock shall apply on like terms to any such other securities.

SECTION 10. Standstill.

(a) The Investor agrees that, from and after the date of this Agreement, it will not, without the prior approval of the Unaffiliated Board (as such term is defined in the Securities Purchase Agreement), directly or indirectly:

(i) acquire, directly or indirectly, beneficial ownership of any shares of Company Common Stock, other than upon the exercise of the Warrants.

(ii) make or participate, directly or indirectly, in any "solicitation" of "proxies" (as such terms are used in the rules of the Commission) to vote any voting securities of the Company or any subsidiary thereof; *provided, however,* that the prohibition in this Section 10 shall not apply to solicitations exempted from the proxy solicitation rules by Rule 14a-2 under the Exchange Act or any successor provision;

(iii) submit to the Board of Directors of the Company a written proposal (with or without conditions) for, any merger, recapitalization, reorganization, business combination or other extraordinary transaction, in each case involving an acquisition of the Company or any subsidiary thereof or any of their securities or assets by the Investor or its affiliates, or make any public announcement with respect to such a proposal or offer if it would reasonably be expected that the Company would conclude that it would have to make a public announcement of such proposal;

(iv) enter into any discussions, negotiations, arrangements or understandings with any third party (other than any person that would be a Permitted Transferee) with respect to any of the foregoing, or otherwise form, join or in any way engage in discussions relating to the formation of, or participation in, a group with any third party (other than any person that would be a Permitted Transferee), in connection with any of the foregoing; or

(v) request the Company or any of its Representatives, directly or

indirectly, to amend or waive any provision of this paragraph (including this sentence);

provided, however, that none of the foregoing shall (A) prevent the Investor from transferring any Warrants, Warrant Shares or other shares of Company Common Stock held by it or voting its shares of Company Common Stock; (B) apply to or restrict any discussions or other communications between or among directors, members, officers, employees or agents of any member of the Investor or any affiliate thereof; (C) prohibit the Investor from soliciting, offering, seeking to effect or negotiating with any person with respect to transfers Warrants, Warrant Shares or other shares of Company Common Stock or (D) restrict any disclosure or statements required to be made by any Holder under applicable Law or Nasdaq Regulation.

(b) Termination of Standstill. The provisions of Section 10 shall automatically terminate on the earliest to occur of:

(i) the one-year anniversary of the first date on which any Warrants shall have been exercised;

(ii) the date on which the shares of Company Common Stock beneficially owned by the Investor and its affiliates represent less than 10% of the aggregate number of shares of Company Common Stock then outstanding;

(iii) the date on which any person consummates, announces or makes public any Acquisition Proposal or the Board of Directors of the Company approves or recommends, or proposes to approve or recommend, any Acquisition Proposal; or

(iv) the Initial Closing.

SECTION 11. Furnishing of Information.

(a) The Company shall furnish or make available to the Investor and its Representatives, promptly after such information becomes available to the Company, such financial, management and operations plans, reports and information as exist and as are requested by the Investor (including audited annual and unaudited quarterly financial statements in the event the Company is no longer obligated to provide such information in filings with the Commission). The Company shall, and shall cause its subsidiaries and the officers, directors, employees, auditors and agents of the Company and its subsidiaries to, afford the Investor and its Representatives reasonable access at all reasonable times to the officers, employees, agents, properties, offices and other facilities, books and records of the Company and each subsidiary as the Investor shall reasonably request.

(b) The provisions of this Section 11 shall automatically terminate on the termination of the restrictions under Section 10(a) hereof pursuant to Section 10(b) hereof.

SECTION 12. Fractional Interests. The Company shall not be required to issue fractional Warrant Shares on the exercise of the Warrants. If more than one warrant shall be

presented for exercise in full at the same time by the same holder, the number of full Warrant Shares which shall be issuable upon the exercise thereof shall be computed on the basis of the aggregate number of Warrant Shares issuable upon the exercise of the Warrants so presented. If any fraction of a Warrant Share would, except for the provisions of this Section 12, be issuable on the exercise of the Warrants, the Company shall pay an amount in cash equal to the fair value of the Warrant Share so issuable (as determined in good faith by the Board of Directors of the Company), multiplied by such fraction.

SECTION 13. Notices to Warrant Holders.

(a) Upon any adjustment pursuant to Section 9 hereof, the Company shall promptly thereafter (i) cause to be filed with the Company a certificate of an officer of the Company setting forth the Warrant Number and Exercise Price after such adjustment and setting forth in reasonable detail the method of calculation and the facts upon which such calculations are based, and (ii) cause to be given to each of the registered Holders of the Warrant Certificates at his or its address appearing on the Warrant register written notice of such adjustments by first class mail, postage prepaid. Where appropriate, such notice may be given in advance and included as a part of the notice required to be mailed under the other provisions of this Section 11.

(b) In case:

(i) the Company shall authorize the issuance to all holders of shares of Company Common Stock of rights, options or warrants to subscribe for or purchase shares of Company Common Stock or of any other subscription rights or warrants; or

(ii) the Company shall authorize the distribution to all holders of shares of Company Common Stock of assets, including cash, evidences of its indebtedness, or other securities; or

(iii) of any consolidation or merger to which the Company is a party and for which approval of any shareholders of the Company is required, or of the conveyance or transfer of substantially all of the properties and assets of the Company, or of any reclassification or change of Company Common Stock issuable upon exercise of the Warrants (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), or a tender offer or exchange offer for shares of Company Common Stock; or

(iv) of the voluntary or involuntary dissolution, liquidation or winding up of the Company; or

(v) the Company proposes to take any action that would require an adjustment to the Warrant Number or the Exercise Price pursuant to Section 9 hereof;

then the Company shall cause to be given to each of the registered Holders of the Warrant Certificates at his or its address appearing on the Warrant register, at least 20 days prior to the applicable record date hereinafter specified, or 20 days prior to the date of the event in the case of events for which there is no record date, by first-class mail, postage prepaid, a written notice stating (i) the date as of which the holders of record of shares of Company Common Stock to be entitled to receive any such rights, options, warrants or distribution are to be determined, or (ii) the initial expiration date set forth in any tender offer or exchange offer for shares of Company Common Stock, or (iii) the date on which any such consolidation, merger, conveyance, transfer, dissolution, liquidation or winding up is expected to become effective or consummated, and the date as of which it is expected that holders of record of shares of Company Common Stock shall be entitled to exchange such shares for securities or other property, if any, deliverable upon such reclassification, consolidation, merger, conveyance, transfer, dissolution, liquidation or winding up. The failure to give the notice required by this Section 13 or any defect therein shall not affect the legality or validity of any distribution, right, option, warrant, consolidation, merger, conveyance, transfer, dissolution, liquidation or winding up, or the vote upon any action.

(c) Nothing contained in this Agreement or in any Warrant Certificate shall be construed as conferring upon the Holders of Warrants (prior to the exercise of such Warrants) the right to vote or to consent or to receive notice as shareholders in respect of the meetings of shareholders or the election of Directors of the Company or any other matter, or any rights whatsoever as shareholders of the Company.

SECTION 14. Notices to the Company and Warrant Holders.

(a) All notices and other communications provided for or permitted hereunder shall be made by hand delivery, first-class mail, telex, telecopier, or overnight air courier guaranteeing next day delivery:

(i) if to the Investor:

Invus, L.P.
c/o The Invus Group, L.L.C.
750 Lexington Avenue (30th Floor)
New York, New York 10022
Attention: Mr. Ray Debbane
Mr. Christopher Sobecki

with a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, NY 10017
Fax: (212) 455-2502
Attention: Mr. Robert Spatt
Mr. Peter Malloy

(ii) if to Holders other than the Investor, at the addresses reflected in the books and records of the Company from time to time; and

(iii) if to the Company:

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: President and Chief Executive Officer
Fax: (281) 863-8095

with copies to each of:

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: Executive Vice President and General Counsel
Fax: (281) 863-8010

and

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: Executive Vice President and Chief Financial Officer
Fax: (281) 863-8095

and

Vinson & Elkins L.L.P.
First City Tower
1001 Fannin Street, Suite 2500
Houston, TX 77002-6760
Attn: Mr. David Palmer Oelman
Fax: (713) 615-5861

(b) All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five (5) business days after being deposited in the mail, postage prepaid, if mailed; when answered back if telexed; when receipt acknowledged, if telecopied; and the next business day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery. The parties may change the addresses to which notices are to be given by giving five days' prior notice of such change in accordance herewith.

SECTION 15. Supplements and Amendments. This Agreement may not be amended or modified except by an instrument in writing signed by, or on behalf of, the Company and the Investor.

SECTION 16. Assignment. This Agreement shall not be assigned by operation of Law or otherwise without the express written consent of the parties hereto (which consent may be

granted or withheld in the sole discretion of any party) and any such assignment or attempted assignment without such consent shall be void; *provided*, that the Investor may assign its rights and obligations under this Agreement and the Warrants to a Permitted Transferee.

SECTION 17. Successors and Assigns. All the covenants and provisions of this Agreement by or for the benefit of the Company, the Investor and the registered Holders of the Warrant Certificates shall be binding upon and inure solely to the benefit of Company, the Investor and the registered Holders of the Warrant Certificates, as applicable, and their respective successors and permitted assigns hereunder, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

SECTION 18. Termination. Except as otherwise specifically provided herein, this Agreement shall terminate on the earliest to occur of (a) the date on which all Warrants have expired without any of them having been exercised or (b) the occurrence of the Initial Closing.

SECTION 19. Governing Law. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of New York. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined exclusively in any New York state or federal court, in each case sitting in the Borough of Manhattan. The parties hereto hereby (a) submit to the exclusive jurisdiction of any New York state or federal court, in each case sitting in the Borough of Manhattan, for the purpose of any Action arising out of or relating to this Agreement brought by any party hereto, and (b) irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the Transactions contemplated hereby may not be enforced in or by any of the above-named courts.

SECTION 20. Benefits of This Agreement. Nothing in this Agreement shall be construed to give to any person or corporation other than the Company, the Investor and the registered Holders of the Warrant Certificates any legal or equitable right, remedy or claim under this Agreement; but this Agreement shall be for the sole and exclusive benefit of the Company, the Investor and the registered Holders of the Warrant Certificates.

SECTION 21. Interpretation. The words “hereof”, “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. When reference is made in this Agreement to an Article or a Section, such reference shall be to an Article or Section of this Agreement, unless otherwise indicated. The table of contents, table of defined terms and headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all

rules and regulations promulgated thereunder, unless the context requires otherwise. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation."

SECTION 22. Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, and by the parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, as of the day and year first above written.

COMPANY:

LEXICON PHARMACEUTICALS, INC.,
a Delaware corporation

By: /s/ Arthur T. Sands
Name: Arthur T. Sands, M.D., Ph.D.
Title: President and Chief Executive Officer

INVESTOR:

INVUS, L.P.,
a Bermuda limited partnership

By: /s/ Raymond Debbane
Name: Raymond Debbane
Title: President of Invus Advisors, LLC,
its General Partner

[Signature Page to Warrant Agreement]

APPENDIX A

[Form of Warrant Certificate]

THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SECURITIES GENERALLY MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR PURSUANT TO AN APPLICABLE EXEMPTION FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT.

No. Warrants

Warrant Certificate

LEXICON PHARMACEUTICALS, INC.

This Warrant Certificate certifies that Invus, L.P., or registered assigns, is the registered holder of the number of Warrants (the "Warrants") set forth above to purchase Company Common Stock, $.001 par value (the "Company Common Stock"), of Lexicon Pharmaceuticals, Inc., a Delaware corporation (the "Company"). Each Warrant entitles the holder upon exercise to receive from the Company one fully paid and nonassessable share of Company Common Stock (a "Warrant Share") at the initial exercise price (the "Exercise Price") of $3.0915 payable upon surrender of this Warrant Certificate and payment of the Exercise Price at the office of the Company designated for such purpose, but only subject to the conditions set forth herein and in the Warrant Agreement referred to hereinafter. The Warrants may be exercised only during the Exercise Period (as defined in the Warrant Agreement). The Exercise Price and number of Warrant Shares issuable upon exercise of the Warrants are subject to adjustment upon the occurrence of certain events, as set forth in the Warrant Agreement.

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants, and are issued or to be issued pursuant to a Warrant Agreement dated as of June 17, 2007 (the "Warrant Agreement"), duly executed and delivered by the Company, which Warrant Agreement is hereby incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Company and the holders (the words "holders" or "holder" meaning the registered holders or registered holder) of the Warrants. All capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Warrant Agreement. A copy of the Warrant Agreement may be obtained by the holder hereof upon written request to the Company.

The holder of Warrants evidenced by this Warrant Certificate may exercise such Warrants during the Exercise Period under and pursuant to the terms and conditions of the Warrant Agreement by surrendering this Warrant Certificate, with the form of election to purchase set forth hereon (and by this reference made a part hereof) properly completed and executed, together with payment to the Company in cash, by wire transfer, of the Exercise Payment to an account designated by the Company.

The Warrant Agreement provides that upon the occurrence of certain events the number of Warrants and the Exercise Price set forth on the face hereof may, subject to certain conditions, be adjusted. No fractions of a share of Company Common Stock will be issued upon the exercise of any Warrant, but the Company will pay the cash value thereof determined as provided in the Warrant Agreement.

The holders of the Warrants are entitled to certain registration rights with respect to the Company

Common Stock issuable upon the exercise thereof. Said registration rights are set forth in a Registration Rights Agreement dated as of June 17, 2007 (the "Registration Rights Agreement"), between the Company and the Investor. By acceptance of this Warrant Certificate, the holder hereof agrees that upon exercise of some or all of the Warrants evidenced hereby, he or it will be bound by the Registration Rights Agreement as a holder of Registrable Securities thereunder. A copy of the Registration Rights Agreement may be obtained by the holder hereof upon written request to the Company.

Warrant Certificates, when surrendered at the office of the Company by the registered holder thereof in person or by legal representative or attorney duly authorized in writing, may be exchanged, in the manner and subject to the limitations provided in the Warrant Agreement, but without payment of any service charge, for another Warrant Certificate or Warrant Certificates of like tenor evidencing in the aggregate a like number of Warrants.

Subject to the terms and conditions of the Warrant Agreement, upon due presentation for registration of transfer of this Warrant Certificate at the office of the Company a new Warrant Certificate or Warrant Certificates of like tenor and evidencing in the aggregate a like number of Warrants shall be issued to the transferee(s) in exchange for this Warrant Certificate, subject to the limitations provided in the Warrant Agreement, without charge except for any tax or other governmental charge imposed in connection therewith.

The Company may deem and treat the registered holder(s) thereof as the absolute owner(s) of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone), for the purpose of any exercise hereof, of any distribution to the holder(s) hereof, and for all other purposes, and the Company shall not be affected by any notice to the contrary. Neither the Warrants nor this Warrant Certificate entitles any holder hereof to any rights of a stockholder of the Company.

IN WITNESS WHEREOF, Lexicon Pharmaceuticals, Inc. has caused this Warrant Certificate to be signed by its Chairman of the Board of Directors of the Company, Chief Executive Officer, President or Vice President and by its Secretary or Assistant Secretary and has caused its corporate seal to be affixed hereunto or imprinted hereon.

Dated: June [___], 2007

LEXICON PHARMACEUTICALS, INC.

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

FORM OF ELECTION TO PURCHASE

(To Be Executed Upon Exercise Of Warrant)

The undersigned holder hereby represents that he or it is the registered holder of this Warrant Certificate, and hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to receive shares of Company Common Stock, $.001 par value, of Lexicon Pharmaceuticals, Inc. and herewith tenders payment for such shares to the order of Lexicon Pharmaceuticals, Inc. the amount of $ in accordance with the terms hereof. The undersigned requests that a certificate for such shares be registered in the name of the undersigned or nominee hereinafter set forth, and further that such certificate be delivered to the undersigned at the address hereinafter set forth or to such other person or entity as is hereinafter set forth. If said number of shares is less than all of the shares of Company Common Stock purchasable hereunder, the undersigned requests that a new Warrant Certificate representing the remaining balance of such shares be registered in the name of the undersigned or nominee hereinafter set forth, and further that such certificate be delivered to the undersigned at the address hereinafter set forth or to such other person or entity as is hereinafter set forth.

Certificate to be registered as follows:

Name:

Address:

Social Security or
Taxpayer Identification No.:

Certificate to be delivered as follows:

Name:

Address:

Date: Signature:

FORM OF CERTIFICATE OF TRANSFER

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, TX 77381
Attention: Executive Vice President and Chief Financial Officer
Executive Vice President and General Counsel

Re: Warrants (the "Warrants")

(CUSIP)

Reference is hereby made to the Warrant Agreement, dated as of June [___], 2007 (the "Warrant Agreement"), relating to Warrants of Lexicon Pharmaceuticals, Inc. (the "Company"). Capitalized terms used but not defined herein shall have the meanings given to them in the Warrant Agreement.

, (the "Transferor") owns and proposes to transfer the Warrant[s] or interest in such Warrant[s] specified in Annex A hereto (the "Transfer"), to (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A WARRANT PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the Warrant is being transferred to a person that the Transferor reasonably believed and believes is purchasing the Warrant for its own account, or for one or more accounts with respect to which such person exercises sole investment discretion, and such person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Warrant Agreement, the transferred Warrant will be subject to the restrictions on transfer enumerated in the private placement legend printed on the Warrant as contemplated by the Warrant Agreement.

2. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A WARRANT PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person inside the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any person acting on its behalf knows that the transaction was prearranged with a buyer

inside the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a person inside the United States or for the account or benefit of a person inside the United States. Upon consummation of the proposed transfer in accordance with the terms of the Warrant Agreement, the transferred Warrant will be subject to the restrictions on Transfer enumerated in the private placement legend printed on the Warrant as contemplated by the Warrant Agreement.

3 CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A WARRANT PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in restricted Warrants and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

or

(d) such Transfer is being effected to an “accredited investor” (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, who is not also a “qualified institutional buyer”) and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to restricted Warrants and the requirements of the exemption claimed, which certification is supported by, if the Company so requests, an opinion of counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Warrant Agreement, the transferred Warrant will be subject to the restrictions on transfer enumerated in the private placement legend printed on the Warrants as contemplated by the Warrant Agreement.

4 CHECK IF TRANSFEREE WILL TAKE DELIVERY OF AN UNRESTRICTED WARRANT.

(a) CHECK IF TRANSFER IS PURSUANT TO RULE 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Warrant Agreement and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Warrant Agreement and the private placement legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Warrant Agreement, the transferred Warrant will no longer be subject to the restrictions on transfer enumerated in the private placement legend printed on the restricted Warrants as contemplated by the Warrant Agreement.

(b) CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Warrant Agreement and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Warrant Agreement and the private placement legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Warrant Agreement, the transferred Warrant will no longer be subject to the restrictions on transfer enumerated in the private placement legend printed on the restricted Warrants as contemplated by the Warrant Agreement.

(c) CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Warrant Agreement and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Warrant Agreement and the private placement legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Warrant Agreement, the transferred Warrant will not be subject to the restrictions on transfer enumerated in the private placement legend printed on the restricted Warrants as contemplated by the Warrant Agreement.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: ____
Name:
Title:

Dated:

Exhibit 10.3

REGISTRATION RIGHTS AGREEMENT

Dated as of June 17, 2007

among

Lexicon Pharmaceuticals, Inc.

and

Invus, L.P.

TABLE OF CONTENTS

	Page
ARTICLE I	
DEFINITIONS	
SECTION 1.01. Definitions	1
ARTICLE II	
REGISTRATION RIGHTS	
SECTION 2.01. Demand Registrations	4
SECTION 2.02. Piggyback Registrations	6
SECTION 2.03. Shelf Registration	8
ARTICLE III	
REGISTRATION PROCEDURES	
SECTION 3.01. Registration Procedures	9
SECTION 3.02. Registration Expenses	14
SECTION 3.03. Participation in Underwritten Registrations	15
SECTION 3.04. Hold-Back Agreements	15
ARTICLE IV	
INDEMNIFICATION AND CONTRIBUTION	
SECTION 4.01. Indemnification by the Company	16
SECTION 4.02. Indemnification by Holders of Registrable Securities	16
SECTION 4.03. Conduct of Indemnification Proceedings	17
SECTION 4.04. Contribution	17
SECTION 4.05. Additional Indemnity	19
ARTICLE V	
MISCELLANEOUS	
SECTION 5.01. Rule 144	19
SECTION 5.02. Limitations on Subsequent Registration Rights	19
SECTION 5.03. Specific Performance	19
SECTION 5.04. Other Agreements	19
SECTION 5.05. Charter Amendments Affecting the Company’s Common Stock	20

	Page
SECTION 5.06. Amendments and Waivers	20
SECTION 5.07. Notices	20
SECTION 5.08. Successors and Assigns	21
SECTION 5.09. Governing Law	22
SECTION 5.10. Severability	22
SECTION 5.11. Entire Agreement	22
SECTION 5.12. Securities Held by the Company or its Subsidiaries	22
SECTION 5.13. Further Assurances	22
SECTION 5.14. Termination	22
SECTION 5.15. Interpretation	23
SECTION 5.16. Counterparts	23

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement") is made and entered into as of June 17, 2007 by and among Lexicon Pharmaceuticals, Inc., a Delaware corporation (the "Company"), and Invus, L.P., a Bermuda limited partnership (the "Investor").

WHEREAS, concurrently with the execution and delivery of this Agreement, the Company and the Investor will enter into (a) a warrant agreement (the "Warrant Agreement") which will govern the terms of warrants to purchase (the "Warrants") an aggregate of 16,498,353 shares of common stock, par value $0.001 per share ("Company Common Stock") to be issued by the Company to the Investor, (b) a securities purchase agreement (the "Securities Purchase Agreement"), upon the terms and subject to the conditions of which, (i) the Company will issue and sell to the Investor, and the Investor will purchase, a number of shares of Company Common Stock, together with any shares already owned by the Investor and its affiliates (including those issued upon exercise of any Warrants), equal to approximately 40% of the outstanding shares of Company Common Stock and (ii) the Investor will have the right to cause the Company to conduct up to two Rights Offerings (as defined herein) and (c) a stockholders agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the Investor and the Company hereby agree as follows:

ARTICLE I
DEFINITIONS

SECTION 1.01. Definitions.

(a) Capitalized terms used herein and not otherwise defined herein have the meanings ascribed to them in the Securities Purchase Agreement. In addition, the following capitalized terms shall have the meanings ascribed to them below:

"Affiliate," of a specified person means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified person.

"Assigned Transferee" means any transferee of Registrable Securities from a Holder who has received a right to make a Demand Registration in connection therewith pursuant to Section 5.08.

"Business Day" means any day that is not a Saturday or a Sunday and on which the principal offices of the SEC in Washington, D.C. are open to accept filings, or, in the case of determining a date when any payment is due, any day that is not a Saturday or a Sunday and on which banks are not authorized to close in New York City.

"control" (including the terms "controlled by" and "under common control with")

means the possession, directly or indirectly, or as trustee or executor, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, as trustee or executor, by contract, credit arrangement or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such person.

"Demanding Holder" means any Holder initiating a registration request in compliance with Section 2.01(a).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Holders" means the Investor and any Assigned Transferee.

"Initial Closing" has the meaning assigned to it in the Securities Purchase Agreement.

"Person" means an individual, partnership, corporation, limited liability company, trust or unincorporated organization, or a government or agency or political subdivision thereof.

"Prospectus" means the prospectus included in a Registration Statement, as amended or supplemented by any prospectus supplement and by all other amendments thereto, including post-effective amendments, and all material incorporated by reference into such Prospectus.

"Public Distribution" shall mean any bona fide public distribution of Stock pursuant to an effective registration statement under the Securities Act or any other applicable law (including a Public Offering), or any bona fide public sale in an open market transaction under Rule 144 if such sale is in compliance with the requirements of paragraphs (c), (d), (e), (f) and (g) of such Rule (notwithstanding the provisions of paragraph (k) of such Rule).

"Public Offering" shall mean any bona fide underwritten public distribution of Stock pursuant to an effective registration statement under the Securities Act or any other applicable law.

The terms "register," "registered" and "registration" refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act and the declaration or ordering of the effectiveness of such registration statement by the Commission.

"Registrable Securities" means each share of Stock held by the Holders, or acquired by the Holders after the date hereof, until (i) it has been effectively registered under the Securities Act and disposed of by such Holders pursuant to an effective registration statement, or (ii) it is sold by such Holders pursuant to Rule 144.

"Registration Statement" means any registration statement of the Company relating to a Demand Registration pursuant to Section 2.01, a Piggyback Registration pursuant to Section 2.02, or a Shelf Registration pursuant to Section 2.03, in each case, including the

Prospectus included therein, all amendments and supplements thereto (including post-effective amendments) and all exhibits and material incorporated by reference therein.

"Required Number" means (i) if the Securities Purchase Agreement is terminated prior to the Initial Closing, three; (ii) if the Initial Closing under the Securities Purchase Agreement has occurred, five; and (iii) if the number of shares of Company Common Stock owned by all Holders at any time exceeds 50% of the aggregate number of shares of Company Common Stock outstanding at such time, an unlimited number.

"Rights Offering Notice" has the meaning assigned to it in the Securities Purchase Agreement.

"Rights Offering Trigger Date" has the meaning assigned to it in the Securities Purchase Agreement.

"Rule 144" means Rule 144 under the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Selling Holder" means a Holder who sells or proposes to sell Registrable Securities pursuant to a Registration Statement under the Securities Act.

"Shelf Registration" or "Shelf Registration Statement" is defined in Section 2.03.

"Stock" means the following securities: (i) the Company Common Stock or (ii) any security or other instrument (a) received as a dividend on, or other payment made to the holders of, the Company Common Stock (or any other security or instrument referred to in this definition); (b) issuable upon the conversion, exchange or exercise of any security convertible, exchangeable or exercisable into Company Common Stock or (c) issued in connection with a split of the Company Common Stock (or any other security or instrument referred to in this definition) or as a result of any exchange or reclassification of the Company Common Stock (or any other security or instrument referred to in this definition), reorganization, consolidation, merger or recapitalization.

"Underwritten Registration" or "Underwritten Offering" means a registration in which Stock of the Company is sold to an underwriter for re-offering to the public.

(b) The following terms have the meaning set forth in the Sections set forth below:

Defined Term	Location of Definition
Advice	§ 3.01(a)
Agreement	Preamble
Company	Preamble
Company Common Stock	Recitals
Deferral Period	§ 2.01(a)
Demand Notice	§ 2.01(a)
Demand Registration	§ 2.01(a)
Demand Registration Statement	§ 2.01(b)
Indemnified Holder	§ 4.01
Indemnified Party	§ 4.03
Indemnifying Party	§ 4.03
Investor	Preamble
Piggyback Holders	§ 2.02(a)
Piggyback Registration	§ 2.02(a)
Registration Expenses	§ 3.02(a)
Securities Purchase Agreement	Recitals
Shelf Registration or Shelf Registration Statement	§ 3.01(a)
Subsequent Holder	§ 5.08
Suspension Notice	§ 2.01(a)
Suspension Period	§ 3.01(a)
Warrant Agreement	Recitals
Warrants	Recitals

ARTICLE II
REGISTRATION RIGHTS

SECTION 2.01. Demand Registrations.

(a) At any time and from time to time the Holders may make a written request of the Company for registration with the SEC, under and in accordance with the provisions of the Securities Act, of all or part of their Registrable Securities (a "Demand Registration") by giving written notice to the Company of such demand (a "Demand Notice"); *provided*, that the Company shall be required to effect only one Demand Registration during any six-month period;*provided, further*, that the Holders may not exercise the rights provided by this Section 2.01(a) during the period commencing three months prior to the delivery of a Rights Offering Notice and ending on the closing of the applicable Rights Offering or, if the applicable Rights Offering Notice is not delivered, ninety (90) days after the applicable Rights Offering Trigger Date. The Company shall not be required to effect more than the Required Number of Demand Registrations. Each such Demand Notice will specify the number of Registrable Securities proposed to be sold pursuant to such Demand Registration and will also specify the intended method of disposition thereof.

The Company shall give written notice, of any Demand Notice by any Holder, which request complies with this Section 2.01(a), within 5 days after the receipt thereof, to each Holder who did not initially join in such request. Within 10 days after receipt of such notice, any such Holder may request in writing that its Registrable Securities be included in such registration, and the Company shall include in the Demand Registration the Registrable Securities of each such Holder requested to be so included, subject to the provisions of Section 2.01(e). Each such request shall specify the number of shares of Registrable Securities proposed to be sold and the intended method of disposition thereof.

Promptly after receipt of any Demand Notice, but in no event later than 60 days after receipt of such Demand Notice, the Company shall file a Registration Statement with the SEC with respect to the Registrable Securities included in the Demand Notice and shall use its reasonable best efforts to have such Registration Statement declared effective as promptly as practicable; *provided*, *however*, that the Company may postpone the filing of such Registration Statement for a period of up to 90 days (the "Deferral Period") if the Board of Directors reasonably determines that such a filing would materially adversely affect any proposed material financing, acquisition, divestiture or other material transaction by the Company. The Company shall not be entitled to request more than one such deferral with respect to any Demand Registration within any 365-day period. If the Company does elect to defer any such Demand Registration, the Holders requesting such Demand Registration may, at their election by written notice to the Company, (i) confirm their request to proceed with such Demand Registration upon the expiration of the Deferral Period or (ii) withdraw their request for such Demand Registration in which case no such request for a Demand Registration shall be deemed to have occurred for purposes of this Agreement and no further request for a Demand Registration may be made until prior to the expiration of the Deferral Period.

(b) Except as provided in subsection (c) below, a registration will not be deemed to have been effected as a Demand Registration unless it has been declared effective by the SEC; *provided*, that if a registration requested pursuant to this Section 2.01 has become effective, (i) the offering of Registrable Securities pursuant to such registration is or becomes the subject of any stop order, injunction or other order or requirement of the SEC or any other governmental or administrative agency, or if any court prevents or otherwise limits the sale of Registrable Securities pursuant to the registration, or (ii) the registration requested pursuant to this Section 2.01 does not remain continuously effective for a period of at least 90 days beyond the effective date thereof (or such shorter period as is required to complete the distribution by the Holders of the Registrable Securities included in such registration statement) (the "Demand Registration Statement"), then such Demand Registration Statement shall not count as a Demand Registration that may be requested by the Demanding Holder(s) and the Company shall continue to be obligated to effect a registration pursuant to this Section 2.01.

(c) The Demanding Holders may withdraw all or any part of the Registrable Securities from a Demand Registration at any time (whether before or after the filing or effective date of the Demand Registration Statement), and if all such Registrable Securities are withdrawn, to withdraw the demand related thereto. Upon such withdrawal by the Demanding Holders, the Company shall withdraw any Demand Registration Statement relating to the withdrawn Registrable Securities and, so long as such Demand Registration statement has not been declared effective by the Commission and the Demanding Holders elect to bear the out-of-pocket

expenses associated with such withdrawn registration statement, such withdrawn registration statement shall not count as a Demand Registration;*provided*, if the Company has not complied with its obligations under this Agreement in connection with such withdrawn registration statement or a Suspension Period is in effect, the Company shall not be entitled to a reimbursement of its out-of-pocket expenses pursuant to this sentence. Notwithstanding the foregoing, any request for a Demand Registration that is withdrawn by the Demanding Holders as a result of information concerning the business or financial condition of the Company that is provided to the Demanding Holders after the date on which a Demand Notice under Section 2.01(a) has been delivered to the Company, shall not count as a Demand Registration.

(d) If the Demanding Holders so elects, the offering of Registrable Securities pursuant to a Demand Registration shall be in the form of an Underwritten Offering. The Demanding Holders shall select (with the consent of the Company, not to be unreasonably withheld) one or more nationally recognized firms of investment bankers to act as the managing underwriter or underwriters in connection with such offering and shall select any additional investment bankers and managers to be used in connection with such offering; *provided*, that in the event that the Company and the Demanding Holders are unable to jointly agree on such investment bankers and managers, such investment bankers and managers shall be selected by the Demanding Holders and shall be reasonably satisfactory to the Company. The Company shall (together with all Holders of Registrable Securities proposing to distribute such Registrable Securities through such underwriting) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting in the manner set forth above.

(e) If, in any Demand Registration involving an Underwritten Offering the managing underwriter or underwriters thereof advise the Demanding Holders or the Company in writing that in its or their reasonable opinion the number of Registrable Securities proposed to be sold in such Demand Registration exceeds the number that can be sold in such offering or will adversely affect the success of such offering (including, without limitation, an impact on the selling price or the number of Registrable Securities that any participant may sell), the Company shall include in such registration only the number of Registrable Securities, if any, which in the opinion of such underwriter or underwriters can be sold without having an adverse effect on the success of the offering and in accordance with the following priority: (i) first, Registrable Securities held by Demanding Holders and (ii) second, pro rata (based upon the number of Registrable Securities requested to be included in such registration by such Holders) among the other Holders of Registrable Securities who have requested to include Registrable Securities in such registration. If all Registrable Securities requested to be sold in the Underwritten Offering are included therein, the Company may include other shares of Stock in such offering in accordance with the following priority, but not to exceed the number recommended by the managing underwriter or underwriters: (x) first, pro rata among any other stockholders of the Company having piggyback or other similar registration rights and (y) second, shares of Stock proposed to be sold by or for the account of the Company.

SECTION 2.02. Piggyback Registrations.

(a) If at any time the Company proposes to (i) file a registration statement under the Securities Act with respect to an offering by the Company for its own account or for

the account of any holders of any class of common equity securities (other than (A) a registration statement on Form S-4 or S-8 (or any substitute form that may be adopted by the SEC), (B) a registration statement filed in connection with a Demand Registration or a Shelf Registration or (C) a registration statement filed in connection with an offering of securities solely to the Company's existing securityholders) or (ii) effect an offering of stock pursuant to an effective shelf registration statement (it being understood that prior to the filing of a shelf registration for primary issuances by the Company, the Company shall offer to the Investor the option to include or, in the case of a shelf registration statement in existence at the Initial Closing, the Company shall offer to the Investor the option to cause the Company to amend such shelf registration statement to include, Registrable Securities of the Investor in such shelf registration statement and, if the Investor refuses such option, then its rights to piggyback on an offering to be registered under the Company's shelf registration statement shall only be available if there is an effective Shelf Registration Statement under Section 2.03 hereof) then the Company shall give written notice of such proposed filing or offering to the Holders as soon as practicable (but in no event less than 20 days before the anticipated filing date or commencement of such offering), and such notice shall offer such Holders the opportunity to include in such registration or offering such number of shares of Registrable Securities as each such Holder may request, which request shall specify the Registrable Securities intended to be disposed of by such Holder and the intended method of distribution thereof (or, if the offering is a proposed Underwritten Offering, that such Holder elects to have the number of Registrable Securities so specified included in such Underwritten Offering) (a "Piggyback Registration"). In any Piggyback Registration proposed to be effected as an Offering, the Registrable Securities requested by the Holders thereof (the "Piggyback Holders") to be included in such Underwritten Offering shall be included on the same terms and conditions as any similar securities of the Company or any other securityholder included therein and to permit the sale or other disposition of such Registrable Securities in accordance with the intended method of distribution thereof.

No registration effected under this Section 2.02 and no failure to effect a registration under this Section 2.02(a), shall relieve the Company of its obligations pursuant to Section 2.01, and no failure to effect a registration under this Section 2.02(a) and complete the sale of shares in connection therewith shall relieve the Company of any other obligation under this Agreement (including, without limitation, the Company's obligations under Section 3.02 and 4.01).

(b) Unless the registration statement is being filed pursuant to a Demand Registration (in which case the priority of piggyback rights shall be as provided in Section 2.01(e) above), if the managing underwriter or underwriters advise the Company in writing that in its or their reasonable opinion the number of equity securities of the Company proposed to be sold in such registration (including Registrable Securities to be included pursuant to subsection (a) above) will adversely affect the success of such offering (including, without limitation, an impact on the selling price or the number of equity securities of the Company that any participant may sell), the Company shall include in such registration the number of equity securities of the Company, if any, which in the opinion of such underwriter or underwriters can be sold without having an adverse effect on the offering and in accordance with the following priority: (i) first, the securities the Company proposes to sell for its own account, and (ii) second, pro rata based on the number of Registrable Securities that each Holder or other Person having similar rights shall have requested to be included therein.

(c) The Piggyback Holders may withdraw all or any part of the Registrable Securities from a Piggyback Registration at any time (before but not after the effective date of such registration statement), by delivering written notice of such withdrawal request to the Company, unless such Piggyback Registration is underwritten, in which case Registrable Securities may not be withdrawn after the effective date of the Registration Statement.

SECTION 2.03. Shelf Registration.

(a) Upon the request of the Demanding Holders requesting a Demand Registration under Section 2.01, the Company shall cause to be filed with the SEC as promptly as practicable after such request, but in no event later than 90 days thereafter, a shelf registration statement pursuant to Rule 415 under the Securities Act (a "Shelf Registration" or a "Shelf Registration Statement"), which Shelf Registration Statement shall provide for resales of all Registrable Securities held by Holders who shall have provided the information required pursuant to Section 3.01(b). The Company shall use its reasonable best efforts to have such Shelf Registration declared effective, subject to Section 2.03(c) below, and to keep such Shelf Registration Statement continuously effective, supplemented and amended to the extent necessary to ensure that it is available for resales of Registrable Securities by such Holders, and to ensure that it conforms with the requirements of this Agreement, the Securities Act and the policies, rules and regulations of the SEC as announced from time to time, until the earlier of (i) such time as all of the Registrable Securities covered by such Shelf Registration Statement have been sold or (ii) such time as all of the Registrable Securities covered by such Shelf Registration Statement may be sold without restriction pursuant to Rule 144. A request of the Demanding Holders under this Section 2.03(a) shall be deemed to be a request for a Demand Registration under Section 2.01 above.

(b) A registration will not be deemed to have been effected as a Shelf Registration unless it has been declared effective by the SEC and the Company has complied in all material respects with its obligations under this Agreement with respect thereto; *provided*, that if, after it has become effective, (i) the offering of Registrable Securities pursuant to such registration is or becomes the subject of any stop order, injunction or other order or requirement of the SEC or any other governmental or administrative agency, or if any court prevents or otherwise limits the sale of Registrable Securities pursuant to the registration (for any reason other than the acts or omissions of the Holders), or (ii) the Shelf Registration does not remain continuously effective for the period described in subsection (a) above, then such Shelf Registration Statement shall not count as a Shelf Registration and the Company shall continue to be obligated to effect a registration pursuant to this Section 2.03.

(c) With respect to any Shelf Registration that has been declared effective (i) the Company may suspend use of such Shelf Registration for a period of up to ninety (90) days if the Board of Directors of the Company reasonably determines that the continued effectiveness or use thereof would materially adversely affect any proposed material financing, acquisition, divestiture or other material corporate transaction by the Company and (ii) the Company may

suspend use of such Shelf Registration during any period if each of the Company and the holders of a majority of the Registrable Securities included in such Shelf Registration consents in writing to such suspension for such period.

(d) Each Holder of Registrable Securities shall not effect any Public Distribution of Registrable Securities pursuant to an effective Shelf Registration Statement during the period commencing three months prior to the delivery of a Rights Offering Notice and ending on the closing of the applicable Rights Offering or, if the applicable Rights Offering Notice is not delivered, ninety (90) days after the applicable Rights Offering Trigger Date.

ARTICLE III
REGISTRATION PROCEDURES

SECTION 3.01. Registration Procedures.

(a) In connection with any Registration Statement and any related Prospectus required by this Agreement to permit the sale or resale of Registrable Securities, the Company shall:

(i) prepare and file with the SEC a registration statement with respect to such Registrable Securities within the time periods specified herein, make all required filings with the NASD and use its reasonable best efforts to cause such registration statement to become effective as promptly as practicable (subject to the Company's right to withdraw the registration statement under the circumstances described in Sections 2.1(c) or 2.2(d));

(ii) promptly prepare and file with the SEC such amendments and post-effective amendments to the Registration Statement as may be necessary to keep the Registration Statement effective for the applicable period set forth in Sections 2.1, 2.2 or 2.3, as applicable, or such shorter period as will terminate when all Registrable Securities covered by such Registration Statement have been sold (subject to Section 2.03(c)); cause the Prospectus to be supplemented by a required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 under the Securities Act, and to comply fully with the applicable provision of Rules 424 and 430A under the Securities Act in a timely manner; and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the sellers thereof set forth in such Registration Statement or supplement to the Prospectus;

(iii) use its reasonable best efforts to keep such Registration Statement continuously effective and provide all requisite financial statements for the period specified in Sections 2.1, 2.2 or 2.3, as applicable (subject to Section 2.03(c)); upon the occurrence of any event that would cause any such Registration Statement or the Prospectus contained therein (A) to contain a material misstatement or omission or (B) not to be effective and usable for resale of Registrable Securities during the period required by this Agreement, the Company

shall file as promptly as practicable an appropriate amendment to such Registration Statement, in the case of clause (A), correcting any such misstatement or omission, and, in the case of either clause (A) or (B), use its reasonable best efforts to cause such amendment to be declared effective and such Registration Statement and related Prospectus to become usable for their intended purposes(s) as soon as practicable thereafter;

(iv) provide (A) the Holders of Registrable Securities participating in the registration, (B) the underwriters (which term, for purposes of this Agreement, shall include a Person deemed to be an underwriter within the meaning of Section 2(11) of the Securities Act), if any, of the Registrable Securities to be registered, (C) the sale or placement agent therefor, if any, (D) counsel for such underwriters or agent, and (E) counsel for the Holders thereof, as selected by Holders of a majority of the Registrable Securities covered by such registration statement, the opportunity to participate in the preparation of such registration statement, each prospectus included therein or filed with the SEC, and each amendment or supplement thereto, and for a reasonable period prior to the filing of such registration statement, and throughout the period specified in Section 3.04(b) hereof, make available for inspection by the parties referred to in (A) through (E) above such financial and other information and books and records of the Company, provide access to properties of the Company and cause the officers, directors, employees, counsel and independent certified public accountants of the Company to respond to such inquiries as shall be reasonably necessary to conduct a reasonable investigation within the meaning of Section 11 of the Securities Act;

(v) advise the underwriters, if any, and Selling Holders promptly and, if requested by such Persons, to confirm such advice in writing, (A) when the Prospectus or any Prospectus supplement or post-effective amendment has been filed, and, with respect to any Registration Statement or any post-effective amendment thereto, when the same has become effective, (B) of any request by the SEC for amendments to the Registration Statement or amendments or supplements to the Prospectus or for additional information relating thereto, (C) of the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement under the Securities Act or of the suspension by any state securities commission of the qualification of the Registrable Securities for offering or sale in any jurisdiction, or the initiation of any proceeding for any of the preceding purposes, (D) of the existence of any fact or the happening of any event that makes any statement of a material fact made in the registration Statement, the Prospectus, any amendment or supplement thereto, or any document incorporated by reference therein untrue, or that requires the making of any additions to or changes in the Registration Statement or the Prospectus in order to make the statements therein not misleading. If at any time the SEC shall issue any stop order suspending the effectiveness of the Registration Statement, or any state securities commission or other regulatory authority shall issue an order suspending the qualification or exemption from qualification of the Registrable Securities under state securities or Blue Sky laws, the Company shall use its

reasonable best efforts to obtain the withdrawal or lifting of such order at the earliest possible time;

(vi) furnish to each Selling Holder named in any Registration Statement or Prospectus and each of the underwriter(s) in connection with such sale, if any, such number of copies of any Registration Statement or Prospectus included therein or any amendments or supplements to any such Registration Statement or Prospectus (including all documents incorporated by reference after the initial filing of such Registration Statement and all exhibits filed therewith), reasonably requested by such Person;

(vii) if requested by any selling Holders or the underwriter(s) in connection with such sale, if any, promptly include in any Registration Statement or Prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as such selling Holders and such underwriter(s), if any, may reasonably request to have included therein, including, without limitation, information relating to the "Plan of Distribution" of the Registrable Securities, information with respect to the principal amount of Registrable Securities being sold to such underwriter(s), the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering, and make all required filings of such Prospectus supplement or post-effective amendment as soon as practicable after the Company is notified of the matters to be included in such Prospectus supplement or post-effective amendment;

(viii) deliver to each Selling Holder and each of the underwriter(s), if any, without charge, as many copies of the Prospectus (including each preliminary prospectus) and any amendment or supplement thereto as such Persons reasonably may request; the Company hereby consents to the use of the Prospectus and any amendment or supplement thereto by each of the Selling Holders and each of the underwriter(s), if any, in connection with the offering and the sale of the Registrable Securities covered by the Prospectus or any amendment or supplement thereto;

(ix) in connection with any Underwritten Offering pursuant to a Demand Registration, enter into an underwriting agreement with one or more underwriters designated in accordance with this Agreement, such agreement to be of the form, scope and substance as is customary in underwritten offerings, and take all such other actions as are reasonably requested by the managing underwriter(s) in order to expedite or facilitate the disposition of such Registrable Securities and in such connection at each closing under such underwriting agreement (i) make such representations and warranties to the underwriters in form, scope and substance as are customarily made by issuers to underwriters in underwritten offerings with respect to the business of the Company; (ii) obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the managing underwriter(s)) addressed to the managing underwriter(s) covering the matters customarily covered in opinions requested in underwritten offerings and

such other matters as may be reasonably requested by the underwriters; (iii) obtain "comfort" letters and updates thereof from the Company's independent certified public accountants addressed to the underwriters, such "comfort" letters to be in customary form and covering matters of the type customarily covered in "comfort" letters in connection with underwritten offerings; (iv) deliver such documents and certificates as may be reasonably requested by the managing underwriter(s) to evidence compliance with any customary conditions contained in the underwriting agreement or other agreement entered into by the Company;

(x) prior to any public offering of Registrable Securities, cooperate with the Selling Holders, the underwriter(s), if any, and their respective counsel in connection with the registration and qualification of the Registrable Securities under the securities or Blue Sky laws of such jurisdictions as the Selling Holders or underwriter(s), if any, may request and do any and all other acts or things necessary or advisable to enable the disposition in such jurisdictions or the Registrable Securities covered by the applicable Registration Statement; *provided, however*, that the Company shall not be required to register or qualify as a foreign corporation where it is not now so qualified or to take any action that would subject it to the service of process in suits or to taxation, except as is required as a result of the Registration Statement, in any jurisdiction where it is not now so subject;

(xi) in connection with any sale of Registrable Securities that will result in such securities no longer being Registrable Securities, cooperate with the Selling Holders and the underwriter(s), if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends; and to register such Registrable Securities in such denominations and such names as the Selling Holders or the underwriter(s), if any, may request at least two Business Days prior to such sale of Registrable Securities;

(xii) if requested by the Selling Holders, provide a CUSIP number for all Registrable Securities not later than the effective date of the Registration Statement covering such Registrable Securities and provide the Company's transfer agent(s) and registrar(s) for the Registrable Securities with printed certificates for the Registrable Securities;

(xiii) cooperate and assist in any filings required to be made with the NASD and in the performance of any due diligence investigation by any underwriter (including any "qualified independent underwriter") that is required to be retained in accordance with the rules and regulations of the NASD), and use its reasonable best efforts to cause such Registration Statement to become effective and approved by such governmental agencies or authorities as may be necessary to enable the Selling Holders or underwriters, if any, to consummate the disposition of such Registrable Securities;

(xiv) otherwise use its reasonable best efforts to comply with all applicable rules and regulations of the SEC, and make generally available to its security holders, as soon as practicable, a consolidated earnings statement meeting the requirements of Rule 158 under the Securities Act (which need not be audited) covering a period of at least twelve month periods, but not more than eighteen months, beginning with the first month of the Company's first quarter commencing after the effective date of the Registration Statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act;

(xv) cause all Registrable Securities covered by the Registration Statement to be listed on each securities exchange on which securities of the same class issued by the Company are then listed if requested by the Selling Holders holding a majority of the Registered Securities or the managing underwriter(s), if any; and

(xvi) in connection with any offering of at least $25,000,000 or of a number of shares representing at least 5% of the total number of outstanding shares of Company Common Stock, cause its officers to use their reasonable best efforts to support the marketing of the Registrable Securities covered by such Registration Statement (including, by participating in customary "road show" presentations and similar marketing efforts), and otherwise to facilitate, cooperate with and participate in each proposed offering contemplated herein.

Each Selling Holder, upon receipt of any notice from the Company of the happening of any event described in subsection (5)(B), (C), or (D) of Section 3.01(a) or in Section 2.03(c) (a "Suspension Notice"), shall forthwith discontinue disposition of the Registrable Securities pursuant to the Registration Statement relating thereto until such Selling Holder receives copies of the supplemented or amended Prospectus contemplated hereby or until it is advised in writing (the "Advice") by the Company that the use of the Prospectus may be resumed, and has received copies of any additional or supplemented filings that are incorporated by reference in the Prospectus, and, if so directed by the Company, such Selling Holder will, or will request the managing underwriter or underwriters, if any, to deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Selling Holder's possession, of the Prospectus covering such Registrable Securities current at the time of receipt of such notice. The period from the date on which any Holder receives a Suspension Notice to the date on which any Holder receives either the Advice or copies of the supplemented or amended Prospectus contemplated hereby relating to such notice shall hereinafter be referred to as the "Suspension Period." If the Company shall give any Suspension Notice, (i) the Company shall use its reasonable best efforts and take such actions as are reasonably necessary to render Advice and end the Suspension Period as promptly as practicable and (ii) the time periods for which a Registration Statement is required to be kept effective pursuant to Sections 2.1, 2.2 or 2.3, as the case may be, shall be extended by the number of days during the period from and including the date of the giving of such Suspension Notice to and including the date when each Selling Holder shall have received (A) the copies of the supplemented or amended Prospectus contemplated by Section 3.01(a) or (B) the Advice.

(b) All Holders of Registrable Securities desiring to include any of their Registrable Securities in any Registration Statement pursuant to this Agreement shall furnish to the Company in writing, within 20 days after receipt of a request therefor, such information as the Company may reasonably request specified in item 507 of Regulation S-K under the Securities Act for use in connection with any Registration Statement or Prospectus or preliminary Prospectus included therein. Each Holder as to which any Registration Statement is being effected agrees to furnish promptly to the Company all information required to be disclosed in order to make the information previously furnished to the Company by such Holder not materially misleading.

SECTION 3.02. Registration Expenses.

(a) All expenses incident to the Company's performance of or compliance with its obligations under this Agreement will be paid by the Company, regardless of whether any registration statement required hereunder becomes effective, including, without limitation:

(i) all registration and filing fees;

(ii) fees and expenses of compliance with securities or blue sky laws (including, without limitation, reasonable fees and disbursements of counsel in connection with blue sky qualifications of the Registrable Securities and determination of their eligibility for investment under the laws of such jurisdictions as the managing underwriters or Holders of Registrable Securities being sold may designate);

(iii) printing (including, without limitation, expenses of printing or engraving certificates for the Registrable Securities in a form eligible for trading on the Nasdaq or for deposit with the Depository Trust Company and of printing prospectuses), messenger, telephone and delivery expenses;

(iv) reasonable fees and disbursements of counsel for the Company;

(v) reasonable fees and disbursements of counsel for the Holders;

(vi) reasonable fees and disbursements of all independent certified public accountants of the Company (including, without limitation, the expenses of any special audit and "cold comfort" letters required by or incident to such performance);

(vii) fees and expenses of other Persons retained by the Company; and

(viii) fees and expenses associated with any NASD filing required to be made in connection with the registration of the Registrable Securities, including, if applicable, the reasonable fees and expenses of any "qualified independent underwriter" (and its counsel) that is required to be retained in accordance with the rules and regulations of the NASD (all such expenses being herein called "Registration Expenses").

(b) The Company will, in any event, pay its internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit, the fees and expenses incurred in connection with the listing of the Registrable Securities to be registered on Nasdaq or on each national securities exchange on which similar securities issued by the Company are then listed and the fees and expenses of any Person, including special experts, retained by the Company.

SECTION 3.03. Participation in Underwritten Registrations. No Holder may participate in any Underwritten Registration hereunder unless such Holder agrees to sell its Registrable Securities on the basis provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements and applicable to such Persons. Notwithstanding the foregoing, (x) no Selling Holder shall be required to make any representations or warranties except those which relate solely to such Holder and its intended method of distribution, and (y) the liability of each such Holder to any underwriter under such underwriting agreement will be limited to liability arising from misstatements or omissions regarding such Holder and its intended method of distribution and any such liability shall not exceed an amount equal to the amount of net proceeds such Holder derives from such registration; *provided*, *however*, that in an offering by the Company in which any Holder requests to be included in a Piggyback Registration, the Company shall use its reasonable best efforts to arrange the terms of the offering such that the provisions set forth in clauses (x) and (y) of this Section 3.03 are true. Nothing in this Section 3.03 shall be construed to create any additional rights regarding the registration of Registrable Securities in any Person otherwise than as set forth herein.

SECTION 3.04. Hold-Back Agreements.

(a) Upon the written request of the managing underwriter or underwriters of a Public Offering, each Holder of Registrable Securities shall not effect any Public Distribution of such securities, or any securities convertible into or exchangeable or exercisable for such securities, including a sale pursuant to Rule 144 (except as part of such Public Offering), during the 14-day period prior to, and during the 90-day period following, the offering date for each Public Offering made pursuant to such registration statement (as identified by such underwriter or underwriters or the Company in good faith).

(b) The Company agrees and it shall use its reasonable best efforts to cause its Affiliates (other than Persons who are Holders hereunder) to agree: (i) not to effect any Public Distribution of any securities being registered in accordance with Article II hereof, or any securities convertible into or exchangeable or exercisable for such securities, during the 14-day period prior to, and during the 90-day period following, the offering date for each Public Offering made pursuant to a registration statement filed under Article II hereof, if requested in writing by the managing underwriters (except as part of such Public Offering or pursuant to stock options or other employee benefit plans); and (ii) to use its reasonable best efforts to cause each holder of stock issued by the Company at any time on or after the date of this Agreement to agree not to effect any Public Distribution, including a sale pursuant to Rule 144, of any securities of the Company during the period set forth in clause (i) above (except as part of such Public Offering, if and to the extent permitted).

ARTICLE IV
INDEMNIFICATION AND CONTRIBUTION

SECTION 4.01. Indemnification by the Company. The Company agrees to indemnify and hold harmless each Selling Holder, each person, if any, who controls such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) (hereinafter referred to as a "controlling person"), the respective officers, directors, partners, employees, representatives and agents of any Holder or any controlling person, solely in their capacities as such (each an "Indemnified Holder"), to the fullest extent lawful, from and against any and all losses, claims, damages, liabilities, judgments, actions and expenses (including without limitation and as incurred, reimbursement of all reasonable costs of investigating, preparing, pursuing or defending any claim or action, or any investigation or proceeding by any governmental agency or body, commenced or threatened, including the reasonable fees and expenses of counsel to any Indemnified Holder) directly or indirectly caused by, related to, based upon, arising out of or in connection with any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or Prospectus (or any amendment 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 not misleading, except insofar as such losses, claims, damages, liabilities or expenses are caused by an untrue statement or omission or alleged untrue statement or omission that is made in reliance upon and in conformity with information relating to any of the Holders furnished in writing to the Company by any of the Holders expressly for use therein.

SECTION 4.02. Indemnification by Holders of Registrable Securities. Each Selling Holder agrees, severally and not jointly, to indemnify and hold harmless the Company and its directors, officers and any person controlling (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) the Company and its respective officers, directors, partners, employees, representatives and agents of each such person, to the same extent as the foregoing indemnity from the Company to each of the Indemnified Holders, but only with respect to losses, claims, damages, liabilities, judgments, actions and expenses (including without limitation and as incurred, reimbursement of all reasonable costs of investigating, preparing, pursuing or defending any claim or action, or any investigation or proceeding by any governmental agency or body, commenced or threatened, including the reasonable fees and expenses of counsel to the Company) directly or indirectly caused by, related to, based upon, arising out of or in connection with any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or Prospectus (or any amendment 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 not misleading, to the extent, but only to the extent, that such untrue statement or omission is contained in any information relating to such Holder furnished in writing by such Holder expressly for use in any Registration Statement or Prospectus. In case any action or proceeding shall be brought against the Company or its directors or officers or any such controlling person in respect of which indemnity may be sought against a Holder of Registrable Securities, such Holder shall have the rights and duties given the Company, and the Company or its directors or officers or such controlling person shall have the rights and duties given to each Holder by the preceding paragraph. Each Selling Holder also agrees to indemnify and hold harmless each other Selling Holder or underwriters

participating in the distribution on substantially the same basis as that of the indemnification of the Company provided in this Section 4.02. In no event shall the liability of any selling Holder hereunder be greater in amount than the dollar amount of the proceeds received by such Holder upon the sale of the Registrable Securities giving rise to such indemnification obligation. The Company shall be entitled to receive indemnities from underwriters, selling brokers, dealer managers and similar securities industry professionals participating in the distribution, to the same extent as provided above with respect to information so furnished in writing by such Persons specifically for inclusion in any Registration Statement or Prospectus.

SECTION 4.03. Conduct of Indemnification Proceedings. Any Person entitled to indemnification hereunder (an "Indemnified Party") will (a) promptly give notice of any claim, action or proceeding (including any governmental or regulatory investigation or proceeding) or the commencement of any such action or proceeding to the Person against whom such indemnity may be sought (an "Indemnifying Party"); *provided*, that the failure to give such notice shall not relieve the Indemnifying Party of its obligations pursuant to this Agreement except to the extent that such Indemnifying Party has been prejudiced in any material respect by such failure, and (b) permit the Indemnifying Party to assume the defense of such claim with counsel reasonably satisfactory to such Indemnified Party; *provided*, that the Indemnified Party shall have the right to employ separate counsel and participate in the defense of such claim, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the Indemnifying Party has agreed to pay for such fees and expenses, (ii) the Indemnifying Party shall have failed to assume the defense of such claim and employ counsel reasonably satisfactory to such Indemnified Party or (iii) in the reasonable judgment of such Indemnified Party, based upon advice of its counsel, a conflict of interest may exist between such Indemnified Party and the Indemnifying Party with respect to such claims. If such defense is not assumed by the Indemnifying Party, the Indemnifying Party will not be subject to any liability for any settlement of any such claim effected without the Indemnifying Party's prior written consent, which consent shall not be unreasonably withheld, but if settled with such consent or if there be a final judgment for the plaintiff, the Indemnifying Party agrees to indemnify and hold harmless any Indemnified Party from and against any loss, claim damage, liability or expense by reason of any settlement of any such claim or action. No Indemnifying Party shall, without the prior written consent of each Indemnified Party, settle or compromise or consent to the entry of judgment in or otherwise seek to terminate any pending or threatened action, claim, litigation or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not any Indemnified Party is a party thereto), unless such settlement, compromise, consent or termination includes an unconditional release of each Indemnified Party from all liability arising out of such action, claim, litigation or proceeding. An Indemnifying Party who is not entitled to, or elects not to, assume the defense of the claim will not be obligated to pay the fees and expenses of more than one counsel for all parties indemnified by such Indemnifying Party with respect to such claim, unless in the reasonable judgment of any Indemnified Party a conflict of interest may exist between such Indemnified Party and any other such Indemnified Parties with respect to such Claim, in which event the Indemnifying Party shall be obligated to pay the fees and expenses of such additional counsel.

SECTION 4.04. Contribution. If the indemnification provided for in this Article IV is unavailable to an Indemnified Party (other than by reason of exceptions provided in those Sections) in respect of any losses, claims, damages, liabilities or expenses referred to

therein, then each applicable Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall have a joint and severable obligation to contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party, on the one hand, and of the Indemnified Party, on the other, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses. The relative fault of the Indemnifying Party, on the one hand, and of the Indemnified Party, on the other, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the Indemnifying Party or by the Indemnified Party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include, subject to the limitations set forth in the second paragraph of Section 4.01, any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any action or claim.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 4.04 were determined by pro rata allocation (even if the Holders were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or expenses referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 4.04, none of the Indemnified Holders shall be required to contribute, in the aggregate, any amount in excess of the amount by which the net proceeds received by such Holder with respect to the Registrable Securities exceeds the greater of (A) the amount paid by such Holder for its Registrable Securities and (B) the amount of any damages which such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Holders' obligation to contribute pursuant to this Section 4.04 are several in proportion to the respective number of Registrable Securities held by each of the Holders hereunder and not joint.

For purposes of this Article IV, each controlling person of a Holder shall have the same rights to contribution as such Holder, and each officer, director, and 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 shall have the same rights to contribution as the Company, subject in each case to the limitations set forth in the immediately preceding paragraph. Any party entitled to contribution will, promptly after receipt of notice of commencement of any action, suit or proceeding against such party in respect of which a claim for contribution may be made against another party or parties under this Article IV, notify such party or parties from whom contribution may be sought, but the omission to so notify such party or parties shall not relieve the party or parties from who contribution may be sought from any obligation it or they may have under this Article IV or otherwise except to the extent that it has been prejudiced in any material respect by such failure. No party shall be liable for contribution with respect to any

action or claim settled without its written consent; *provided*, *however*, that such written consent was not unreasonably withheld.

SECTION 4.05. Additional Indemnity. The indemnity, contribution and expense reimbursement obligations under this Article IV shall be in addition to any liability each Indemnifying Party may otherwise have; *provided*, *however*, that any payment made by the Company which results in an Indemnified Party receiving from any source(s) indemnification, contribution or reimbursement for an amount in excess of the actual loss, liability or expense incurred by such Indemnified Party, shall be refunded to the Company by the Indemnified Party receiving such excess payment.

ARTICLE V
MISCELLANEOUS

SECTION 5.01. Rule 144. The Company agrees it will file in a timely manner all reports required to be filed by it pursuant to the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder and will take such further action as any Holder of Registrable Securities may reasonably request in order that such Holder may effect sales of Registrable Securities without registration within the limitations of the exemptions provided by Rule 144. At any reasonable time and upon the request of a Holder of Registrable Securities, the Company will furnish such Holder with such information as may be necessary to enable the Holder to effect sales of Registrable Securities pursuant to Rule 144 and will deliver to such Holder a written statement as to whether it has complied with such information and requirements.

SECTION 5.02. Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of the Holders, enter into any agreement with any holder or prospective holder of any securities of the Company giving such holder or prospective holder any registration rights the terms of which are more favorable than the registration rights granted to Holders of Registrable Securities hereunder.

SECTION 5.03. Specific Performance. Each Holder, in addition to being entitled to exercise all rights provided herein or granted by law, including recovery of liquidated or other damages, will be entitled to specific performance of its rights under this Agreement. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Agreement and hereby agrees to waive the defense in any action for specific performance that a remedy at law would be adequate.

SECTION 5.04. Other Agreements. The Company will not on or after the date of this Agreement enter into any agreement with respect to its securities that is inconsistent with the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof.

SECTION 5.05. Charter Amendments Affecting the Company's Common Stock. The Company will not amend its Certificate of Incorporation in any respect that would materially and adversely affect the rights of the Holders hereunder.

SECTION 5.06. Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to or departures from the provisions hereof may not be given unless the Company has obtained the written consent of Holders of a majority of the outstanding shares of Registrable Securities.

SECTION 5.07. Notices. Unless otherwise provided herein, any notice, request, instruction or other document to be given hereunder by any party to the others shall be made in writing, by hand-delivery, telegraph, telex, telecopier, registered first-class mail or air courier guaranteeing overnight delivery as follows:

(a) if to the Company:

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: President and Chief Executive Officer
Fax: (281) 863-8095

with copies to each of:

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: Executive Vice President and General Counsel
Fax: (281) 863-8010

and

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: Executive Vice President and Chief Financial Officer
Fax: (281) 863-8095

and

Vinson & Elkins L.L.P.
First City Tower
1001 Fannin Street, Suite 2500
Houston, TX 77002-6760
Attn: Mr. David Palmer Oelman
Fax: (713) 615-5861

(b) if to the Investor:

Invus, L.P.
c/o The Invus Group, L.L.C.
750 Lexington Avenue (30th Floor)
New York, New York 10022
Attention: Mr. Raymond Debbane
Mr. Christopher Sobecki

with a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, NY 10017
Fax: (212) 455-2502
Attention: Mr. Robert Spatt
Mr. Peter Malloy

(c) if to any other Holder:

at the most current address of such Holder maintained by the registrar of the Company Common Stock.

or to such other place and with such other copies as any party hereto may designate as to itself by written notice to the others. All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopied: and on the next Business Day if timely delivered to an air courier guaranteeing overnight delivery.

SECTION 5.08. Successors and Assigns.

(a) This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties, including without limitation and without the need for an express assignment, subsequent holders of Registrable Securities or of the Warrants (the "Subsequent Holders"); *provided*, that the Company may not assign its rights or obligations under this Agreement to any other person or entity without the written consent of a majority of the outstanding shares of Registrable Securities.

(b) A Holder of Registrable Securities may assign to a Subsequent Holder all or any portion of the rights (including one or more Demand Registration rights) of such transferring Holder under this Agreement; *provided,* that such assignment of Demand Registration Rights to a Subsequent Holder shall not increase the Required Number of Demand Registrations that would have been available to Holders of Registrable Securities pursuant to this Agreement had the transfer not occurred; *provided, further*, that no assignment pursuant to this Section 5.08(a) may be made to a Subsequent Holder that is not an affiliate of the Investor if, following the transfer of shares of Company Common Stock to such Subsequent Holder, such

Subsequent Holder shall beneficially own less than 3% of the aggregate number of shares of Company Common Stock then outstanding.

SECTION 5.09. Governing Law. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of New York. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined exclusively in any New York state or federal court, in each case sitting in the Borough of Manhattan. The parties hereto hereby (a) submit to the exclusive jurisdiction of any New York state or federal court, in each case sitting in the Borough of Manhattan, for the purpose of any Action arising out of or relating to this Agreement brought by any party hereto, and (b) irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the Transactions contemplated hereby may not be enforced in or by any of the above-named courts.

SECTION 5.10. Severability. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 5.11. Entire Agreement. This Agreement is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein with respect to the registration rights granted by the Company with respect to the Registrable Securities. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

SECTION 5.12. Securities Held by the Company or its Subsidiaries. Whenever the consent or approval of Holders of a specified percentage or Registrable Securities is required hereunder, Registrable Securities held by the Company or its Subsidiaries shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

SECTION 5.13. Further Assurances. Each party shall cooperate and take such action as may be reasonably requested by another party in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby.

SECTION 5.14. Termination. Unless sooner terminated in accordance with its terms or as otherwise herein provided, including specifically in Section 2.03(a), this Agreement shall terminate upon the earlier to occur of (i) the mutual agreement by the parties

hereto and (ii) with respect to any Holder, such Holder ceasing to own any Registrable Securities.

SECTION 5.15. Interpretation. The words "hereof", "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. When reference is made in this Agreement to an Article or a Section, such reference shall be to an Article or Section of this Agreement, unless otherwise indicated. The table of contents, table of defined terms and headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation."

SECTION 5.16. Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, and by the parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

[signature page follows]

IN WITNESS HEREOF, the parties hereto have executed and delivered this Agreement as of the date first written above.

COMPANY:

LEXICON PHARMACEUTICALS, INC.,
a Delaware limited liability company

By: /s/ Arthur T. Sands
Name: Arthur T. Sands, M.D., Ph.D.
Title: President and Chief Executive Officer

INVESTOR

INVUS, L.P.,
a Bermuda limited partnership

By: /s/ Raymond Debbane
Name: Raymond Debbane
Title: President of Invus Advisors, LLC,
its General Partner

[Signature Page to Registration Rights Agreement]

Exhibit 10.4

STOCKHOLDERS' AGREEMENT

Dated as of June 17, 2007

between

Lexicon Pharmaceuticals, Inc.

and

Invus, L.P.

TABLE OF CONTENTS

	Page
ARTICLE I CERTAIN DEFINITIONS	
SECTION 1.01 Certain Definitions	1
ARTICLE II	
CORPORATE GOVERNANCE	
SECTION 2.01 Composition of the Board	6
SECTION 2.02 Vacancies	7
SECTION 2.03 Committees; Subsidiary Board	7
SECTION 2.04 Certificate of Incorporation and By-Laws to Be Consistent	8
SECTION 2.05 Approval of the Investor Required for Certain Actions	8
SECTION 2.06 Termination of Corporate Governance Provisions	8
ARTICLE III	
VOTING OF SHARES	
SECTION 3.01 Agreement with Respect to Voting of Common Stock	9
SECTION 3.02 Termination of Voting Provisions	9
ARTICLE IV	
STANDSTILL, ACQUISITIONS OF SECURITIES AND OTHER MATTERS	
SECTION 4.01 Acquisitions of Common Stock	10
SECTION 4.02 Rights to Purchase New Securities	12
ARTICLE V	
RESTRICTIONS ON TRANSFERABILITY OF SECURITIES	
SECTION 5.01 General	14
SECTION 5.02 Restrictive Legends	15
SECTION 5.03 Termination of Transfer Restriction Provisions	15
ARTICLE VI	
INFORMATION RIGHTS	

	Page
SECTION 6.01 Furnishing of Information; Confidentiality	16

ARTICLE VII
MISCELLANEOUS

SECTION 7.01 Termination Generally	17
SECTION 7.02 No Recourse	17
SECTION 7.03 Notices	17
SECTION 7.04 No Third Party Beneficiaries	18
SECTION 7.05 Expenses	18
SECTION 7.06 Governing Law	19
SECTION 7.07 Waiver of Jury Trial	19
SECTION 7.08 Specific Performance	19
SECTION 7.09 Counterparts	19
SECTION 7.10 Entire Agreement	19
SECTION 7.11 Assignment	20
SECTION 7.12 Amendment	20
SECTION 7.13 Waiver	20
SECTION 7.14 Severability	20
SECTION 7.15 No Partnership	20
SECTION 7.16 Public Announcements	20
SECTION 7.17 Delays or Omissions	21
SECTION 7.18 Interpretation	21
SECTION 7.19 Cumulative Remedies	21
SECTION 7.20 Construction	21

STOCKHOLDERS' AGREEMENT

This Stockholders' Agreement (this "Agreement") is made as of June 17, 2007, among Lexicon Pharmaceuticals, Inc., a Delaware corporation (the "Company"), and Invus, L.P., a Bermuda limited partnership (the "Investor").

WHEREAS, concurrently with the execution and delivery of this Agreement, the Company and the Investor will enter into (a) a warrant agreement (the "Warrant Agreement") which will govern the terms of warrants to purchase (the "Warrants") an aggregate of 16,498,353 shares of common stock, par value $0.001 per share ("Company Common Stock") to be issued by the Company to the Investor, (b) a securities purchase agreement (the "Securities Purchase Agreement"), upon the terms and subject to the conditions of which, (i) the Company will issue and sell to the Investor, and the Investor will purchase, a number of shares of Company Common Stock that, together with any shares already owned by the Investor and any shares received by the Investor upon exercise of the Warrants, equal to 40% of the outstanding shares of Company Common Stock and (ii) the Investor will have the right to cause the Company to conduct up to two Rights Offerings (as defined herein) and (c) a registration rights agreement (the "Registration Rights Agreement") providing for certain registration rights with respect to the Company Common Stock issuable as contemplated by the Securities Purchase Agreement and upon the exercise of the Warrants; and

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the Investor and the Company hereby agree as follows:

ARTICLE I
CERTAIN DEFINITIONS

SECTION 1.01 Certain Definitions. (a) As used in this Agreement, the following terms shall have the following respective meanings:

"affiliate" means, with respect to a specified person, a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified person.

"beneficial owner" (and the related terms "beneficially owned," "beneficial owner" and "beneficial ownership") has the meaning ascribed to such term in Rule 13d-3 under the Exchange Act.

"Board" means the Board of Directors of the Company.

"By-Laws" means the Restated By-Laws of the Company, effective February 3, 2000, as they may hereafter be amended from time to time.

"Cause" means, with respect to any director, a conviction of, or a plea of *nolo contendere* to, a crime constituting (i) a felony under the laws of the United States or any state thereof or (ii) a misdemeanor for which a sentence of more than six months' imprisonment is imposed.

"Certificate of Incorporation" means the Restated Certificate of Incorporation of the Company, dated as of April 5, 2000, as it may hereafter be amended from time to time.

"Commission" means the Securities and Exchange Commission.

"Confidential Information" means any information obtained by the Investor pursuant to Section 6.01, except for any information that (a) is or becomes publicly available other than as a result of a disclosure by the Investor, (b) is already in the Investor's possession (*provided*, that such information was not known by the Investor to be subject to any legal or contractual obligation of confidentiality owed to the Company), (c) is or becomes available to the Investor on a non-confidential basis from a source other than the Company (*provided*, that such source was not known by the Investor to be subject to any legal or contractual obligation to the Company to keep such information confidential), or (d) is independently developed by the Investor or on the Investor's behalf without violating any of the Investor's obligations under section 6.01(c).

"control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, or as trustee or executor, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, as trustee or executor, by contract, credit arrangement or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such person.

"DGCL" means the General Corporation Law of the State of Delaware, as in effect from time to time.

"Encumbrance" (including correlative terms such as "Encumber") means any security interest, pledge, mortgage, lien, charge, adverse claim of ownership or use, hypothecation, violation, condition or restriction of any kind or other encumbrance of any kind.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"group" means a "group" within the meaning of Section 13(d)(3) of the Exchange Act.

"Independence Standard" means the standard of independence necessary for a director to qualify as an "Independent Director" as such term (or any replacement term) is used under the rules and listing standards of the Nasdaq Stock Market or any other securities exchange on which the Company Common Stock is then listed as such rules and listing standards may be amended from time to time.

"Independent Directors" means directors who comply with the Independence Standards.

"Initial Closing" means the closing of the issuance, purchase and sale of the Initial Shares (as such term is defined in the Securities Purchase Agreement) as contemplated by the Securities Purchase Agreement.

"Investor Designated Director" means such person as is so designated by the Investor prior to the Initial Closing and from time to time in accordance with this Agreement, to serve as a member of the Board.

"Law" means any statute, law (including common law), ordinance, regulation, rule, code, executive order, injunction, judgment, decree or other order issued or promulgated by any national, supranational, state, federal, provincial, local or municipal government or any administrative or regulatory body with authority therefrom with jurisdiction over the Company or the Investor, as the case may be (including any requirements under the DGCL and the Exchange Act).

"Marketed Offering" means a registered, underwritten Qualified Offering that is broadly marketed and has at least 12 buyers (which shall include a registered, directed share program to at least such number of buyers).

"Nasdaq Regulation" means the rules and regulations of the Nasdaq Stock Market or any other applicable securities exchange on which the Company Common Stock is then listed.

"New Securities" means any capital stock of the Company, whether now authorized or not, and rights, options or warrants to purchase such capital stock, and securities of any type whatsoever (including convertible debt securities) that are, or may become, convertible into or exchangeable or exercisable for capital stock of the Company; *provided*, that the term "New Securities" does not include (a) capital stock or rights, options or warrants to acquire capital stock of the Company issued to employees, consultants, officers or directors of the Company or any Subsidiary, or which have been reserved for issuance, pursuant to employee stock option, stock purchase, stock bonus plan, or other similar compensation plan or arrangement approved by the Board, (b) securities of the Company issued to all then-existing stockholders in connection with any stock split, stock dividend, reclassification or recapitalization of the Company, (c) securities of the Company issued upon the exercise of warrants that are outstanding as of the date of this Agreement, and (iv) securities of the Company issued in connection with a transaction of the type described in Rule 145 under the Securities Act.

"Permitted Transferee" means, with respect to a specified person, any affiliate of such person.

"person" means any individual, corporation, partnership, limited partnership, limited liability company, syndicate, person (including a "person" or "group" within the meaning of Section 13(d)(3) of the Exchange Act), trust, association, or entity or government, political subdivision, agency or instrumentality of government.

"Qualified Offering" means a bona fide financing transaction by the Company comprised of an issuance of Company Common Stock by the Company (excluding any shares issued pursuant to stock options or other stock-based awards issued to employees, consultants, officers or directors of the Company or any Subsidiary, warrants outstanding as of the date hereof, the issuance of the Initial Shares, the issuance of any Warrant Shares and the Rights Offerings) at a price greater than $4.50 per share (appropriately adjusted for any stock splits,

reverse splits, stock dividends, combinations or similar transactions occurring after the date hereof and prior to any such Qualified Offering) and which transaction is not entered into in connection with the entry by the Company into any other transaction (including, a collaboration or license for the discovery, development or commercialization of pharmaceutical products) involving the purchaser of such Company Common Stock.

The terms "register," "registered" and "registration" refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act and the declaration or ordering of the effectiveness of such registration statement by the Commission.

"Related Agreements" means the Securities Purchase Agreement, the Registration Rights Agreement and the Warrant Agreement.

"Representative" means, as to any person, such person's affiliates and its and their directors, officers, employees, agents, advisors (including financial advisors, counsel and accountants) and such person's financing sources.

"Required Director Number" shall mean (i) until the first anniversary of the Initial Closing, three Investor Designated Directors, (ii) from and after the first anniversary of the Initial Closing, a number of Investor Designated Directors equal to the greater of three or 30% of all members of the Board, rounded up to the nearest whole number of directors; *provided,* that, if the percentage of all the outstanding shares of Company Common Stock represented by the number of shares of Company Common Stock beneficially owned by the Investor falls below 30%, then the Required Director Number shall be a number of Investor Designated Directors equal to such percentage of all members of the Board, rounded up to the nearest whole number of directors, and (iii) from and after the date on which the shares of Company Common Stock (excluding any Restricted Shares) beneficially owned by the Investor represent more than 50% of the total number of shares of Company Common Stock then outstanding, a percentage of all the members of Board, rounded up to the nearest whole number of directors, equal to the percentage of all the outstanding Company Common Stock represented by the number of shares of Company Common Stock (including Restricted Shares) beneficially owned by the Investor.

"Rights" means the rights to purchase shares of Company Common Stock to be issued by the Company pursuant to the Rights Offerings as contemplated by the Securities Purchase Agreement.

"Rights Offerings" means the issuance by the Company to its stockholders of rights to purchase shares Company Common Stock as contemplated by the Securities Purchase Agreement.

"Rights Offering Threshold" means, as applicable, the First Rights Offering Amount or the Second Rights Offering Amount (as such terms are defined in the Securities Purchase Agreement).

"Rule 144" means Rule 144 under the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC.

“Sale” means any sale, assignment, transfer, distribution or other disposition of a security or of a participation therein, or other conveyance of legal or beneficial interest therein, or any short position in a security or any other action or position otherwise reducing risk related to ownership through hedging or other derivative instruments.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Sell” and “Sold” means to complete a Sale.

“subsidiary” or “subsidiaries” of any person means any corporation, partnership, limited liability company, joint venture, association or other legal entity of which such person (either alone or together with any other subsidiary) owns, directly or indirectly, more than 50% of the stock or other equity interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such corporation or other legal entity.

“Unaffiliated Board” means a majority of (a) the members of the Board not designated by the Investor pursuant to this Agreement and present at any meeting at which an action by such members is to be taken or (b) all of the members of the Board not designated by the Investor pursuant to this Agreement, if action is taken by written consent as permitted under the By-Laws.

“Unrestricted Shares” means all shares of Company Common Stock beneficially owned by the Investor that are not Restricted Shares.

“Warrant Shares” means any shares of Company Common Stock issuable upon the exercise of the Warrants.

(b) Each of the following terms is defined in the Section set forth opposite such term:

Defined Term	**Location of Definition**
Agreement	Preamble
Company	Preamble
Company Common Stock	Recitals
Investor	Preamble
Midrange Price	§ 4.02(c)
Notice of Issuance	§ 4.02(b)
Offering Size	§ 4.02(c)
Overallotment Shares	§ 4.02(d)
Percentage Limit	§ 4.01(a)
Pro Rata Number	§ 4.02(a)
Price Range	§ 4.02(c)
Registration Rights Agreement	Recitals
Restricted Shares	§ 4.01(a)

Defined Term	Location of Definition
Securities Purchase Agreement	Recitals
Subsidiary Board	§ 2.03(c)
Warrant Agreement	Recitals
Warrants	Recitals

ARTICLE II

CORPORATE GOVERNANCE

SECTION 2.01 Composition of the Board. (a) From and after the Initial Closing, the Investor shall be entitled to designate the Required Director Number of persons to serve as members of the Board. Prior to the Initial Closing, the Investor shall designate three persons for election or appointment as Investor Designated Directors and the Company shall nominate such designees and shall take such further action as may be necessary to cause such designees to be elected or appointed to the Board as Investor Designated Directors effective no later than the Initial Closing Date (as such term is defined in the Securities Purchase Agreement) and from time to time upon changes in the Required Number of Directors. The Board shall include its determination that the Investor Designated Directors are Independent Directors in any minutes relating to a meeting at which such determination is made (or, if action is taken by the unanimous written consent of the Board, in any consent filed with the minutes of the proceedings of the Board) and in any filing, announcement or other document or communication required by applicable Law or Nasdaq Regulation. So long as the Board shall remain classified under the DGCL, it shall be divided into three classes of an equal, or as close as possible to an equal, number of directors and the Investor Designated Directors shall be allocated among the classes of the Board as equally as possible (for example, the initial three Investor Designated Directors shall each be placed in different classes) and shall otherwise serve and be compensated in a manner consistent with the other members of the Board and the terms of the Certificate of Incorporation and the By-Laws.

(b) From and after the Initial Closing, in connection with each stockholders' meeting of the Company at which directors will be elected, the Investor shall be entitled, at any time prior to the mailing of the applicable proxy statement of the Company, to designate and nominate for election to the Board the Investor Designated Directors in accordance with Section 2.01(a). The Company and the Board will include the Investor's designees in each slate of directors proposed, recommended or nominated for election by the Company or the Board, and will recommend and use all reasonable efforts to cause the election of such designees.

(c) The Company, subject to the Board's fiduciary duties, shall take all necessary and desirable actions within its control (including calling special meetings of the Board and stockholders) to effectuate the provisions of this Section 2.01. Without limiting the foregoing, the Company shall use its best efforts, in connection with each annual or special meeting of stockholders held to elect directors to the Board, to solicit from its stockholders eligible to vote in the election of directors proxies in favor of the election of each person designated for election as an Investor Designated Director in accordance with this Section 2.01,

and against the election of any candidate whose election would adversely impact the election to, or opportunity to serve on, the Board of any such Investor Designated Director.

SECTION 2.02 Vacancies. From and after the Initial Closing, in the event of any vacancy for any reason in any Board seat reserved for Investor Designated Directors, the Investor shall have the sole right to nominate another person to serve as an Investor Designated Director. To the extent permitted by the Certificate of Incorporation and the By-Laws, the Company shall nominate such designees and shall take such further action as may be necessary to cause such designees to be elected or appointed to the Board as Investor Designated Directors as soon as possible after the occurrence of the nomination to fill such vacancy. No Investor Designated Director shall be removed as a director of the Company without Cause, without the approval of a majority of the other Investor Designated Directors then in office.

SECTION 2.03 Committees; Subsidiary Board. (a) From and after the Initial Closing, the Board shall have such committees as may be required by applicable Law or Nasdaq Regulation, and such other committees as the Board may from time to time establish. Each such committee and the Board shall take all actions necessary so that each such committee shall be comprised of not less than three directors. From and after the Initial Closing, upon the request of the Investor and to the extent permitted by applicable Law and Nasdaq Regulation, subject to Section 2.03(b), the Company and the Board shall take all actions necessary so that the Investor shall have the same proportional representation (rounded to the nearest whole number of directors, but in no event less than one) on each committee of the Board as it has on the Board. The quorum, notice and action requirements of each committee of the Board shall, to the extent requested by the Investor, be the same as the quorum, notice and action requirements of the Board.

(b) To the extent that no Investor Designated Director is permitted under applicable Law or Nasdaq Regulations to serve on a particular committee of the Board, the Company and the Board shall take all action necessary to permit at least one Investor Designated Director to attend each meeting of such committee as a non-voting observer, in each case to the extent permitted by such applicable Law or Nasdaq Regulation, and such observer shall be provided with such notice of the meeting and information regarding the meeting as is provided to members of such committee. Notwithstanding the foregoing, if the Board is to consider a transaction involving the Company, on the one hand, and the Investor or its affiliates, on the other hand, and the Board establishes a special committee in connection with the consideration of such transaction, the Investor Designated Directors shall not be entitled to be members of, and the Investor shall not be entitled to attend, the meetings of such special committee.

(c) Subject to applicable Law and Nasdaq Regulations, from and after the Initial Closing, upon the request of the Investor, the Company and the Board shall take all actions necessary so that the composition of the board of directors, general partner, managing member (or controlling committee thereof) or any other board or committee serving a similar function with respect to each of the Company's subsidiaries (each a "Subsidiary Board") and each committee of each Subsidiary Board shall be proportionate to the composition requirements of the Board and of each committee thereof, such that the Investor shall have the same proportional representation (rounded to the nearest whole number of directors, but in no event less than one) on each Subsidiary Board and committee thereof as it has on the Board and committees thereof.

The quorum, notice and action requirements of each Subsidiary Board and of each committee of each Subsidiary Board shall, to the extent requested by the Investor, be the same as the quorum, notice and action requirements of the Board and each committee thereof.

SECTION 2.04 Certificate of Incorporation and By-Laws to Be Consistent. The Board shall take or cause to be taken all lawful action necessary or appropriate to ensure that none of the Certificate of Incorporation or the By-Laws or any of the corresponding constituent documents of the Company's subsidiaries contain any provisions inconsistent with this Agreement or which would in any way nullify or impair the terms of this Agreement or the rights of the Company or of the Investor hereunder.

SECTION 2.05 Approval of the Investor Required for Certain Actions. From and after the Initial Closing, in addition to any approval by the Board required by the Certificate of Incorporation, the By-Laws, applicable Law or Nasdaq Regulation, the prior written approval of the Investor shall be required in order for the Company to take, or the Board to approve, authorize or effect, any of the following (including by merger, consolidation or otherwise):

(a) the creation (by reclassification or otherwise) or issuance of any new class or series of shares of capital stock of the Company (or securities convertible into or exercisable for shares of capital stock of the Company) having rights, preferences or privileges senior to or on parity with the Company Common Stock;

(b) any amendment to the Certificate of Incorporation or By-Laws, or the adoption of or amendment to the certificate of incorporation or by-laws of any subsidiary of the Company, that would adversely affect the Investor's rights under this Agreement or any of the Related Agreements;

(c) any action to repurchase, retire, redeem or otherwise acquire any equity securities (or securities convertible into or exchangeable for equity securities) of the Company or any subsidiary of the Company, pursuant to self-tender offers, stock repurchase programs, open market transactions, privately-negotiated purchases or otherwise;

(d) any increase in the authorized number of directors of the Board above twelve (12);

(e) take any action to adopt, or propose to adopt, or maintain any shareholders' rights plan, "poison pill" or other similar plan or agreement, unless the Investor is exempt from the provisions of such shareholders' rights plan, "poison pill" or other similar plan or agreement; or

(f) any authorization of, or entering into an agreement for, or the commitment to agree to take, any of the foregoing actions.

SECTION 2.06 Termination of Corporate Governance Provisions. (a) The provisions of Section 2.01, 2.02, 2.03 and 2.04 shall terminate on the date on which the shares of Company Common Stock beneficially owned by the Investor represent less than 10% of the aggregate number of shares of Company Common Stock then outstanding. The Investor shall

have the right to cause any or all of the provisions of Sections 2.01, 2.02, 2.03 and 2.04, as specified in writing by the Investor, to terminate on any date following the date on which the shares of Company Common Stock (excluding any Restricted Shares) beneficially owned by the Investor represent more than 50% of the aggregate number of shares of Company Common Stock then outstanding.

(b) The provisions of Section 2.05 shall terminate upon the earlier to occur of (i) the tenth anniversary of the Initial Closing and (ii) the date on which the shares of Company Common Stock beneficially owned by the Investor represent less than 15% of the aggregate number of shares of Company Common Stock then outstanding.

ARTICLE III

VOTING OF SHARES

SECTION 3.01 Agreement with Respect to Voting of Common Stock. (a) In any election of directors at a meeting of the stockholders of the Company occurring following the Initial Closing, so long as the Company is in compliance with Article 2 and the Required Director Number of Investor Designated Directors are nominated to and, if applicable serving on, the Board, the Investor shall cause all shares of Company Common Stock held by it and entitled to vote for the election of directors to be represented at such meeting either in person or by proxy and to be voted for all persons nominated by the Board for election as directors, including the Investor Designated Directors.

(b) With respect to all other matters submitted to a vote of the holders of Company Common Stock after the Initial Closing, the Investor shall vote any Restricted Shares beneficially owned by it, if any, on such matters in the same proportion as all the votes cast by other holders of Company Common Stock, unless the Investor and the Company (acting with the approval of the Unaffiliated Board) shall agree otherwise, and shall be free to vote all Unrestricted Shares in its sole discretion.

SECTION 3.02 Termination of Voting Provisions. The provisions of Section 3.01 shall terminate on the earliest to occur of:

(a) the tenth anniversary of the Initial Closing;

(b) the date on which the shares of Company Common Stock beneficially owned by the Investor represent less than 10% of the aggregate number of shares of Company Common Stock then outstanding;

(c) on the date on which the shares of Company Common Stock (excluding any Restricted Shares) beneficially owned by the Investor represent more than 50% of the aggregate number of shares of Company Common Stock then outstanding; or

(d) the termination of 4.01 pursuant to Section 4.01(c).

ARTICLE IV

STANDSTILL, ACQUISITIONS
OF SECURITIES AND OTHER MATTERS

SECTION 4.01 Acquisitions of Common Stock. (a) From and after the Initial Closing, without the prior approval of the Unaffiliated Board, the Investor shall not, and shall cause its affiliates not to, purchase or otherwise acquire, directly or indirectly, beneficial ownership of any shares of Company Common Stock if, after giving effect to any such acquisition, the number of shares of Company Common Stock beneficially owned by the Investor would exceed 49% of the aggregate number of shares of Company Common Stock then outstanding. Notwithstanding the foregoing, this Section 4.01 shall not restrict the acquisition by the Investor or its affiliates of any securities of the Company (i) by way of stock splits, stock dividends, reclassifications, recapitalizations, or other distributions by the Company to holders of the Company Common Stock, or (ii) pursuant to the acquisition of Company Common Stock or other securities as permitted or contemplated by the Related Agreements, including upon the exercise of Rights issued in accordance with the Securities Purchase Agreement and the acquisition of any New Securities pursuant to Section 4.02. Any shares of Company Common Stock acquired by the Investor from third parties after the date hereof, to the extent, and for so long as, such shares result in the Investor beneficially owning in excess of the Percentage Limit of all shares of Company Common Stock then outstanding, are referred to herein as "Restricted Shares". For the avoidance of doubt, no shares of Common Stock that were Unrestricted Shares shall become Restricted Shares upon and as a result of the acquisition by the Investor or its affiliates of additional shares of Company Common Stock as contemplated by the second sentence of this Section 4.01(a). "Percentage Limit" shall mean 40%; *provided*, that if, as a result of any acquisition by the Investor or its affiliates of additional shares of Company Common Stock or other securities as contemplated by the second sentence of this Section 4.01(a), the Investor's percentage ownership (excluding any shares that are Restricted Shares immediately prior to such acquisition) of all the outstanding shares of Company Common Stock would exceed 40%, then the Percentage Limit shall be such percentage ownership.

(b) Except for acquisitions and actions permitted by this Article IV and by the Related Agreements, the Investor agrees that, from and after the Initial Closing, it will not, and shall cause its affiliates not to, without the prior approval of the Unaffiliated Board, directly or indirectly:

(i) make or participate, directly or indirectly, in any "solicitation" of "proxies" (as such terms are used in the rules of the Commission) to vote any voting securities of the Company or any subsidiary thereof; *provided, however,* that the prohibition in this Section 4.01(b) shall not apply to solicitations exempted from the proxy solicitation rules by Rule 14a-2 under the Exchange Act or any successor provision;

(ii) submit to the Board a written proposal for or offer of (with or without conditions), any merger, recapitalization, reorganization, business combination or other extraordinary transaction involving the Company or any subsidiary thereof or any of their securities or assets, or make any public announcement with respect

to such a proposal or offer if it would reasonably be expected that the Company would conclude that it would have to make a public announcement of such proposal;

(iii) enter into any discussions, negotiations, arrangements or understandings with any third party (other than any person that would be a Permitted Transferee) with respect to any of the foregoing or any transaction prohibited by Section 4.01(a), or otherwise form, join or in any way engage in discussions relating to the formation of, or participation in, a group with any third party (other than any person that would be a Permitted Transferee), in connection with any of the foregoing or any transaction prohibited by Section 4.01(a); or

(iv) request the Company or any of its Representatives, directly or indirectly, to amend or waive any provision of this paragraph (including this sentence);

provided, however, that none of the foregoing shall (A) prevent, restrict, Encumber or in any way limit the exercise of the fiduciary rights and obligations of any Investor Designated Director as a director or prevent, restrict, Encumber or in any way limit the ability of any Investor Designated Director to vote on matters, influence officers, employees, agents, management or the other directors of the Company, to take any action or make any statement at any meeting of the Board or any committee thereof, or otherwise act in his or her capacity as director; (B) prevent the Investor or any affiliate thereof from Selling any shares of Company Common Stock held by it or voting its shares of Company Common Stock; (C) apply to or restrict any discussions or other communications between or among directors, members, officers, employees or agents of any member of the Investor or any affiliate thereof; (iv) prohibit the Investor or any affiliate thereof from soliciting, offering, seeking to effect or negotiating with any person with respect to transfers of shares of Company Common Stock otherwise permitted by this Section 4.01 or (D) restrict any disclosure or statements required to be made by any Investor Designated Director or the Investor under applicable Law or Nasdaq Regulation.

(c) The provisions of this Section 4.01 shall terminate on the earliest to occur of:

(i) the tenth anniversary of the Initial Closing;

(ii) the date on which the shares of Company Common Stock beneficially owned by the Investor represent less than 10% of the aggregate number of shares of Company Common Stock then outstanding;

(iii) on the date on which the shares of Company Common Stock (excluding any Restricted Shares) beneficially owned by the Investor represent more than 50% of the aggregate number of shares of Company Common Stock then outstanding;

(iv) the date on which any person announces or makes public any proposal or offer relating to (i) any direct or indirect acquisition or purchase, in one transaction or a series of transactions, of assets (including equity securities of any subsidiary of the Company) or businesses that constitute 50% or more of the

revenues, net income or assets of the Company and its subsidiaries, taken as a whole, or 50% or more of any class of equity securities of the Company, (ii) any tender offer or exchange offer that if consummated would result in any person beneficially owning 50% or more of any class of equity securities of the Company, or (iii) any merger, consolidation, business combination, recapitalization, liquidation, dissolution, joint venture, share exchange or similar transaction involving the Company or any of its subsidiaries pursuant to which any person or the stockholders of any person would beneficially own 50% or more of any class of equity securities of the Company or of any resulting parent company of the Company, or on which the Board recommends, proposes to recommend, approves or proposes to approve any of the foregoing transactions; or

(v) the date on which any person (other than the Investor or its affiliates or any other person controlled by the Investor) acquires beneficial ownership, in one or a series of transactions, of assets (including equity securities of any subsidiary of the Company) or businesses that constitute 20% or more of the revenues, net income or assets of the Company and its subsidiaries, taken as a whole, or 20% or more of any class of equity securities of the Company, or on which the Board recommends, proposes to recommend, approves or proposes to approve any of the foregoing transactions.

SECTION 4.02 Rights to Purchase New Securities. (a) From and after the Initial Closing, in the event that the Company proposes to issue New Securities, except in connection with a bona fide acquisition of the business or assets of another person (it being understood that in such event, the Investor shall be entitled to purchase in the open market a number of shares of Company Common Stock necessary to maintain its Pro Rata Number), the Investor shall have the right to purchase, in lieu of the person to whom the Company proposed to issue such New Securities, in accordance with paragraph (b) below, a number of New Securities equal to the product of (i) the total number or amount of New Securities which the Company proposes to issue at such time and (ii) a fraction the numerator of which shall be the total number of shares of Company Common Stock which the Investor beneficially owns at the relevant measurement point (excluding shares, if any, acquired by the Investor in violation of its obligations under Section 4.01), and the denominator of which shall be the aggregate number of shares of Company Common Stock then outstanding (the number referred to in clause (ii), the "Pro Rata Number").

(b) Subject to the provisions of Section 4.02(c), in the event that the Company proposes to undertake an issuance of New Securities, it shall give written notice (a "Notice of Issuance") of its intention to the Investor indicating the exact price per New Security and the exact number of New Securities to be issued by the Company, and describing the material terms of the New Securities and the material terms upon which the Company proposes to issue such New Securities. The Investor shall have 10 business days from the date of receipt of the Notice of Issuance to agree to purchase all or a portion of the Investor's pro rata share of such number of New Securities (as determined pursuant to paragraph (a) above) for the same consideration and otherwise upon the terms specified in the Notice of Issuance (unless better terms are provided to any other purchaser) by giving written notice to the Company and stating therein the quantity of New Securities to be purchased by the Investor. If the Investor exercises its right to

purchase New Securities pursuant to this Section 4.02(b), the purchase and sale of such New Securities shall close at the same time as the issuance of New Securities to the other purchaser or purchasers and, subject to the preceding sentence, shall be issued on the same terms and subject to the same conditions as applicable to the other purchaser or purchasers; *provided*, that (i) such terms and conditions applicable to the Investor shall not include any restrictions on the transferability of such New Securities or any standstill, voting or other restriction, it being understood that all restrictions of such nature are contained in this Agreement, (ii) the Investor shall not be required to make any representations and warranties except those that relate solely to the Investor and (iii) the Investor will not be required to undertake any indemnification obligation. The rights given by the Company under this Section 4.02(b) shall terminate if unexercised within 10 business days after receipt of the Notice of Issuance referred to in this Section 4.02(b). Notwithstanding anything to the contrary contained herein, if (i) the price or any other material terms upon which the Company proposes to issue such New Securities are amended by the Company following the delivery to the Investor of the Notice of Issuance or (ii) the offering of New Securities to which a Notice of Issuance relates is not completed within 60 days from the delivery of such notice to the Investor, the Investor's election with respect to the purchase of New Securities covered by such Notice of Issuance shall be void and the Company shall be obligated to deliver a new Notice of Issuance to the Investor, and the Investor shall be entitled to make a new election with respect to the purchase by it of New Securities covered by such notice within the 10-business day period from the date of delivery of the new Notice of Issuance and otherwise in accordance with the procedure specified in the second sentence of this Section 4.02(b).

(c) Notwithstanding anything to the contrary contained in Section 4.02(b), if the Company proposes to issue New Securities in an aggregate amount of at least $25,000,000, in a Marketed Offering, the Notice of Issuance may, (A) in lieu of providing the price at which the Company proposes to issue New Securities as a fixed dollar amount, provide an estimated range of prices within which the underwriter for such offering reasonably estimates the shares will ultimately be priced and (B) in lieu of providing an exact number of New Securities to be issued by the Company in such offering, provide an estimated number the underwriter for such offering reasonably estimates will ultimately be issued in such offering (the "Offering Size"). If the Investor desires to exercise its rights under this Section 4.02 with respect to such Marketed Offering, the Investor shall be required to make an election with respect to the purchase of up to a number of New Securities being offered equal to its pro rata portion of the Offering Size no later than 10 business days from the date of receipt of the Notice of Issuance; *provided*, that (i) the Investor's obligation to purchase the number of New Securities subject to its election shall be conditioned upon (A) the issuance by the Company of a number of shares of Company Common Stock at least equal to the Offering Size and (B) the New Securities so issued being priced not higher than 10% above the closing price of the Company Common Stock on the Nasdaq Stock Market or the principal securities exchange on which the Company Common Stock is then listed on the date immediately prior to the date on which the Notice of Issuance is delivered to the Investor pursuant to this Section 4.02(c) (the "Midrange Price") and not lower than 10% below the Midrange Price (the "Price Range").

Any Notice of Issuance provided by the Company to the Investor in connection with a Marketed Offering may specify a number of shares, not to exceed 15% of the Offering Size, that the underwriters or agents in such offering shall be entitled to purchase upon exercise

of an overallotment option, if any (the "Overallotment Shares"). If the Investor desires to exercise its rights under this Section 4.02 with respect to Overallotment Shares, the Investor shall be required to make an election with respect to the purchase of up to its pro rata portion of the Overallotment Shares at the same time the Investor makes an election pursuant to Section 4.02(c); *provided*, that (i) the Investor's obligation to purchase Overallotment Shares in accordance with its election shall be conditioned upon the Overallotment Shares being priced within the Price Range.

The Investor shall be required to make the election contemplated by this Section 4.02(c) only with respect to that amount of New Securities as shall not exceed the current Rights Offering Threshold. The Investor shall retain the right to make an election in accordance with Section 4.02(b) following the final determination of the offering price and the number of New Securities, and, if applicable, the underwriters' determination with respect to their exercise of their overallotment option, in any such Marketed Offering with respect to (i) all New Securities exceeding the current Rights Offering Threshold, (ii) all New Securities in excess of the Offering Size and, if applicable, any overallotment option in excess of the number of Overallotment Shares specified in the Notice of Issuance provided by the Company in connection with such Marketed Offering, (iii) all New Securities priced outside the Price Range and (iv) all New Securities in any offering where the Offering Size is not met. If an offering contemplated by Section 4.02(c) is not completed within 60 days following the Notice of Issuance with respect thereto, then the Company will be required to comply again with the provisions of Sections 4.02(b) and 4.02(c) in order to avail itself of the benefits of this Section 4.02(c). In case an offering contemplated by this Section 4.02(c) is consummated, the Investor shall be obligated to purchase its shares hereunder at the closing of such offering if and to the extent the conditions to the Investor's obligations hereunder are met, and if such conditions are not met and to the extent the Investor exercises its right under this Section 4.02, the Investor shall purchase such shares as promptly as reasonably practicable thereafter, and on the same terms and subject to the same conditions that would be applicable to the underwriters in such offering; *provided*, *however* that (i) such terms and conditions applicable to the Investor shall not include any restrictions on the transferability of such New Securities or any standstill, voting or other restrictions, it being understood that all restrictions of such nature are contained in this Agreement, (ii) the Investor shall not be required to make any representations and warranties except those that relate solely to the Investor and (iii) the Investor shall not be required to undertake any indemnity obligations.

(d) The provisions of this Section 4.02 shall terminate upon the earlier to occur of the tenth anniversary of the Initial Closing and the date on which the Investor beneficially owns less than 10% of the aggregate number of shares of Company Common Stock then outstanding.

ARTICLE V

RESTRICTIONS ON TRANSFERABILITY OF SECURITIES

SECTION 5.01 General. (a) The shares of Company Common Stock beneficially owned by the Investor shall not be subject to transfer restrictions, except as expressly provided in this Article 5.

(b) The Investor agrees that neither it nor its affiliates will transfer shares of Company Common Stock to any person (other than a Permitted Transferee) if, to the knowledge of the Investor, after such transfer the purchaser thereof (or any person or group including such purchaser) would beneficially own more than 14.9% of the aggregate number of shares of Company Common Stock then outstanding; *provided*, *however*, that, subject to Section 4.01, this Section 5.01(b) shall not restrict the Investor from tendering, voting or otherwise having its shares participate in any tender offer or exchange offer or any merger, consolidation, business combination, recapitalization, liquidation, dissolution, joint venture, share exchange or similar transaction.

SECTION 5.02 Restrictive Legends. (a) Each certificate evidencing shares of Company Common Stock shall be stamped or otherwise imprinted with legends in substantially the following form (in addition to any legends required by agreement or by applicable state securities Laws):

(i) THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SECURITIES GENERALLY MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR PURSUANT TO AN APPLICABLE EXEMPTION FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT.

(ii) THE SECURITIES EVIDENCED HEREBY ARE SUBJECT TO CERTAIN RESTRICTIONS UNDER THE TERMS OF THE STOCKHOLDERS' AGREEMENT DATED , 2007, AS AMENDED FROM TIME TO TIME, BETWEEN THE ISSUER AND THE HOLDER HEREOF AND MAY NOT BE OFFERED, SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF EXCEPT IN ACCORDANCE WITH THE TERMS OF THAT AGREEMENT.

(b) The Company shall, at the request of a holder of shares of Company Common Stock, remove from each certificate evidencing such shares transferred in compliance with the terms of Section 5.01 and with respect to which no rights or obligations under this Agreement shall transfer, the legend described in Sections 5.02(a)(ii), and shall remove from each certificate evidencing such shares the legend described in Section 5.02(a)(i) if such shares are to be transferred in a transaction registered under the Securities Act or pursuant to Rule 144.

SECTION 5.03 Termination of Transfer Restriction Provisions. The provisions of Section 5.01 shall terminate on the earliest to occur of:

(a) the tenth anniversary of the Initial Closing;

(b) the date on which the shares of Company Common Stock beneficially owned by the Investor represent less than 10% of the aggregate number of shares of Company Common Stock then outstanding; or

(c) on the date on which the shares of Company Common Stock (excluding any Restricted Shares) beneficially owned by the Investor represent more than 50% of the aggregate number of shares of Company Common Stock then outstanding.

ARTICLE VI

INFORMATION RIGHTS

SECTION 6.01 Furnishing of Information; Confidentiality. (a) The Company shall furnish or make available to the Investor and its Representatives, promptly after such information becomes available to the Company:

(i) such annual budget, business plans and financial forecasts as are customarily provided to the Board;

(ii) following the end of each fiscal quarter and fiscal year of the Company, such consolidated financial statements and operations reports of the Company (including audit reports with respect to fiscal years) as are customarily provided to the Board;

(iii) following the end of each calendar month, such internal management financial and operations reports regarding the Company's financial results and operations as are customarily provided to the Company's senior management;

(iv) all information that is provided to members of the Board in their capacity as such; and

(v) such other financial, management and operations reports reasonably requested by the Investor (including audited annual and unaudited quarterly financial statements in the event the Company is no longer obligated to provide such information in filings with the Commission).

(b) The Company shall, and shall cause its subsidiaries and the officers, directors, employees, auditors and agents of the Company and its subsidiaries to, afford the Investor and its Representatives reasonable access at all reasonable times to the officers, employees, agents, properties, offices and other facilities, books and records of the Company and each subsidiary.

(c) All Confidential Information shall be kept confidential by the Investor and shall not be disclosed by the Investor in any manner whatsoever other than as may be required by applicable Law or Nasdaq Regulation. The Investor acknowledges that any information provided to the Investor by the Company pursuant to this Section 6.01(c) may constitute material non-public information and that its possession of such information may subject the Investor to the restrictions of the Securities Act and the Exchange Act.

(d) The Investor may suspend the provisions of this Article VI at any time by delivery of a written notice to such effect to the Company. The provisions of this Article VI shall

terminate on the date on which the shares of Company Common Stock beneficially owned by the Investor and its affiliates represent less than 10% of the aggregate number of shares of Company Common Stock then outstanding.

ARTICLE VII
MISCELLANEOUS

SECTION 7.01 Termination Generally. Except as otherwise specifically provided herein, (i) this Agreement shall terminate, except for this Article 7, which shall survive such termination, (a) upon the written agreement to that effect, signed by all parties hereto or all parties then possessing any rights hereunder, (b) when the Investor and any of its Permitted Transferees cease to beneficially own any shares of Common Stock or (c) upon the termination of the Securities Purchase Agreement prior to the Initial Closing thereunder.

SECTION 7.02 No Recourse(i) . Notwithstanding anything that may be expressed or implied in this Agreement, the Company and the Investor covenant, agree and acknowledge that no recourse under this Agreement, or any documents or instruments delivered in connection with this Agreement, shall be had against any current or future director, officer, employee, stockholder, partner or member of the Investor or of any of its affiliates, assignees or transferees, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any applicable Law, it being further expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any current or future director, officer, employee, stockholder, partner or member of the Investor or of any of its affiliates, assignees or transferees for any obligations of the Investor under this Agreement, or any documents or instruments delivered in connection with this Agreement, for any claim based on, in respect of, or by reason of, such obligations or their creation.

SECTION 7.03 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by telecopy or by recognized overnight courier service to the respective parties at the following addresses (or at such other address for a party as shall be specified by notice given in accordance with this Section 7.03):

(a) if to the Company:

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: President and Chief Executive Officer
Fax: (281) 863-8095

with copies to each of:

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: Executive Vice President and General Counsel

Fax: (281) 863-8010

and

Lexicon Pharmaceuticals, Inc.
8800 Technology Forest Place
The Woodlands, Texas 77381
Attn: Executive Vice President and Chief Financial Officer
Fax: (281) 863-8095

and

Vinson & Elkins L.L.P.
First City Tower
1001 Fannin Street, Suite 2500
Houston, TX 77002-6760
Attn: Mr. David Palmer Oelman
Fax: (713) 615 - 5861

(b) if to the Investor:

Invus, L.P.
c/o The Invus Group, L.L.C.
750 Lexington Avenue (30th Floor)
New York, New York 10022
Attention: Mr. Raymond Debbane
Mr. Christopher Sobecki

with a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Telecopy No.: (212) 455-2502
Attention: Mr. Robert Spatt
Mr. Peter Malloy

SECTION 7.04 No Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and, to the extent permitted by this Agreement, their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

SECTION 7.05 Expenses. Upon demand by the Investor from time to time, the Company shall promptly reimburse the Investor for, or shall promptly pay directly on behalf of the Investor or its affiliates, all out-of-pocket costs, fees and expenses (including all fees and expenses of counsel and other advisors) reasonably incurred by the Investor and its affiliates or

on their behalf in connection with or related to the investigation and consideration of the Company and the Transactions (as defined in the Securities Purchase Agreement), the authorization, preparation, negotiation, execution, performance and enforcement of the Securities Purchase Agreement and the Ancillary Agreements (as defined in the Securities Purchase Agreement) and other documentation related thereto, the consummation of the transactions contemplated by such agreements, and the monitoring and administration of the Investor's and its affiliates' investment in the Company, except that the Company's prior written consent will be required for the reimbursement of fees and expenses of consultants or experts engaged to advise on the Company's conduct of its business strategy or operations.

SECTION 7.06 Governing Law. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of New York, except as to matters governed by the internal corporation Laws of the State of Delaware. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined exclusively in any New York state or federal court, in each case sitting in the Borough of Manhattan. The parties hereto hereby (a) submit to the exclusive jurisdiction of any New York state or federal court, in each case sitting in the Borough of Manhattan, for the purpose of any action or proceeding arising out of or relating to this Agreement brought by any party hereto, and (b) irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the action or proceeding is brought in an inconvenient forum, that the venue of the action or proceeding is improper, or that this Agreement or the transactions contemplated hereby may not be enforced in or by any of the above-named courts.

SECTION 7.07 Waiver of Jury Trial. Each of the parties hereto hereby waives to the fullest extent permitted by applicable Law any right it may have to a trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Agreement or the transactions contemplated hereby. Each of the parties hereto (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 that foregoing waiver and (b) acknowledges that it and the other parties hereto have been induced to enter into this Agreement and the transactions contemplated hereby, as applicable, by, among other things, the mutual waivers and certifications in this Section 7.07.

SECTION 7.08 Specific Performance. The parties hereto agree that irreparable damage would occur in the event that any provision of this Agreement was not performed in accordance with the terms hereof and that the parties hereto shall be entitled to specific performance of the terms hereof, in addition to any other remedy at Law or in equity.

SECTION 7.09 Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

SECTION 7.10 Entire Agreement. This Agreement and the Related Agreements constitute the entire agreement among the parties with respect to the subject matter hereof and

thereof and supersede all prior agreements and understandings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof and thereof.

SECTION 7.11 Assignment. This Agreement shall not be assigned by operation of Law or otherwise without the express written consent of the parties hereto (which consent may be granted or withheld in the sole discretion of any party) and any such assignment or attempted assignment without such consent shall be void; *provided*, that the Investor may assign any or all its rights under this Agreement to one or more of its affiliates which purchase or hold shares of Company Common Stock; *provided*, *further*, that no such assignment shall relieve the Investor of any of its obligations hereunder and all shares of Company Common Stock held by any subsidiary or affiliate of the Investor shall be deemed to be held by the Investor for all purposes under this Agreement. Any affiliate of the Investor which holds or acquires shares of Company Common Stock shall be subject to the obligations of the Investor hereunder and all shares owned by the Investor and its affiliates shall be aggregated and considered to be owned by the Investor for all ownership thresholds hereunder.

SECTION 7.12 Amendment. This Agreement may not be amended or modified except (a) by an instrument in writing signed by, or on behalf of, the Company and the Investor or (b) by a waiver in accordance with Section 7.13.

SECTION 7.13 Waiver. Any party to this Agreement may (a) extend the time for the performance of any of the obligations or other acts of the other party or (c) waive compliance with any of the agreements of the other party or conditions to such party's obligations contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party to be bound thereby. Any waiver of any term or condition shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition, or a waiver of any other term or condition of this Agreement. The failure of any party hereto to assert any of its rights hereunder shall not constitute a waiver of any of such rights. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

SECTION 7.14 Severability. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 7.15 No Partnership. No partnership, joint venture or joint undertaking is intended to be, or is, formed among the parties hereto or any of them by reason of this Agreement or the transactions contemplated herein.

SECTION 7.16 Public Announcements. Except as required by Law, no party to this Agreement shall make, or cause to be made, any press release or public announcement in

respect of this Agreement or otherwise communicate with any news media without the prior written consent of the other parties, and the parties shall cooperate as to the timing and contents of any such press release or public announcement.

SECTION 7.17 Delays or Omissions. It is agreed that no delay or omission to exercise any right, power or remedy accruing to any party, upon any breach, default or noncompliance by another party under this Agreement, shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach, default or noncompliance, or any acquiescence therein, or of or in any similar breach, default or noncompliance thereafter occurring. It is further agreed that any waiver, permit, consent or approval of any kind or character on the Investors' part of any breach, default or noncompliance under this Agreement or any waiver on such party's part of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement, by law, or otherwise afforded to any party, shall be cumulative and not alternative.

SECTION 7.18 Interpretation. The words "hereof", "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. When reference is made in this Agreement to an Article or a Section, such reference shall be to an Article or Section of this Agreement, unless otherwise indicated. The table of contents, table of defined terms and headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation."

SECTION 7.19 Cumulative Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by Law or otherwise.

SECTION 7.20 Construction. Each party hereto acknowledges and agrees it has had the opportunity to draft, review and edit the language of this Agreement and that no presumption for or against any party arising out of drafting all or any part of this Agreement will be applied in any controversy, claim or dispute relating to, in connection with or involving this Agreement. Accordingly, the parties hereto hereby waive the benefit of any rule of Law or any legal decision that would require, in cases of uncertainty, that the language of a contract should be interpreted most strongly against the party who drafted such language.

(signature page follows)

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

COMPANY:

LEXICON PHARMACEUTICALS, INC.,
a Delaware corporation

By: /s/ Arthur T. Sands
Name: Arthur T. Sands, M.D., Ph.D.
Title: President and Chief Executive Officer

INVESTOR:

INVUS, L.P.,
a Bermuda limited partnership

By: /s/ Raymond Debbane
Name: Raymond Debbane
Title: President of Invus Advisors, LLC,
its General Partner