

## SIXTH AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

THIS SIXTH AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT (the "*Agreement*") is made as of June 16, 2011 by and among \_\_\_\_\_ corporation (the "*Company*") and the investors listed on Exhibit A hereto, referred to hereinafter as the "*Investors*" and each individually as an "*Investor*."

### RECITALS

WHEREAS, certain of the Investors are purchasing shares of the Company's Series 5 Preferred Stock (the "*Series 5 Preferred*"), pursuant to that certain Series 5 Preferred Stock Purchase Agreement (the "*Purchase Agreement*") of even date herewith (the "*Financing*");

WHEREAS, the obligations in the Purchase Agreement are conditioned upon the execution and delivery of this Agreement;

WHEREAS, certain of the Investors (the "*Prior Investors*") are holders of the Company's Series 1-A Preferred Stock, the Company's Series 1-B Preferred Stock, the Company's Series 1-C Preferred Stock (collectively, the "*Series 1 Preferred*"), the Company's Series 2 Preferred Stock (the "*Series 2 Preferred*"), the Company's Series 3 Preferred Stock (the "*Series 3 Preferred*") and the Company's Series 4 Preferred Stock (the "*Series 4 Preferred*");

WHEREAS, the Prior Investors are parties to that certain Fifth Amended and Restated Investor Rights Agreement dated as of March 9, 2011, by and among the Company and the Prior Investors (the "*Prior Agreement*");

WHEREAS, in connection with the consummation of the Financing, the Company and the Investors have agreed to provide for the rights and covenants as set forth below; and

WHEREAS, the parties to such Prior Agreement desire to amend and restate the Prior Agreement and to accept the rights and covenants hereof in lieu of their rights and covenants under the Prior Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, all parties hereto agree as follows:

1. **Amendment and Restatement of Prior Agreement.** Effective upon the execution of this Agreement by (i) the Company (ii) the holders of a majority of the outstanding Registrable Securities (as defined in the Prior Agreement), including a majority of the then-outstanding shares of Series 2 Preferred, Series 3 Preferred and Series 4 Preferred, voting together as a single class on an as-converted basis, and (iii) and the holders of a majority of the Registrable Securities then outstanding held by Major Investors (the "*Requisite Execution*"), the Prior Agreement is hereby amended in its entirety and restated herein. Upon such Requisite Execution, all provisions of, rights granted and covenants made in the Prior Agreement, as amended, are hereby waived, released and

superseded in their entirety and shall have no further force or effect, including, without limitation, all rights of first refusal and any notice period associated therewith otherwise applicable to the transactions contemplated by the Purchase Agreement. Upon execution of this Agreement by any Investor that is a party to the Prior Agreement, such Investor hereby agrees to accept all rights and covenants under this Agreement in lieu of any rights under the Prior Agreement, as amended. Further, such Investor agrees that execution of this Agreement shall withdraw such Investor from the Prior Agreement and all rights granted and covenants made in the Prior Agreement, as amended, are hereby waived, released and superseded in their entirety and shall have no further force or effect with regard to such Investor.

2. **Certain Definitions.** All capitalized terms used and not otherwise defined herein shall have the meanings given them in the Purchase Agreement. As used in this Agreement, the following terms shall have the following respective meanings:

**"Board"** shall mean the Company's board of directors.

**"Commission"** shall mean the Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

**"Conversion Stock"** means the Common Stock issued or issuable pursuant to conversion of the Preferred Stock.

**"Exchange Act"** means the Securities Exchange Act of 1934, as amended.

**"Holder"** shall mean (i) any Investor holding Registrable Securities, and (ii) any person holding Registrable Securities to whom the rights under this Agreement have been transferred in accordance with Section 6.9 hereof.

**"Initial Offering"** means the Company's first firm commitment underwritten public offering of its Common Stock registered under the Securities Act.

**"Initiating Holders"** shall mean any Holders who in the aggregate hold not less than forty percent (40%) of the Registrable Securities.

**"Preferred Stock"** shall mean the Series 1 Preferred, Series 2 Preferred, Series 3 Preferred, Series 4 Preferred and Series 5 Preferred.

**"Registrable Securities"** means (a) the Conversion Stock, (b) any Common Stock purchased by \_\_\_\_\_ or its affiliates on or before March 15, 2011, and (c) any Common Stock purchased by \_\_\_\_\_ or their affiliates on or before June 30, 2011; in each case including any Common Stock of the Company issued or issuable in respect of such securities as any stock split, stock dividend, recapitalization, or similar event, or any Common Stock otherwise issuable with respect to such securities; *provided, however*, that the above-described securities shall only be treated as Registrable Securities if and so long as they have not been sold to or through a broker or dealer or underwriter in a public distribution or a public securities transaction.

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.

"*Registration Expenses*" shall mean all expenses, except as stated in Section 6.4 hereof, incurred by the Company in complying with Sections 6.1, 6.2 and 6.3 hereof, including, without limitation, all registration and filing fees, printing expenses, fees and disbursements of counsel for the Company, reasonable fees and disbursements not to exceed

of a single special counsel for the Holders, blue sky fees and expenses and the expense of any special audits incident to or required by any such registration (but excluding the compensation of regular employees of the Company which shall be paid in any event by the Company).

"*Restricted Securities*" shall mean the securities of the Company required to bear the legend set forth in Section 4 hereof.

"*Securities Act*" shall mean the Securities Act of 1933, as amended, or any similar federal statute and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"*Selling Expenses*" shall mean all underwriting discounts, selling commissions and stock transfer taxes applicable to the securities registered by the Holders and, except as set forth under "Registration Expenses", all reasonable fees and disbursements of counsel for any Holder.

"*Senior Preferred*" shall mean, collectively, the Series 2 Preferred, the Series 3 Preferred, the Series 4 Preferred and the Series 5 Preferred.

3. **Restrictions on Transferability.** The Conversion Stock and any other securities issued in respect of the Conversion Stock upon any stock split, stock dividend, recapitalization, merger, consolidation or similar event, shall not be sold, assigned, transferred or pledged except upon the conditions specified in this Agreement, which conditions are intended to ensure compliance with the provisions of the Securities Act. Each Holder will cause any proposed purchaser, assignee, transferee, or pledgee of any such shares held by the Holder to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.

4. **Restrictive Legend.** Each certificate representing (i) the Preferred Stock, (ii) the Conversion Stock and (iii) any other securities issued in respect of the Preferred Stock or the Conversion Stock upon any stock split, stock dividend, recapitalization, merger, consolidation or similar event, shall (unless otherwise permitted by the provisions of Section 5 below) be stamped or otherwise imprinted with a legend in substantially the following form (in addition to any legend required under applicable state securities laws):

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT FOR DISTRIBUTION, AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SHARES MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED, OR OTHERWISE TRANSFERRED IN THE ABSENCE OF A REGISTRATION

STATEMENT IN EFFECT WITH RESPECT THERETO UNDER SUCH ACT UNLESS SOLD PURSUANT TO RULE 144 OF SUCH ACT OR UNLESS SUCH SALE, PLEDGE, HYPOTHECATION OR TRANSFER IS OTHERWISE EXEMPT FROM REGISTRATION. THE COMPANY MAY REQUEST A WRITTEN OPINION OF COUNSEL (FROM COUNSEL REASONABLY ACCEPTABLE TO THE COMPANY) REASONABLY SATISFACTORY TO THE COMPANY, TO THE EFFECT THAT REGISTRATION IS NOT REQUIRED IN CONNECTION WITH SUCH SALE, PLEDGE OR HYPOTHECATION, OR OTHER TRANSFER. THIS CERTIFICATE MUST BE SURRENDERED TO THE COMPANY OR ITS TRANSFER AGENT AS A CONDITION PRECEDENT TO THE SALE, PLEDGE, HYPOTHECATION OR ANY OTHER TRANSFER OF ANY INTEREST IN ANY OF THE SHARES REPRESENTED BY THIS CERTIFICATE.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER CONTAINED IN AN INVESTOR RIGHTS AGREEMENT BETWEEN THE COMPANY AND THE SHAREHOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

The Company shall be obligated to reissue promptly unlegended certificates at the request of any Holder thereof if the Company has completed its Initial Offering and the Holder shall have obtained an opinion of counsel (which counsel may be counsel to the Company) reasonably acceptable to the Company to the effect that the securities proposed to be disposed of may lawfully be so disposed of without registration, qualification and legend, *provided that* the second legend listed above shall be removed only at such time as the Holder of such certificate is no longer subject to any restrictions hereunder.

Each Holder consents to the Company's making a notation on its records and giving instructions to any transfer agent for the Preferred Stock or the Common Stock in order to implement the restrictions on transfer established in this Agreement.

**5. Notice of Proposed Transfers.** The holder of each certificate representing Restricted Securities by acceptance thereof agrees to comply in all respects with the provisions of this Section 5. Prior to any proposed sale, assignment, transfer or pledge of any Restricted Securities (other than (i) a transfer not involving a change in beneficial ownership, or (ii) in transactions involving the distribution without consideration of Restricted Securities by an Investor to any of its affiliates, partners or members, or retired partners or members, or to the estate of any of its partners or members or retired partners or members), unless there is in effect a registration statement under the Securities Act covering the proposed transfer, the holder thereof shall give written notice to the Company of such holder's intention to effect such transfer, sale, assignment or pledge. Each such notice shall describe the manner and circumstances of the proposed transfer, sale, assignment or pledge in sufficient detail, and shall be accompanied, at such holder's expense by either (i) an unqualified written opinion of legal counsel who shall be, and whose legal opinion shall be, reasonably satisfactory to the Company addressed to the Company, to the effect that the proposed transfer of the Restricted Securities may be effected without registration under the Securities Act, or

(ii) a “no action” letter from the Commission to the effect that the transfer of such securities without registration will not result in a recommendation by the staff of the Commission that action be taken with respect thereto, whereupon the holder of such Restricted Securities shall be entitled to transfer such Restricted Securities in accordance with the terms of the notice delivered by the holder to the Company. It is agreed that the Company will not request an opinion of counsel for the holder for transactions made in reliance on Rule 144 under the Securities Act except in unusual circumstances, the existence of which shall be determined in good faith by the Board. Each certificate evidencing the Restricted Securities transferred as above provided shall bear, except if such transfer is made pursuant to Rule 144, the appropriate restrictive legend set forth in Section 4 above, except that such certificate shall not bear such restrictive legend if in the opinion of counsel for such holder and the Company such legend is not required in order to establish compliance with any provision of the Securities Act.

## 6. Registration.

### 6.1 Requested Registration.

(a) Request for Registration. If at any time following the six (6) month anniversary of the effective date of the Company’s Initial Offering, the Company shall receive from Initiating Holders a written request that the Company effect any registration, qualification or compliance with respect to Registrable Securities, provided that the anticipated aggregate offering price, net of underwriting discounts and commissions, of such requested registration would exceed \_\_\_\_\_, the Company will:

(i) promptly give written notice of the proposed registration, qualification or compliance to all other Holders; and

(ii) as soon as practicable, use its best efforts to effect such registration, qualification or compliance (including, without limitation, appropriate qualification under applicable blue sky or other state securities laws and appropriate compliance with applicable regulations issued under the Securities Act and any other governmental requirements or regulations) as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any Holder or Holders joining in such request as are specified in a written request received by the Company within fifteen (15) days after receipt of such written notice from the Company;

Provided, however, that the Company shall not be obligated to take any action to effect any such registration, qualification or compliance pursuant to this Section 6.1:

(A) In any particular jurisdiction in which the Company would be required to execute a general consent to service of process in effecting such registration, qualification or compliance unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(B) Following notice to the Holders by the Company, during the period starting with the date thirty (30) days prior to the Company’s good faith estimated date of filing of, and ending on the date six (6) months immediately following the effective date of,

any registration statement pertaining to securities of the Company (other than a registration of securities in a Rule 145 transaction or with respect to an employee benefit plan), provided that the Company is actively employing in good faith all reasonable efforts to cause such registration statement to become effective;

(C) After the Company has effected two (2) such registrations pursuant to this Section 6.1, and such registrations has been declared or ordered effective;

(D) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 6.3 below; or

(E) If the Company shall furnish to such Initiating Holders, within thirty (30) days from the date of receipt of written request from the Initiating Holders, a certificate signed by the Chief Executive Officer of the Company stating that in the good faith judgment of the Chief Executive Officer it would be seriously detrimental to the Company or its shareholders for a registration statement to be filed in the near future, then the Company's obligation to use its best efforts to register, qualify or comply under this Section 6.1 shall be deferred for a period not to exceed ninety (90) days from the date of receipt of written request from the Initiating Holders, provided that the Company may not exercise this deferral right more than once per twelve (12) month period.

(b) Underwriting. If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as part of their request made pursuant to Section 6.1(a) and the Company shall include such information in the written notice referred to in Section 6.1(a).

The Company shall (together with all Holders proposing to distribute their securities through such underwriting) enter into an underwriting agreement in customary form with the managing underwriter selected for such underwriting by a majority in interest of the Initiating Holders, but subject to the Company's reasonable approval. Notwithstanding any other provision of this Section 6.1, if the managing underwriter advises the Initiating Holders in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Company shall so advise all Holders of Registrable Securities, and the number of shares of Registrable Securities that may be included in the registration and underwriting shall be allocated among all Holders in proportion, as nearly as practicable, to the respective amounts of Registrable Securities held by such Holders at the time of filing the registration statement. Neither the Company nor any other holders of Registration Rights may participate in the proposed offering if any Holders have been cut back pursuant to this Section 6.1(b). No Registrable Securities excluded from the underwriting by reason of the underwriter's marketing limitation shall be included in such registration. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares. For purposes of the preceding apportionment, for any participating Holder that is a partnership, limited liability company or corporation, the partners, retired partners, members, retired members and stockholders of such Holder, or the estates and family members of any such partners, members, retired partners or retired members and any trusts for the benefit of any of the foregoing persons shall be deemed to be a single

“*selling stockholder*,” and any pro-rata reduction with respect to such “*selling stockholder*” shall be based upon the aggregate amount of shares carrying registration rights owned by all Persons included in such “*selling stockholder*,” as defined in this sentence.

If any Holder of Registrable Securities disapproves of the terms of the underwriting, such person may elect to withdraw therefrom by written notice to the Company, the managing underwriter and the Initiating Holders. The Registrable Securities and/or other securities so withdrawn shall also be withdrawn from registration, and such Registrable Securities shall continue to be subject to the terms of this Agreement including Section 7 hereof.

## 6.2 Company Registration.

(a) Notice of Registration. If at any time or from time to time the Company shall determine to register any of its equity securities, either for its own account or the account of a security holder or holders, other than (i) a registration relating solely to employee benefit plans, (ii) a registration relating solely to a Rule 145 transaction, or (iii) a registration in which the only equity security being registered is Common Stock issuable upon conversion of convertible debt securities which are also being registered, the Company will:

- (i) promptly give to each Holder written notice thereof; and
- (ii) include in such registration (and any related qualification under blue sky laws or other compliance), and in any underwriting involved therein, all the Registrable Securities specified in a written request or requests, made within fifteen (15) days after receipt of such written notice from the Company, by any Holder.

(b) Underwriting. If the registration of which the Company gives notice is for a registered public offering involving an underwriting, the Company shall so advise the Holders as a part of the written notice given pursuant to Section 6.2(a)(i). In such event the right of any Holder to registration pursuant to this Section 6.2 shall be conditioned upon such Holder's participation in such underwriting, and the inclusion of Registrable Securities in the underwriting shall be limited to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company and the other holders distributing their securities through such underwriting) enter into an underwriting agreement in customary form with the managing underwriter selected for such underwriting by the Company.

Notwithstanding any other provision of this Section 6.2, if the managing underwriter determines that marketing factors require a limitation of the number of shares to be underwritten, the managing underwriter may exclude some or all of the Registrable Securities. The Company shall so advise all Holders distributing their securities through such underwriting, and the number of shares of Registrable Securities that may be included in the registration and underwriting shall be allocated first to the Company; second to the Holders of Registrable Securities (and pro rata among such holders on the basis of all Registrable Securities then held by such holders); and third among all other shareholders of the Company in proportion, as nearly as practicable, to the respective amounts of securities which they had requested to be included in such registration at the time of filing of the registration statement. Notwithstanding the foregoing, after the Company's Initial Offering, the Holders shall be entitled to include shares comprising at least \_\_\_\_\_ of a registration

(and pro rata among such Holders on the basis of all Registrable Securities then held by such holders). To facilitate the allocation of shares in accordance with the above provisions, the Company may round the number of shares allocated to any Holder to the nearest 100 shares. For purposes of the preceding apportionment, for any participating Holder that is a partnership, limited liability company, venture capital fund or corporation, the partners, retired partners, members, retired members, affiliated venture capital funds and stockholders of such Holder, or the estates and family members of any such partners, members, retired partners or retired members and any trusts for the benefit of any of the foregoing persons shall be deemed to be a single "selling stockholder," and any pro-rata reduction with respect to such "selling stockholder" shall be based upon the aggregate amount of shares carrying registration rights owned by all Persons included in such "selling stockholder," as defined in this sentence.

If any Holder disapproves of the terms of any such underwriting, he or she may elect to withdraw therefrom by written notice to the Company and the managing underwriter. Any securities excluded or withdrawn from such underwriting shall be withdrawn from such registration, and shall continue to be subject to the terms of this Agreement including Section 7 hereof.

(c) Right to Terminate Registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 6.2 prior to the effectiveness of such registration whether or not any Holder has elected to include securities in such registration. The Registration Expenses of such withdrawn registration shall be borne by the Company in accordance with Section 6.4 hereof

### 6.3 Registration on Form S-3.

(a) If any Holder or Holders of at least \_\_\_\_\_ of the then outstanding Registrable Securities request that the Company file a registration statement on Form S-3 (or any successor form to Form S-3) for a public offering of shares of the Registrable Securities the reasonably anticipated aggregate price to the public of which would be equal to or exceed \_\_\_\_\_, and the Company is a registrant entitled to use Form S-3 to register the Registrable Securities for such an offering, the Company shall use its best efforts to cause such Registrable Securities to be registered for the offering on such form and to cause such Registrable Securities to be qualified in such jurisdictions as such Holder or Holders may reasonably request. The Company shall promptly give notice to other Holders of the proposed registration and offer them the opportunity to participate in accordance with Section 6.2. In the event the registration is proposed to be part of a firm commitment underwritten public offering, the substantive provisions of Section 6.1(b) shall be applicable to each such registration initiated under this Section 6.3. The Company may include other shares of Common Stock in any of the registrations provided for in this Section 6.3, provided that such inclusion will not interfere with the marketing (including the price to the public) of the Registrable Securities to be registered by the Holders.

(b) Notwithstanding the foregoing, the Company shall not be obligated to take any action pursuant to this Section 6.3:

(i) if Form S-3 is not available for such offering by the Holders;

(ii) if the Company has, within the twelve (12) month period preceding the date of such request, already effected two (2) registrations on Form S-3 for the Holders pursuant to this Section 6.3;

(iii) in any particular jurisdiction in which the Company would be required to execute a general consent to service of process in effecting such registration, qualification or compliance unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(iv) if within thirty (30) days of receipt of a written request from any Holder or Holders pursuant to this Section 6.3, the Company gives notice to such Holder or Holders of the Company's good faith intention to make a public offering within ninety (90) days (other than a registration of securities in a Rule 145 transaction or with respect to an employee benefit plan), provided that the Company is actively employing in good faith all reasonable efforts to cause such registration statement to become effective; or

(v) if the Company shall furnish to such Holder or Holders a certificate signed by the Chief Executive Officer of the Company stating that in the good faith judgment of the Board it would be seriously detrimental to the Company or its shareholders for registration statements to be filed at that time, then the Company's obligation to use its best efforts to file a registration statement shall be deferred for a period not to exceed one hundred twenty (120) days from the receipt of the request to file such registration statement by such Holder or Holders, provided that the Company may not exercise this deferral right more than once per twelve (12) month period.

6.4 Expenses of Registration. Except as specifically provided herein, all Registration Expenses incurred in connection with any registration, qualification or compliance pursuant to Sections 6.1, 6.2 and 6.3 herein shall be borne by the Company. All Selling Expenses incurred in connection with any registrations hereunder, shall be borne by the holders of the securities so registered pro rata on the basis of the number of shares so registered. The Company shall not, however, be required to pay for expenses of any registration proceeding begun pursuant to Sections 6.1 and 6.3, the request of which has been subsequently withdrawn by the Initiating Holders unless (a) the withdrawal is based upon material adverse information concerning the Company of which the Initiating Holders were not aware at the time of such request or (b) the Holders of a majority of Registrable Securities agree to deem such registration to have been effected as of the date of such withdrawal for purposes of determining whether the Company shall be obligated pursuant to Section 6.1(a)(ii)(A) through (E) or 6.3(b)(ii), as applicable, to undertake any subsequent registration, in which event such right shall be forfeited by all Holders). If the Holders are required to pay the Registration Expenses, such expenses shall be borne by the holders of securities (including Registrable Securities) requesting such registration in proportion to the number of shares for which registration was requested. If the Company is required to pay the Registration Expenses of a withdrawn offering pursuant to clause (a) above, then such registration shall not be deemed to have been effected for purposes of determining whether the Company shall be obligated pursuant to Section 6.1(a)(ii)(A) through (E) or 6.3(b)(ii), as applicable, to undertake any subsequent registration.

6.5 Registration Procedures. In the case of each registration, qualification or compliance effected by the Company pursuant to this Agreement, the Company will keep each Holder advised in writing as to the initiation of each registration, qualification and compliance and as to the completion thereof. The Company will:

(a) Prepare and file with the Commission a registration statement with respect to such securities and use its best efforts to cause such registration statement to become and remain effective for at least ninety (90) days or until the distribution described in the registration statement has been completed, whichever first occurs; provided, however, that such 90-day period shall be extended for a period of time equal to the period the Holder refrains from selling any securities included in such registration at the request of the Company or an underwriter of Common Stock (or other securities) of the Company.

(b) Furnish to the Holders participating in such registration such reasonable number of copies of the registration statement, preliminary prospectus, final prospectus and such other documents as such Holders may reasonably request in order to facilitate the disposition of Registrable Securities owned by them.

(c) Prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Act with respect to the disposition of all securities covered by such registration statement.

(d) Use commercially reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders; provided that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.

(e) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

(f) Promptly after the Company becomes aware, notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances under which they were made or, if for any other reason it shall be necessary during such time period to amend or supplement the registration statement or the prospectus in order to comply with the Securities Act, whereupon, in either case, each Holder shall immediately cease to use such registration statement or prospectus for any purpose and, as promptly as practicable thereafter, the Company shall prepare and file with the SEC, and furnish without charge to the appropriate Holders and managing underwriters, if any, a supplement or amendment to such registration statement or prospectus which will correct such

statement or omission or effect such compliance and such copies thereof as the Holders and any underwriters may reasonably request.

(g) Cause all such Registrable Securities registered pursuant hereunder to be listed on each securities exchange on which similar securities issued by the Company are then listed.

(h) Provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration.

(i) Use its reasonable best efforts to furnish, at the request of any Holder requesting registration of Registrable Securities pursuant to this Section 6, on the date that such Registrable Securities are delivered to the underwriters for sale in connection with a registration pursuant to this Section 6 if such securities are being sold through underwriters, or, if such securities are not being sold through underwriters, on the date that the registration statement with respect to such securities becomes effective, (i) an opinion, dated such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters (or, if no underwriters will be involved in the offering, to the purchasers), and (ii) a letter dated such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the underwriters.

#### 6.6 Indemnification.

(a) The Company will indemnify each Holder, each of such Holder's officers and directors and partners, and each person controlling such Holder within the meaning of Section 15 of the Securities Act, with respect to which registration, qualification or compliance has been effected pursuant to this Agreement, and each underwriter, if any, and each person who controls any underwriter within the meaning of Section 15 of the Securities Act, against all expenses, claims, losses, damages or liabilities (or actions in respect thereof), including any of the foregoing incurred in settlement of any litigation, commenced or threatened, arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, prospectus, offering circular or other document, or any amendment or supplement thereto, incident to any such registration, qualification or compliance, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, or any violation (or alleged violation) by the Company of the Securities Act, the Exchange Act, state securities law or any rule or regulation promulgated under such laws applicable to the Company in connection with any such registration, qualification or compliance, and the Company will reimburse each such Holder, each of such Holder's officers and directors and partners, and each person controlling such Holder, each such underwriter and each person who controls any such underwriter, for any legal and any other expenses reasonably incurred, as such expenses are incurred, in connection with investigating, preparing or defending of any such claim, loss, damage, liability or action, provided that the Company will not be liable in any such case to the extent that any such claim, loss, damage, liability or expense arises out of or is based on any untrue statement or omission

or alleged untrue statement or omission, made in reliance upon and in conformity with written information furnished to the Company by an instrument duly executed by such Holder, controlling person or underwriter and stated to be specifically for use therein; provided, however, that the foregoing indemnity agreement is subject to the condition that, insofar as it relates to any such untrue statement, alleged untrue statement, omission or alleged omission made in a preliminary prospectus on file with the Commission at the time the registration statement becomes effective or the amended prospectus filed with the Commission pursuant to Rule 424(b) (the "*Final Prospectus*"), such indemnity agreement shall not inure to the benefit of any underwriter or any Holder, if there is no underwriter, if a copy of the Final Prospectus was not furnished to the person asserting the loss, liability, claim or damage at or prior to the time such action is required by the Securities Act, and if the Final Prospectus would have cured the defect giving rise to the loss, liability, claim or damage.

(b) Each Holder will, if Registrable Securities held by such Holder are included in the securities as to which such registration, qualification or compliance is being effected, indemnify the Company, each of its directors and officers, each underwriter, if any, of the Company's securities covered by such a registration statement, each person who controls the Company or such underwriter within the meaning of Section 15 of the Securities Act, and each other such Holder, each of such Holder's officers and directors and each person controlling such Holder within the meaning of Section 15 of the Securities Act, against all claims, losses, damages and liabilities (or actions in respect thereof) arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any such registration statement, prospectus, offering circular or other document, 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, and will reimburse the Company, such Holders, such directors, officers, persons, underwriters or control persons for any legal or any other expenses reasonably incurred, as such expenses are incurred, in connection with investigating or defending any such claim, loss, damage, liability or action, in each case to the extent, but only to the extent, that such untrue statement (or alleged untrue statement) or omission (or alleged omission) is made in such registration statement, prospectus, offering circular or other document in reliance upon and in conformity with written information furnished to the Company by an instrument duly executed by such Holder and stated to be specifically for use therein. Notwithstanding the foregoing, the liability of each Holder under this Section 6.6(b) shall be limited in an amount equal to the net proceeds from the offering received by such Holder.

(c) Each party entitled to indemnification under this Section 6.6 (the "*Indemnified Party*") shall give notice to the party required to provide indemnification (the "*Indemnifying Party*") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom, provided that counsel for the Indemnifying Party, who shall conduct the defense of such claim or litigation, shall be approved by the Indemnified Party (whose approval shall not unreasonably be withheld), and the Indemnified Party may participate in such defense at such party's expense, and provided further that the failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Agreement unless the failure to give such notice is materially prejudicial to an Indemnifying Party's ability to defend such action and provided further, that the Indemnifying Party shall not assume the defense for matters as to which there is a conflict of interest or separate and different defenses. No Indemnifying Party, in the defense of any such claim or litigation, shall,

except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation.

(d) If the indemnification provided for in this Section 6.6 is held by a court of competent jurisdiction to be unavailable to an Indemnified Party with respect to any loss, liability, claim, damage or expense referred to therein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such loss, liability, claim, damage, or expense in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and of the Indemnified Party on the other in connection with the statements or omissions that resulted in such loss, liability, claim, damage or expense as well as any other relevant equitable considerations; provided, that in no event shall any contribution by a Holder under this Section 6.6(d), when combined with any payments made pursuant to Section 6.6(b), exceed the net proceeds from the offering received by such Holder. The relative fault of the Indemnifying Party and of the Indemnified Party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the Indemnifying Party or by the Indemnified Party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

6.7 Information by Holder. The Holder or Holders of Registrable Securities included in any registration shall furnish to the Company such information regarding such Holder or Holders, the Registrable Securities held by them and the distribution proposed by such Holder or Holders as the Company may reasonably request in writing and as shall be required in connection with any registration, qualification or compliance referred to in this Agreement.

6.8 Rule 144 Reporting. With a view to making available the benefits of certain rules and regulations of the Commission which may at any time permit the sale of the Restricted Securities to the public without registration, after such time as a public market exists for the Common Stock of the Company, the Company agrees to use all reasonable efforts to:

(a) Make and keep public information available, as those terms are understood and defined in Rule 144 under the Securities Act, at all times after the effective date that the Company becomes subject to the reporting requirements of the Securities Act or the Exchange Act;

(b) File with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements); and

(c) So long as the Holder owns any Restricted Securities to furnish to the Holder forthwith upon request a written statement by the Company as to its compliance with the reporting requirements of said Rule 144 (at any time after ninety (90) days after the effective date of the first registration statement filed by the Company for an offering of its securities to the general public), and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold

pursuant to Form S-3 (at any time after it so qualifies), a copy of the most recent annual or quarterly report of the Company, and such other reports and documents of the Company and other information in the possession of or reasonably obtainable by the Company as the Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing the Holder to sell any such securities without registration.

6.9 Transfer of Registration Rights. The rights to cause the Company to register securities granted to the Holders under Sections 6.1, 6.2 and 6.3 may be assigned by a Holder to a transferee or assignee that (i) is an affiliate, constituent member, partner, affiliated venture capital fund or shareholder of, or retired member or partner of, a Holder which is a limited liability company, partnership, venture capital fund or corporation and such members, partners, or shareholders agree to act collectively through a single representative or (ii) acquires at least shares of Registrable Securities (as adjusted for any stock dividends, combinations, splits, recapitalization and the like with respect to such shares) (which minimum share requirement may be waived by the Board), and is, in each case pursuant to (i) and (ii) above, in the good faith determination of the Board, not a competitor of the Company; *provided however*, that (i) all such transfers or assignments of Registrable Securities must be effected in accordance with applicable securities laws, (ii) the transferor shall, within ten (10) days after such transfer, furnish to the Company written notice of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned and (iii) such transferee shall have agreed in writing to be subject to all obligations and restrictions set forth in this Agreement.

6.10 Termination of Registration Rights. The rights granted pursuant to Sections 6.1, 6.2 and 6.3 of this Agreement shall terminate with respect to a Holder, at such time as the Holder is able to sell all of such Holder's shares pursuant to Rule 144 promulgated under the Securities Act during any three (3) month period, provided that the Company is subject to the reporting requirements of the Exchange Act.

6.11 Limitations on Subsequent Registration Rights. From and after the date hereof, the Company shall not, without the consent of the Holders holding a majority of the Registrable Securities, enter into any agreement granting any holder or prospective holder of any securities of the Company registration rights superior to those granted pursuant to Section 6 with respect to such securities.

7. Market Standoff Agreement. In connection with the Initial Offering of the Company's securities, each Holder agrees, upon request of the Company or the underwriters managing any underwritten offering of the Company's securities, not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be (in any such case, a "Release") for the 180-day period from the effective date of such Initial Offering (or such longer period, not to exceed 34 days after the expiration of the 180-day period, as the underwriters or the Company shall request in order to facilitate compliance with FINRA Rule 2711); provided that the officers and directors of the Company who own stock or options of the Company and provided that all Holders who individually own at least one percent (1%) of the Company's Registrable Securities also agree to such restrictions. The Holders agree that the Company may instruct its transfer agent to place stop-transfer notations in its records to enforce the provisions of this Section 7. Any Releases respecting

in excess of \_\_\_\_\_ shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like) shall be effected on a pro rata basis among the Holders on the basis of all Registrable Securities then held by such holders. All persons or entities that purchase shares of the capital stock of the Company prior to the Initial Offering of the Company's securities will enter into a written agreement with market stand-off provisions at least as restrictive as those set forth in this Section 7.

**8. Reserved.**

**9. Right of First Refusal.**

9.1 New Issuances. Subject to all of the provisions of this Section 9, the Company hereby grants to each Investor, so long as such Investor owns, together with its affiliates, at least \_\_\_\_\_ shares of Senior Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares) (each, a "*Major Investor*") the right of first refusal (the "*Right of First Refusal*") to purchase on a *pro rata* basis "*New Securities*" (as defined in Section 9.2 below) that the Company may propose to sell and issue following the date hereof. Such *pro rata* share, for purposes of this Right of First Refusal, is equal to the ratio of (X) the number of Registrable Securities then owned by such Major Investor (on an as-converted basis) to (Y) the total number of shares of capital stock of the Company then outstanding (on an as-converted basis, including outstanding options and warrants on an as-exercised and as-converted basis).

9.2 "*New Securities*" shall mean any shares of, or securities convertible into or exercisable for any shares of, any class of the Company's capital stock; provided, however, that "*New Securities*" does not include the following:

- (a) shares or warrants issued pursuant to the Purchase Agreement, or upon conversion or exercise thereof;
- (b) shares of Common Stock issuable upon conversion of Preferred Stock;
- (c) securities of the Company issued pursuant to (i) the acquisition of a business by the Company by merger, consolidation, purchase of assets, or other acquisition or reorganization or (ii) the acquisition of technology, in each case approved by the Board;
- (d) securities of the Company issued in connection with equipment lease or commercial credit arrangements or debt securities approved by the Board;
- (e) securities of the Company issued in connection with a real property lease approved by the Board;
- (f) securities of the Company issued or issuable pursuant to any rights or agreements, options, warrants or convertible securities outstanding as of the date of this Agreement; and securities issued pursuant to any such rights or agreements granted after the date of this Agreement, so long as the rights of first refusal established by this Section 9 were complied with, waived, or were inapplicable pursuant to any provision of this Section 9.2 with respect to the initial sale or grant by the Company of such rights or agreements;

(g) shares of Common Stock, or options to purchase shares of Common Stock, issued or granted to officers, directors, employees and consultants of the Company pursuant to stock plans and option plans or other arrangements approved by the Board;

(h) securities issued in connection with any stock split, stock dividend, or recapitalization by the Company; and

(i) securities issued in connection with any strategic partnering arrangement or strategic alliance approved by the Board.

9.3 Notice. In the event that the Company proposes to undertake an issuance of New Securities, it shall give each Major Investor notice of its intention, describing the type of New Securities, the price, and the general terms upon which the Company proposes to issue the same. Each Major Investor shall have ten (10) days after receipt of such notice to agree to purchase its pro rata share of such New Securities at the price and upon the terms specified in the notice by giving notice to the Company and stating therein the quantity of New Securities to be purchased. Notwithstanding the foregoing, the Company shall not be required to offer or sell such New Securities to any Major Investor who would cause the Company to be in violation of applicable federal securities laws by virtue of such offer or sale.

9.4 Sale of New Securities. After the expiration of the ten (10) day period specified above, the Company shall have ninety (90) days thereafter to sell (or enter into an agreement pursuant to which the sale of New Securities covered thereby shall be closed, if at all, within thirty (30) days from the date of said agreement) the remaining New Securities for which the rights of the Major Investors were not exercised at a price and upon terms no more favorable to the purchasers thereof than specified in the Company's notice. In the event the Company has not sold the New Securities within such ninety (90) day period (or sold and issued New Securities in accordance with the foregoing within thirty (30) days from the date of such agreement) the Company shall not thereafter issue or sell any New Securities, without first offering such New Securities to the Major Investors in the manner provided above.

9.5 Termination. The Right of First Refusal granted under this Section 9 shall not apply to, and shall terminate upon the earlier of (i) the effective date of the registration statement pertaining to the Company's Initial Offering or (ii) an Acquisition or Asset Transfer (as defined in the Company's Amended and Restated Articles of Incorporation as of the date hereof).

9.6 Assignment of Rights of First Refusal. The Right of First Refusal granted to each Major Investor under this Section 9 may be assigned to the same parties, subject to the same restrictions as any transfer of registration rights pursuant to Section 6.9, provided that such transferee holds, following such assignment, together with its affiliates, at least \_\_\_\_\_ shares of Senior Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares).

**10. Information and Inspection Rights; Other Covenants.**

**10.1 Information Rights.**

(a) So long as an Investor owns any shares of Senior Preferred, the Company will, upon request by an Investor, provide to such Investor, as soon as practicable after the end of each fiscal year, and in any event within one hundred fifty (150) days thereafter, an audited balance sheet of the Company, as at the end of such fiscal year, and an audited statement of income and statement of cash flows of the Company for such fiscal year, all prepared in accordance with generally accepted accounting principles; and

(b) The Company will, upon request by a Major Investor, provide to such Major Investor, as soon as practicable after the end of each fiscal quarter, and in any event within forty-five (45) days thereafter, an unaudited balance sheet of the Company, as at the end of such quarter, and an unaudited statement of income and statement of cash flows of the Company for such quarter, each prepared in accordance with generally accepted accounting principles:

(i) quarterly summaries of the Company's capitalization on a fully diluted basis;

(ii) at least thirty (30) days prior to the end of each fiscal year, an annual budget for the Company for the coming fiscal year; and

(iii) comparison of the results reported in financial statements of the Company for any fiscal year to corresponding items in the applicable annual budget and the preceding year's financial statements.

**10.2 Inspection Rights.** The Company shall permit the Major Investors, at such Major Investor's expense, to visit and inspect the Company's properties, to examine its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such reasonable times as may be requested by such Major Investor; provided, however, that the Company shall not be obligated pursuant to this Section 10.2 to provide access to any information (a) that it reasonably considers to be a trade secret or similar confidential information or (b) if the Company believes in good faith that such exclusion is reasonably necessary to preserve attorney-client privilege.

**10.3 Assignment of Information and Inspection Rights.**

(a) The rights granted pursuant to Section 10.1 may be transferred or assigned by an Investor only to a transferee of not less than \_\_\_\_\_ shares of Senior Preferred (as adjusted for any stock dividends, combinations or splits with respect to such shares).

(b) The rights granted pursuant to Section 10.2 may be transferred or assigned by a Major Investor only to a transferee who holds, following such transfer or assignment, together with its affiliates, at least \_\_\_\_\_ shares of Senior Preferred (as adjusted for any stock dividends, combinations or splits with respect to such shares).

10.4 Confidentiality. Each Investor agrees to hold in confidence and trust and not use or disclose any confidential information and to use the same degree of care as such Investor uses to protect its own confidential information to keep confidential any information furnished to such Investor hereof that the Company identifies as being confidential or proprietary (so long as such information is not in the public domain), except that such Investor may use such proprietary or confidential information to monitor its investment in the Company and may disclose such proprietary or confidential information (i) to any partner, member, subsidiary, parent, affiliate or legal counsel of such Investor as long as such partner, member, subsidiary, parent, affiliate or legal counsel is advised of and agrees or has agreed to be bound by the confidentiality provisions of this Section 10.4 or comparable restrictions with respect to such information (and such Investor shall remain liable for any improper use or disclosure of such information by any such partner, member, subsidiary or parent); (ii) at such time as it enters the public domain through no fault of such Investor; (iii) that is developed by Investor or its agents independently of and without reference to any confidential information communicated by the Company; or (iv) as required by applicable law, *provided, however*, that the applicable Investors provides the Company with reasonable prior written notice of such disclosure and makes a reasonable effort to obtain, or to assist the Company in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the applicable confidential information so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

10.5 Assignment of Company Right of First Refusal. To the extent that (a) the Company has any rights of first refusal pursuant to its Amended and Restated Bylaws or otherwise, with respect to any proposed sale of Common Stock by any shareholder, and (b) the Company elects not to exercise such rights of first refusal, then the Company will provide written notice of the proposed sale (including the price and material terms and conditions included in the written notice provided to the Company with respect to such proposed sale) to those shareholders that hold, together with their respective affiliates, at least \_\_\_\_\_ shares of Senior Preferred (as adjusted to reflect stock splits, stock dividends, recapitalizations and the like) (each, a "*Significant Holder*"). To the extent that any of such Significant Holders provide written notice to the Company within 10 days following such notice that such Significant Holder would like to purchase all or any portion of such shares of Common Stock on the terms set forth in the written notice, the Company will assign its rights of first refusal to such Significant Holder or Significant Holders (each, a "*Participating Significant Holder*"). If more than one Significant Holder desires to purchase such shares, the right of first refusal will be allocated among the Participating Significant Holders in accordance with their relative ownership of Registrable Securities held by each such Participating Significant Holder.

10.6 Proprietary Information and Inventions Assignment Agreement. Each future employee of the Company will enter into a proprietary information and inventions assignment agreement in a form reasonably acceptable to the Company's counsel or the Board.

10.7 Stock Option Grants to Founders. The approval of a majority of the non-employee members of the Board shall be required for any grants of stock options, warrants or other rights to purchase shares of the Company's Common Stock following the date hereof to

10.8 Termination of Covenants. All covenants and obligations of the Company set forth in this Section 10 (other than Section 10.4) shall terminate and be of no further force or effect

upon the earlier of (i) the closing of the Company's Initial Offering, (ii) at such time as the Company is required to file reports pursuant to Section 13 of the Exchange Act or (iii) upon an Acquisition or Asset Transfer (as defined in the Company's Amended and Restated Articles of Incorporation as of the date hereof). The confidentiality provisions set forth in Section 10.4 shall survive any such termination.

**11. Amendment.** Any provision of this Agreement (except for the provisions in Sections 9, 10.2, 10.3(b) and 10.5) may be amended or the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the holders of a majority of the Registrable Securities then outstanding (including a majority of the then-outstanding shares of Senior Preferred on an as-converted basis), provided that if an amendment by its terms affects the rights of a series or class of securities differently than other securities, such amendment must be approved by written consent of a majority of the holders of that class or series of securities. The provisions of Sections 9, 10.2, 10.3(b) and 10.5 may be amended or the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the holders of a majority of the Registrable Securities then outstanding held by Major Investors; *provided, however*, that to the extent that the Major Investors waive, in whole or in part, the rights of the Major Investors with respect to the purchase of any New Securities pursuant to this Section 9, no Major Investor who consents to effect such waiver may purchase, repurchase from another investor, have assigned to it by any other investor or otherwise acquire any of such New Securities in excess of an amount equal to the percentage of such consenting Major Investor's *pro rata* share of the New Securities that is equal to the percentage of the *pro rata* share of such New Securities offered to all other Major Investors. Any amendment or waiver effected in accordance with this Section 11 shall be binding upon each Investor and each Holder of Registrable Securities at the time outstanding (including securities into which such securities are convertible), each future holder of all such securities, and the Company.

**12. Governing Law.** This Agreement and the legal relations between the parties arising hereunder shall be governed by and interpreted in accordance with the laws of the State of \_\_\_\_\_, without respect to rules concerning the conflict of laws which would otherwise require application of the substantive law of another jurisdiction. The parties hereto agree that any matters with respect to the breach or interpretation of this Agreement or the enforcement of any and all rights, duties, liabilities, obligations, powers, and other relations between the parties arising under this Agreement may be brought only in the federal and state courts located in \_\_\_\_\_, \_\_\_\_\_.

**13. Entire Agreement.** This Agreement, together with all Exhibits hereto, constitute the full and entire understanding and agreement between the parties regarding the matters set forth herein. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon the successors, assigns, heirs, executors and administrators of the parties hereto.

**14. Notices.** All notices required in connection with this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (c) five (5) days after having been sent by registered

or certified mail, return receipt requested, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written notification of receipt. All communications to an Investor shall be sent to such Investor's address as set forth on the Schedule of Investors attached hereto, or at such other address as such Investor shall have furnished to the Company in writing in accordance with this Section 14. All communications to any other holder of Conversion Stock shall be sent to the address that such holder shall have furnished the Company in writing in accordance with this Section 14, or, until any such holder so furnishes an address to the Company, then to and at the address of the last holder thereof who has so furnished an address to the Company.

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

**16. Additional Investors.** Notwithstanding anything to the contrary contained herein, if the Company shall issue additional shares of its Preferred Stock pursuant to the Purchase Agreement, any purchaser of such shares of Preferred Stock shall become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and shall be deemed an "Investor," a "Holder" and a party hereunder. Notwithstanding anything to the contrary contained herein and upon the written consent of the holders of not less than a majority of the Registrable Securities then outstanding (on an as-converted basis), if the Company proposes to issue additional securities after the date of this Agreement and grant information and registration rights in connection therewith to the purchasers thereof (the "*Future Purchasers*"), each Future Purchaser shall become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and shall be deemed an "Investor," a "Holder" and a party hereunder.

**17. Aggregation of Stock.** All shares of Registrable Securities held or acquired by affiliated entities or persons shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

**18. Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

**19. Expenses.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

**20. Titles and Subtitles.** The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

**21. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

**22. Termination.** This Agreement shall terminate and be of no further force or effect upon the earlier of (i) an Acquisition or Asset Transfer (each as defined in the Company's Amended and Restated Articles of Incorporation as it may be amended from time to time) or (ii) the date three (3) years following the closing of the Initial Offering that results in the conversion of all outstanding shares of Preferred Stock.

**[SIGNATURE PAGES FOLLOW]**