Table of Contents

As filed with the Securities and Exchange Commission on October 10, 2003

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-1

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

XCYTE THERAPIES, INC.

(Exact name of Registrant as specified in its charter)

Delaware	2834	91-1707622
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

1124 Columbia Street, Suite 130
Seattle, Washington 98104
(206) 262-6200
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Ronald J. Berenson, M.D.
President and Chief Executive Officer
Xcyte Therapies, Inc.
1124 Columbia Street, Suite 130
Seattle, Washington 98104
(206) 262-6200
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Sonya F. Erickson	Joanna S. Black	Robert M. Smith
Heller Ehrman White & McAuliffe LLP	General Counsel & Vice President	Dewey Ballantine LLP
701 Fifth Avenue, Suite 6100	Xcyte Therapies, Inc.	1950 University Avenue
Seattle, Washington 98104	1124 Columbia Street, Suite 130	Suite 500
(206) 447-0900	Seattle, Washington 98104	East Palo Alto, California 94303
	(206) 262-6200	(650) 845-7000

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

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☐

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

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

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

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. ☐

CALCULATION OF REGISTRATION FEE(1)

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price(2)	Amount of Registration Fee(3)
Common Stock, par value $0.001	$ 75,000,000.00	$6,067.50

(1) In accordance with Rule 457(o) under the Securities Act of 1933, the number of shares being registered and the proposed maximum offering price per share are not included in this table.

(2) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933.

(3) To be offset, pursuant to Rule 457(p), against $22,770 previously paid with respect to the Registration Statement on Form S-1, SEC File No. 333-52528, which was filed by Xcyte Therapies, Inc. on December 22, 2000.

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

Table of Contents

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

PRELIMINARY PROSPECTUS Subject to Completion October 10, 2003

Shares

Common Stock

This is the initial public offering of our common stock. No public market currently exists for our common stock. We are selling all of the shares of common stock offered by this prospectus. We expect the public offering price to be between $ and $ per share.

We have applied to have our common stock approved for quotation on The Nasdaq National Market under the symbol "XCYT."

Investing in our common stock involves a high degree of risk. Before buying any shares, you should read the discussion of material risks of investing in our common stock in "Risk factors" beginning on page 7.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

	Per share	Total
Public offering price	$	$
Underwriting discounts and commissions	$	$
Proceeds, before expenses, to us	$	$

The underwriters may also purchase up to an additional shares of our common stock at the public offering price, less the underwriting discounts and commissions, to cover over-allotments, if any, within 30 days from the date of this prospectus. If the underwriters exercise the option in full, the total underwriting discounts and commissions will be $, and our total proceeds, before expenses, will be $.

The underwriters are offering the common stock as set forth under "Underwriting." Delivery of the shares will be made on or about , 2003.

UBS Investment Bank

U.S. Bancorp Piper Jaffray

Wells Fargo Securities, LLC

The date of this prospectus is , 2003.

You should rely only on the information contained in this prospectus. We have not, and the underwriters have not, authorized anyone to provide you with information different from that contained in this prospectus. We are offering to sell, and seeking offers to buy, shares of our common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or of any sale of shares of our common stock.

Through and including , 2003, federal securities laws may require all dealers that effect transactions in our common stock, whether or not participating in this offering, to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

TABLE OF CONTENTS

Prospectus summary	1
Risk factors	7
Special note regarding forward-looking statements	24
Use of proceeds	25
Dividend policy	26
Capitalization	27
Dilution	29
Selected financial data	31
Management's discussion and analysis of financial condition and results of operations	33
Business	42
Scientific advisory board	66
Management	67
Certain relationships and related party transactions	80
Principal stockholders	82
Description of capital stock	85
Shares eligible for future sale	90
Underwriting	92
Legal matters	96
Experts	96
Where you can find additional information	96
Index to financial statements	F-1

Xcyte™, Xcyte Therapies™, Xcellerate™ and Xcellerated T Cells™ are trademarks of Xcyte Therapies, Inc. All other trademarks appearing in this prospectus are the property of their respective holders.

Prospectus summary

This summary highlights selected information appearing elsewhere in this prospectus and may not contain all of the information that is important to you. This prospectus includes information about the shares we are offering as well as information regarding our business and detailed financial data. You should carefully read this prospectus in its entirety, especially the risks of investing in our common stock, which we discuss under "Risk factors" beginning on page 7, and our financial statements and related notes beginning on page F-1.

Unless the context requires otherwise, the words "Xcyte," "we," "company," "us" and "our" refer to Xcyte Therapies, Inc.

OUR BUSINESS

We are a biotechnology company developing a new class of therapeutic products that enhance the body's natural immune responses to treat cancer, infectious diseases and other medical conditions associated with weakened immune systems. We produce our therapeutic products, which consist of activated, patient-specific T cells, using our patented and proprietary Xcellerate Technology. We use blood collected from the patient to generate activated T cells, which we call Xcellerated T Cells. Our Xcellerate Technology rapidly activates and expands the patient's T cells outside of the body. These Xcellerated T Cells are subsequently administered to the patient. We believe our Xcellerate Technology can produce Xcellerated T Cells in sufficient numbers to generate rapid and potent immune responses to treat a variety of medical conditions.

We believe our Xcellerate Technology allows us to consistently increase the quantity and restore the quality and diversity of T cells from patients with weakened immune systems. We believe we can efficiently manufacture Xcellerated T Cells for therapeutic applications. In addition, based on clinical studies to date, we believe the Xcellerated T Cells are safe and generally well tolerated and can be easily administered to patients in an outpatient clinical setting. We expect Xcellerated T Cells may be used alone or in combination with other complementary treatments. We and our scientific collaborators have completed or are conducting clinical trials in the following indications:

- **Chronic lymphocytic leukemia, or CLL.** In our ongoing Phase I/II clinical trial in patients with CLL, Xcellerated T Cells demonstrated therapeutic effects, including decreases in leukemic cell counts, reductions in enlarged lymph nodes and decreases in enlarged spleens.
- **Multiple myeloma.** In our ongoing Phase I/II clinical trial, we have shown that Xcellerated T Cells can be used to accelerate recovery of T cells and lymphocytes in patients with multiple myeloma following treatment with high-dose chemotherapy and transplantation with the patient's own stem cells, known as autologous stem cell transplantation. Previous independent clinical studies have demonstrated a correlation between patient survival and the speed of recovery of lymphocytes following treatment with chemotherapy and stem cell transplantation.
- **Non-Hodgkin's lymphoma.** In a physician-sponsored clinical trial, the results of which were recently published in a peer-reviewed journal, non-Hodgkin's lymphoma patients undergoing high-dose chemotherapy and autologous stem cell transplantation were treated with T cells activated with an earlier version of our proprietary technology. In this group of patients with a very poor prognosis, there were several patients with long-term survival and complete responses, which means the absence of detectable disease using conventional detection methods.
- **Kidney cancer.** In our completed Phase I clinical trial in metastatic kidney cancer, we have demonstrated that patients treated with Xcellerated T Cells and low doses of the T cell activating agent, interleukin-2, or IL-2, survived for a median of 21 months. The results of this study were recently published in a peer-reviewed journal. Previous independent clinical studies have demonstrated median survival of patients with metastatic kidney cancer of approximately 12 months.

- **Prostate cancer.** In our recently completed Phase I/II clinical trial in prostate cancer, administration of Xcellerated T Cells led to significant decreases in the serum tumor marker, prostate specific antigen, or PSA, in two patients. In some independent clinical studies, decreases in PSA levels have been shown to correlate with increased patient survival.
- **HIV.** In a physician-sponsored clinical trial in HIV patients who had low T cell counts, treatment with T cells activated using an earlier version of our proprietary technology increased the patient population's average T cell count to within normal levels and maintained this normal count for at least one year following therapy. The results of this study were recently published in a peer-reviewed journal.

OUR SOLUTION

We have developed our proprietary Xcellerate Technology, which consistently activates and grows large numbers of T cells *ex vivo*, or outside of the body, for multiple therapeutic applications.

Benefits of Xcellerated T Cells

We believe Xcellerated T Cells may be an effective treatment for cancer and infectious diseases and may have the following clinical benefits:

- **Increased T cell quantity.** Our Xcellerate Technology can be used to activate and grow up to 250 times more T cells compared to the number with which we start with in our manufacturing process. Our process can produce an infusion dose of approximately 100 billion T cells, representing a significant percentage of T cells found in healthy individuals.
- **Prolonged T cell survival.** In a clinical trial, T cells activated using our proprietary technology have been documented to survive in the body for more than a year after their administration. We believe that therapeutic effects of Xcellerated T Cells may be significantly longer than current treatments for cancer and infectious diseases that require frequent administration.
- **Improved T cell quality.** Xcellerated T Cells produce a broad spectrum of chemical messengers called cytokines and other molecules required to generate an effective immune response.
- **Broadened T cell diversity.** Our Xcellerate Technology generates T cells with a broad repertoire of T cell receptors that enable the immune system to recognize and eliminate a wide range of cancers and infectious diseases.
- **Favorable side effect profile and safety record.** More than 100 patients to date have been treated with Xcellerated T Cells or T cells activated using an earlier version of our proprietary technology in clinical trials with a favorable side effect profile and safety record.
- **Complementary to other therapies.** We believe that Xcellerated T Cells may be complementary to current therapies, such as chemotherapy, radiation and monoclonal antibodies.

Benefits of our Xcellerate Technology

We believe our Xcellerate Technology may have the following benefits:

- ***Ex vivo* process.** We designed our Xcellerate Technology to be used outside the body in a controlled environment where we can provide optimal conditions for the activation and growth of T cells.
- **Broad clinical applications.** Based on recent clinical trials, we believe that our Xcellerate Technology can be applied to a variety of medical conditions, including many types of cancer and infectious diseases.

- **Ease of administration.** Xcellerated T Cells can be administered using a routine intravenous procedure in approximately two hours in an outpatient clinic.
- **Reproducible and cost-effective manufacturing.** Other than our proprietary components, our Xcellerate Technology incorporates commercially available products and standard clinical and blood bank supplies, which enables us to efficiently manufacture Xcellerated T Cells. We also use a standardized process and the same proprietary disposable components to produce Xcellerated T Cells for all patients.

OUR STRATEGY

Our goal is to be a leader in the field of T cell therapy and to leverage our expertise in T cell activation to develop and commercialize products to treat patients with cancer, infectious diseases and other medical conditions associated with weakened immune systems. We will initially develop Xcellerated T Cells to treat life-threatening diseases, such as cancer and HIV, which currently have inadequate treatments. Key elements of our strategy include the following:

- **Maximize speed to market.** We plan to initiate one or more pivotal clinical trials in CLL, multiple myeloma or non-Hodgkin's lymphoma in the next 18 months. We believe these clinical indications provide the most rapid and cost-effective commercialization strategy for Xcellerated T Cells.
- **Expand the application of Xcellerated T Cells.** In addition to cancer and HIV, we believe Xcellerated T Cells can be used to treat patients with other illnesses, including infectious diseases, such as hepatitis. In addition, we are studying the potential therapeutic benefits of Xcellerated T Cells in patients with autoimmune diseases treated with immunosuppressive drugs.
- **Leverage complementary technologies and therapies.** Xcellerated T Cells may be effective in combination with current treatments for cancer and infectious diseases as well as complementary to other technologies and therapies, such as chemotherapy, cancer vaccines and monoclonal antibodies.
- **Retain key commercialization rights and pursue strategic partnerships.** We intend to retain marketing and commercial rights in North America for products in specialized markets, such as cancer. We plan to pursue strategic partnerships with biopharmaceutical companies to obtain development and marketing support for territories outside North America, such as Europe and Asia.
- **Enhance manufacturing capabilities.** We have a major focus on developing an efficient and cost-effective process to manufacture Xcellerated T Cells. We intend to reduce the costs of manufacturing by making additional improvements to our manufacturing procedures and components.
- **Expand our intellectual property.** We intend to continue to improve our proprietary Xcellerate Technology, including developing process improvements and improving the activity and the specificity of our T cells. We plan to seek US and international patent protection to advance our business strategy.

OUR CORPORATE INFORMATION

We were incorporated in Delaware as MolecuRx, Inc. in January 1996. We changed our name to CDR Therapeutics, Inc. in August 1996 and changed our name to Xcyte Therapies, Inc. in October 1997. Our principal executive offices are located at 1124 Columbia Street, Suite 130, Seattle, Washington 98104, and our telephone number is (206) 262-6200. Our web site is www.xcytetherapies.com. The information contained on our web site is not incorporated by reference into and does not form any part of this prospectus.

The offering

Common stock we are offering	shares
Common stock outstanding after the offering	shares
Use of proceeds after expenses	We estimate the net proceeds to us from this offering will be approximately $ million, or approximately $ million if the underwriters exercise the over-allotment option in full. We expect to use the net proceeds from this offering to fund clinical trial activities, manufacturing activities and preclinical research and development activities and for other general corporate purposes, including capital expenditures, complementary technology acquisition and working capital to fund anticipated operating losses. See “Use of proceeds.”
Proposed Nasdaq National Market symbol	XCYT

The number of shares of our common stock outstanding at the closing of this offering is based on 8,402,636 shares of our common stock outstanding as of September 30, 2003 and excludes:

- 256,353 shares of our common stock issuable, at the closing of this offering, upon the exercise of warrants outstanding as of September 30, 2003 at a weighted average exercise price of $1.44 per share;
- 3,985,560 shares of our common stock issuable upon the exercise of stock options outstanding as of September 30, 2003 under our 1996 Stock Option Plan at a weighted average exercise price of $0.81 per share; and
- 3,500,000 shares of our common stock reserved for future issuance under our 2003 Stock Plan, 600,000 shares of our common stock reserved for future issuance under our 2003 Employee Stock Purchase Plan and 500,000 shares of our common stock reserved for future issuance under our 2003 Directors’ Stock Option Plan.

Unless otherwise indicated, all information in this prospectus assumes the following:

- the conversion of all 37,300,234 shares of our preferred stock outstanding as of September 30, 2003 into 37,300,234 shares of our common stock, which will become effective at the closing of this offering;
- the exercise of warrants outstanding as of September 30, 2003, which will expire at the closing of this offering, to purchase 4,990,344 shares of our common stock at a weighted average exercise price of $0.05 per share;
- the conversion of 471,959 shares of our preferred stock issuable upon the exercise of warrants outstanding as of September 30, 2003, which will expire at the closing of this offering, at a weighted average exercise price of $1.32 per share, into 471,959 shares of our common stock; and
- the conversion of $12.7 million principal amount of convertible promissory notes we sold in October 2003 into 7,268,905 shares of our common stock, which will become effective at the closing of this offering.

Unless we specifically state otherwise, the information in this prospectus assumes that the underwriters have not exercised their option to purchase up to additional shares of our common stock to cover over-allotments, if any.

Summary financial data

The following summary financial data for the years ended December 31, 1998 through 2002 has been derived from our audited financial statements. The following summary financial data for the six-month periods ended June 30, 2003 and 2002, and the summary balance sheet data as of June 30, 2003 have been derived from our unaudited condensed financial statements. The unaudited condensed financial statements have been prepared on a basis consistent with our audited financial statements and include all adjustments we consider necessary for the fair presentation of the information. Operating results for the six months ended June 30, 2003 are not necessarily indicative of the results that may be expected for the entire year ending December 31, 2003. This information is only a summary and should be read together with the financial statements and the notes to those statements appearing elsewhere in this prospectus and the information under “Selected financial data” and “Management’s discussion and analysis of financial condition and results of operations.”

	Years ended December 31,					Six months ended June 30,	
Statement of operations data	**1998**	**1999**	**2000**	**2001**	**2002**	**2002**	**2003**
				(in thousands, except per share data)			
Total revenue	$ —	$ 16	$ 98	$ 30	$ —	$ —	$ 72
Operating expenses:							
Research and development	4,317	5,471	11,257	14,701	14,663	7,651	7,029
General and administrative	1,427	1,654	2,403	5,204	4,979	2,883	2,194
Total operating expenses	5,744	7,125	13,660	19,905	19,642	10,534	9,223
Loss from operations	(5,744)	(7,109)	(13,562)	(19,875)	(19,642)	(10,534)	(9,151)
Other income (expense), net	298	162	621	363	189	122	(38)
Net loss	(5,446)	(6,947)	(12,941)	(19,512)	(19,453)	(10,412)	(9,189)
Accretion of preferred stock		—	—	(8,411)	(8,001)	(8,001)	—
Net loss applicable to common stockholders	$ (5,446)	$ (6,947)	$ (12,941)	$ (27,923)	$ (27,454)	$ (18,413)	$ (9,189)
Basic and diluted net loss per common share	$ (0.86)	$ (1.15)	$ (2.16)	$ (4.03)	$ (3.52)	$ (2.45)	$ (1.13)
Shares used in basic and diluted net loss per share calculation	6,355	6,050	6,003	6,936	7,809	7,523	8,144
Pro forma net loss per common share (unaudited)(1)					$ (0.44)		$ (0.20)
Shares used in pro forma net loss per common share calculation (unaudited) (1)					44,550		45,427

(1) The pro forma net loss per share reflects the weighted effect of the assumed conversion of redeemable convertible preferred stock. See note 12 to our financial statements for information regarding computation of net loss per share and pro forma net loss per share.

The following table contains a summary of our balance sheet as of June 30, 2003:

- on an actual basis;
- on a pro forma basis to give effect to:
  - the conversion of all outstanding shares of our preferred stock as of June 30, 2003 into 37,300,234 shares of our common stock, which will become effective at the closing of this offering;
  - the exercise of warrants outstanding, as of June 30, 2003 which will expire at the closing of this offering, to purchase 4,990,344 shares of our common stock at a weighted average exercise price of $0.05 per share;
  - the exercise of preferred stock warrants outstanding, as of June 30, 2003, which will expire at the closing of this offering, at a weighted average exercise price of $1.32 per share, for 470,725 shares of preferred stock and the conversion of their shares into 470,725 shares of our common stock; and
  - the issuance of convertible promissory notes in October 2003 for net proceeds of $12.7 million, in which these convertible promissory notes convert into 7,268,905 shares of our common stock effective upon the closing of this offering, and $11.8 million in interest expense associated with the discount on the notes
- on a pro forma as adjusted basis to further reflect the sale of shares of our common stock we are offering at an assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and estimated offering expenses to be paid by us.

	As of June 30, 2003		
Balance sheet data	**Actual**	**Pro forma**	**Pro forma as adjusted**
		(in thousands)	
Cash, cash equivalents and short term investments	$ 8,892	$ 22,502	$
Working capital	7,252	20,862	
Total assets	12,695	26,305	
Long-term obligations, less current portion	1,477	1,477	
Redeemable convertible preferred stock	64,604	—	
Redeemable convertible preferred stock warrants	1,069	—	
Total stockholders' equity (deficit)	(56,589)	9,957	

The above balance sheet data is based on 8,402,636 shares of our common stock outstanding as of June 30, 2003 and excludes:

- 3,393,078 shares of our common stock issuable upon the exercise of stock options outstanding under our 1996 Stock Option Plan at a weighted average exercise price of $0.78 per share;
- 256,353 shares of our common stock issuable, at the closing of this offering, upon the exercise of outstanding warrants at a weighted average exercise price of $1.44 per share;
- 1,234 shares of our common stock issuable upon the exercise of outstanding warrants, which will expire at the closing of this offering, at a weighted average exercise price of $2.78 per share; and
- 3,500,000 shares of our common stock reserved for future issuance under our 2003 Stock Plan, 600,000 shares of our common stock reserved for future issuance under our 2003 Employee Stock Purchase Plan and 500,000 shares of our common stock reserved for future issuance under our 2003 Directors' Stock Option Plan.

Risk factors

Investing in our common stock involves a high degree of risk. You should carefully consider the risks described below with all of the other information included in this prospectus before making an investment decision. If any of the following risks actually occur, they may materially harm our business and our financial condition and results of operations. In this event, the market price of our common stock could decline and you could lose part or all of your investment. Additional risks and uncertainties not presently known to us or that we currently believe to be immaterial may also adversely affect our business.

RISKS RELATED TO OUR BUSINESS

We expect to continue to incur substantial losses, and we may never achieve profitability.

We are a development stage company with limited operating history. We have incurred significant operating losses since we began operations in 1996, including net losses of approximately $9.2 million for the six months ended June 30, 2003, and we may never become profitable. As of June 30, 2003, we had a deficit accumulated during the development stage of approximately $77.3 million. These losses have resulted principally from costs incurred in our research and development programs and from our general and administrative expenses. We also expect to incur significant costs to renovate our leased facility for the manufacture of Xcellerated T Cells for our planned clinical trials and, if we receive FDA approval, for initial commercialization activities. To date, we have derived no revenues from product sales or royalties. We do not expect to have any significant product sales or royalty revenue for a number of years. Our operating losses have been increasing during the past several years and will continue to increase significantly in the next several years as we expand our research and development, participate in clinical trial activities, acquire or license technologies, scale up and improve our manufacturing operations, seek regulatory approvals and, if we receive FDA approval, commercialize our products. These losses, among other things, have had and will continue to have an adverse effect on our stockholders' equity and working capital. Because of the numerous risks and uncertainties associated with our product development efforts, we are unable to predict when we may become profitable, if at all. If we are unable to achieve and then maintain profitability, the market value of our common stock will likely decline.

We will need to raise substantial additional capital to fund our operations, and our failure to obtain funding when needed may force us to delay, reduce or eliminate our product development programs or collaboration efforts.

Developing products and conducting clinical trials for the treatment of cancer and infectious diseases require substantial amounts of capital. To date, we have raised capital primarily through private equity financings and equipment leases. If we are unable to timely obtain additional funding, we may never conduct required clinical trials to demonstrate safety and clinical efficacy of Xcellerated T Cells, and we may never obtain FDA approval or commercialize any of our products. We will need to raise additional capital to, among other things:

- fund our clinical trials;
- expand our research and development activities;
- scale up and improve our manufacturing operations;
- finance our general and administrative expenses;
- acquire or license technologies;

- prepare, file, prosecute, maintain, enforce and defend patent and other proprietary rights;
- pursue regulatory approval and commercialization of Xcellerated T Cells and any other products that we may develop; and
- develop and implement sales, marketing and distribution capabilities.

Our net cash used in operations has exceeded our cash generated from operations for each year since our inception. For example, we used approximately $8.0 million in operating activities for the six months ended June 30, 2003 and approximately $15.2 million in 2002. Based upon the current status of our product development and collaboration plans, we believe that the net proceeds of this offering, together with our cash, cash equivalents and investments, will be adequate to satisfy our capital needs through at least the next 18 months. However, changes in our business may occur that would consume available capital resources sooner than we expect. See "Management's discussion and analysis of financial condition and results of operations—Liquidity and capital resources." Our future funding requirements will depend on many factors, including, among other things:

- the progress, expansion and cost of our clinical trials and research and development activities;
- any future decisions we may make about the scope and prioritization of the programs we pursue;
- the development of new product candidates or uses for our Xcellerate Technology;
- changes in regulatory policies or laws that affect our operations; and
- competing technological and market developments.

If we raise additional funds by issuing equity securities, further dilution to stockholders may result and new investors could have rights superior to holders of the shares issued in this offering. In addition, debt financing, if available, may include restrictive covenants. If adequate funds are not available to us, we may have to liquidate some or all of our assets or delay, reduce the scope of or eliminate some portion or all of our development programs or clinical trials. We also may have to license to other companies our products or technologies that we would prefer to develop and commercialize ourselves.

We may decide to pursue development programs for Xcellerated T Cells that may never receive regulatory approval or prove to be profitable.

Because we have limited resources and access to capital to fund our operations, our management must make significant prioritization decisions on which programs to pursue and how much of our resources to allocate to each program. We are currently focusing our research and development efforts on the use of Xcellerated T Cells to treat CLL, multiple myeloma, non-Hodgkin's lymphoma, kidney cancer, prostate cancer and HIV. Our management has broad discretion to suspend, scale down or discontinue any of these programs or to initiate new programs to treat other clinical indications. Xcellerated T Cells may never prove to be safe and clinically effective to treat any of these indications, and the market for these indications may never prove to be profitable even if we obtain regulatory approval for these indications. Accordingly, we cannot assure you that the programs we decide to pursue will lead to regulatory approval or will prove to be profitable.

The clinical and commercial utility of our Xcellerate Technology is uncertain and may never be realized.

Our Xcellerate Technology is based on a novel approach to treat cancer and infectious diseases and is in an early stage of development. We have limited clinical data or examples of similar technology to conclude that our Xcellerate Technology may be safe and clinically effective. Some of the data regarding

our Xcellerate Technology were derived from independent clinical trials, including physician-sponsored trials, which we do not control. In addition, data from these independent clinical trials were derived using T cells activated with an earlier version of our proprietary technology. In addition, we may not be able to treat patients if we cannot collect a sufficient quantity of T cells that meet our minimum specifications to enable us to produce Xcellerated T Cells. Also, some patients may be unable to tolerate the required procedures for blood collection and administration of Xcellerated T Cells.

We have limited data on the safety and efficacy of Xcellerated T Cells to treat patients with very weakened immune systems, such as patients with HIV. Although to date our studies have indicated that our Xcellerate Technology can lead to increased T cell and lymphocyte counts, the FDA will not accept increased T cell and lymphocyte counts as a valid endpoint in pivotal studies necessary for market approval. Instead, we would be required to show that Xcellerated T Cells lead to a significant clinical benefit. We will also need to demonstrate that Xcellerated T Cells are safe. We do not have data on possible harmful long-term effects of Xcellerated T Cells and will not have any data on long-term effects in the near future. Furthermore, the data from our clinical trials may be limited because these clinical trials generally do not involve a large number of patients. For these and other reasons, the clinical and commercialibility of our Xcellerate Technology is uncertain and may never be realized.

We may fail to obtain or may experience delays in obtaining regulatory approval to market Xcellerated T Cells, which will significantly harm our business.

We do not have the necessary approval to market or sell Xcellerated T Cells in the United States or any foreign market. Before marketing Xcellerated T Cells, we must successfully complete extensive preclinical studies and clinical trials and rigorous regulatory approval procedures. We cannot assure you that we will obtain the necessary regulatory approval to commercialize Xcellerated T Cells.

Conducting clinical trials is uncertain and expensive and often takes many years to complete. The results from preclinical testing and early clinical trials are often not predictive of results obtained in later clinical trials. In conducting clinical trials, we may fail to establish the effectiveness of Xcellerated T Cells for the targeted indication or we may discover unforeseen side effects. Moreover, clinical trials may require the enrollment of large numbers of patients, and suitable patients may be difficult to identify and recruit. Clinical trials are also often subject to unanticipated delays. In addition, we are currently developing a custom bioreactor system in our manufacturing process, and we will not be able to obtain FDA approval to commercialize Xcellerated T Cells without the FDA's acceptance of our manufacturing process using this bioreactor system. Also, patients participating in the trials may die before completion of the trial or suffer adverse medical effects unrelated to treatment with Xcellerated T Cells. This could delay or lead to termination of our clinical trials. A number of companies in the biotechnology industry have suffered significant setbacks in every stage of clinical trials, even in advanced clinical trials after positive results in earlier trials.

To date, the FDA has approved only a few cell-based therapies for commercialization. The FDA recently formed a new division that will regulate biologic products, such as Xcellerated T Cells. The processes and requirements associated with this new division may cause delays and additional costs in obtaining regulatory approvals for our products. Because our Xcellerate Technology is novel, and cell-based therapies are relatively new, regulatory agencies may lack experience in evaluating product candidates like Xcellerated T Cells. This inexperience may lengthen the regulatory review process, increase our development costs and delay or prevent commercialization of Xcellerated T Cells. In addition, the following factors may impede or delay our ability to obtain timely regulatory approvals, if at all:

- our limited experience in filing and pursuing the applications necessary to gain regulatory approvals;

- any failure to satisfy efficacy, safety or quality standards;
- a decision by us or regulators to suspend or terminate our clinical trials if the participating patients are being exposed to unacceptable health risks;
- regulatory inspections of our clinical trials or manufacturing facilities, which may, among other things, require us to undertake corrective action or suspend or terminate our clinical trials if investigators find us not to be in compliance with applicable regulatory requirements;
- our ability to produce sufficient quantities of Xcellerated T Cells to complete our clinical trials;
- varying interpretations of the data generated from our clinical trials; and
- changes in governmental regulations or administrative action.

Any delays in, or termination of, our clinical trials could materially and adversely affect our development and collaboration timelines, which may cause our stock price to decline. If we do not complete clinical trials for Xcellerated T Cells and obtain regulatory approvals, we may not be able to recover any of the substantial costs we have invested in the development of Xcellerated T Cells.

We have limited manufacturing experience and may not be able to manufacture Xcellerated T Cells on a large scale or in a cost-effective manner.

We currently manufacture Xcellerated T Cells for research and development and our clinical activities in one manufacturing facility in Seattle, Washington. We have not demonstrated the ability to manufacture Xcellerated T Cells beyond quantities sufficient for research and development and limited clinical activities. We have no experience manufacturing Xcellerated T Cells at the capacity that will be necessary to support large clinical trials or commercial sales. We plan to relocate our manufacturing activities to our leased property in Bothell, Washington, which we plan to renovate for the manufacture of Xcellerated T Cells for our planned clinical trials and initial commercialization if we receive FDA approval. However, we may encounter difficulties in obtaining the approvals for, and designing, constructing, validating and operating, any new manufacturing facility. We may also be unable to hire the qualified personnel that we will require to accommodate the expansion of our operations and manufacturing capabilities.

Because our Xcellerate Technology is a patient-specific, cell-based product, the manufacture of Xcellerated T Cells is more complicated than the manufacture of most pharmaceuticals. Our present manufacturing process may not meet our initial expectations as to reproducibility, yield, purity or other measurements of performance. In addition, we have recently begun using a custom bioreactor system in our manufacturing process and only have limited manufacturing experience using this bioreactor system to activate and expand T cells. Because this new manufacturing process is unproven, we may never successfully utilize our custom bioreactor system to commercialize our products. We are currently negotiating a manufacturing and supply agreement with the manufacturer of our bioreactor system. If we are unable to negotiate this contract or are unable to procure a suitable alternative manufacturer in a timely manner, we would face a setback in the development of our manufacturing process. For these and other reasons, we may not be able to manufacture Xcellerated T Cells on a large scale or in a cost-effective manner.

We are the only manufacturer of Xcellerated T Cells. Although we are considering third party manufacturing options, we expect that we will conduct most of our manufacturing in our own facility for the next several years. Furthermore, because we are the only manufacturer of Xcellerated T Cells and we currently use only one manufacturing facility, any damage to or destruction of our manufacturing

facility or our equipment, prolonged power outage, contamination of our facility or shutdown by the FDA or other regulatory authority could significantly impair or curtail our ability to produce Xcellerated T Cells. In addition, we store our patients' cells in freezers at our manufacturing facility. If these cells are damaged at our facility, including by the loss or malfunction of these freezers or our back-up power systems, we would need to collect replacement patient cells, which would delay our patients' treatments. If we are unable to collect replacement cells from our patients, we could incur liability and our business could suffer.

The government and other third-party payors may control the pricing and profitability of our products.

Our ability to commercialize Xcellerated T Cells successfully will depend in part on the extent to which governmental authorities, private health insurers and other organizations establish appropriate reimbursement levels for the cost of Xcellerated T Cells and related treatments. Increasing emphasis on managed care in the United States will continue to put pressure on the pricing of healthcare products. In addition, governmental authorities may establish pricing and reimbursement levels for some disease indications but not others, which may reduce the demand for Xcellerated T Cells and our profitability. Pricing and profitability of healthcare products are also subject to governmental control in some foreign markets. Cost control initiatives could:

- result in lower prices for Xcellerated T Cells or any future products or their exclusion from reimbursement programs;
- reduce any future revenues we may receive from collaborators; and
- discourage physicians from delivering Xcellerated T Cells to patients in connection with clinical trials or future treatments.

We rely on third parties to conduct some of the clinical trials for Xcellerated T Cells, and their failure to timely and successfully perform their obligations to us could significantly harm our product development programs.

Because we rely on academic institutions, site management operations and clinical research organizations to conduct, supervise or monitor some or all aspects of clinical trials involving our Xcellerate Technology, we have limited control over the timing and other aspects of these clinical trials. If these third parties do not successfully carry out their duties under their agreements with us, fail to inform us if these trials fail to comply with clinical trial protocols or fail to meet expected deadlines, this may adversely affect our clinical trials and we may not be able to obtain regulatory approvals.

Xcellerated T Cells may never achieve market acceptance even if we obtain regulatory approvals.

We do not expect to receive regulatory approvals for the commercial sale of any products derived from our Xcellerate Technology for several years, if at all. Even if we do receive regulatory approvals, the future commercial success of Xcellerated T Cells will depend, among other things, upon its acceptance by physicians, patients, health care payors and other members of the medical community as a therapeutic and cost-effective alternative to commercially available products. Because only a few cell-based therapy products have been commercialized, we do not know to what extent cell-based immunotherapy products will be accepted as therapeutic alternatives. If we fail to gain market acceptance, we may not be able to earn sufficient revenues to continue our business. Market acceptance of and demand for any product that we may develop will depend on many factors, including:

- our ability to provide acceptable evidence of safety and efficacy;

- convenience and ease of administration;
- prevalence and severity of adverse side effects;
- availability of alternative and competing treatments;
- cost effectiveness;
- effectiveness of our marketing and distribution strategy and the pricing of any product that we may develop;
- publicity concerning our products or competitive products; and
- our ability to obtain sufficient third-party coverage or reimbursement.

If Xcellerated T Cells do not become widely accepted by physicians and patients, it is unlikely that we will ever become profitable.

Even if we obtain regulatory approvals for Xcellerated T Cells, those approvals and ongoing regulation of our products may limit how we manufacture and market our products, which could prevent us from realizing the full benefit of our efforts.

If we obtain regulatory approvals, Xcellerated T Cells, the Xcellerate Technology and our manufacturing facilities will be subject to continual review, including periodic inspections, by the FDA and other US and foreign regulatory authorities. In addition, regulatory authorities may impose significant restrictions on the indicated uses or marketing of Xcellerated T Cells or other products that we may develop. These and other factors may significantly restrict our ability to successfully commercialize Xcellerated T Cells and the Xcellerate Technology.

We and many of our vendors and suppliers are required to comply with current Good Manufacturing Practices, or cGMP, which include requirements relating to quality control and quality assurance as well as the corresponding maintenance of records and documentation. Furthermore, our manufacturing facilities must be approved by regulatory agencies before these facilities can be used to manufacture Xcellerated T Cells, and they will also be subject to additional regulatory inspections. Any material changes we may make to our manufacturing process may require approval by the FDA and state or foreign regulatory authorities. Failure to comply with FDA or other applicable regulatory requirements may result in criminal prosecution, civil penalties, recall or seizure of products, partial or total suspension of production or withdrawal of a product from the market.

We must also report adverse events that occur when our products are used. The discovery of previously unknown problems with Xcellerated T Cells or our manufacturing facilities may result in restrictions or sanctions on our products or manufacturing facilities, including withdrawal of our products from the market. Regulatory agencies may also require us to reformulate our products, conduct additional clinical trials, make changes in the labeling of our product or obtain re-approvals. This may cause our reputation in the market place to suffer or subject us to lawsuits, including class action suits.

We rely on third parties to administer Xcellerated T Cells to patients, and our business could be harmed if these third parties administer Xcellerated T Cells incorrectly.

We rely on the expertise of physicians, nurses and other associated medical personnel to administer Xcellerated T Cells to patients. Although our Xcellerate Technology employs mostly standard medical procedures, if these medical professionals are not properly trained to administer, or are negligent in the administration of, Xcellerated T Cells, the therapeutic effect of Xcellerated T Cells may be diminished or the patient may suffer critical injury.

In addition, third-party medical personnel must thaw Xcellerated T Cells received from us. If this thawing is not performed correctly, the patient may suffer critical injury. While we intend to provide training materials and adequate resources to these third-party medical professionals, the thawing of Xcellerated T Cells will occur outside our supervision and may not be administered properly. If, due to a third-party error, people believe that Xcellerated T Cells are ineffective or harmful, the desire to use Xcellerated T Cells may decline, which will negatively impact our ability to generate revenue. We may also face significant liability even though we are not responsible for the actions of these third parties.

There are risks inherent in our business that may subject us to potential product liability suits and other claims, which may require us to engage in expensive and time-consuming litigation or pay substantial damages and may harm our reputation and reduce the demand for our product.

Our business exposes us to potential product liability risks, which are inherent in the testing, manufacturing, marketing and sale of biopharmaceutical products. We will face an even greater risk of product liability if we commercialize Xcellerated T Cells. An individual may bring a product liability claim against us if Xcellerated T Cells cause, or merely appear to have caused, an injury. For example, we have been named as a defendant in connection with a clinical trial using technology similar to ours conducted at the University of Chicago Hospital. This proceeding is currently pending. Although we intend to vigorously defend this lawsuit, because of the nature of the complaint against us, we cannot predict the probability of a favorable or unfavorable outcome or estimate the amount or range of potential loss. See “Business—Legal proceedings.”

Certain aspects of how Xcellerated T Cells are processed and administered may enhance our exposure to liability. Our Xcellerate Technology requires us to activate a patient’s T cells *ex vivo*, or outside of the body, using blood collected from patients. Third party physicians or other medical personnel initially collect a patient’s blood through a process called leukapheresis, which may pose risks, such as bleeding and infection. The blood that we collect from our patients may contain infectious agents that may infect medical personnel or others with whom the blood comes in contact. Medical personnel administer Xcellerated T Cells to patients intravenously in an outpatient procedure. This procedure poses risks to the patient similar to those occurring with infusions of other frozen cell products, such as stem cells, including blood clots, infection and mild to severe allergic reactions.

It is possible that we or third parties may misidentify Xcellerated T Cells and deliver them to the wrong patient. If these misidentified Xcellerated T Cells are administered to the wrong patient, the patient could suffer irreversible injury or death.

The discovery of unforeseen side effects of Xcellerated T Cells could also lead to lawsuits against us. Regardless of merit or eventual outcome, product liability or other claims may, among other things, result in:

- injury to our reputation and decreased demand for Xcellerated T Cells;
- withdrawal of clinical trial volunteers;
- costs of related litigation; and
- substantial monetary awards to plaintiffs.

We have clinical trial insurance that covers our clinical trials up to $5.0 million per occurrence with a $5.0 million aggregate limit, and we intend to obtain product liability coverage in the future. However, insurance coverage may not be available to us at an acceptable cost, if at all. Even if we secure coverage,

we may not be able to obtain insurance coverage that will be adequate to satisfy any liability that may arise. If a successful product liability or other claim or series of claims is brought against us for uninsured liabilities or in excess of insured liabilities, our assets may not be sufficient to cover these claims and our business operations could suffer.

If Xcellerated T Cells or components of our Xcellerate Technology alone or in combination with complementary treatments cause unforeseen harmful side effects, physicians may not use our products and/or we may incur significant product liability, which will adversely affect our ability to operate our business.

Xcellerated T Cells or components of our Xcellerate Technology may cause unforeseen harmful side effects. For example, a patient receiving Xcellerated T Cells could have a severe allergic reaction or could develop an autoimmune condition. While we employ procedures to substantially remove the antibodies and beads used to generate Xcellerated T Cells, it is possible that residual antibodies or beads may be infused into patients and cause harmful effects.

In addition, we have not conducted studies on the long-term effects associated with the media that we use to grow and freeze cells as part of our Xcellerate Technology. These media contain substances that have proved harmful if used in certain quantities. While we believe that we use sufficiently small quantities of these substances, harmful effects may still arise from our use of these media. As we continue to develop our Xcellerate Technology, we may encounter harmful side effects that we did not previously observe in our prior studies and clinical trials.

We believe Xcellerated T Cells may be used in combination with complementary treatments, including cancer vaccines, monoclonal antibodies, genes, cytokines or chemotherapy, and one or more of these other therapies could cause harmful side effects that could be attributed to Xcellerated T Cells. Any or all of these harmful side effects may occur at various stages of our product development, including the research stage, the development stage, the clinical stage or the commercial stage of our products. If people believe Xcellerated T Cells or any component of our Xcellerate Technology alone or in combination with complementary treatments cause harmful side effects, we may incur significant damages from product liability claims, which will adversely affect our ability to operate our business.

We rely on a limited number of manufacturers and suppliers for some of the key components of our Xcellerate Technology. The loss of these suppliers, or their failure to provide us with adequate quantities of these key components when needed, could delay our clinical trials and prevent or delay commercialization of Xcellerated T Cells.

We rely on third party suppliers for some of the key components used to manufacture Xcellerated T Cells. We rely on Lonza Biologics PLC, or Lonza, to develop and manufacture the antibodies that we use in our Xcellerate Technology. Lonza may terminate the agreements we have with them if we commit a breach. We are aware of few companies with the ability to manufacture commercial grade antibodies. Our current agreements with Lonza only provide for the manufacture of these antibodies for use in clinical trials. We are currently negotiating an agreement with Lonza to manufacture the antibodies for commercial use. If we are unable to negotiate this contract with Lonza or are unable to procure a suitable alternative manufacturer in a timely manner and on favorable terms, if at all, we may incur significant costs and be unable to continue developing our Xcellerate Technology.

Our Xcellerate Technology also depends in part on the successful attachment of the antibodies to magnetic beads. We currently use magnetic beads developed and manufactured by Dynal S.A., or Dynal, in Oslo, Norway. Our contract with Dynal expires in August 2009, and either party may terminate the

contract for material breach. We are contractually obligated to obtain our beads from Dynal as long as Dynal is able to fill our orders. If Dynal terminates our contract or if Dynal discontinues manufacturing our beads for any reason, we may be unable to find a suitable alternative manufacturer in a timely manner, or at all, which would delay our clinical trials and delay or prevent commercialization of Xcellerated T Cells.

Although these and other suppliers have produced our components with acceptable quality, quantity and cost in the past, they may be unable or unwilling to timely meet our future demands. They may also increase the prices they charge us. Obtaining similar FDA-acceptable components from other suppliers may be difficult and expensive. If we have to switch to a replacement supplier, we could face additional regulatory delays, which could interrupt the manufacture and delivery of our product for an extended period. In addition, because Lonza and Dynal are located outside the United States, we are subject to foreign import laws and customs regulations, which complicate, and could delay, shipment of components to us and delay the development and production of Xcellerated T Cells. Any delay in the development or production of Xcellerated T Cells may impact our ability to generate revenue and cause our stock price to decline.

If we or any of our third party manufacturers do not maintain high standards of manufacturing, our ability to develop and commercialize Xcellerated T Cells could be delayed or curtailed.

We and any third parties that we may use in the future to manufacture our products must continuously adhere to cGMP regulations enforced by the FDA through its facilities inspection program. If our facilities or the facilities of these third parties do not pass a pre-approval plant inspection, the FDA will not grant market approval for Xcellerated T Cells. In complying with cGMP, we and any third party manufacturers must expend significant time, money and effort in production, record-keeping and quality control to assure that each component of our Xcellerate Technology meets applicable specifications and other requirements. We or any of these third party manufacturers may also be subject to comparable or more stringent regulations of foreign regulatory authorities. If we or any of our third party manufacturers fail to comply with these requirements, we may be subject to regulatory action, which could delay or curtail our ability to develop and commercialize Xcellerated T Cells.

Our leased facilities are at risk of damage by earthquakes, and any damage to our facilities will harm our clinical trials and development programs.

We currently rely on the availability and condition of our leased Seattle, Washington facility to conduct research and development and manufacture of Xcellerated T Cells. This facility is located in a seismic zone, and there is the possibility of an earthquake which, depending on its magnitude, could be disruptive to our operations. Our leased facility in Bothell, Washington, where we intend to locate our initial commercial manufacturing activities, is also in a seismic area. We currently have no insurance against damage caused by earthquakes.

If third party carriers fail to ship patient samples and our products in a proper and timely manner, the treatment of patients could be delayed or prevented, our reputation may suffer and we may incur liability.

We depend on third party carriers to deliver patient-specific blood cells to us and to deliver Xcellerated T Cells back to patients in a careful and timely manner. Our Xcellerate Technology currently requires that we process each patient’s leukapheresis blood sample within 48 hours of collection. Xcellerated T Cells must currently be shipped in a frozen storage shipping container and received by the patient within six days from leaving our manufacturing facility. If the shipping containers fail to maintain the necessary

temperature, Xcellerated T Cells could be damaged. If third party carriers fail to timely deliver the leukapheresis blood sample to us or fail to timely ship Xcellerated T Cells to the clinic, or if they damage or contaminate them during shipment, the treatment of patients could be delayed or discontinued, our reputation may suffer and we may incur liability.

We use hazardous materials and must comply with environmental, health and safety laws and regulations, which can be expensive and restrict how we do business.

Our research and development and manufacturing processes involve the controlled storage, use and disposal of hazardous materials, including biological hazardous materials. We are subject to federal, state and local regulations governing the use, manufacture, storage, handling and disposal of materials and waste products. Although we believe that our safety procedures for handling and disposing of these hazardous materials comply with the standards prescribed by law and regulation, we cannot completely eliminate the risk of accidental contamination or injury from hazardous materials. In the event of an accident, we could be held liable for any damages that result, and any liability could exceed the limits or fall outside the coverage of our insurance. We may not be able to obtain insurance on acceptable terms, if at all. We could incur significant costs to comply with current or future environmental laws and regulations.

In some circumstances we rely on collaborators to commercialize Xcellerated T Cells. If our current collaborators do not perform as expected or if future collaborators do not commit adequate resources to their collaboration with us, our product development and potential for profitability may suffer.

We have entered into alliances with third-party collaborators to develop and market Xcellerated T Cells for diseases and markets that we are not pursuing on our own. In addition, our strategy includes substantial reliance on additional strategic collaborations for research, development, manufacturing, marketing and other commercialization activities relating to Xcellerated T Cells. If our collaborators do not prioritize and commit substantial resources to these collaborations, or if we are unable to secure successful future collaborations, we may be unable to commercialize Xcellerated T Cells for important diseases and in important markets, which would limit our ability to generate revenue and become profitable. Furthermore, disputes may arise between us and our existing or future collaborators, which could result in delays in the development and commercialization of Xcellerated T Cells.

For example, we have a letter of intent to establish an alliance with Taiwan Cellular Therapy Company, or TCTC, a company newly formed under the laws of Taiwan, to develop and market Xcellerated T Cells in Australia and Asia, excluding Japan. The letter of intent requires us to negotiate in good faith a definitive agreement with TCTC on or before November 15, 2003. However, the letter of intent provides that the definitive agreement is subject to, among other things, TCTC closing, or obtaining commitments for at least US$25 million in equity financing on or before December 30, 2003. TCTC's ability to obtain the required equity financing is very uncertain. In addition, we may not be able to negotiate mutually agreeable terms for a definitive agreement or we or TCTC may elect not to proceed with the alliance. If
we elect not to proceed with the alliance for any reason, other than for a good faith inability to negotiate a definitive agreement, and we enter into an agreement with a third party in Australia or Asia, excluding Japan, before February 22, 2004, we will be required to pay a break-up fee to TCTC.

Although there is substantial uncertainty as to whether we will complete an alliance with TCTC, we have agreed to reserve the rights to our Xcellerate Technology in Australia and Asia, excluding Japan, for TCTC until at least December 30, 2003. If we complete an alliance with TCTC, we will be required to expend significant resources to transfer technology to TCTC and assist them in developing and

manufacturing using our Xcellerate Technology. Even if we complete an alliance with TCTC, TCTC may not have sufficient resources to fund, or may subsequently decide not to proceed with, development of our Xcellerate Technology. In this event, we may not have sufficient capital resources to develop our Xcellerate Technology on our own in Australia or Asia.

We may be unable to establish sales, marketing and distribution capabilities necessary to successfully commercialize our products.

We currently have only limited marketing capabilities and no direct or third-party sales or distribution capabilities. We currently plan to develop an internal sales force to serve certain North American markets and pursue strategic partnerships to obtain development and marketing support for territories outside North America. However, we may be unable to establish marketing, sales and distribution capabilities necessary to commercialize and gain market acceptance for our potential products. In addition, developing a sales force, or entering into co-promotion agreements with third parties, is expensive and time-consuming and could delay any product launch. Co-promotion or other marketing arrangements with third parties to commercialize potential products may also not be successful and could significantly limit the revenues we derive from Xcellerated T Cells.

We face competition in our industry, and many of our competitors have substantially greater experience and resources than we have.

Even if our Xcellerate Technology proves successful, we might not be able to remain competitive because of the rapid pace of technological development in the biotechnology field.

We are currently aware of several companies developing *ex vivo* cell-based immunotherapy products as a method of treating cancer and infectious diseases. These competitors include Antigenics, Inc., CancerVax Corporation, Cell Genesys, Inc., CellExSys, Inc., Dendreon Corporation, Favrille, Inc., Genitope Corporation, IDM, S.A. and Kirin Pharmaceutical. Some of our competitors have greater financial and other resources, larger research and development staffs and more experienced capabilities in researching, developing and testing products than we do. Many of these companies also have more experience in conducting clinical trials, obtaining FDA and other regulatory approvals and in manufacturing, marketing and distributing therapeutic products. Smaller companies may successfully compete with us by establishing collaborative relationships with larger pharmaceutical companies or academic institutions. In addition, large pharmaceutical companies or other companies with greater resources or experience than us may choose to forgo *ex vivo* cell-based immunotherapy opportunities that would have otherwise been complementary to our product development and collaboration plans. Our competitors may succeed in developing, obtaining patent protection for or commercializing their products more rapidly than us. A competing company developing, or acquiring rights to, a more effective therapeutic product for the same diseases targeted by us, or one that offers significantly lower costs of treatment, could render our products noncompetitive or obsolete.

We plan significant growth, which we may not be able to effectively manage.

We will need to add a significant number of new personnel and expand our capabilities in order to successfully pursue our research, development and commercialization efforts and secure collaborations to market and distribute our products. This growth may strain our existing managerial, operational, financial and other resources. We also intend to add personnel in our research and development and manufacturing departments as we expand our clinical trial and research capabilities. Our failure to manage our growth effectively could delay or curtail our product development and commercialization efforts and harm our business.

If we lose key management or scientific personnel, our business could suffer.

Our success depends, to a significant extent, upon the efforts and abilities of Ronald J. Berenson, M.D., our President and Chief Executive Officer, Stewart Craig, Ph.D., our Chief Operating Officer and Vice President, Mark Frohlich, M.D., our Medical Director and Vice President and other members of senior management and our scientific personnel. We do not have employment agreements with Dr. Berenson, Dr. Craig or several other members of our senior management. Additionally, any employment agreement that we enter into will not ensure the retention of the employee. Since the pool of employees with relevant experience in immunology and biotechnology is small, replacing any of our senior management or scientific personnel would likely be costly and time-consuming. Although we maintain key person life insurance on Dr. Berenson, we do not maintain key person life insurance on any of our other officers, employees or consultants. The loss of the services of one or more of our key employees could delay or curtail our research and development and product development efforts.

We may undertake acquisitions in the future, and any difficulties from integrating such acquisitions could damage our ability to attain or maintain profitability.

We may acquire additional businesses, products or product candidates that complement or augment our existing business. Integrating any newly acquired business or product could be expensive and time-consuming. We may not be able to integrate any acquired business or product successfully or operate any acquired business profitably. Moreover, we many need to raise additional funds through public or private debt or equity financing to make acquisitions, which may result in dilution to stockholders and the incurrence of indebtedness that may include restrictive covenants.

Changes in the value of the British pound relative to the US dollar may adversely affect us.

Under our agreements with Lonza, we must make payments denominated in British pounds. As a result, we are exposed to currency exchange risks. We do not engage in currency hedging. Accordingly, if the British pound strengthens against the US dollar, our payments to Lonza will increase in US dollar terms.

If we do not achieve our projected development goals in the time frames we announce and expect, the commercialization of our products may be delayed and, as a result, our stock price may decline.

From time to time, we estimate the timing of the accomplishment of various scientific, clinical, regulatory and other product development goals, which we sometimes refer to as milestones. These milestones may include the commencement or completion of scientific studies and clinical trials and the submission of regulatory filings. From time to time, we publicly announce the expected timing of some of these milestones. All of these milestones are based on a variety of assumptions. The actual timing of these milestones can vary dramatically compared to our estimates, in some cases for reasons beyond our control. If we do not meet these milestones as publicly announced, the commercialization of our products may be delayed and, as a result, our stock price may decline.

RISKS RELATED TO OUR INTELLECTUAL PROPERTY

If we are unable to protect our proprietary rights, we may not be able to compete effectively.

Our success depends in part on obtaining, maintaining and enforcing our patents and in-licensed and proprietary rights. We believe we own, or have rights under licenses to, issued patents and pending

patent applications that are necessary to commercialize Xcellerated T Cells. However, the patents on which we rely may be challenged and invalidated, and our patent applications may not result in issued patents. Moreover, our patents and patent applications may not be sufficiently broad to prevent others from practicing our technologies or developing competing products. We also face the risk that others may independently develop similar or alternative technologies or may design around our proprietary and patented technologies.

The patent positions of pharmaceutical and biotechnology companies can be highly uncertain and involve complex legal and factual questions for which important legal principles remain unresolved. No consistent policy regarding the breadth of claims allowed in biotechnology patents has emerged to date in the United States. Furthermore, the application and enforcement of patent laws and regulations in foreign countries is even more uncertain. Accordingly, we cannot assure you that we will be able to effectively file, protect or defend our proprietary rights in the United States or in foreign jurisdictions on a consistent basis.

Third parties may successfully challenge the validity of our patents. We will only be able to protect our technologies from unauthorized use by third parties to the extent that valid and enforceable patents or other proprietary rights cover them. Because the issuance of a patent is not conclusive of its validity or enforceability, we cannot assure you how much protection, if any, will be given to our patents if we attempt to enforce them or if others challenge their validity in court. It is possible that a competitor may successfully challenge our patents or that a challenge will result in limiting the coverage of our patents. If the outcome of litigation is adverse to us, third parties may be able to use our technologies without payment to us.

In addition, it is possible that competitors may infringe upon our patents or successfully avoid them through design innovation. We may initiate litigation to police unauthorized use of our proprietary rights. However, the cost of litigation to uphold the validity of our patents and to prevent infringement could be substantial, and the litigation will consume time and other resources. Some of our competitors may be better able to sustain the costs of complex patent litigation because they have substantially greater resources. Moreover, if a court decides that our patents are not valid, we will not have the right to stop others from using our inventions. There is also the risk that, even if the validity of our patents were upheld, a court may refuse to stop others on the ground that their activities do not infringe upon our patents. Because protecting our intellectual property is difficult and expensive, we may be unable to prevent misappropriation of our proprietary rights.

We also rely on certain proprietary trade secrets and know-how, especially where we believe patent protection is not appropriate or obtainable. Trade secrets and know-how, however, are difficult to protect. We have taken measures to protect our unpatented trade secrets and know-how, including the use of confidentiality and invention assignment agreements with our employees, consultants and some of our contractors. It is possible, however, that these persons may unintentionally or willingly breach the agreements or that our competitors may independently develop or otherwise discover our trade secrets and know-how.

If the use of our technologies conflicts with the rights of others, we could be subject to expensive litigation or be required to obtain licenses from others to develop or market Xcellerated T Cells.

Our competitors or others may have or acquire patent rights that they could enforce against us. If they do so, we may be required to alter our Xcellerate Technology, pay licensing fees or cease activities. If our Xcellerate Technology conflicts with patent rights of others, third parties could bring legal action against

us or our licensees, suppliers, customers or potential collaborators, claiming damages and seeking to enjoin manufacturing and marketing of the affected products. If these legal actions are successful, in addition to any potential liability for damages, we might have to obtain a license in order to continue to manufacture or market the affected products. A required license under the related patent may not be available on acceptable terms, if at all.

We may be unaware that the use of our technology conflicts with pending or issued patents. Because patent applications can take many years to issue, there may be currently pending applications, unknown to us, that may later result in issued patents upon which our Xcellerate Technology or Xcellerated T Cells may infringe. There could also be existing patents of which we are unaware upon which our Xcellerate Technology or Xcellerated T Cells may infringe. In addition, if third parties file patent applications or obtain patents claiming technology also claimed by us in pending applications, we may have to participate in interference proceedings in the US Patent and Trademark Office to determine priority of invention. If third parties file oppositions in foreign countries, we may also have to participate in opposition proceedings in foreign tribunals to defend the patentability of the filed foreign patent applications. We may have to participate in interference proceedings involving our issued patents or our pending applications.

If a third party claims that we infringe upon its proprietary rights, any of the following may occur:

- we may become involved in time-consuming and expensive litigation, even if the claim is without merit;
- we may become liable for substantial damages for past infringement if a court decides that our technology infringes upon a competitor's patent;
- a court may prohibit us from selling or licensing our product without a license from the patent holder, which may not be available on commercially acceptable terms, if at all, or which may require us to pay substantial royalties or grant cross licenses to our patents; and
- we may have to redesign our technology or clinical candidate so that it does not infringe upon others' patent rights, which may not be possible or could require substantial funds or time.

If any of these events occurs, our business will suffer and the market price of our common stock will likely decline.

Our rights to use antibodies and technologies licensed to us by third parties are not within our control, and we may not be able to implement our Xcellerate Technology without these antibodies and technologies.

We have licensed patents and other rights which are necessary to our Xcellerate Technology and Xcellerated T Cells. Our business will significantly suffer if these licenses terminate, if the licensors fail to abide by the terms of the license or fail to prevent infringement by third parties or if the licensed patents or other rights are found to be invalid.

Our Xcellerate Technology uses two monoclonal antibodies that we license from third parties. We rely on our non-exclusive license from the Fred Hutchinson Cancer Research Center in Seattle, Washington to use the monoclonal antibody that binds to the CD3 molecule and our exclusive license from Diaclone S.A., or Diaclone, in Besancon, France to use the monoclonal antibody that binds to the CD28 molecule. These antibodies are necessary components of our Xcellerate Technology. We rely on these licensors to prevent infringement of the licensed antibody. Our rights to use these antibodies depend on the licensors abiding by the terms of those licenses and not terminating them. Our license agreement with the Fred

Hutchinson Research Center is effective for 15 years following the first sale of a product based on the license and may be terminated in the event of a material breach. Our license agreement with Diaclone is effective for 15 years from the date of the first FDA approval, or its foreign equivalent, of a product based on the license and may be terminated in the event of a material breach. Our contract with Diaclone obligates us to purchase the monoclonal antibody from Diaclone until we begin preparing for Phase III clinical trials.

In addition, we have in-licensed several T cell activation patents and patent applications from the Genetics Institute, a subsidiary of Wyeth, Inc. The technology underlying these patents creates the basis for our Xcellerate Technology. These licenses from Genetics Institute terminate upon the expiration of the last licensed patent and may also be terminated in the event of a material breach. Of the four patents presently related to this technology, two patents expire in 2016 and two others expire in 2019.

If we violate the terms of our licenses, or otherwise lose our rights to these antibodies, patents or patent applications, we may be unable to continue development of our Xcellerate Technology. Our licensors or others may dispute the scope of our rights under any of these licenses. Additionally, the licensors under these licenses might breach the terms of their respective agreements or fail to prevent infringement of the licensed patents by third parties. Loss of any of these licenses for any reason could materially harm our financial condition and operating results.

RISKS RELATING TO THIS OFFERING

You will suffer immediate and substantial dilution.

We expect the initial public offering price of our shares to be substantially higher than the book value per share of our outstanding common stock. Accordingly, investors purchasing shares of common stock in this offering will:

- pay a price per share that substantially exceeds the value of our assets after subtracting liabilities; and
- contribute % of the total amount invested to date to fund us but own only % of the shares of common stock outstanding after this offering.

To the extent outstanding stock options or warrants are exercised after this offering, there will be further dilution to new investors. See “Dilution.”

If our principal stockholders, executive officers and directors choose to act together, they may be able to control our management and operations, acting in their best interests and not necessarily those of other stockholders.

Our executive officers, directors and principal stockholders, and entities affiliated with them, will beneficially own in the aggregate approximately % of our common stock following this offering. This significant concentration of share ownership may adversely affect the trading price for our common stock because investors often perceive disadvantages in owning stock in companies with controlling stockholders. These stockholders, acting together, will have the ability to exert substantial influence over all matters requiring approval by our stockholders, including the election and removal of directors and any proposed merger, consolidation or sale of all or substantially all of our assets. In addition, they could dictate the management of our business and affairs. This concentration of ownership could have the effect of delaying, deferring or preventing a change in control or impeding a merger or consolidation, takeover or other business combination that could be favorable to you.

The future sale of our common stock could negatively affect our stock price.

After this offering, we will have approximately shares of common stock outstanding, or shares if the underwriters exercise their over-allotment option in full. The shares sold in this offering, or shares if the underwriters exercise their over-allotment option in full, will be freely tradable without restriction under the federal securities laws unless purchased by our affiliates. The remaining shares of common stock outstanding after this offering will be available for public sale subject in some cases to volume, lock-up and other limitations. See "Shares eligible for future sale."

If our common stockholders sell substantial amounts of common stock in the public market, or the market perceives that such sales may occur, the market price of our common stock could fall. After this offering, the holders of approximately 44,099,397 shares of our common stock or warrants to purchase shares of our common stock will have rights, subject to some conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. Furthermore, if we were to include in a company-initiated registration statement shares held by those holders pursuant to the exercise of their registrations rights, those sales could impair our ability to raise needed capital by depressing the price at which we could sell our common stock.

In addition, we will need to raise substantial additional capital in the future to fund our operations. If we raise additional funds by issuing equity securities, our stock price may decline and our existing stockholders may experience significant dilution.

An active, liquid trading market for our common stock may never develop.

Prior to this offering, there was no public market for our common stock. An active trading market for our common stock may not develop following this offering. You may not be able to sell your shares quickly or at the market price if trading in our stock is not active. The initial public offering price may not be indicative of prices that will prevail in the trading market. See "Underwriting" for more information regarding the factors considered in determining the initial public offering price.

Our common stock may experience extreme price and volume fluctuations, which could lead to costly litigation for us and make an investment in us less appealing.

The market price of our common stock may fluctuate substantially due to a variety of factors, including:

- results of our clinical trials;
- announcements of technological innovations or new products or services by us or our competitors;
- media reports and publications about immunotherapy;
- announcements concerning our competitors or the biotechnology industry in general;
- new regulatory pronouncements and changes in regulatory guidelines;
- general and industry-specific economic conditions;
- additions or departures of our key personnel;
- changes in financial estimates or recommendations by securities analysts;
- variations in our quarterly results;
- announcements about our collaborators or licensors; and
- changes in accounting principles.

The market prices of the securities of biotechnology companies, particularly companies like ours without consistent product revenues and earnings, have been highly volatile and are likely to remain highly volatile in the future. This volatility has often been unrelated to the operating performance of particular companies. In the past, companies that experience volatility in the market price of their securities have often faced securities class action litigation. Moreover, market prices for stocks of biotechnology-related and technology companies, particularly following an initial public offering, frequently reach levels that bear no relationship to the operating performance of these companies. These market prices generally are not sustainable and are highly volatile. Whether or not meritorious, litigation brought against us could result in substantial costs, divert our management's attention and resources and harm our financial condition and results of operations.

Our amended and restated certificate of incorporation and bylaws may delay or prevent a change in our management.

Our amended and restated certificate of incorporation and bylaws will contain provisions that could delay or prevent a change in our board of directors and management teams. Some of these provisions:

- authorize the issuance of preferred stock that can be created and issued by the board of directors without prior stockholder approval, commonly referred to as "blank check" preferred stock, with rights senior to those of our common stock; and
- provide for a classified board of directors.

These provisions could make it more difficult for common stockholders to replace members of the board. Because our board of directors is responsible for appointing the members of our management team, these provisions could in turn affect any attempt to replace the current management team.

We may allocate the net proceeds from this offering in ways with which you may not agree.

We expect to use the net proceeds from this offering to fund clinical trial activities, manufacturing and preclinical research and development activities and for other general corporate purposes, including capital expenditures, complementary technology acquisition and working capital. See "Use of proceeds." Our management, however, has broad discretion in the use of the net proceeds from this offering and could spend the net proceeds in ways that do not necessarily improve our operating results or the value of our common stock.

Special note regarding forward-looking statements

This prospectus, including the sections entitled “Prospectus summary,” “Risk factors,” “Management’s discussion and analysis of financial condition and results of operations” and “Business,” contains forward-looking statements. Forward-looking statements convey our current expectations or forecasts of future events. All statements contained in this prospectus other than statements of historical fact are forward-looking statements. Forward-looking statements include statements regarding our future financial position, business strategy, budgets, projected costs, plans and objectives of management for future operations. The words “may,” “continue,” “estimate,” “intend,” “plan,” “will,” “believe,” “project,” “expect,” “anticipate” and similar expressions may identify forward-looking statements, but the absence of these words does not necessarily mean that a statement is not forward-looking.

Any or all of our forward-looking statements in this prospectus may turn out to be inaccurate. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operation, business strategy and financial needs. They may be affected by inaccurate assumptions we might make or by known or unknown risks and uncertainties, including the risks, uncertainties and assumptions described in “Risk factors.” In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this prospectus may not occur as contemplated, and actual results could differ materially from those anticipated or implied by the forward-looking statements.

You should not unduly rely on these forward-looking statements, which speak only as of the date of this prospectus. Unless required by law, we undertake no obligation to publicly update or revise any forward-looking statements to reflect new information or future events or otherwise. You should, however, review the factors and risks we describe in the reports we will file from time to time with the SEC after the date of this prospectus.

Use of proceeds

We estimate that the net proceeds from the sale of the shares of common stock we are offering will be approximately $ million, assuming an initial public offering price of $ per share, after deducting underwriting discounts and commissions and the estimated offering expenses payable by us. If the underwriters exercise their over-allotment option in full, we estimate the net proceeds to us will be approximately $ million.

We have no current specific plan for the proceeds. The principal purposes of this offering include to obtain additional working capital to fund anticipated operating losses, establish a public market for our common stock and facilitate our future access to public markets. We expect to use the net proceeds of this offering for working capital and general corporate purposes, including:

- clinical trial activities;
- manufacturing activities;
- preclinical research and development activities;
- capital expenditures; and
- complementary technology acquisition.

Although we have identified some types of uses above, we have and reserve broad discretion to use the proceeds from this offering differently. When and if the opportunity arises, we may use a portion of the proceeds to acquire or invest in complementary businesses, products or technologies. We currently have no commitments or agreements, and are not involved in any negotiations, to acquire any businesses, products or technologies. Pending any ultimate use of any portion of the proceeds from this offering, we intend to invest the proceeds in a variety of capital preservation investments, including short-term, investment-grade, interest-bearing instruments.

Based upon the current status of our product development and collaboration plans, we believe that the net proceeds of this offering, together with our cash, cash equivalents and investments, will be adequate to satisfy our capital needs through at least the next 18 months. See “Management’s discussion and analysis of financial condition and results of operations—Liquidity and capital resources.”

Dividend policy

We have never declared or paid any cash dividends on our common stock and do not currently anticipate declaring or paying cash dividends on our common stock in the foreseeable future. We currently intend to retain all of our future earnings, if any, to finance operations. Any future determination relating to our dividend policy will be made at the discretion of our board of directors and will depend on a number of factors, including future earnings, capital requirements, financial conditions, future prospects and other factors that our board of directors may deem relevant.

Capitalization

The following table sets forth our cash and capitalization as of June 30, 2003:

- on an actual basis;
- on a pro forma basis to give effect to:
  - the conversion of all outstanding shares of our preferred stock as of June 30, 2003 into 37,300,234 shares of our common stock, which will become effective at the closing of this offering;
  - the exercise of warrants outstanding, as of June 30, 2003 which will expire at the closing of this offering, to purchase 4,990,344 shares of our common stock at a weighted average exercise price of $0.05 per share;
  - the exercise of preferred stock warrants outstanding, as of June 30, 2003, which will expire at the closing of this offering, at a weighted average exercise price of $1.32 per share, for 470,725 shares of preferred stock, and the conversion of their shares into 470,725 shares of our common stock; and
  - the issuance of convertible promissory notes in October 2003 for net proceeds of $12.7 million, in which these convertible promissory notes convert into 7,268,905 shares of our common stock effective upon the closing of this offering, and $11.8 million in interest expense associated with the discount on the notes.
- on a pro forma as adjusted basis to further reflect the sale of shares of our common stock we are offering at an assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and estimated offering expenses to be paid by us.

	As of June 30, 2003		
	Actual	Pro forma	Pro forma as adjusted
	(in thousands, except share and per share data)		
Cash, cash equivalents and short-term investments	$ 8,892	$ 22,502	$
Long-term obligations, less current portion	1,477	1,477	1,477
Redeemable convertible preferred stock; 37,300,234 shares issued and outstanding, actual; no shares issued and outstanding, pro forma and pro forma as adjusted; $76,520 aggregate preference in liquidation, actual	64,604	—	—
Redeemable convertible preferred stock warrants	1,069	—	—
Stockholders' equity (deficit):			
Preferred stock, $0.001 par value per share; 42,000,000 shares authorized, actual; 5,000,000 shares authorized, pro forma and pro forma as adjusted; no shares issued and outstanding, actual, pro forma and pro forma as adjusted	—	—	—
Common stock, par value $0.001 per share; 70,000,000 shares authorized, actual; 100,000,000 shares authorized, pro forma and pro forma as adjusted; 8,402,636 shares issued and outstanding, actual; 45,702,870 shares issued and outstanding, pro forma; 58,432,844 shares issued and outstanding, pro forma as adjusted	8	58	
Additional paid-in capital	21,963	100,307	
Deferred stock compensation	(1,236)	(1,236)	
Accumulated other comprehensive income	3	3	3
Deficit accumulated during the development stage	(77,327)	(89,175)	(89,175)
Total stockholders' equity (deficit)	(56,589)	9,957	
Total capitalization	$ 10,561	$ (1,287)	$

Capitalization

The table above should be read in conjunction with our financial statements and related notes included in this prospectus. This table is based on 8,402,636 shares of our common stock outstanding as of June 30, 2003 and excludes:

- 3,393,078 shares of our common stock issuable upon the exercise of stock options outstanding under our 1996 Stock Option Plan at a weighted average exercise price of $0.78 per share;
- 256,353 shares of our common stock issuable, at the closing of this offering, upon the exercise of outstanding warrants at a weighted average exercise price of $1.44 per share;
- 1,234 shares of our common stock issuable upon the exercise of outstanding warrants, which will expire at the closing of this offering, at a weighted average exercise price of $2.78 per share; and
- 3,500,000 shares of our common stock reserved for future issuance under our 2003 Stock Plan, 600,000 shares of our common stock reserved for future issuance under our 2003 Employee Stock Purchase Plan and 500,000 shares of our common stock reserved for future issuance under our 2003 Directors' Stock Option Plan.

Dilution

If you invest in our common stock, your interest will be diluted to the extent of the difference between the public offering price per share you pay in this offering and the net tangible book value per share of our common stock immediately after this offering. Our net tangible book value as of June 30, 2003 was approximately $56.6 million, or $(6.73) per share of common stock. Net tangible book value per share is equal to our total tangible assets minus total liabilities, all divided by the number of shares of common stock outstanding as of June 30, 2003. Our pro forma net tangible book value per share as of June 30, 2003 was approximately $10.8 million, or $0.18 per share of common stock. Pro forma net tangible book value per share gives effect to:

- the conversion of all outstanding shares of our preferred stock as of June 30, 2003 into 37,300,234 shares of our common stock, which will become effective at the closing of this offering;
- the exercise of warrants outstanding, as of June 30, 2003 which will expire at the closing of this offering, to purchase 4,990,344 shares of our common stock at a weighted average exercise price of $0.05 per share;
- the exercise of preferred stock warrants outstanding as of June 30, 2003, which will expire at the closing of this offering, at a weighted average exercise price of $1.32 per share, for 470,725 shares of preferred stock, and the conversion of their shares into 470,725 shares of our common stock; and
- the issuance of convertible promissory notes in October 2003 for net proceeds of $12.7 million, in which these convertible promissory notes convert into 7,268,905 shares of our common stock effective upon the closing of this offering, and $11.8 million in interest expense associated with the discount on the notes.

After giving effect to the sale of the shares of common stock we are offering at an assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and our estimated offering expenses, our pro forma as adjusted net tangible book value would have been approximately $ million, or $ per share of common stock. This represents an immediate increase in pro forma net tangible book value of $ per share to existing stockholders and an immediate dilution of $ per share to new investors. The following table illustrates this calculation on a per share basis:

Assumed initial public offering price per share		$
Net tangible book value per share as of June 30, 2003	$ (6.73)	
Increase attributable to the conversion or exercise of our convertible preferred stock, exercise and conversion of warrants and issuance and conversion of convertible promissory notes	6.91	
Pro forma net tangible book value as of June 30, 2003	.18	
Pro forma increase per share attributable to the offering		
Pro forma as adjusted net tangible book value per share after this offering		
Pro forma dilution per share to new investors		$

If the underwriters exercise their over-allotment option in full, pro forma as adjusted net tangible book value will increase to $ per share, representing an increase to existing stockholders of $ per share, and there will be an immediate dilution of $ per share to new investors.

Dilution

The following table summarizes, on a pro forma as adjusted basis as of June 30, 2003, after giving effect to this offering and the pro forma adjustments referred to above, the total number of shares of our common stock purchased from us and the total consideration and average price per share paid by existing stockholders and by new investors:

	Total shares		Total consideration		Average price per share
	Number	%	Amount	%	
Existing stockholders	58,483,844		$ 89,845,000		$ 1.54
New investors					
Total		100.0%	$	100.0%	

If the underwriters exercise their over-allotment option in full, the following will occur:

- the pro forma as adjusted percentage of shares of our common stock held by existing stockholders will decrease to approximately % of the total number of pro forma as adjusted shares of our common stock outstanding after this offering; and
- the pro forma as adjusted number of shares of our common stock held by new public investors will increase to , or approximately % of the total pro forma as adjusted number of shares of our common stock outstanding after this offering.

The tables and calculations above are based on 8,402,636 shares of our common stock outstanding as of June 30, 2003 and exclude:

- 3,393,078 shares of our common stock issuable upon the exercise of stock options outstanding under our 1996 Stock Option Plan at a weighted average exercise price of $0.78 per share;
- 256,353 shares of our common stock issuable, at the closing of this offering, upon the exercise of outstanding warrants at a weighted average exercise price of $1.44 per share;
- 1,234 shares of our common stock issuable upon the exercise of outstanding warrants, which will expire at the closing of this offering, at a weighted average exercise price of $2.78 per share; and
- 3,500,000 shares of our common stock reserved for future issuance under our 2003 Stock Plan, 600,000 shares of our common stock reserved for future issuance under our 2003 Employee Stock Purchase Plan and 500,000 shares of our common stock reserved for future issuance under our 2003 Directors' Stock Option Plan.

The exercise of outstanding options and warrants having an exercise price less than the offering price will increase dilution to new investors.

Selected financial data

This section presents our historical financial data. The following should be read with, and is qualified in its entirety by reference to the financial statements included in this prospectus, including the notes to the financial statements, and the information under "Management's discussion and analysis of financial condition and results of operations." The statements of operations data for the years ended December 31, 2000, 2001 and 2002 and the balance sheet data as of December 31, 2001 and 2002 have been derived from our audited financial statements included elsewhere in this prospectus. The statements of operations data for the years ended December 31, 1998 and 1999 and the balance sheet data as of December 31, 1998, 1999 and 2000 have been derived from our audited financial statements that are not included in this prospectus. The statement of operations data for the six-month periods ended June 30, 2002 and 2003 and the balance sheet data as of June 30, 2003 have been derived from our unaudited condensed financial statements included elsewhere in this prospectus. The unaudited condensed financial statements have been prepared on a basis consistent with our audited financial statements and include all adjustments we consider necessary for the fair presentation of the information. Operating results for the six months ended June 30, 2003 are not necessarily indicative of the results that may be expected for the entire year ending December 31, 2003.

	Years ended December 31,					Six months ended June 30,	
Statement of operations data	**1998**	**1999**	**2000**	**2001**	**2002**	**2002**	**2003**
				(in thousands, except per share data)			
Revenue:							
Collaborative agreement	$ —	$ —	$ —	$ —	$ —	$ —	$ 72
Government grant	—	16	98	30	—	—	—
Total revenue	—	16	98	30	—	—	72
Operating expenses:							
Research and development	4,317	5,471	11,257	14,701	14,663	7,651	7,029
General and administrative	1,427	1,654	2,403	5,204	4,979	2,883	2,194
Total operating expenses	5,744	7,125	13,660	19,905	19,642	10,534	9,223
Loss from operations	(5,744)	(7,109)	(13,562)	(19,875)	(19,642)	(10,534)	(9,151)
Other income (expense), net	298	162	621	363	189	122	(38)
Net loss	(5,446)	(6,947)	(12,941)	(19,512)	(19,453)	(10,412)	(9,189)
Accretion of preferred stock	—	—	—	(8,411)	(8,001)	(8,001)	—
Net loss applicable to common stockholders	$ (5,446)	$ (6,947)	$ (12,941)	$ (27,923)	$ (27,454)	$ (18,413)	$ (9,189)
Basic and diluted net loss per common share	$ (0.86)	$ (1.15)	$ (2.16)	$ (4.03)	$ (3.52)	$ (2.45)	$ (1.13)
Shares used in basic and diluted net loss per common share calculation	6,355	6,050	6,003	6,936	7,809	7,523	8,144
Pro forma net loss per common share (unaudited)(1)					$ (0.44)		$ (0.20)
Shares used in pro forma net loss per common share calculation (unaudited)(1)					44,550		45,427

(1) The pro forma net loss per share reflects the weighted effect of the assumed conversion of redeemable convertible preferred stock. See note 12 to our financial statements for information regarding computation of net loss per share and pro forma net loss per share.

Selected financial data

Balance sheets data	As of December 31, 1998	1999	2000	2001	2002	As of June 30, 2003
			(in thousands)			
Cash, cash equivalents and short-term investments	$ 12,152	$ 7,363	$ 23,926	$ 21,098	$ 17,344	$ 8,892
Working capital	11,589	6,100	21,785	19,135	15,570	7,252
Total assets	16,044	10,055	28,479	24,727	21,536	12,695
Long-term obligations, less current portion	941	854	952	1,046	1,514	1,477
Redeemable convertible preferred stock and warrants	23,390	23,405	49,053	57,629	65,673	65,673
Deficit accumulated during the development stage	(9,285)	(16,232)	(29,173)	(48,685)	(68,138)	(77,327)
Total stockholders' deficit	(8,939)	(15,804)	(25,384)	(36,260)	(48,125)	(56,589)

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

The following discussion of our financial condition and results of operations should be read in conjunction with our financial statements and the notes to those financial statements included elsewhere in this prospectus. This discussion contains forward-looking statements that involve risks and uncertainties. As a result of many factors, such as those set forth under "Risk factors" and elsewhere in this prospectus, our actual results may differ materially from those anticipated in these forward-looking statements.

OVERVIEW

We are a biotechnology company developing a new class of therapeutic products that enhance the body's natural immune responses to treat cancer, infectious diseases and other medical conditions associated with weakened immune systems. We produce our therapeutic products, which consist of activated, patient-specific T cells, using our patented and proprietary Xcellerate Technology. We use blood collected from the patient to generate activated T cells, which we call Xcellerated T Cells. Our Xcellerate Technology rapidly activates and expands the patient's T cells outside of the body. These Xcellerated T Cells are subsequently administered to the patient. We believe our Xcellerate Technology can produce Xcellerated T Cells in sufficient numbers to generate rapid and potent immune responses to treat a variety of medical conditions.

Since our inception in 1996, we have focused our activities primarily on the development of a new class of therapeutic products that enhance the body's natural immune responses for the treatment of cancer, infectious diseases and other medical conditions associated with weakened immune systems. We are a development-stage company and have incurred significant losses since our inception. As of June 30, 2003, our deficit accumulated during the development stage was $77.3 million. Our operating expenses consist of research and development expenses and general and administrative expenses.

We have recognized revenues from inception through June 30, 2003 of approximately $316,000 from sublicense fees, payments under a collaborative agreement, and income from a National Institutes of Health Phase I Small Business Innovation Research, or SBIR, grant in CLL. In the third quarter of 2003, the National Institutes of Health awarded us a $1.2 million SBIR grant in the same indication. We intend to continue to apply for other grants in the future. We currently do not market any products and will not for several years, if at all. Accordingly, we do not expect to have any product sales or royalty revenue for a number of years. Our net losses are a result of research and development and general and administrative expenses incurred to support our operations. We anticipate incurring net losses over at least the next several years as we complete our clinical trials, apply for regulatory approvals, continue development of our technology and expand our operations.

Research and development

To date, our research and development expenses have consisted primarily of costs incurred for drug discovery and research, preclinical development, clinical trials and regulatory activities. Research and development activity-related costs include:

- payroll and personnel-related expenses;
- clinical trial and regulatory-related costs;
- laboratory supplies;

- contractual costs associated with developing antibodies and beads;
- technology license costs;
- rent and facility expenses for our laboratory and cGMP grade manufacturing facilities; and
- scientific consulting fees.

Our research and development efforts to date have primarily focused on the development of our proprietary Xcellerate Technology and Xcellerated T Cells. From inception through June 30, 2003, we incurred research and development expenses of approximately $60.2 million, substantially all of which relate to the research and development of this technology. Currently, we are focusing our efforts on advancing our product through clinical trials. Because of the risks and uncertainties inherent in the clinical trials and regulatory process, we are unable to estimate with any certainty the length of time or expenses to continue development of Xcellerated T Cells for commercialization. However, we expect our research and development expenses to increase as we continue to improve our proprietary Xcellerate Technology and develop additional clinical indications for Xcellerated T Cells.

General and administrative expenses

General and administrative expenses are costs associated with supporting our operations, including payroll and personnel-related expenses and professional fees. In addition, rent and facility expenses for our administrative office area and other general office support activities are also included in our general and administrative expenses.

CRITICAL ACCOUNTING POLICIES

We have based our discussion and analysis of our financial condition and results of operations on our financial statements, which we have prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires us to make estimates and assumptions that affect the amounts reported in the financial statements. Actual results could differ from those estimates. While note 1 to our financial statements summarizes each of our significant accounting policies that we believe is important to the presentation of our financial statements, we believe the following accounting policies to be critical to the estimates and assumptions used in the preparation of our financial statements.

Stock-based compensation

We have adopted the disclosure-only provisions of Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards No. 123, *Accounting for Stock-Based Compensation* (SFAS 123). Accordingly, we apply Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees* (APB 25), and related interpretations in accounting for stock options. Pursuant to APB 25, we recognize employee stock-based compensation expense based on the intrinsic value of the option at the date of grant. Deferred stock-based compensation includes amounts recorded when the exercise price of an option is lower than the fair value of the underlying common stock on the date of grant. We amortize deferred stock-based compensation over the vesting period of the underlying option using the graded-vesting method.

We record stock options granted to non-employees using the fair value approach in accordance with SFAS 123 and Emerging Issues Task Force Consensus Issue No. 96-18, *Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services*. We periodically revalue the options to non-employees over their vesting terms. We determine the fair value of options granted to non-employees using the Black-Scholes option-pricing model.

We determine the fair value of our common stock for purposes of these calculations based on our review of the primary business factors underlying the value of our common stock on the date these option grants are made or revalued, viewed in light of this offering and the expected initial public offering price per share.

Revenue recognition

To date, we have generated no revenues from sales of products. Revenues relate to fees received for licensed technology, cost reimbursement contracts and an SBIR grant awarded to us by the National Institutes of Health. We recognize revenue associated with up-front license fees and research and development funding payments ratably over the relevant periods specified in the agreement, which generally is the research and development period. We recognize revenue under research and development cost-reimbursement agreements as the related costs are incurred. We recognize revenue related to grant agreements as related research and development expenses are incurred.

Cash, cash equivalents and investments

We classify all investment securities as available-for-sale, carried at fair value. We report unrealized gains and losses as a separate component of stockholders' deficit. We include amortization, accretion, interest and dividends, realized gains and losses and declines in value judged to be other-than-temporary on available-for-sale securities in interest income. Statement of Financial Accounting Standards No. 115, *Accounting for Certain Investments in Debt and Equity Securities*, and Securities and Exchange Commission (SEC) Staff Accounting Bulletin (SAB) 59, *Accounting for Noncurrent Marketable Equity Securities*, provide guidance on determining when an investment is other-than-temporarily impaired. This evaluation depends on the specific facts and circumstances. Factors that we consider in determining whether an other-than-temporary decline in value has occurred include: the market value of the security in relation to its cost basis; the financial condition of the investee; and the intent and ability to retain the investment for a sufficient period of time to allow for recovery in the market value of the investment.

RESULTS OF OPERATIONS

Six months ended June 30, 2003 and 2002

Revenue

Revenue was approximately $72,000 in the six months ended June 30, 2003 and consisted of funds received under a cost-reimbursement agreement. We recognized no revenue in the six months ended June 30, 2002.

Research and development

Research and development expenses represented approximately 76% and 73% of our operating expenses for the six months ended June 30, 2003 and 2002, respectively. Research and development expenses decreased 8.1%, from $7.7 million in the six months ended June 30, 2002 to $7.0 million in the six months ended June 30, 2003. The decrease was primarily due to a reduction in technology license costs and non-cash stock compensation. Technology license costs totaled $729,000 in the six months ended June 30, 2002, representing the value of stock and cash paid as an initial fee for a license we obtained from an academic institution. We incurred no technology license costs in the six months ended June 30, 2003. Non-cash stock compensation decreased from $661,000 in the six months ended June 30, 2002 to $399,000 in the six months ended June 30, 2003. Decreases in research and development expenses were

partially offset by an increase of $446,000 in contractual payments relating to developing our antibody technology, in addition to increases in clinical trial and laboratory supplies costs.

General and administrative

General and administrative expenses represented approximately 24% and 27% or our operating expenses for the six months ended June 30, 2003 and 2002, respectively. General and administrative expenses decreased 24%, from $2.9 million in the six months ended June 30, 2002 to $2.2 million in the six months ended June 30, 2003, due primarily to a decrease in non-cash stock compensation and the absence of expenses related to an initial public offering registration process that we initiated and terminated in the first half of 2002. Non-cash stock compensation decreased 62%, from $862,000 in the six months ended June 30, 2002 to $326,000 in the six months ended June 30, 2003. Costs we incurred in association with the initial public offering registration process in the six months ended June 30, 2002 totaled $272,000.

Other income (expense)

Other income, comprised primarily of interest income and interest expense, totaled $122,000 in the six months ended June 30, 2002, compared to other expense of $38,000 in the six months ended June 30, 2003. Interest income decreased 62%, from $247,000 in the six months ended June 30, 2002 to $94,000 in the six months ended June 30, 2003, due to decreased cash and investment balances upon which interest is earned and declining interest rates. Interest expense increased 6.5%, from $123,000 in the six months ended June 30, 2002 to $131,000 in the six months ended June 30, 2003, due primarily to higher debt balances related to equipment financings.

Years ended December 31, 2002 and 2001

Revenue

Revenue was approximately $30,000 in the year ended December 31, 2001, consisting of income from a National Institutes of Health SBIR grant. We recognized no revenue in the year ended December 31, 2002.

Research and development

Research and development expenses represented approximately 75% and 74% of our operating expenses for the years ended December 31, 2002 and 2001, respectively. Research and development expenses totaled $14.7 million in each of the years ended December 31, 2002 and 2001. Increases in research and development expenses were primarily due to technology license costs, contractual payments relating to developing our bead technology and an increase in salary and other personnel-related expenses. Technology license costs comprised the largest increase and totaled $829,000 in the year ended December 31, 2002, representing the value of stock and cash paid for a license we obtained from an academic institution. We incurred no technology license costs in the year ended December 31, 2001. Increases in research and development expenses were offset by a reduction of $1.1 million in contractual payments relating to developing our antibody technology, in addition to reduced non-cash compensation expense.

General and administrative

General and administrative expenses represented approximately 25% and 26% or our operating expenses for the years ended December 31, 2002 and 2001, respectively. General and administrative expenses decreased 4.3%, from $5.2 million in the year ended December 31, 2001 to $5.0 million in the year ended December 31, 2002. The decrease was due primarily to an $880,000 reduction in

professional fees related to an initial public offering that we withdrew in 2001, partially offset by a $351,000 increase in non-cash stock compensation and increases in salary and other personnel-related expenses.

Other income (expense)

Other income, comprised primarily of interest income and interest expense, decreased 48%, from $363,000 in the year ended December 31, 2001 to $189,000 in the year ended December 31, 2002. Interest income decreased 33%, from $698,000 in the year ended December 31, 2001 to $467,000 in the year ended December 31, 2002, due to decreased cash and investment balances upon which interest is earned and declining interest rates. Interest expense increased 2.7%, from $260,000 in the year ended December 31, 2001 to $267,000 in the year ended December 31, 2002, due primarily to higher debt balances related to equipment financings.

Years ended December 31, 2001 and 2000

Revenue

Revenue was approximately $30,000 in the year ended December 31, 2001 and $98,000 in the year ended December 31, 2000 and consisted of income from a National Institutes of Health SBIR grant.

Research and development

Research and development expenses represented approximately 74% and 82% of our operating expenses for the years ended December 31, 2001 and 2000, respectively. Research and development expenses increased 31%, from $11.3 million in the year ended December 31, 2000 to $14.7 million in the year ended December 31, 2001. The $3.4 million increase was primarily due to contractual payments relating to developing our antibody technology, an increase in non-cash stock compensation, increased rent and facilities-related expenses and laboratory supplies. Contractual payments relating to developing our antibody technology increased $1.7 million, non-cash stock compensation increased $1.2 million and rent and facilities-related expenses increased $1.1 million. Increases in research and development expenses were partially offset by a $1.4 million reduction in contractual payments relating to developing our bead technology, in addition to a decrease in technology license costs.

General and administrative

General and administrative expenses represented approximately 26% and 18% or our operating expenses for the years ended December 31, 2001 and 2000, respectively. General and administrative expenses increased 117%, from $2.4 million in the year ended December 31, 2000 to $5.2 million in the year ended December 31, 2001, due primarily to $1.1 million in expenses related to an initial public offering that we subsequently withdrew, in addition to increases in non-cash stock compensation and salary and other personnel related expenses.

Other income (expense)

Other income, comprised primarily of interest income and interest expense, decreased 42%, from $621,000 in the year ended December 31, 2000 to $363,000 in the year ended December 31, 2001. Interest income decreased 20%, from $868,000 in the year ended December 31, 2000 to $698,000 in the year ended December 31, 2001, due to decreased cash balance upon which interest is earned and declining interest rates. Interest expense increased 5.3%, from $247,000 in the year ended December 31, 2000 to $260,000 in the year ended December 31, 2001, due primarily to higher debt balances related to equipment financings.

STOCK-BASED COMPENSATION

During the six months ended June 30, 2003, we recorded deferred stock-based compensation totaling $86,000. During the years ended December 31, 2001 and 2002, we recorded deferred stock-based compensation totaling $1.7 million and $3.2 million, respectively. We amortize the deferred stock-based compensation to expense on the graded vesting method. As of June 30, 2003, there was approximately $1.2 million of deferred stock-based compensation to be amortized in future periods as follows: $442,000 for the six months ending December 31, 2003, $513,000 in 2004, $217,000 in 2005, $62,000 in 2006 and $1,000 in 2007. After June 30, 2003, we issued to employees additional options to purchase 886,500 shares of our common stock at a weighted average exercise price of $1.00 per share. As a result, we expect to amortize an additional $2.0 million in deferred stock-based compensation in future periods as follows: $295,000 for the six months ending December 31, 2003, $1.0 million in 2004, $426,000 in 2005, $196,000 in 2006 and $42,000 in 2007. In 2001 and 2002, we granted non-employee stock options to purchase 395,000 and 35,000 shares of common stock, respectively. During the six months ended June 30, 2003, we issued warrants to non-employees to purchase 75,000 shares of our common stock. We determined the fair value of options and warrants granted to non-employees using the Black-Scholes option-pricing model. We will periodically measure this value as the underlying options vest. Total compensation expense was $1.1 million and $65,000 for the years ended December 31, 2001 and 2002, respectively, and $130,000 for the six months ended June 30, 2003.

INCOME TAXES

We have incurred net operating losses since inception, and we have consequently not paid any federal, state or foreign income taxes. On December 31, 2002, we had net operating loss carryforwards of approximately $55.9 million and research and development tax credit carryforwards of approximately $3.0 million. If not utilized, the net operating loss and tax credit carryforwards will expire at various dates beginning in 2011. If we do not achieve profitability, net operating loss carryforwards may be lost. In addition, the change-in-ownership provisions of the Internal Revenue Code of 1986, as amended, may substantially limit utilization of net operating loss and tax credit carryforwards annually. We are currently not subject to these limitations. However, any future annual limitations may result in the expiration of net operating loss and tax credit carryforwards before utilization.

Deferred tax assets consist primarily of net operating loss carryforwards. Because of our history of operating losses, we do not have a sufficient basis to project that future income will be sufficient to realize the deferred tax assets during the carryforward period. As a result, we have provided a full valuation allowance on the net deferred tax assets for all periods presented. The valuation allowance has increased each fiscal year primarily due to that fiscal year's net operating loss carryforward.

LIQUIDITY AND CAPITAL RESOURCES

As of June 30, 2003, we had cash, cash equivalents and short-term investments of $8.9 million, with cash equivalents being held in highly liquid money market accounts with financial institutions. Cash, cash equivalents and short-term investments were $23.9 million on December 31, 2000, $21.1 million on December 31, 2001, and $17.3 million on December 31, 2002. In October 2003, we raised net proceeds of $12.7 million from the sale of convertible promissory notes. These convertible promissory notes will convert into approximately 7,268,905 shares of common stock at the closing of this offering.

We have financed our operations since inception through private placements of equity securities, grant revenue, fees from a sublicense agreement, payments under a collaborative agreement, equipment financings and interest income earned on cash, cash equivalents and investments. From inception through June 30, 2003, we have raised net proceeds of $75.6 million from private equity financing. Since our

inception, we have received $316,000 in revenue, $5.5 million in equipment financings and $3.4 million in interest income. To date, inflation has not had a material effect on our business.

Since our inception, investing activities, other than purchases and maturities of investments, have consisted primarily of purchases of property and equipment. On June 30, 2003, our investment in property and equipment was $5.2 million. We anticipate our capital expenditures will increase in the future as we construct and renovate our planned manufacturing plant and expand our current facilities.

Net cash used in operating activities was $8.3 million for the six months ended June 30, 2002 and $8.0 million for the six months ended June 30, 2003. Net cash used in operating activities was $11.2 million in the year ended December 31, 2000, $15.1 million in the year ended December 31, 2001 and $15.2 million in the year ended December 31, 2002. Expenditures in these periods were generally a result of research and development expenses and general and administrative expenses in support of our operations.

We have entered into agreements to develop bead and antibody technology that require significant cash expenditures, including an agreement with Dynal under which we have agreed to make payments totaling $3.0 million upon the accomplishment of bead development activities. Additionally, we have two agreements with Lonza under which we have agreed to make payments to develop and produce cGMP-grade antibodies totaling $4.8 million. As of June 30, 2003, we have paid $2.5 million to Dynal and the entire $4.8 million to Lonza. Under our license agreement with Genetics Institute, we must spend no less than $500,000 annually on research and development activities related to product development until the first commercial sale of a product. Our license agreement with an academic institution also requires us to maintain minimum spending levels on research and development related to product development, as follows: $200,000 in the first year of the agreement, $300,000 in the second year, $400,000 in the third year, $500,000 in the fourth year and $1 million in each subsequent year.

The following summarizes our long-term contractual obligations as of December 31, 2002 (in thousands):

		Payments due by period			
Contractual obligations	Total	Less than 1 year	1 to 3 years	4 to 5 years	After 5 years
Operating leases	$ 10,395	$ 1,469	$ 3,086	$ 2,474	$ 3,366
Equipment financing	1,991	818	1,052	121	—
Total (1)	$ 12,386	$ 2,287	$ 4,138	$ 2,595	$ 3,366

(1) Does not include commitments for product development spending under the Genetics Institute and other licenses, as described above.

We expect to use the net proceeds from this offering to fund clinical trial activities, manufacturing activities and preclinical research and development activities and for other general corporate purposes, including capital expenditures, technology acquisition and working capital to fund anticipated operating losses. See "Use of proceeds."

Based upon the current status of our product development and collaboration plans, we believe that the net proceeds of this offering, together with our cash, cash equivalents and investments, will be adequate to satisfy our capital needs through at least the next 18 months. However, we may need additional financing prior to that time to, among other things, support our product development for Phase II or Phase III clinical trials. Furthermore, we expect to require additional funding before we are able to

generate revenue, if at all, from our potential products. Additional financing may not be available on favorable terms, if at all. If we are unable to raise additional funds when we need them, we may have to delay, reduce or eliminate some or all of our development programs and some or all of our clinical trials. We also may have to license technologies to others that we would prefer to develop internally.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

For a description of our related party transactions, see "Certain relationships and related party transactions."

RECENT ACCOUNTING PRONOUNCEMENTS

In June 2002, the FASB issued SFAS 146, *Accounting for Costs Associated with Exit or Disposal Activities*, which addresses accounting for restructuring, discontinued operation, plant closing or other exit or disposal activity. SFAS 146 requires companies to recognize costs associated with exit or disposal activities when they are incurred rather than at the date of a commitment to an exit or disposal plan. SFAS 146 is to be applied prospectively to exit or disposal activities initiated after December 31, 2002. We do not expect the adoption of SFAS 146 to have a material impact on our financial position or results of operations.

In November 2002, the FASB issued FIN 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, and Interpretation of FASB Statements No. 5, 57 and 107 and Rescission of FASB Interpretation No. 34*. FIN 45 clarifies the requirements of SFAS 5, *Accounting for Contingencies*, relating to the guarantor's accounting for, and disclosure of, the issuance of certain types of guarantees. The disclosure provisions of FIN 45 apply to financial statements for the periods ending after December 15, 2002. However, the provisions for initial recognition and measurement apply on a prospective basis to guarantees that are issued or modified after December 31, 2002. We do not expect the adoption of FIN 45 to have a material impact on our financial position or results of operations.

In January 2003, the FASB issued FIN 46, *Consolidation of Variable Interest Entities*. FIN 46 clarifies the application of Accounting Research Bulletin No. 51, *Consolidated Financial Statements*, to entities in which the equity investors do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. FIN 46 applies immediately to variable interest entities created after January 31, 2003, and to variable interest entities in which an enterprise obtains an interest after that date. It applies in the first fiscal year or interim period beginning after June 15, 2003 to variable interest entities in which an enterprise holds a variable interest that it acquired before February 1, 2003. FIN 46 applies to public enterprises as of the beginning of the applicable interim or annual period. We do not believe there will be a material effect on our financial condition or results of operations from the adoption of the provisions of FIN 46.

In November 2002, the Emerging Issues Task Force reached a consensus on Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables* (EITF Issue No. 00-21). This Issue provides guidance on how to account for arrangements that involve the delivery or performance of multiple products, services and/or rights to use assets. The provisions of EITF Issue No. 00-21 will apply to revenue arrangements entered into in fiscal periods beginning after June 15, 2003. We are currently evaluating the effect that the adoption of EITF Issue No. 00-21 will have on our financial statements.

In May 2003, the FASB issued SFAS 150, *Accounting for Certain Financial Instruments with Characteristics of Both Liabilities and Equity*. SFAS 150 establishes standards for how an issuer classifies and measures certain financial instruments with characteristics of both liabilities and equity. SFAS 150 requires that an issuer classify a financial instrument that is within its scope as a liability by reporting the cumulative effect of a change in accounting principle. The requirements of SFAS 150 apply to the first fiscal period beginning after December 15, 2004. We are currently evaluating the impact of adopting SFAS 150.

QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Interest rate risk

Our short-term investments at June 30, 2003 consist of federal agency obligations and highly rated corporate bonds, with contractual maturities of one year or less. Due to the short-term nature of our investments, we believe that our exposure to market rate fluctuations is minimal. Our cash and cash equivalents are held primarily in highly liquid money market accounts. A hypothetical 10% change in short-term interest rates from those in effect at June 30, 2003 would not have a significant impact on our financial position or on our expected results of operations. We do not currently hold any derivative financial instruments.

Because interest rates on our equipment financing obligations are fixed at the beginning of the repayment term, exposure to changes in interest rates is limited to new financings.

Foreign currency risk

For antibody development and supply services provided by Lonza, we must make payments denominated in British pounds. As a result, from time to time, we are exposed to currency exchange risks. We do not engage in currency hedging, and, if the British pound strengthens against the US dollar, our payments to Lonza will increase in US dollar terms. At June 30, 2003, we have no outstanding obligations or significant future contractual commitments to Lonza.

Business

OVERVIEW

We are a biotechnology company developing a new class of therapeutic products that enhance the body's natural immune responses to treat cancer, infectious diseases and other medical conditions associated with weakened immune systems. We produce our therapeutic products, which consist of activated, patient-specific T cells, using our patented and proprietary Xcellerate Technology. We use blood collected from the patient to generate activated T cells, which we call Xcellerated T Cells. Our Xcellerate Technology rapidly activates and expands the patient's T cells outside of the body. These Xcellerated T Cells are subsequently administered to the patient. We believe our Xcellerate Technology can produce Xcellerated T Cells in sufficient numbers to generate rapid and potent immune responses to treat a variety of medical conditions.

We believe our Xcellerate Technology allows us to consistently increase the quantity and restore the quality and diversity of T cells from patients with weakened immune systems. We believe we can efficiently manufacture Xcellerated T Cells for therapeutic applications. In addition, based on clinical studies to date, we believe the Xcellerated T Cells are safe and generally well tolerated and can be easily administered to patients in an outpatient clinical setting. We expect Xcellerated T Cells may be used alone or in combination with other complementary treatments. We and our scientific collaborators have completed or are conducting clinical trials in the following indications:

- **Chronic lymphocytic leukemia, or CLL.** In our ongoing Phase I/II clinical trial in patients with CLL, Xcellerated T Cells demonstrated therapeutic effects, including decreases in leukemic counts, reductions in enlarged lymph nodes and decreases in enlarged spleens.
- **Multiple myeloma.** In our ongoing Phase I/II clinical trial, we have shown that Xcellerated T Cells can be used to accelerate recovery of T cells and lymphocytes in patients with multiple myeloma following treatment with high-dose chemotherapy and autologous stem cell transplantation. Previous independent clinical studies have demonstrated a correlation between patient survival and the speed of recovery of lymphocytes following treatment with chemotherapy and stem cell transplantation.
- **Non-Hodgkin's lymphoma.** In a physician-sponsored clinical trial, the results of which were recently published in a peer-reviewed journal, non-Hodgkin's lymphoma patients undergoing high-dose chemotherapy and autologous stem cell transplantation were treated with T cells activated with an earlier version of our proprietary technology. In this group of patients with a very poor prognosis, there were several patients with long-term survival and complete responses, which means the absence of detectable disease using conventional detection methods.
- **Kidney cancer.** In our completed Phase I clinical trial in metastatic kidney cancer, we have demonstrated that patients treated with Xcellerated T Cells and low doses of the T cell activating agent, interleukin-2, or IL-2, survived for a median of 21 months. Previous independent clinical studies have demonstrated median survival of patients with metastatic kidney cancer of approximately 12 months. The results of this study were recently published in a peer-reviewed journal.
- **Prostate cancer.** In our recently completed Phase I/II clinical trial in prostate cancer, administration of Xcellerated T Cells led to significant decreases in the serum tumor marker, prostate specific antigen, or PSA, in two patients. In some independent clinical studies, decreases in PSA levels have been shown to correlate with increased patient survival.
- **HIV.** In a physician-sponsored clinical trial in HIV patients who had low T cell counts, treatment with T cells activated using an earlier version of our proprietary technology increased the patient population's average T cell count to within normal levels and maintained this normal count for at least one year following therapy. The results of this study were recently published in a peer-reviewed journal.

In clinical trials, treatment with Xcellerated T Cells was generally well tolerated with few side effects. Side effects were similar to those observed with infusions of other kinds of cells, such as red blood cells or frozen cell products, and typically minor, including fever, chills, increased heart rate, nausea and sweating. Based on these positive clinical trial results, we believe there are several major clinical opportunities for Xcellerated T Cells. We plan to initially focus our development efforts on those clinical indications that we believe have significant commercial opportunities and offer the most rapid path to regulatory approval. We believe hematological malignancies, including CLL, multiple myeloma and non-Hodgkin's lymphoma, represent major potential markets for Xcellerated T Cells. In addition, these types of cancer are generally incurable, which means that Xcellerated T Cells may qualify for fast track approval by the FDA and could shorten the time to potential regulatory approval and commercialization. We plan to initiate one or more pivotal clinical trials in one of these hematological malignancies in the next 18 months.

BACKGROUND

T cells and the immune system

T cells are critically important to a properly functioning immune system. The immune system is responsible for protecting the body from foreign invaders and eliminating pathogens, including tumor cells, bacteria, viruses and fungi. Classically, the immune system is divided into two arms, known as humoral immunity and cell-mediated immunity. Humoral immune responses are mediated by antibodies, which several biopharmaceutical companies have developed into major commercial products to treat a range of diseases, including cancer, infectious diseases and autoimmune diseases. Cell-mediated immunity also plays a critical role in fighting many of these illnesses. T cells, the most common type of lymphocyte, play the central role in cell-mediated immunity. Accordingly, we believe T cells may be used to treat cancer, infectious diseases and autoimmune diseases.

Healthy individuals have a few hundred billion T cells that circulate throughout the body. Upon encountering pathogens, T cells become activated and eliminate pathogens from the body. They do this by performing several important functions. First, T cells stimulate many other components of the immune system that are required for effective immune responses. For example, activated T cells control the proliferation and differentiation of another type of lymphocyte, B cells, which make antibodies that help fight infections. Additionally, activated T cells mark abnormal cells, such as tumor cells or infected cells, for destruction by the immune system. Activated T cells also participate directly in killing tumor cells and infectious agents, such as viruses.

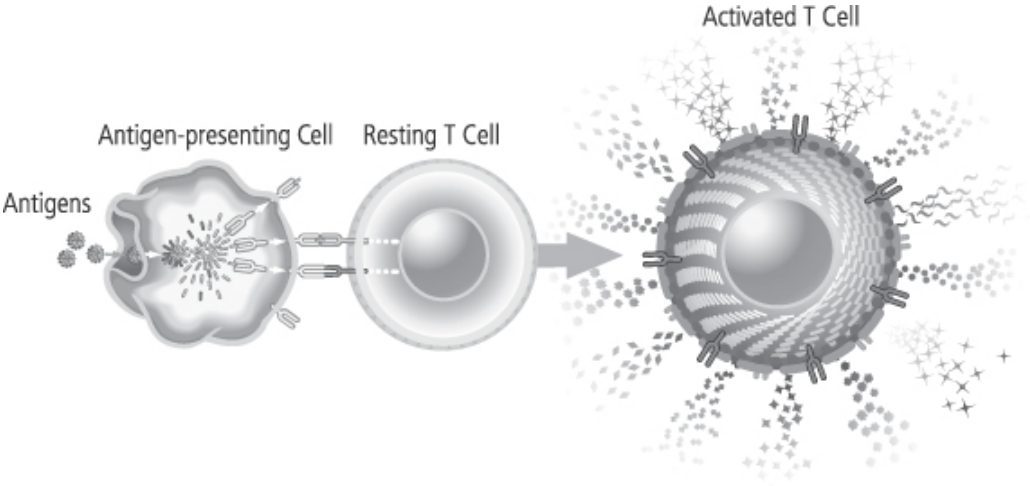
Every T cell carries its own distinct receptor, the T cell receptor, which is capable of recognizing a specific antigen. Antigens are substances produced by tumor cells, viruses, bacteria or other pathogens that cause disease and may be distinguishable from substances produced by healthy cells. Healthy individuals have a population of T cells that expresses millions of different T cell receptors. It is this broad spectrum of T cell receptors that provides the diverse T cell repertoire that makes it possible for the immune system to recognize and respond to a wide variety of harmful pathogens that cause disease.

Activation of T cells

T cells remain in a resting state until they become activated upon encountering antigens expressed by infected cells or tumor cells. Although activation depends on the specificity of binding of an antigen to a T cell receptor, all T cells display similar characteristics upon activation. For example, when T cells undergo activation, they become more sensitive to stimulation by antigens. This makes activated T cells especially effective at eradicating pathogens that would otherwise escape recognition from the immune system. In addition, upon activation, T cells rapidly multiply to large numbers in the body. Accordingly, it is the process of activation that makes T cells potent therapeutic agents.

Two signals are required to activate T cells, Signal 1 and Signal 2, which are delivered by two molecules, CD3 and CD28, present on the surface of T cells. Signal 1 occurs when the CD3 molecule, which is tightly associated with the T cell receptor, is stimulated by engagement of the receptor by an antigen taken up, processed and presented by an antigen-presenting cell. Signal 2 occurs when the same antigen-presenting cell engages the CD28 molecule on the T cell. When the CD3 and CD28 molecules are stimulated, T cells become activated and produce an immune response. If only Signal 1 is generated, T cells are only partially activated and die quickly. If only Signal 2 is generated, no immune response occurs at all. Only the simultaneous delivery of both Signal 1 and Signal 2 generates activated T cells that can function properly in the body.

When a T cell becomes activated, it produces a number of different molecules to carry out its many functions. Some of these molecules, known as cytokines, are secreted by the T cell while other molecules are expressed on the surface of the T cell. Many of these molecules activate other cellular elements of the immune system. The activated T cell also produces several toxic substances that are responsible for directly killing pathogens. Several different molecules that a T cell produces in proper amounts work together to generate an effective immune response. Many of these molecules are extremely potent and would be extremely toxic if they were administered intravenously or by other routes that allow them to circulate throughout the body. The activated T cell is able to control the production and site of delivery of these molecules in order to generate a safe immune response that is concentrated at the site of disease.



The dangers of T cell deficiencies

The quantity, quality and diversity of T cells are critically important for a properly functioning immune system.

- **Quantity.** A variety of treatments for cancer and autoimmune diseases destroy T cells, including chemotherapy, radiation and some monoclonal antibodies. In addition, many diseases, such as HIV and several kinds of congenital immunodeficiencies, are associated with low numbers of T cells. When the number of T cells decreases significantly, the human immune system is less able to defend the body against cancer and infectious diseases.
- **Quality.** In many diseases, such as cancer and HIV, T cells have a reduced ability to generate effective immune responses. Many chemotherapy drugs and immunosuppressive agents also depress the activity and function of T cells. Defective T cells may not be able to respond to normal signals required for an

effective immune response. These T cells may produce insufficient numbers of molecules required either to mark tumor cells for destruction or to directly destroy them.

- **Diversity.** A decreased diversity of T cell receptors is observed in many diseases, including cancer, HIV and autoimmune diseases. This decreased spectrum of T cell receptors narrows the ability of T cells to recognize a broad array of antigens. This may reduce a patient's ability to respond to and eliminate cancer and infectious diseases.

In many patients, decreases in the quantity, quality and diversity of T cells occur together. This puts patients at an increased risk of developing serious and often life-threatening infectious diseases as well as cancer. For example, patients with autoimmune diseases treated with immunosuppressive drugs have an increased risk of infections. Additionally, transplant patients treated with similar drugs have an increased risk of infections and non-Hodgkin's lymphoma. Patients with HIV have an increased risk of developing non-Hodgkin's lymphoma and multiple myeloma. Patients with certain types of congenital immunodeficiencies have an increased risk of developing infections as well as non-Hodgkin's lymphoma and gastric cancer. In each of these medical conditions, patients often have poorly functioning T cells that are reduced in number and have limited diversity, which makes them particularly susceptible to infection and cancer.

Conversely, the presence of healthy T cells is associated with improved therapeutic outcome in patients with cancer, HIV and autoimmune diseases. At the time of diagnosis, patients with non-Hodgkin's lymphoma who have higher lymphocyte counts have better survival. Several recent clinical studies have shown that cancer patients who experience more rapid and complete recovery of lymphocytes after chemotherapy have improved survival and outcome. Improved prognosis has been well documented in HIV patients, whose T cell counts significantly increased after anti-HIV therapy. These patients demonstrate improvements in T cell function as well as in T cell receptor repertoire diversity after successful treatment. Restoring healthy T cell diversity has also been associated with remission of disease in patients with certain autoimmune diseases.

Current approaches to activate the immune system and their limitations

There has been a major clinical focus on developing therapeutic agents to strengthen and activate a patient's immune system. Many of these agents are used to activate the patient's T cells inside the body. These therapeutic agents include:

- **Cytokines.** Cytokines, such as IL-2, are potent chemical messengers produced by the immune system that stimulate T cells and generate an immune response. Although cytokines have demonstrated therapeutic effects in cancer and infectious diseases, they are associated with serious and sometimes life-threatening side effects. In order to reduce adverse effects, these drugs are often given at decreased doses, which may compromise their therapeutic effects.
- **Monoclonal antibodies.** A variety of different monoclonal antibodies are being developed that target molecules expressed on the surface of T cells. Some of these target molecules activate T cells, while others inhibit T cell activation. By blocking the molecules that inhibit T cell activation, T cell activity can be increased. These antibodies have demonstrated limited therapeutic activity, and some of these molecules have been associated with serious side effects due to overactive T cells.
- **Adjuvants.** Other therapeutic agents known as adjuvants have also been developed to stimulate immune responses. Some of the most potent adjuvants are derived from bacteria that make a variety of

molecules, which stimulate immune responses. They are used for some clinical applications, but their use is limited due to toxicity. Recently, several of the molecules produced by bacteria that activate the immune system have been identified, and some are being developed as immunotherapeutic agents. However, it is unclear whether these individual molecules will retain the therapeutic effects of whole adjuvants.

- **Vaccines.** A number of different vaccines are under development to treat cancer and HIV. These vaccines are made up of antigens expressed by tumor cells or HIV and are often administered with adjuvants. Patients are treated with the goal of stimulating T cells to respond to antigens, so that the T cells become activated and destroy the cancer or virus. However, many patients with cancer or HIV have deficiencies in the quantity, quality or diversity of their T cells, which may limit their ability to generate an effective response to the vaccine. This may be one reason vaccines have been ineffective in treating cancer and HIV.
- **Dendritic cells.** Cells of the immune system known as dendritic cells are being used to stimulate immune responses in patients with cancer. In healthy individuals, dendritic cells deliver both Signal 1 and Signal 2, which activate T cells. For most clinical applications, a patient's own dendritic cells are grown outside of the body and then administered back to the patient. However, the ability to generate dendritic cells varies from patient to patient. Recently, it has been documented that dendritic cells under some circumstances may also make molecules that inhibit T cell responses. In addition, many patients with cancer or HIV have T cell deficiencies, which may limit their ability to respond to dendritic cells. Accordingly, dendritic cells may be limited in their ability to activate patients' T cells and generate effective immune responses.
- **Activated T cells generated using other methods.** To overcome the limitations of activating T cells inside of the body, researchers have attempted to activate and grow patients' T cells *ex vivo*, or outside of the body, before administering them for therapeutic applications. The development of monoclonal antibodies, which are proteins derived from a single clone of antibody-producing cells and bind to well-defined targets, made it possible to develop reagents that bind to CD3 and deliver Signal 1 to T cells. These antibodies are used to activate and grow T cells outside of the body. However, the process generates only one of the two signals required to activate T cells. Without Signal 2, this results in limited activity, growth and survival of T cells in the laboratory as well as after their administration into patients. Some recent approaches use antigens to target T cell receptors to generate antigen-specific T cells. However, these approaches result in a restricted T cell response that may not be effective for many clinical applications requiring broader T cell responses.

OUR SOLUTION

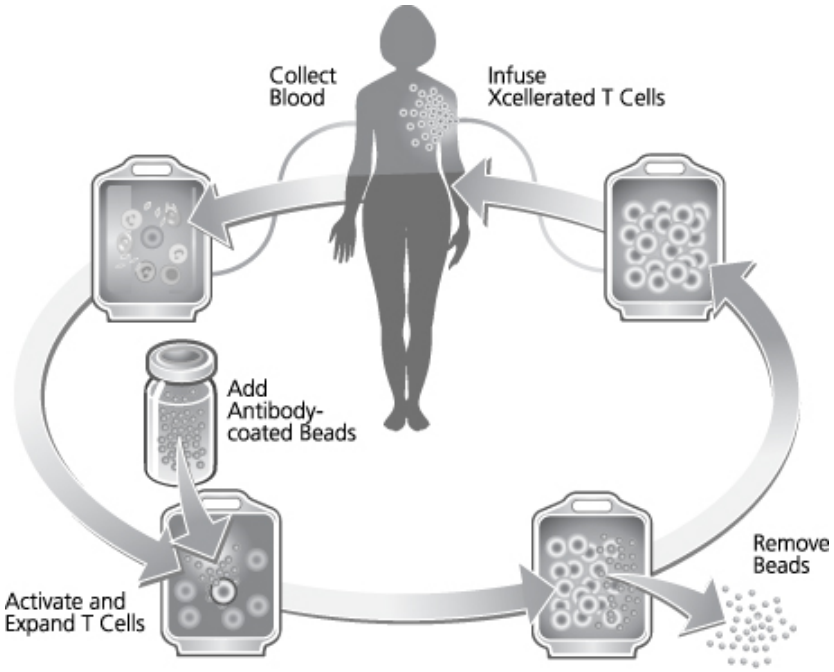
Our therapeutic approach

We have developed our patented and proprietary Xcellerate Technology, which can be used to consistently activate and grow large numbers of T cells outside of the body for therapeutic applications. The cells generated with this process, which we call Xcellerated T Cells, have the broad diversity of T cell receptors that we believe may be required to recognize and eliminate cancer and infectious diseases. These activated T cells secrete a wide spectrum of molecules, such as cytokines, and express a broad range of molecules on their cell surfaces to generate an effective immune response. In addition, T cells generated using an earlier version of our proprietary technology have been shown to survive for more than one year after infusion in patients. We believe the long-term survival of these cells may lead to sustained therapeutic responses.

Our patented Xcellerate Technology is used in a process that employs magnetic beads, which are plastic-coated magnetic microspheres, densely covered with two monoclonal antibodies that deliver Signal 1 and

Signal 2 to activate T cells. One of the monoclonal antibodies delivers Signal 1 to T cells by binding directly to the CD3 molecule. By targeting the CD3 molecule, our Xcellerate Technology can be used to activate and grow T cells expressing a broad diversity of T cell receptors. Our Xcellerate Technology also uses another monoclonal antibody that binds to the CD28 molecule to deliver Signal 2 to T cells. We attach both of these monoclonal antibodies to the surface of magnetic beads. When T cells bind to the monoclonal antibodies on these magnetic beads, they become activated and significantly increase in number. Accordingly, we believe these magnetic beads can provide the signals required to activate and grow a broad spectrum of T cells characterized by a diverse T cell receptor repertoire. These Xcellerated T Cells are then administered to the patient with the goal of restoring the health of the patient's immune system and ability to eliminate cancer and infectious diseases.

To produce Xcellerated T Cells, white blood cells, a rich source of T cells, are first collected from a patient's blood in an outpatient clinical setting using a standard procedure called leukapheresis. These cells are sent to our cGMP manufacturing facility, where they are frozen and stored. When needed, the cells are thawed and processed in a closed system to avoid exposure to the outside environment, reducing the risk of microbial contamination. In this process, the patient's white blood cells are placed in a sterile, custom disposable bioreactor containing a solution of nutrients and a low level of IL-2 that sustains the growth of the T cells. We then add our microscopic magnetic beads. These beads are covered with our two monoclonal antibodies, which deliver Signal 1 and Signal 2 to activate the T cells in the solution. During an approximately 10-day period after the application of the beads, the T cells become activated and rapidly increase in number. At the end of this period, the antibody-coated magnetic beads are substantially removed, and the Xcellerated T Cells are frozen for increased shelf life. We have documented that we can store the Xcellerated T Cells in a frozen state for at least 12 months without significant loss of activity. When requested by the physician, the frozen Xcellerated T Cells are shipped to the outpatient clinic where they are thawed and administered by intravenous infusion in approximately two hours.



For safety purposes and regulatory compliance, we have established procedures designed to track patients' cells during the manufacture and shipment of Xcellerated T Cells. Each patient receives a unique identifying number that also contains a code for the clinical site where they are being treated. This unique identifying number is used to track, monitor and record all documentation, labels and materials relating to the production of the patient's Xcellerated T Cells from blood collection through infusion of the final product. Before the product is shipped to the clinical site, we conduct quality control procedures in our laboratory. These procedures are designed to assure that Xcellerated T Cells meet strict quality control criteria such as T cell purity, dosage, potency, safety and sterility.

Benefits of Xcellerated T Cells

We believe Xcellerated T Cells may be an effective treatment for cancer and infectious diseases and may have the following clinical benefits:

- **Increased T cell quantity.** Our Xcellerate Technology can be used to activate and grow up to 250 times more T cells compared to the number with which we start with in our manufacturing process. Our process can produce an infusion dose of approximately 100 billion T cells, representing a significant percentage of T cells found in healthy individuals. We believe this number of Xcellerated T Cells is sufficient to generate therapeutic effects in patients with cancer, infectious diseases and autoimmune diseases. In our ongoing Phase I/II clinical trial in multiple myeloma, we already have evidence that treatment with Xcellerated T Cells can significantly boost T cell and lymphocyte counts and accelerate T cell and lymphocyte recovery in patients treated with high-dose chemotherapy and autologous stem cell transplantation.
- **Prolonged T cell survival.** In a clinical trial, T cells activated using an earlier version of our proprietary technology have been documented to survive in the body for more than a year after their administration. We believe that therapeutic effects of Xcellerated T Cells may be significantly longer than current therapeutic agents used to treat cancer and infectious diseases that require frequent administration.
- **Improved T cell quality.** Xcellerated T Cells secrete a broad spectrum of cytokines and express many important surface molecules required to generate an effective immune response. In laboratory studies, the Xcellerate Technology has been used to restore healthy immune responses in the T cells from patients with leukemia. These Xcellerated T Cells have been shown to mark patients' leukemic cells for destruction by the immune system. The studies have also shown that the Xcellerated T Cells directly kill the patient's tumor cells. In our ongoing Phase I/II clinical trial in CLL, patients treated with Xcellerated T Cells have shown decreased leukemic cell counts and reductions in the size of their lymph nodes and spleens.
- **Broadened T cell diversity.** Our Xcellerate Technology generates T cells with a broad array of T cell receptors. We have shown in the laboratory that our Xcellerate Technology can be used to significantly broaden the diversity of the narrow T cell repertoire found in many cancer patients. In laboratory studies, one of our scientific founders has independently demonstrated similar results in HIV patients. In our Phase I/II ongoing clinical trial in multiple myeloma, we have preliminary evidence that Xcellerated T Cells can be used to restore a broad T cell repertoire after administration into patients.
- **Favorable side effect profile and safety record.** Xcellerated T Cells are produced from T cells originating from the patient. We believe that using a patient's own cells may result in a safer product than chemotherapy drugs. Xcellerated T Cells and T cells generated using an earlier version of our proprietary technology have been administered to over 100 patients in clinical trials to date with a favorable side effect profile and safety record. The side effects associated with administration of Xcellerated T Cells are typically minor and similar to those observed with infusions of other kinds of cells, such as red blood cells or frozen cell products.

- **Complementary to other therapies.** We believe Xcellerated T Cells have a favorable side effect profile and safety record and provide a novel therapeutic approach to treat cancer and infectious diseases. Accordingly, we believe they may be complementary to current therapies, such as chemotherapy, radiation and monoclonal antibodies. Xcellerated T Cells may help repair the damage to the immune system caused by chemotherapy or other drugs that suppress the immune system. In addition, we believe Xcellerated T Cells may be combined with anti-viral drugs as well as therapies that activate the immune system, such as cancer vaccines. We or our collaborators have performed both preclinical studies in animals as well as laboratory studies using patients' tissues demonstrating the feasibility of using this approach to improve the potential efficacy of combining T cells activated with our proprietary technology with cancer vaccines.

Benefits of our Xcellerate Technology

We believe our Xcellerate Technology may have the following benefits:

- ***Ex vivo* process.** We designed our Xcellerate Technology to be used outside of the body. This allows us to grow and monitor Xcellerated T Cells in a controlled environment where we can provide optimal conditions for the activation and growth of T cells.
- **Broad clinical applications.** Based on recent clinical trials, we believe our Xcellerate Technology can be applied to a variety of diseases. We have demonstrated in the laboratory as well as in our cGMP manufacturing facility that our Xcellerate Technology can be used to activate and grow T cells from patients with a variety of cancers, including kidney cancer, prostate cancer, non-Hodgkin's lymphoma, multiple myeloma and leukemia. Our collaborators have used an earlier version of our proprietary technology to activate and grow T cells from HIV patients for clinical applications. Recently, we have demonstrated in the laboratory that we can use our Xcellerate Technology to activate and grow T cells from patients with autoimmune diseases, including rheumatoid arthritis, systemic lupus erythematosus and scleroderma.
- **Ease of administration.** We initially collect a patient's white blood cells, a rich source of T cells, in a standard outpatient procedure called leukapheresis. After our process is completed, Xcellerated T Cells can be administered using a routine intravenous procedure in approximately two hours in an outpatient clinic. This is similar to what is performed today in most oncology practices where chemotherapy, monoclonal antibodies and red blood cell transfusions are administered intravenously.
- **Reproducible and cost-effective manufacturing.** Other than our proprietary components, our Xcellerate Technology incorporates commercially available products and standard clinical and blood bank supplies, which enables us to efficiently manufacture Xcellerated T Cells. We use the same proprietary disposable components to produce Xcellerated T Cells for all patients. We do not require materials that must be obtained by surgery, such as samples of the patient's tumor. We can freeze the cells we initially collect from our patients as well as freeze the Xcellerated T Cells we generate from those cells. We have documented storage of Xcellerated T Cells in our facility for at least 12 months without significant loss of activity. Freezing may enable us to generate several Xcellerated T Cell treatments from one manufacturing procedure. In addition, we believe freezing should allow us to supply Xcellerated T Cells to patients throughout the United States from a central manufacturing site.

OUR STRATEGY

Our goal is to be a leader in the field of T cell therapy and to leverage our expertise in T cell activation to develop and commercialize products to treat patients with cancer, infectious diseases, autoimmune diseases and compromised immune systems. Key elements of our strategy include the following:

- **Maximize speed to market.** We plan to initiate one or more pivotal clinical trials in CLL, multiple myeloma or non-Hodgkin's lymphoma in the next 18 months. We believe these clinical indications

provide the most rapid and cost-effective commercialization strategy for Xcellerated T Cells. We believe that focusing on life-threatening diseases will facilitate rapid entry to the market for Xcellerated T Cells. The FDA has adopted fast track approval and priority trial procedures for therapies that address life-threatening diseases, and we may apply for fast track designation. In addition, we intend to apply for FDA orphan drug status for Xcellerated T Cells for those cancers that qualify, including CLL, multiple myeloma and kidney cancer.

- **Expand the application of Xcellerated T Cells.** In addition to cancer and HIV, we believe Xcellerated T Cells can be used to treat patients with other illnesses including infectious diseases, such as hepatitis. In addition, we are studying the potential therapeutic benefits of Xcellerated T Cells in patients with autoimmune diseases treated with immunosuppressive drugs and in patients with compromised immune systems, such as those with congenital immunodeficiencies. We may also expand the application of Xcellerated T Cells to other types of cancer for which Xcellerated T Cells may have therapeutic benefit. We are also exploring the use of Xcellerated T Cells in patients with autoimmune diseases who have been treated with immunosuppressive drugs. In addition to our own clinical trials, our scientific founders are conducting a number of independent clinical studies using an earlier version of our proprietary technology for additional clinical applications. Based on the results of their studies, we may pursue some of these clinical opportunities using Xcellerated T Cells.
- **Leverage complementary technologies and therapies.** Xcellerated T Cells may be effective in combination with current treatments for cancer and infectious diseases, such as chemotherapy. We believe Xcellerated T Cells may help ameliorate the effects of immunosuppression associated with treatment of autoimmune diseases. We also intend to explore opportunities to combine complementary technologies and therapies, such as chemotherapy, cancer vaccines and monoclonal antibodies, with Xcellerated T Cells. In addition, we may supplement our internal efforts by acquiring or licensing technologies and product candidates that complement our Xcellerate Technology.
- **Retain key commercialization rights and pursue strategic partnerships.** We intend to retain marketing and commercial rights in North America for products in specialized markets, such as cancer. We may seek development and marketing support for clinical indications that have broader patient populations in North America. In addition, we plan to pursue strategic partnerships with biopharmaceutical companies to obtain development and marketing support for territories outside North America, such as Europe and Asia.
- **Enhance manufacturing capabilities.** We have a major focus on developing an efficient and cost-effective process to manufacture Xcellerated T Cells. We currently produce T cells for clinical trials using a cost-effective process that is readily scaleable. We intend to make additional improvements to our manufacturing procedures and components, which should further reduce the costs of manufacturing. In addition, we plan to optimize our manufacturing process for other disease indications in the future.
- **Expand our intellectual property.** We have a portfolio of issued patents and patent applications that we own or exclusively license, which we believe provides patent coverage for our Xcellerate Technology. As we continue to improve our Xcellerate Technology, including developing process improvements and improving the activity and the specificity of Xcellerated T Cells, we intend to file patents to protect these improvements.

CLINICAL APPLICATIONS

The table below summarizes the current status of clinical trial applications that use our proprietary technology:

Disease and Indication	Clinical trial status	Sponsor	# patients treated/planned
Cancer—Hematological malignancies			
CLL	Ongoing Phase I/II	Xcyte	7/18
Multiple myeloma			
Ø Post-autologous stem cell transplant	Ongoing Phase I/II	Xcyte	27/35
Ø Non-transplant	Planned Phase II(1)	Xcyte	N/A
Non-Hodgkin's lymphoma	Completed Phase I	Physician	16/16
Cancer—Solid tumors			
Kidney cancer	Completed Phase I/II	Xcyte	25/25
Prostate cancer	Completed Phase I/II	Xcyte	19/20
HIV	Completed Phase I	Physician	8/8
	Ongoing Phase II	Physician	12/24

(1) We plan to initiate this Phase II clinical trial with 30 patients by the first quarter of 2004.

Cancer

The American Cancer Society estimates that 1.3 million new cases of cancer will occur in the United States in 2003. Many cancer patients are treated with chemotherapy drugs, which often have limited efficacy and are associated with severe and sometimes life-threatening side effects. Physicians have recently begun to recognize the important role that the immune system may play in controlling cancer. As a result, immune-based therapeutic products, such as monoclonal antibodies, have become important drugs used to treat patients with cancer. These therapeutic products have become more widely used not only because of their efficacy, but also because they are generally better tolerated than chemotherapy.

Hematological malignancies

Hematological malignancies are cancers of the blood or bone marrow. The American Cancer Society estimates that there will be approximately 106,200 new cases of hematological malignancies in the United States in 2003. Hematological malignancies include leukemia, non-Hodgkin's lymphoma, multiple myeloma and Hodgkin's disease. Because hematological malignancies have usually spread throughout the body by the time of diagnosis, they typically require treatment with chemotherapy. Recently, immune-based therapeutic products have been developed to treat some hematological malignancies. Most kinds of hematological malignancies, including CLL, multiple myeloma and the vast majority of non-Hodgkin's lymphoma, are cancers of lymphocytes known as B cells. In healthy individuals, T cells control the proliferation of B cells. However, in patients with B cell malignancies, T cells are abnormal, and this may contribute to uncontrolled B cell proliferation and tumor progression.

Chronic lymphocytic leukemia

Ø **Background.** Approximately 73,000 patients have CLL in the United States and there will be 7,300 new cases of CLL and 4,400 deaths due to this disease in the United States in 2003. The disease is characterized by proliferation of malignant lymphocytes in the bone marrow, lymph nodes and spleen, which leads to an increase in white blood cell counts, as well as enlarged lymph nodes and spleens in most patients. A number of different chemotherapy drugs can be used to treat leukemia. Recently, the

FDA approved two drugs, fludarabine, a chemotherapy agent, and Campath, a monoclonal antibody, to treat CLL. These drugs are effective in some patients but do not cure the disease. Both fludarabine and Campath are powerful drugs that destroy all lymphocytes including those that are normal as well as malignant. Consequently, patients treated with these drugs suffer from severe T cell deficiencies, which increase the risk of infection.

- **Clinical data.** In 2003, we began treating patients with CLL with a single infusion of Xcellerated T Cells with no other therapy in a Phase I/II clinical trial. The National Institutes of Health awarded us an SBIR grant of approximately $1.2 million to help fund this trial. We plan to treat a minimum of three patients at each of three different dose levels of Xcellerated T Cells, 10, 30 and 60-100 billion, and a total of approximately 18 patients in this clinical trial. Serious injury has occurred with other therapeutic agents used to treat CLL due to rapid destruction of leukemic cells. To reduce this risk, we are starting with a low dose in this trial and are gradually increasing the dose of Xcellerated T Cells. A total of six patients have been treated at the two lowest dose levels to date. The treatment has been well tolerated with no significant side effects. In addition, we have documented decreases in leukemic cell counts in two of these patients. Finally, we have documented substantial decreases in the size of enlarged lymph nodes and spleens in all six patients who have received treatment to date.

We plan to initiate a randomized, Phase II clinical trial in which patients will be treated with Campath with or without subsequent treatment with Xcellerated T Cells. Use of Campath is a standard treatment for CLL but increases the risk of infection in part because Campath eradicates nearly all T cells for several months following treatment. In addition, although Campath can decrease leukemic cell counts in the blood, it has less therapeutic activity in the lymph nodes of CLL patients. Accordingly, we believe there is a strong clinical rationale for combining Xcellerated T Cells with Campath.

Multiple myeloma

- **Background.** Multiple myeloma is a form of cancer that usually originates in the bone marrow and has metastasized to multiple sites by the time of diagnosis. Approximately 47,000 patients have multiple myeloma in the United States and approximately 14,600 new patients will be diagnosed with multiple myeloma and 10,900 patients will die of the disease in the United States in 2003. Chemotherapy has been the most common form of treatment for multiple myeloma. More recently, drugs such as Velcade and thalidomide are being used to treat this disease. These drugs can temporarily reduce the tumor load in patients with myeloma, but only rarely eradicate the disease. The most effective therapeutic approach for treatment of multiple myeloma is high-dose chemotherapy followed by autologous stem cell transplantation. However, this therapy is not curative, and only approximately 25% of patients achieve a complete response. In addition, patients whose lymphocyte counts recover slowly after transplant have a poor outcome. Administering Xcellerated T Cells may be able to accelerate lymphocyte recovery and improve the clinical outcome of these patients.

- **Clinical data.** In December 2002, we initiated an ongoing Phase I/II clinical trial in which we plan to treat 35 patients with multiple myeloma. Patients are being treated with a single infusion of Xcellerated T Cells three days following high-dose chemotherapy and autologous stem cell transplantation. In this trial we have treated 27 patients with a single infusion of Xcellerated T Cells. Treatment with Xcellerated T Cells has shown a favorable safety record and has been generally well tolerated. Lymphocyte recovery and T cell recovery has been much more rapid than observed in a comparable group of patients who did not receive Xcellerated T Cells after transplant. Rapid lymphocyte recovery has been correlated with improved prognosis and increased survival in previous clinical studies.

Additionally, we and others have demonstrated that the diversity of the T cell receptor repertoire is extremely limited in patients with multiple myeloma. In our clinical trial, the T cell receptor repertoire demonstrated a normal pattern in four of the first five evaluable patients by four weeks after transplant. In contrast, in multiple myeloma patients who do not receive Xcellerated T Cells, it typically takes more than a year for the limited T cell receptor repertoire to return to normal after transplant. The improvements in the time to lymphocyte recovery and diversity of the T cell repertoire may lead to a better clinical outcome in these patients. We are currently monitoring these patients for infections, days in hospital and other clinical parameters that may be associated with immune recovery. We are also evaluating tumor responses and expect that preliminary data will become available during the first half of 2004.

We are planning to initiate a Phase II clinical trial in multiple myeloma in the non-transplant setting. We plan to enroll approximately 30 patients, who have failed prior therapies. Patients in this planned trial will be randomized to treatment with either a single infusion of Xcellerated T Cells alone or treatment with the drug fludarabine, followed by a single infusion of Xcellerated T Cells. This trial is designed to evaluate whether treatment with Xcellerated T Cells is effective without other treatment as well as whether fludarabine can enhance the anti-tumor effects of Xcellerated T Cells in patients with multiple myeloma.

Non-Hodgkin's lymphoma

- **Background.** Non-Hodgkin's lymphoma is a cancer of the lymph node system. Approximately 300,000 patients have non-Hodgkin's lymphoma, and approximately 53,000 new patients will be diagnosed with this disease in the United States in 2003. About 60% of newly diagnosed patients have an intermediate to aggressive disease course, while approximately 40% of patients have a slow growing, low-grade form of the disease. Chemotherapy and radiation are used to treat patients with non-Hodgkin's lymphoma. More recently, immune-based therapeutic products, such as the monoclonal antibody Rituxan, have increasingly been used alone or in combination with chemotherapy. Patients with low-grade lymphoma often respond to Rituxan treatment, but they cannot be cured with any form of therapy. These patients eventually become refractory to all forms of therapy and die from their disease. Patients with intermediate to aggressive non-Hodgkin's lymphoma may be cured with chemotherapy treatment. However, those who relapse or fail to respond to therapy have a poor prognosis. Some of these patients may be treated with high-dose chemotherapy followed by an autologous stem cell transplant but there are few patients with long-term survival.

- **Clinical data.** A physician-sponsored clinical trial was conducted in 16 patients with poor prognosis who were treated with high-dose chemotherapy and an autologous stem cell transplant followed by administration of a single infusion of activated T cells generated using an earlier version of our proprietary technology. In this group of patients with a very poor prognosis, there were several patients with long-term survival and complete responses, which means the absence of detectable disease using conventional detection methods. The results of this clinical trial were published in the medical journal *Blood* in September 2003.

Based on the substantial therapeutic effects that we have documented in the lymph nodes in patients with CLL, we plan to initiate a Phase II clinical trial to test whether Xcellerated T Cells can be used to treat patients with low-grade lymphomas. Recent studies have demonstrated a correlation between lymphocyte counts in patients with low-grade lymphoma and their survival. We believe administration of Xcellerated T Cells may increase the lymphocyte counts of patients with low-grade lymphoma. Low-grade lymphomas have many similar characteristics to CLL. However, in contrast to CLL, tumor cells are rarely found on routine examination of the blood in patients with lymphoma. The primary site of disease in patients with low-grade lymphomas is the lymph nodes.

- **Solid tumors.** Solid tumors are cancers that originate in organs of the body. The American Cancer Society estimates that there will be over one million new patients with solid tumors, such as breast, prostate, kidney, lung, liver and colon cancers and approximately 500,000 people will die from these types of cancers in the United States in 2003. These cancers are typically treated with surgery or radiation. Chemotherapy is used with limited success in treating solid tumors such as breast cancer, but it is generally ineffective in curing patients once the cancer has spread or metastasized. Recently, immune-based therapeutic products including monoclonal antibodies, such as Herceptin, are being used to treat patients with solid tumors, such as breast cancer and ovarian cancer.

Kidney cancer

- **Background.** The American Cancer Society estimates that approximately 31,900 patients will be diagnosed with kidney cancer in the United States in 2003. Approximately one-third of the patients with kidney cancer will develop metastatic disease. Once patients develop metastatic disease, they have a very poor prognosis with an average survival of approximately one year. The five-year survival for patients with metastatic kidney cancer is less than 5%, and approximately 12,000 deaths are expected to occur in the United States in 2003. The only drug currently approved by the FDA for treating metastatic kidney cancer is IL-2, a cytokine that activates T cells and increases lymphocyte counts. However, the FDA-approved regimen requires extremely high doses of IL-2, which are associated with serious and life-threatening side effects. Several recent clinical studies have demonstrated a strong correlation between the increase in lymphocyte counts that occurs with IL-2 therapy and clinical outcome in patients with metastatic kidney cancer. We believe administration of Xcellerated T Cells may improve the clinical outcome in these patients by boosting lymphocyte counts.

- **Clinical data.** In February 2003, we completed a Phase I/II clinical trial of Xcellerated T Cells in 25 patients with metastatic kidney cancer. In this clinical trial, patients were treated with two infusions of Xcellerated T Cells approximately four weeks apart. After each infusion of Xcellerated T Cells, patients were treated with low doses of IL-2. There were no serious adverse effects related to the administration of Xcellerated T Cells.

We also observed evidence of therapeutic effects at sites of metastases to bone in two patients. Furthermore, lymphocyte counts significantly increased with treatment, and there was a trend to increased post-infusion survival in patients achieving higher lymphocyte counts. Median survival was 21 months in these patients. Several previous clinical trials have shown that the median survival in patients with metastatic kidney cancer is approximately 12 months. The results of this clinical trial were reported in the medical journal *Clinical Cancer Research* in September 2003. We are evaluating plans for a pivotal trial in kidney cancer based on cost, longer time to approval and potential for finding a partner to support further development.

Prostate cancer

- **Background.** Prostate cancer is the most common form of cancer in men in the United States. The American Cancer Society estimates that there will be 220,900 new cases and approximately 28,900 patients will die of prostate cancer in the United States in 2003. Patients with prostate cancer can be cured by surgery if the disease is localized. However, once the disease spreads to other organs, it cannot be cured with the current standard treatment, which is hormonal therapy. For patients with advanced prostate cancer who have failed standard hormonal therapy, there are currently no treatments that have been demonstrated to improve survival.

- **Clinical data** In June 2003, we completed a Phase I/II clinical trial in 19 patients with hormone-refractory prostate cancer. Patients were treated with a single infusion of Xcellerated T Cells. The

therapy was generally well tolerated and led to significant and sustained increases in patients' lymphocyte counts. Two patients demonstrated significant decreases in serum levels of the tumor marker, PSA. In some independent clinical studies, decreases in PSA levels have been shown to correlate with improved survival in patients with prostate cancer.

HIV

- **Background.** There are over 800,000 individuals infected with HIV in the United States. HIV patients are at increased risk of infections and cancer. In HIV, patient's T cells become infected with the virus leading to low numbers of T cells and an extremely narrow T cell receptor repertoire. Increasing T cell count and restoring T cell repertoire is associated with improved outcome. Patients with HIV are currently treated with combinations of anti-viral drugs known as highly active antiretroviral therapy, or HAART. Although HAART is effective in suppressing the virus and delaying the onset of acquired immunodeficiency syndrome, or AIDS, HAART often ceases being effective in a significant number of patients. HAART is also associated with serious side effects.

- **Clinical data.** One of our scientific founders independently demonstrated in the laboratory that T cells activated using an earlier version of our proprietary technology were resistant to infection with HIV. Based on this observation, he and his collaborators conducted a preclinical study in an HIV model in monkeys and a clinical trial in HIV patients who had decreased T cell counts. The preclinical monkey model study showed that T cells activated using our proprietary technology administered after one month of anti-viral drug therapy suppressed viral infection for more than a year. The results of this study were recently published in the medical journal *Blood*. In the human clinical trial, eight HIV patients were administered T cells activated using an earlier version of our proprietary technology. The results were recently published in the medical journal *Nature Medicine*, where it was reported that the treatment increased the average of the patient population's T cell counts to within the normal range for at least one year following initiation of therapy. In laboratory studies, the investigators also demonstrated that they were able to restore a broad T cell receptor diversity in the T cells that were produced using this technology. Based on these preclinical and clinical studies, we have initiated preclinical studies and plan to conduct clinical trials using Xcellerated T Cells to treat patients infected with HIV. In addition, one of our scientific founders is independently conducting clinical trials using an earlier version of our proprietary technology to treat patients infected with HIV, the results of which are not yet available.

Autoimmune diseases

An overactive immune system is believed to play a central role in a variety of illnesses classified as autoimmune diseases, including rheumatoid arthritis, systemic lupus erythematosus and scleroderma. Attempts to control the disease with therapeutic agents that suppress the immune system are often effective. However, some patients have more serious forms of these diseases and do not respond to conventional therapy, while others experience serious side effects from these chronic immunosuppressive therapies. Recently, high-dose chemotherapy and/or radiation have been used with autologous stem cell transplantation to eradicate these patients' diseased immune systems in an attempt to cure several of these diseases. Although effective in many patients, this form of therapy has been associated with serious and life-threatening toxicities. Many scientists now believe that certain populations of T cells play a central role in causing several autoimmune diseases. This is manifested by narrowing of the T cell receptor repertoire, which has been shown to return to normal when patients with some of these diseases achieve remission. Many therapeutic agents are available that can selectively eliminate T cells without causing the serious toxicities associated with the intensive regimens used with stem cell transplantation. If our Xcellerate Technology can be used to generate healthy T cells from patients with autoimmune diseases, it may be possible to administer Xcellerated T Cells to restore a healthy immune system after patients are treated with drugs that eliminate T cells in the body.

We have demonstrated in laboratory studies that our Xcellerate Technology can be used to activate and grow T cells from patients with several autoimmune diseases including rheumatoid arthritis, systemic lupus erythematosus and scleroderma. These studies have also shown that we can restore the narrow T cell repertoire characteristic of many of these patients to a more normal diverse pattern using our Xcellerate Technology. Further preclinical studies are planned that, if successful, could lead to the initiation of a clinical trial using this approach in patients with serious forms of autoimmune diseases.

RESEARCH AND DEVELOPMENT

As of September 30, 2003, we had a total of 27 employees dedicated to research and development, including seven with advanced degrees. We spent approximately $47.7 million from January 1, 2000 through June 30, 2003 on the research and development of our Xcellerate Technology and Xcellerated T Cells. Our internal research and development efforts are focused on:

- **Improving our Xcellerate Technology.** We intend to continuously evaluate and improve our Xcellerate Technology. We have reduced the overall process time for manufacturing of Xcellerated T Cells from an average of 14 days to approximately 10 days. We have developed methods that further simplify our Xcellerate Technology, allowing us to increase our production yield, reduce labor and materials and lower the costs associated with the production of Xcellerated T Cells.
- **Increasing the therapeutic activity of Xcellerated T Cells.** We intend to continuously evaluate and improve the therapeutic activity of Xcellerated T Cells. We are currently evaluating whether other molecules of the immune system or genes could be used to improve the therapeutic activity of Xcellerated T Cells. We are working with several groups to evaluate using Xcellerated T Cells in conjunction with recently discovered antigens to specifically target cancers and infectious diseases associated with those antigens. We have conducted laboratory studies demonstrating that we can generate large numbers of antigen-specific Xcellerated T Cells with anti-tumor activity in several types of cancer, including melanoma, breast cancer, kidney cancer and lung cancer.
- **Developing additional clinical indications for Xcellerated T Cells.** There are many medical conditions that are associated with deficiencies in T cells. We are currently studying the potential to use Xcellerated T Cells to treat these illnesses. For example, patients with autoimmune diseases are treated with immunosuppressive drugs that damage their immune systems. We have demonstrated that we can activate and grow T cells and restore a normal T cell repertoire in patients with several of these diseases. In addition, we are planning to study the use of Xcellerated T Cells in patients with congenital immunodeficiencies. Finally, we are interested in exploring the potential to use Xcellerated T Cells in the elderly, who often have weakened immune systems.

MANUFACTURING AND SUPPLY

We designed, built and operate a pilot facility in Seattle, Washington in accordance with cGMP. We use this facility to manufacture Xcellerated T Cells for clinical trials. We have also leased an additional facility that we intend to develop to manufacture Xcellerated T Cells for our planned clinical trials and initial commercialization if we obtain FDA approval. We expect to begin manufacturing Xcellerated T Cells at this facility in the second half of 2004. Except for our antibody-coated beads and custom bioreactor system, all of the components that are required to implement our Xcellerate Technology are commercially available products and standard clinical and blood bank supplies.

In August 1999, we entered into a contract with Dynal for the cGMP grade manufacture of our antibody-coated beads for clinical and future commercial uses. For completed milestones, we have paid $2.5 million as of September 30, 2003 and, assuming the remaining milestones are completed, we will be

obligated to pay an additional $0.5 million. The agreement will terminate in August 2009 or earlier upon material breach by either party. The term may be extended for an additional five years by either party.

In June 2000, we entered into two service agreements with Lonza, which were subsequently amended for the cGMP grade manufacture of the two monoclonal antibodies for use with our antibody-coated beads. Under the terms of these agreements, we are obligated to make payments to Lonza. We have paid $4.9 million as of September 30, 2003. These agreements may be terminated by either party for a material breach.

COMPETITION

The biotechnology and pharmaceutical industries are characterized by rapidly advancing technologies, intense competition and a strong emphasis on proprietary products. Many entities, including pharmaceutical and biotechnology companies, academic institutions and other research organizations are actively engaged in the discovery, research and development of products that could compete with our products under development. They may also compete with us in recruiting and retaining skilled scientific talent.

There are numerous pharmaceutical and biotechnology companies that are developing therapies for cancer and infectious disease generally, and many of these companies are focused on activating the immune system using therapeutic agents including monoclonal antibodies, cytokines, nucleotides and cells. We are currently aware of several companies developing *ex vivo* cell-based immunotherapy products as a method of treating cancer and infectious diseases. These competitors include Antigenics, Inc., CancerVax Corporation, Cell Genesys, Inc., CellExSys, Inc., Dendreon Corporation, Favrille, Inc., Genitope Corporation, IDM, S.A. and Kirin Pharmaceutical. Even if our Xcellerate Technology proves successful, we might not be able to remain competitive in this rapidly advancing area of technology. Some of our potential competitors have more financial and other resources, larger research and development staffs and more experienced capabilities in researching, developing and testing products. Some of these companies also have more experience in conducting clinical trials, obtaining FDA and other regulatory approval, and in manufacturing, marketing and distributing of medical products. Smaller companies may successfully compete with us by establishing collaborative relationships with larger pharmaceutical companies or academic institutions. Our competitors may succeed in developing, obtaining patent protection for or commercializing their products more rapidly than us. A competing company developing, or acquiring rights to, a more effective therapeutic product for the same diseases targeted by us, or one that offers significantly lower costs of treatment, could render our products noncompetitive or obsolete.

INTELLECTUAL PROPERTY

We rely on a combination of patent, trademark, copyright and trade secret laws to protect our proprietary technologies and products. We aggressively seek US and international patent protection to further our business strategy and for major components of our Xcellerate Technology, including important antibody components and methods of T cell activation. We also rely upon trade secret protection for our confidential and proprietary information. We enter into licenses to technologies we view as necessary.

We have a portfolio of issued patents and patent applications, which we believe provides patent coverage for our Xcellerate Technology. As of September 30, 2003, we owned or held exclusive rights to six issued

patents and numerous pending patent applications in the United States in the field of or directed to *ex vivo* T cell stimulation. Two of the issued patents relate to methods of stimulating T cells utilized by our Xcellerate Technology, while two other issued patents relate to a method of stimulating T cells and an antibody that we are not currently using. The final two issued patents are in the field of or directed to immunosuppression and the treatment and prevention of immune disorders and immunorejection of transplanted material. We also have numerous currently pending foreign patent applications and five issued foreign patents corresponding to our T cell stimulation technology.

In general, we apply for patent protection of methods and products relating to immunotherapy for treatment of cancer, immune deficiencies, autoimmune diseases and infectious diseases. With respect to proprietary know-how that is not patentable, we have chosen to rely on trade secret protection and confidentiality agreements to protect our interests. We have taken security measures to protect our proprietary know-how, technologies and confidential data and continue to explore further methods of protection.

We require all employees, consultants and collaborators to enter into confidentiality agreements, and all employees and most consultants enter into invention assignment agreements with us. The confidentiality agreements generally provide that all confidential information developed or made known to the individual during the course of such relationship will be kept confidential and not disclosed to third parties, except in specified circumstances. These invention agreements generally provide that all inventions conceived by the individual in the course of rendering services to us shall be our exclusive property. There can be no assurance, however, that these agreements will provide meaningful protection or adequate remedies for any breach, or that our trade secrets will not otherwise become known or be independently discovered by our competitors. Any of these events could adversely affect our competitive position in the marketplace.

In the case of a strategic partnership or other collaborative arrangement which requires the sharing of data, our policy is to disclose to our partner, under controlled circumstances, only data that is relevant to the partnership or arrangement during the contractual term of the strategic partnership or collaborative arrangement, subject to a duty of confidentiality on the part of our partner or collaborator. Disputes may arise as to the ownership and corresponding rights in know-how and inventions resulting from research by us and our future corporate partners, licensors, scientific collaborators and consultants. We cannot assure you that we will be able to maintain our proprietary position or that third parties will not circumvent any proprietary protection we have. Our failure to maintain exclusive or other rights to these technologies could harm our competitive position.

To continue developing and commercializing our current and future products, we may license intellectual property from commercial or academic entities to obtain the rights to technology that is required for our discovery, research, development and commercialization activities.

In preparation for the commercial distribution of our products and services if we obtain FDA approval, we have filed a number of trademark applications.

Corporate collaborations

Part of our strategy is to establish corporate collaborations with pharmaceutical, biopharmaceutical and biotechnology companies for the development and commercialization of our Xcellerate Technology. We focus our efforts on partnering our technologies in markets and diseases that we do not plan to pursue on our own. We target collaborators that have the expertise and capability to develop, manufacture, obtain regulatory approvals for and commercialize our Xcellerate Technology. In our corporate

collaborations, we seek to cover our research and development expenses through research funding, milestone payments and technology or license fees. We also seek to retain significant downstream participation in product sales through either profit-sharing or product royalties paid on annual net sales.

- **Taiwan Cell Therapy Company.** In August 2003, we entered into a letter of intent with Taiwan Cell Therapy Company, or TCTC, a company newly formed under the laws of Taiwan. Under this letter of intent we are obligated, subject to certain conditions, to grant TCTC an exclusive license to our Xcellerate Technology in the cellular immunotherapy field in Australia and Asia, excluding Japan, and a non-exclusive license to our Xcellerate Technology outside the cellular immunotherapy field worldwide. The parties' obligations under the letter of intent are conditioned upon, among other things, TCTC closing, or obtaining commitments for, at least US$25 million in equity financing on or before December 30, 2003 and the parties' negotiation of a definitive agreement on or before November 15, 2003.

The letter of intent sets forth certain terms to be incorporated into a definitive agreement, including our obligation to transfer our Xcellerate Technology, including manufacturing capability, to TCTC and to provide training to TCTC on the use and manufacture of our Xcellerate Technology. The business terms of the letter of intent include issuance of 2% of TCTC's equity to us, potential royalties on net sales and sublicensing revenue as well as up to US$10 million in license issue fees and potential milestone payments based on clinical trials conducted by TCTC and us. In addition, if we enter into a definitive agreement, we are obligated to purchase US$2.5 million of TCTC equity on the same terms and conditions as the other investors and, under certain circumstances, to pay a percentage of any revenue we receive from granting license rights to our Xcellerate Technology in Japan. Both parties will have diligence obligations to pursue our Xcellerate Technology in their respective territories, and TCTC will have the right to market our Xcellerate Technology in any country in which we do not seek market approval for our Xcellerate Technology within a specified period of time following US approval of our first product.

The letter of intent will terminate in the event a definitive agreement is not executed prior to November 15, 2003 or if either party elects to terminate it earlier upon material breach by the other party or in our or TCTC's sole discretion subject to payment of a break-up fee.

Technology licenses

Where consistent with our strategy, we seek to obtain technologies that complement and expand our existing technology base. We have licensed and will continue to license technology from selected research and academic institutions, as well as other organizations. Under these license agreements, we generally seek to obtain unrestricted sublicense rights. We are generally obligated under these agreements to pursue product development, make development milestone payments and pay royalties on any product sales. We have not been required to pay any royalties through September 30, 2003. In addition to license agreements, we seek relationships with other entities that may benefit us and support our business goals.

- **Diaclone S.A.** In October 1999, we entered into a license agreement with Diaclone S.A., a French corporation. Under the agreement, Diaclone granted us an exclusive, worldwide license to the monoclonal antibody and the cell line, which produces the antibody that binds to the CD28 molecule, for the development and commercialization of the antibody for all *ex vivo* uses. We are currently obligated to purchase all our requirements for this monoclonal antibody from Diaclone until we begin preparing for Phase III clinical trials. This agreement has a term of 15 years from the date of first approval by the FDA or its foreign equivalent, of a product based on the licensed antibody. We currently do not have FDA approval of any products based on the licensed antibody. At the end of the term, we

will have a perpetual, irrevocable, royalty-free exclusive license. We paid an initial non-refundable license fee to Diaclone and are required to pay royalties if our product is approved and commercialized.

- **Fred Hutchinson Cancer Research Center.** In October 1999, we entered into a license agreement with the Fred Hutchinson Cancer Research Center. Under the agreement, the Fred Hutchinson Cancer Research Center granted us a non-exclusive, worldwide license to make, use and sell the monoclonal antibody that binds to the CD3 molecule for T cell stimulation for *ex vivo* uses. We paid up-front licensing fees to the Fred Hutchinson Cancer Research Center and we are obligated to pay the Fred Hutchinson Cancer Research Center a royalty fee if our product is commercialized. On December 1, 2000, we amended this license agreement to broaden the field of use to include any *ex vivo* use involving therapeutic and research applications in exchange for an additional non-refundable up-front fee of $50,000 and the issuance of 150,000 shares of our common stock to the Fred Hutchinson Cancer Research Center. This license will remain in effect for 15 years following commercialization of our product.
- **Genetics Institute.** In July 1998, we entered into a license agreement with Genetics Institute, now a subsidiary of Wyeth, Inc. Under the agreement, Genetics Institute granted us an exclusive license for methods of *ex vivo* activation or expansion of human T cells for treatment and prevention of infectious diseases, cancer and immunodeficiency. The technology underlying these methods originated from two of our scientific founders and their collaborators, and create the basis for our Xcellerate Technology. The term of the Genetics Institute license runs until the end of the enforceable term of any patents issued for the methods licensed. To date, two patents, whose terms expire in 2016 and two patents, whose terms expire in 2019 have been issued for the methods licensed. In consideration of the license, we paid a non-refundable up-front license fee of approximately $53,000, issued 145,875 shares of our preferred stock to Genetics Institute, and issued a warrant under which the Genetics Institute has the right to purchase 194,500 additional shares of our preferred stock, which will convert into a warrant to purchase our common stock after the closing of this offering. We are also obligated to pay royalties to Genetics Institute on sales of products covered by the patents licensed to us under the agreement.

GOVERNMENTAL REGULATION

Governmental authorities in the United States and other countries extensively regulate the preclinical and clinical testing, approval, manufacturing, labeling, storage, record-keeping, reporting, advertising, promotion, import, export, marketing and distribution, among other things, of immunotherapy products and other drugs and biological products. In the United States, the FDA under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act and other federal statutes and regulations subjects pharmaceutical products to rigorous review and regulation. If we do not comply with applicable requirements, we may be fined, our products may be recalled or seized, our clinical trials may be suspended or terminated, our production may be totally or partially suspended, the government may refuse to approve our marketing applications or allow us to distribute our products, and we may be subject to an injunction and/or criminally prosecuted. The FDA also has the authority to revoke previously granted marketing authorizations.

In order to obtain approval of a new product from the FDA, we must, among other requirements, submit proof of safety and efficacy as well as detailed information on the manufacture, quality, composition and labeling of the product in a new drug application or a biologics license application. In most cases, this proof entails extensive laboratory tests, and preclinical and clinical trials. This testing, the preparation of

necessary applications, the processing of those applications by the FDA and review of the applications by an FDA advisory panel of outside experts are expensive and typically take many years to complete. Additionally, the FDA recently formed a new division that will regulate biologic products, such as Xcellerated T Cells. The processes and requirements associated with this new division may cause delays and additional costs in obtaining regulatory approval of our products or for regulatory authorization for our clinical trials. The FDA may not act quickly or favorably in reviewing these applications, or may deny approval altogether and we may encounter significant difficulties or costs in our efforts to obtain FDA approval, which could delay or preclude us from marketing any products we may develop. The FDA may also require post-marketing testing and surveillance to monitor the effects of approved products or place conditions on any approval that could restrict the commercial applications of these products. The FDA may withdraw product approval if we fail to comply with regulatory standards, if we encounter problems following initial marketing, or if new safety or other issues are discovered regarding our products after approval. With respect to patented products or technologies, delays imposed by the governmental approval process may materially reduce or eliminate the period during which we will have the exclusive right to exploit the products or technologies.

In order to conduct research to obtain regulatory approval for marketing, we must submit information to the FDA on the planned research in the form of an investigational new drug application. The investigational new drug application must contain, among other things, an investigational plan for the therapy, a study protocol, information on the study investigators, preclinical data such as toxicology data, and other known information about the investigational compound. An investigational new drug application generally must be submitted by a commercial sponsor who intends to collect data on the safety and efficacy of a new drug or biological product prior to conducting human trials and submitting an application for marketing approval. In certain circumstances, an investigational new drug application may also be submitted which allows physicians to gain an initial understanding of the compound through an expanded access program. Data from expanded access trials can generally be used to support the safety, but not the efficacy, of a product.

After an investigational new drug application becomes effective, a sponsor may commence human clinical trials. The sponsor typically conducts human clinical trials in three sequential phases, but the phases may overlap. In Phase I clinical trials, the product is generally tested in a small number of patients or healthy volunteers, primarily for safety at one or more doses. In Phase II, in addition to safety, the sponsor typically evaluates the efficacy of the product in a patient population somewhat larger than Phase I clinical trials. It is customary in cancer clinical trials for the FDA to allow companies to combine Phase I and Phase II clinical trials into a Phase I/II clinical trial. Phase III clinical trials typically involve additional testing for safety and clinical efficacy in an expanded population at geographically dispersed test sites and are intended to generate the pivotal data on which a marketing application will be based. The studies must be adequate and well-controlled, and otherwise conform to appropriate scientific and legal standards.

Prior to the commencement of each clinical trial, the sponsor must submit to the FDA a clinical plan, or protocol, accompanied by the approval of an institutional review board responsible for protecting the welfare of study subjects for a site participating in the trials. The sponsor must also ensure that investigators obtain informed consent from all study subjects prior to commencement of each study, and the sponsor must comply with monitoring, reporting, and so-called good clinical practice requirements throughout the conduct of the study, among other legal requirements. The FDA may prevent an investigational new drug application from taking effect, or may order the temporary or permanent discontinuation of a clinical trial, at any time. An institutional review board may also prevent a study from going forward, or may temporarily or permanently discontinue a clinical trial, at any time. If a

study is not conducted in accordance with applicable legal requirements and sound scientific standards, the data from the study may be deemed invalid and unusable.

The sponsor must submit to the FDA the results of the preclinical and clinical trials, together with, among other things, detailed information on the manufacture, quality and composition of the product, in the form of a new drug application or, in the case of a biologic, a biologics license application. The application must also contain proposed labeling for the product setting forth the proposed conditions of use for which the applicant is seeking approval, and be accompanied by the payment of a significant user fee. The FDA can refuse to file an application if it is deemed not sufficiently complete to permit review, or has some other deficiency.

Because the FDA is regulating Xcellerated T Cells as a biologic, we must submit biologics license applications to the FDA to obtain approval of our products. A biologics license application requires data showing the safety, purity and potency of the product. In a process which generally takes several years or more, the FDA reviews this application and, when and if it decides that adequate data are available to show that the new compound is both safe and effective and that other applicable requirements have been met, approves the drug or biologic for marketing. Prior to issuing a denial or an approval, the FDA often will seek recommendations from one of its advisory committees of independent experts. The amount of time taken for this approval process is a function of a number of variables, including the quality of the submission and studies presented, the potential contribution that the compound will make in improving the treatment of the disease in question, the recommendations of the FDA advisory committee, and the workload at the FDA. It is possible that our Xcellerate Technology will not successfully proceed through this approval process or that the FDA will not approve our applications in any specific period of time, or at all. Any approval, if obtained, could be limited or could be made contingent on burdensome post-approval commitments or could be otherwise restricted.

Congress enacted the Food and Drug Administration Modernization Act of 1997, in part, to ensure the availability of safe and effective drugs, biologics and medical devices by expediting the FDA review process for new products. The Modernization Act establishes a statutory program for the approval of fast track products, including qualifying biologics. We may, from time to time, decide to request fast track approval for Xcellerated T Cells. A fast track product is defined as a new drug or biologic intended for the treatment of a serious or life-threatening disease or condition that demonstrates the potential to address unmet medical needs for this disease or condition. Under the fast track program, the sponsor of a new drug or biologic may request the FDA to designate the drug or biologic as a fast track product at any time during the clinical development of the product.

The Modernization Act specifies that the FDA must determine whether the product qualifies for fast track designation within 60 days of receipt of the sponsor’s request. The FDA can base approval of a marketing application for a fast track product on an effect on a clinical endpoint or on another “surrogate” endpoint that is reasonably likely to predict clinical benefit. The FDA may subject approval of an application for a fast track product to post-approval studies to validate the surrogate endpoint or confirm the effect on the clinical endpoint and prior review of all promotional materials. In addition, the FDA may withdraw its approval of a fast track product on an expedited basis on a number of grounds, including the sponsor’s failure to conduct any required post-approval study with due diligence.

If the FDA’s preliminary review of clinical data suggests that a fast track product may be effective, the agency may initiate review of sections of a marketing or license application for a fast track product before the sponsor completes the entire application. This rolling review may be available if the applicant provides a schedule for submission of remaining information and pays applicable user fees. However, the time periods specified under the Prescription Drug User Fee Act concerning timing goals to which the

FDA has committed in reviewing an application do not begin until the sponsor submits the entire application.

We have requested, and may from time to time continue to request, orphan drug status for Xcellerated T Cells. Orphan drug designation may be granted to those products developed to treat diseases or conditions that affect fewer than 200,000 persons in the United States. We believe that some of our target cancer patient populations meet these criteria. Under the law, the developer of an orphan drug may be entitled to seven years of market exclusivity following the approval of the product by the FDA, exemption from user fee payments to the FDA, and a 50% tax credit for the amount of money spent on human clinical trials. We cannot predict whether the FDA will grant either an orphan drug or fast track designation, or whether our products will ultimately receive FDA approval or orphan drug market exclusivity. We also cannot predict the ultimate impact, if any, of the fast track process or orphan drug status on the timing, likelihood, or scope of FDA approval of our immunotherapy products. Even if we are able to obtain FDA approval with orphan drug marketing exclusivity, other competing products may still be approved if they are deemed to be sufficiently different than our products, or clinically superior, or under certain other circumstances. This could reduce or eliminate the value of any orphan drug marketing exclusivity.

The FDA may, during its review of a new drug application or biologics license application, ask for additional test data. If the FDA does ultimately approve the product, it may require post-marketing testing, including potentially expensive Phase IV studies, and surveillance to monitor the safety and effectiveness of the product. In addition, the FDA may in some circumstances impose restrictions on the use of the product, which may be difficult and expensive to administer, may affect whether the product is commercially viable, and may require prior approval of promotional materials.

Before approving a new drug application or biologics license application, the FDA will also inspect the facilities where the product is manufactured and will not approve the product unless the manufacturing facilities are in compliance with cGMP. In addition, the manufacture, holding and distribution of a product must remain in compliance with cGMP following approval. Manufacturers must continue to expend time, money and effort in the area of production and quality control and record keeping and reporting to ensure full compliance with those requirements.

The labeling, advertising, promotion, marketing and distribution of a drug or biologic product must be in compliance with FDA regulatory requirements. Our distribution of pharmaceutical samples to physicians must comply with the Prescription Drug Marketing Act. In addition, manufacturers are required to report adverse events, and errors and accidents in the manufacturing process. Changes to an approved product, or changes to the manufacturing process, may require the filing of a supplemental application for FDA review and approval. Failure to comply with applicable requirements can lead to the FDA demanding that production and shipment cease, and, in some cases, that the manufacturer recall products, or to FDA enforcement actions that can include seizures, injunctions and criminal prosecution. These failures can also lead to FDA withdrawal of approval to market the product. Where the FDA determines that there has been improper promotion or marketing, it may require corrective communications such as “Dear Doctor” letters. Even if we comply with FDA and other requirements, new information regarding the safety or effectiveness of a product, or a change in the law or regulations, could lead the FDA to modify or withdraw a product approval.

In addition to FDA requirements, our manufacturing, sales, promotion, and other activities following product approval are subject to regulation by numerous other regulatory authorities, including, in the United States, the Centers for Medicare & Medicaid Services, other divisions of the Department of Health and Human Services, and state and local governments. Among other laws and requirements, our

sales, marketing and scientific/educational programs must comply with the Federal Medicare-Medicaid anti-fraud and abuse statutes and similar state laws. Our pricing and rebate programs must comply with the Medicaid rebate requirements of the Omnibus Budget Reconciliation Act of 1990. If products are made available to authorized users of the Federal Supply Schedule of the General Services Administration, additional laws and requirements apply. All of our activities are potentially subject to federal and state consumer protection and unfair competition laws.

We are also subject to regulation by the Occupational Safety & Health Administration, or OSHA, and the Environmental Protection Agency, or EPA, and to various laws and regulations relating to safe working conditions, laboratory and manufacturing practices, and the use and disposal of hazardous or potentially hazardous substances, including radioactive compounds used in connection with our research and development activities, and may in the future be subject to other federal, state or local laws or regulations. OSHA, the EPA or other regulatory agencies may promulgate regulations that may affect our research and development programs. We are also subject to regulation by the Department of Transportation and to various laws and regulations relating to the shipping of cells and other similar items. We are unable to predict whether any agency will adopt any regulation that could limit or impede our operations.

Depending on the circumstances, failure to meet these other applicable regulatory requirements can result in criminal prosecution, fines or other penalties, injunctions, recall or seizure of products, total or partial suspension of production, denial or withdrawal of pre-marketing product approval, or refusal to allow us to enter into supply contracts, including government contracts.

Sales of pharmaceutical products outside the United States are subject to foreign regulatory requirements that vary widely from country to country. Whether or not we have obtained FDA approval, we must obtain approval of a product by comparable regulatory authorities of foreign countries prior to the commencement of marketing the product in those countries. The time required to obtain this approval may be longer or shorter than that required for FDA approval. The foreign regulatory approval process includes all the risks associated with FDA regulation set forth above, as well as country-specific regulations, including in some countries price controls.

In May 2000, we filed our initial Phase I investigational new drug application, or IND, involving Xcellerated T Cells to treat metastatic kidney cancer. The FDA allowed us to start the trial in June 2000. The trial was completed in February 2003. In September 2001, we amended the IND to add a Phase I study of Xcellerated T Cells to treat hormone refractory prostate cancer. The trial was completed in June 2003. In August 2002, we amended the IND to add a Phase I/II to treat multiple myeloma patients post autologous stem cell transplantation. We anticipate completion of the trial by June 2004. In November 2002, we amended the IND to add a Phase I/II study to treat CLL. We anticipate completion of the trial in the first half of 2004. In September 2003, we amended the IND to add a randomized Phase II study to treat multiple myeloma patients with and without fludarabine. We anticipate completion of the trial by the second half of 2005.

LEGAL PROCEEDINGS

From time to time, we may be involved in various other legal proceedings in the ordinary course of business. Although it is not feasible to predict the outcome of these proceedings or any claims made against us, we do not anticipate that the ultimate liability of these proceedings or claims will have a materially adverse effect on our financial position or results of operations.

On July 26, 2000, Karen Lenahan filed suit against the University of Chicago, the University of Chicago Hospitals, Central DuPage Hospital and various doctors, seeking to recover damages arising out of the death of Mrs. Lenahan's husband, Shawn Lenahan. The complaint, filed in the Circuit Court of Cook County, Illinois, alleged that the physicians committed medical malpractice. Mr. Lenahan was treated in an independent clinical trial using technology similar to ours. This trial was initiated prior to our licensing of this technology. The complaint was amended to add additional defendants, and on February 26, 2001, a second amended complaint was filed that named us as a defendant. The second amended complaint attempted to allege that we participated in an unlawful conspiracy to induce Mr. Lenahan to participate in a drug protocol for an experimental treatment for his non-Hodgkin's lymphoma.

On May 7, 2001, we filed a motion seeking to dismiss the conspiracy claims, the only counts in the second amended complaint in which we were named as a defendant. On June 29, 2001, the court upheld the motion to dismiss. On July 27, 2001, the plaintiff filed a fourth amended complaint, which again named us as a defendant and attempted to allege that we and our co-defendants unlawfully conspired against Mr. Lenahan. On August 31, 2001, we filed a motion to dismiss the conspiracy claims against us. On February 25, 2002, the court upheld the motion to dismiss. However, the court granted the plaintiff one final chance to file an amended complaint. On March 25, 2002, the plaintiff filed a fifth amended complaint, which alleged similar claims as the fourth amended complaint. We filed a motion to dismiss the conspiracy claims and on July 22, 2002, the court granted our motion to dismiss the plaintiff's fifth amended complaint with prejudice. On August 20, 2002, the plaintiff filed a notice of appeal from the court's order granting our motion to dismiss. On April 7, 2003, we filed our response brief, and, on May 1, 2003, the plaintiff filed its reply brief. We cannot predict when we will have a decision on the appeal. We deny having committed any conspiracy against Mr. Lenahan and intend to vigorously defend this lawsuit. However, because of the nature of the complaint against us, we cannot predict the probability of a favorable or unfavorable outcome, or estimate the amount or range of potential loss.

EMPLOYEES

As of September 30, 2003, we had 63 employees, 27 of whom are directly involved in research and development, and 23 of whom are involved in manufacturing operations. We consider our relations with our employees to be good.

FACILITIES

We currently lease a total of approximately 62,500 square feet of space at two facilities. We lease approximately 22,000 square feet of office, laboratory space and a pilot cell manufacturing facility in Seattle, Washington, with monthly payments of approximately $48,000. The lease on this space expires in October 2006, and we have options to renew for two additional five-year terms. We also lease approximately 40,500 square feet of space in Bothell, Washington, with monthly payments of approximately $77,000. We plan to renovate 20,000 square feet of this facility for the manufacture Xcellerated T Cells for our planned clinical trials and initial commercialization if we receive FDA approval. The initial lease term on this space expires December 2010, and we have options to renew until December 2020. Under the terms of the lease, we also have rights to negotiate for further expansion space in the building.

Scientific advisory board

Our Scientific Advisory Board is our network of medical, scientific and clinical advisors and collaborators who consult with our scientists. In addition, our Scientific Advisory Board members, none of whom are our managers or employees, advise us regarding our research and development programs, the design of our clinical trials as well as other medical and scientific matters relating to our business. The following persons serve on our Scientific Advisory Board:

Joseph Bertino, M.D., is the Associate Director of the Cancer Institute of New Jersey and University Professor of Medicine and Pharmacology.

Jeffrey Bluestone, Ph.D., is one of our scientific founders and is a Professor at the University of California, San Francisco and the Director of the UCSF Diabetes Center.

Edward Clark, Ph.D., is a Professor of Immunology and a Professor of Microbiology at the University of Washington.

John Hansen, M.D., is a Member of Clinical Research at the Fred Hutchinson Cancer Research Center and Professor of Medicine, University of Washington.

Carl June, M.D., is one of our scientific founders and is the Vice Chairman of the Department of Molecular and Cellular Engineering at the University of Pennsylvania.

Hyam Levitsky, M.D., is a Professor of Oncology, Medicine and Urology at Sidney Kimmel Comprehensive Cancer Center at Johns Hopkins University.

Ronald Levy, M.D., is the Chief of the Division of Medical Oncology at the Stanford Medical Center.

Gerald Nepom, M.D., Ph.D., is the Director, Benaroya Research Institute at Virginia Mason.

E. Donnall Thomas, M.D., is a Member and former Director of Clinical Research at the Fred Hutchinson Family Cancer Research Center. Dr. Thomas was awarded the 1990 Nobel Prize in Medicine.

Craig Thompson, M.D., is one of our scientific founders and is the Scientific Director of the Abramson Family Cancer Research Institute at the University of Pennsylvania.

Robert M. Williams, Ph.D., is a University Distinguished Professor, Department of Chemistry at Colorado State University.

Management

EXECUTIVE OFFICERS AND DIRECTORS

Set forth below is the name, age, position and a brief account of the business experience of each of our executive officers and directors:

Name	Age	Position(s)
Ronald J. Berenson, M.D.	51	President, Chief Executive Officer and Director
Stewart Craig, Ph.D.	42	Chief Operating Officer and Vice President
Mark Frohlich, M.D.	42	Medical Director and Vice President
Mark L. Bonyhadi, Ph.D.	49	Vice President of Research
Kathi L. Cordova, C.P.A.	43	Senior Vice President of Finance and Treasurer
Joanna S. Black, J.D.	30	General Counsel, Vice President and Secretary
Robert Curry, Ph.D.	56	Director
Jean Deleage, Ph.D.	63	Director
Dennis Henner, Ph.D.	52	Director
Peter Langecker, M.D., Ph.D.	52	Director
Robert T. Nelsen, M.B.A.	40	Director
Robert M. Williams, Ph.D.	50	Director

Ronald J. Berenson, M.D., is our founder and has served as our President, Chief Executive Officer and as a member of our board of directors since our inception. From April 1989 until February 1995, Dr. Berenson held several positions at CellPro, Inc., a stem cell therapy company that he founded, with his last positions being Executive Vice President and Chief Medical and Scientific Officer. Dr. Berenson also served on the board of directors of CellPro, Inc. from July 1984 to March 1989, and currently serves on the board of directors of Calypso Medical Technologies, Inc. Dr. Berenson was a faculty member at the Fred Hutchinson Cancer Research Center, where he last held the position of Assistant Member. Dr. Berenson is a board-certified internist and medical oncologist, who completed his medical oncology fellowship training at Stanford University Medical Center. Dr. Berenson received a B.S. in biology from Stanford University and an M.D. from Yale University School of Medicine.

Stewart Craig, Ph.D., has served as our Chief Operating Officer and Vice President since October 1999. From July 1996 to September 1999, Dr. Craig served as Vice President of Development and Operations at Osiris Therapeutics, Inc., a stem cell therapy company. From January 1994 to June 1996, Dr. Craig served as Vice President of Product and Process Development at SyStemix Inc., a stem cell and gene therapy company. From June 1987 to December 1993, Dr. Craig held the positions of Group Leader and Senior Scientist at British Biotech, a biotechnology company. Dr. Craig received a B.Sc. in biochemistry and a Ph.D. in physical biochemistry from the University of Newcastle upon Tyne, UK.

Mark Frohlich, M.D., has served as our Medical Director since October 2001 and has served as our Vice President since January 2002. From July 1998 to October 2001, Dr. Frohlich held the position of Assistant Adjunct Professor of Medicine at the University of California at San Francisco. From July 1994 to June 1998, Dr. Frohlich completed his fellowship in medical oncology at the University of California at San Francisco. Dr. Frohlich received a B.S. in electrical engineering and economics from Yale University and an M.D. from Harvard Medical School.

Mark L. Bonyhadi, Ph.D., has served as our Vice President of Research since January 2003. Dr. Bonyhadi previously served as our Director of Research from January 2002 to January 2003,

Director of Strategic Scientific Development from April 2001 to December 2001 and Director of Biological Research from May 1997 to March 2001. From September 1990 to April 1997, Dr. Bonyhadi served as Senior Scientist with SyStemix, Inc., a stem cell and gene therapy company. Dr. Bonyhadi received a B.A. in biology from Reed College and a Ph.D. in immunology from the University of California at Berkeley.

Kathi L. Cordova, C.P.A., has served as our Senior Vice President of Finance and Treasurer since September 2003. Ms. Cordova previously served as our Vice President of Finance from March 1997 to September 2003. From February 1994 to February 1997, Ms. Cordova held the position of Assistant Controller in a joint venture between American Life Insurance Company, a subsidiary of American International Group, an insurance company, and Italy's Confederazione Italiana Sindicati dei Lavoratori, a labor union. From August 1991 to January 1994, Ms. Cordova served as Management Associate with the Life Division of American International Group, an insurance company. Ms. Cordova received a B.A. in international relations from Stanford University and an MA in international relations from The Johns Hopkins University.

Joanna S. Black, J.D., has served as our General Counsel and Secretary since January 2002 and has served as our Vice President since September 2003. From September 1998 to January 2002, Ms. Black worked as an attorney at Venture Law Group, A Professional Corporation, a law firm. From August 1997 to August 1998, Ms. Black worked as an attorney at Wilson Sonsini Goodrich & Rosati, P.C., a law firm. Ms. Black received a B.A. in economics and public policy from Stanford University and a J.D. from Columbia University School of Law.

Robert E. Curry, Ph.D., has served as one of our directors since July 2002 and from May 2000 to January 2002. Dr. Curry has been a Venture Partner at Alliance Technology Ventures, a venture capital firm, since July 2002. Dr. Curry previously served as a General Partner of Sprout Group from May 1991 to June 2002. He currently is a director of Emerald Bio-Agricultural Corporation, a medical products company, and Tripath Imaging, Inc., a cancer therapy company. Dr. Curry received a B.S. in physics from the University of Illinois and an M.S. and Ph.D. in chemistry from Purdue University.

Jean Deleage, Ph.D., has served as one of our directors since August 1996. Dr. Deleage is a founder and managing director of Alta Partners, a venture capital firm and was previously a founder of Burr, Egan, Deleage & Company and Sofinnova Ventures, Inc. Dr. Deleage is director of Crucell, Kosan Biosciences and Rigel Pharmaceuticals, Inc., and several private companies, all biopharmaceutical companies. Dr. Deleage received an M.S. in electrical engineering from the Ecole Supérieure d'Electricité and a Ph.D. in economics from the Sorbonne.

Dennis Henner, Ph.D., has served as one of our directors since July 2002. Dr. Henner has been a General Partner at MPM Capital, a venture capital firm since May 2001. From April 1996 to February 2001, Dr. Henner held the positions of Senior Vice President of Research and Vice President of Research at Genentech, Inc., a biotechnology company. Dr. Henner is currently director of biotechnology companies Tercica Medica, Inc., Rigel, Inc., Synergia Pharma, Inc. and Rinat Neuroscience Corporation. Dr. Henner received his B.A. in Life Sciences and his Ph.D. from the Department of Microbiology at the University of Virginia.

Peter Langecker, M.D., Ph.D., has served as one of our directors since December 1999. Since October 1999, Dr. Langecker has served as Chief Medical Officer and Vice President of Clinical Affairs of BioMedicines, Inc., a biotechnology company. From July 1997 to September 1999, Dr. Langecker served as Vice President of Clinical Affairs of Sugen, Inc., a biotechnology company. From July 1995 to July 1997, Dr. Langecker served as Vice President of Clinical Research of Coulter Pharmaceutical, Inc., a biotechnology company. Before that Dr. Langecker held various medical positions at Ciba Geigy and

Schering-Plough. Dr. Langecker received an M.D. and a Ph.D. in medical sciences from Ludwig Maximilians University in Munich.

Robert T. Nelsen, M.B.A., has served as one of our directors since August 1996. Since 1992, Mr. Nelsen has served as a managing director of ARCH Venture Partners, a venture capital firm. Mr. Nelsen also serves as a director of Adolor Corporation (ADLR), an analgesics development company, Caliper Technologies Corporation (CALP), a biochip company, and Illumina Corporation (ILMN), a biotechnology company. Mr. Nelsen received a B.S. in biology and economics from the University of Puget Sound and an M.B.A. from the University of Chicago.

Robert M. Williams, Ph.D., has served as one of our directors and a member of our Scientific Advisory Board since November 1996. Since September 1980, Professor Williams has served as a Professor of Chemistry at Colorado State University and in 2001, he was appointed University Distinguished Professor. During his career, Professor Williams has provided consulting services to several biotechnology and pharmaceutical companies, including Cubist Pharmaceutical Company, Microcide Pharmaceuticals, Hoffman-La Roche, G.D. Searle, W.R. Grace, NewBiotics ChemGenex, Nutrasweet and EPIX Medical, Inc. Professor Williams received a B.A. in chemistry from Syracuse University and a Ph.D. in organic chemistry from the Massachusetts Institute of Technology. Following graduate school, Professor Williams served as a postdoctoral fellow at Harvard University. He has served as a visiting professor at the University of California, Berkeley in 1990 and at Harvard University from 1994 to 1995.

BOARD COMPOSITION

Our board of directors is currently comprised of seven directors and one vacancy. Following the closing of this offering, the board will be divided into three classes, with each director serving a three-year term and one class being elected at each year's annual meeting of stockholders. Dr. Langecker and Dr. Williams will be in the class of directors whose initial term expires at the 2004 annual meeting of stockholders. Drs. Deleage and Henner will be in the class of directors whose initial term expires at the 2005 annual meeting of stockholders. Directors Dr. Berenson, Dr. Curry and Mr. Nelsen will be in the class of directors whose initial term expires at the 2006 annual meeting of stockholders.

BOARD COMMITTEES

Our board of directors has established an audit committee, a compensation committee and a pricing committee.

The audit committee currently consists of Dr. Deleage, Dr. Curry and Dr. Henner. The audit committee is responsible for assuring the integrity of our financial control, audit and reporting functions and reviews with our management and our independent auditors the effectiveness of our financial controls and accounting and reporting practices and procedures. In addition, the audit committee reviews the qualifications of our independent auditors, is responsible for their appointment, compensation, retention and oversight and reviews the scope, fees and results of activities related to audit and non-audit services. Prior to the formation of the audit committee, the full board of directors conducted the responsibilities of the audit committee, which met annually with representatives of our independent auditors, including in executive sessions where members of management were excused.

The pricing committee consists of Dr. Berenson, Dr. Deleage, Dr. Curry and Mr. Nelsen. The pricing committee is responsible for determining the terms of this initial public offering, including, but not limited to, determining the number of shares to be sold by us and the initial public offering price per share.

Effective upon this offering, the compensation committee will consist of Dr. Curry, Mr. Nelsen and Dr. Langecker. The compensation committee's principal responsibility is to administer our stock plans and to set the salary and incentive compensation, including stock option grants, for our Chief Executive Officer and senior staff members.

DIRECTOR COMPENSATION

Our six outside directors are compensated with options to purchase our common stock. The only cash compensation they receive is reimbursement for out-of-pocket expenses incurred in connection with attending board and committee meetings. In November 1996, Dr. Deleage and Dr. Williams were each awarded non-statutory options for 30,000 shares of our common stock. In November 1999, Dr. Langecker was awarded a non-statutory option for 30,000 shares of our common stock. These shares vest over a four-year period at a rate of 25% of the total number of shares one year after the date of grant, with the remaining shares vesting monthly in equal installments over the next 36 months. Directors who are our employees are eligible to participate in our 1996 Stock Option Plan and, effective at the closing of this offering, they will also be eligible to participate in our 2003 Stock Plan and 2003 Employee Stock Purchase Plan. Until the closing of this offering, directors who are not our employees have been eligible to participate in our 1996 Stock Option Plan. Effective at the closing of this offering, directors who are not our employees will be eligible to participate in our 2003 Directors' Stock Option Plan as well as our 2003 Stock Plan, but will no longer be eligible to participate in our 1996 Stock Option Plan.

COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

Dr. Deleage, Mr. Nelsen, Dr. Curry and Dr. Berenson served on our compensation committee in 2002. During 2002, none of our executive officers served as a director or member of the compensation committee of any other entity that had any executive officer who served on our board of directors or on our compensation committee.

LIMITATIONS ON LIABILITY AND INDEMNIFICATION OF OFFICERS AND DIRECTORS

Our amended and restated certificate of incorporation, which will be effective upon the closing of this offering, limits the liability of our directors to the maximum extent permitted by Delaware law. Delaware law provides that a corporation may eliminate the personal liability of its directors for monetary damages for breach of their fiduciary duties as directors, except liability for any of the following acts:

- breach of their duty of loyalty to us or our stockholders;
- acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions; and
- any transaction from which the director derived an improper personal benefit.

Our amended and restated bylaws, which will be effective upon the closing of this offering, provide that we will indemnify our directors, officers, employees and other agents to the fullest extent permitted by the Delaware General Corporation Law. Our amended and restated bylaws also permit us to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in such capacity, regardless of whether the Delaware General Corporation Law would a corporation to indemnify for such liability.

Management

We have obtained directors' and officers' insurance providing indemnification for all of our directors, officers and employees for certain liabilities. In addition to the indemnification provided for in our amended and restated bylaws, we have entered into agreements to indemnify our directors and executive officers. These agreements, among other things, indemnify our directors and executive officers for expenses, including attorneys' fees, judgments, fines and settlement amounts incurred by any of them in any action or proceeding arising out of his or her services as a director, officer, employee, agent or fiduciary of ours, any subsidiary of ours or any other company or enterprise to which the person provides services at our request. We believe that these provisions and agreements are necessary to attract and retain qualified persons as directors and executive officers. At present, there is no litigation or proceeding involving any of our directors or officers in which indemnification is required or permitted, and we are not aware of any threatened litigation or proceeding that may result in a claim for indemnification.

EXECUTIVE COMPENSATION

The following table summarizes the compensation paid to, awarded to or earned during 2002 by our Chief Executive Officer and each of our four other most highly compensated executive officers whose total salary and bonus exceeded $100,000 for services rendered to us in all capacities during 2002. The executive officers listed in the table below are referred to in this prospectus as our named executive officers.

Summary compensation table

Name and principal position(s)	Annual compensation for 2002		Long-term compensation securities underlying options	All other compensation ($)
	Salary ($)	Bonus ($)		
Ronald J. Berenson, M.D. President and Chief Executive Officer	239,276	25,051	—	595(1)
Stewart Craig, Ph.D. Chief Operating Officer and Vice President	205,714	51	—	527(2)
Kathi Cordova, C.P.A. Senior Vice President of Finance and Treasurer	139,588	74	—	391(3)
Mark Frohlich, M.D Vice President and Medical Director	172,183	16,043	—	534(4)
Lewis Chapman Chief Business Officer	100,403	40,051	—	312(5)

(1) Dr. Berenson received other compensation consisting of the payment of insurance premiums for group term life benefits in the amount of $595.
(2) Dr. Craig received other compensation consisting of the payment of insurance premiums for group term life benefits in the amount of $527.
(3) Ms. Cordova received other compensation consisting of the payment of insurance premiums for group term life benefits in the amount of $391.
(4) Dr. Frohlich received other compensation consisting of the payment of insurance premiums for group term life benefits in the amount of $534.
(5) Mr. Chapman received other compensation consisting of the payment of insurance premiums for group term life insurance in the amount of $312. Mr. Chapman's employment with us ended in August 2003.

The following table provides summary information concerning the individual grants of stock options to each of our named executive officers for the fiscal year ended December 31, 2002. The exercise price per share was valued by our board of directors on the date of grant, and each option was issued at estimated fair market value on the date of grant based upon the purchase price paid by investors for shares of our preferred stock, taking into account the liquidation preferences and other rights, privileges and preferences associated with such preferred stock.

Each option represents the right to purchase one share of our common stock. The options generally become vested over four years. See "Management—Employee benefit plans" for more details regarding these options. In 2002, we granted options to purchase an aggregate of 1,960,998 shares of our common stock to various officers, employees, directors and others.

The potential realizable value at assumed annual rates of stock price appreciation for the option term represents hypothetical gains that could be achieved for the respective options if exercised at the end of the option term. SEC rules specify the 0%, 5% and 10% assumed annual rates of compounded stock price appreciation, which do not represent our estimate or projection of our future common stock prices. These amounts represent assumed rates of appreciation in the value of our common stock from the initial public offering price (assuming an initial public offering price of $ per share). Actual gains, if any, on stock option exercises depend on the future performance of our common stock and overall stock market conditions. The amounts reflected in the table may not necessarily be achieved.

Option grants in fiscal year 2002(1)

Named executive officers	Number of securities underlying options granted	Percentage of total options granted to employees (%)	Exercise price per share ($)	Market price of underlying security on grant date ($)	Expiration date	Potential realizable value at assumed annual rates of stock appreciation for option term ($)		
						0%	5%	10%
Ronald J. Berenson, M.D.	250,000	12.98	1.00		10/23/12			
Stewart Craig, Ph.D.	200,000	10.38	1.00		01/30/12			
Mark Frohlich, M.D.	160,000	8.30	1.00		01/30/12			
Kathi Cordova, C.P.A.	80,000	4.15	1.00		01/30/12			
Lewis Chapman(2)	400,000	20.76	1.00		07/23/12			

(1) These options were granted under our 1996 Stock Option Plan and vest over a four-year period.
(2) Mr. Chapman's employment with us ended in August 2003. He currently holds options to purchase 100,000 shares of our common stock, exercisable until November 2003.

The following table shows information as of December 31, 2002, concerning the number and value of exercised options and unexercised options held by each of our named executive officers. There was no public trading market for our common stock as of December 31, 2002. Accordingly, the value of the unexercised in-the-money options listed below has been calculated on the basis of the assumed initial public offering price of $ per share, less the applicable exercise price per share multiplied by the number of shares underlying the options.

Aggregated option exercises during 2002 and year-end option values

Named executive officers	Shares acquired upon exercise	Value realized($)	Number of securities underlying unexercised options at December 31, 2002(#)		Value of unexercised in-the-money options at December 31, 2002($)	
			Exercisable	Unexercisable	Exercisable	Unexercisable
Ronald J. Berenson, M.D.	—	—	158,333	241,667		
Stewart Craig, Ph.D.	—	—	286,666	163,334		
Mark Frohlich, M.D.	—	—	40,999	159,001		
Kathi Cordova, C.P.A.	—	—	39,666	65,334		
Lewis Chapman[(1)]	—	—	—	400,000		

(1) Mr. Chapman's employment with us ended in August 2003. He currently holds options to purchase 100,000 shares of our common stock, exercisable until November 2003.

EMPLOYMENT AGREEMENTS

Ms. Black's employment agreement, dated December 31, 2001, provides for at-will employment for an unspecified term. Under this agreement, Ms. Black is entitled to an annual base salary of $150,000 per year and an initial stock option grant for 50,000 shares of our common stock. This employment agreement also provides that Ms. Black will receive severance payments equal to three months of her then current base salary, paid ratably over a three-month period, and three months of continued health coverage if her employment is terminated other than for cause and she signs a standard release of any claims against us.

Mr. Chapman's employment agreement, dated May 29, 2002, provides for at-will employment for an unspecified term. Under this agreement, Mr. Chapman is entitled to an annual base salary of $200,000 per year, an initial stock option grant for 400,000 shares of our common stock, a one-time signing bonus of $40,000 and a one-time home purchase bonus of $35,000. This employment agreement also provides that Mr. Chapman will receive severance payments equal to six months of his then current base salary, paid ratably over a six-month period, and six months of continued health coverage if his employment is terminated other than for cause and he signs a standard release of any claims against us. Mr. Chapman's employment with us ended in August 2003, and we are currently making these severance payments to him.

Dr. Frohlich's employment agreement, dated August 27, 2001, provides for at-will employment for an unspecified term. Under this agreement, Dr. Frohlich is entitled to an annual base salary of $170,000, an initial stock option grant for 40,000 shares of our common stock, a one-time signing bonus of $40,000 and a loan of $50,000 for a down payment of a principal residence. This employment agreement also provides that Dr. Frohlich will receive severance payments equal to three months of his then current base salary, paid ratably over a three-month period, and three months of continued health coverage if his employment is terminated other than for cause and he signs a standard release of any claims against us. In this event, Dr. Frohlich's employment agreement provides that we will forgive up to $40,000 of the amount loaned to him for a down payment on a principal residence.

EQUITY COMPENSATION PLAN INFORMATION

2003 Stock Plan

Our 2003 Stock Plan was adopted by our board of directors in September 2003 and will be submitted for approval by our stockholders prior to completion of this offering. This plan provides for the grant of incentive stock options to employees (including employee directors) and nonstatutory stock options and stock purchase rights to employees, directors and consultants. The purposes of this plan are to attract and retain the best available personnel, to provide additional incentives to our employees and consultants and to promote the success of our business. A total of 3.5 million shares of common stock will be reserved for issuance under this plan. The number of shares reserved for issuance under this plan will automatically increase on the first day of each fiscal year beginning in 2005 and ending in 2010 by the lesser of:

- 600,000 shares;
- 4% of the number of shares of our common stock outstanding on the last day of the immediately preceding fiscal year; or
- any lesser number of shares that our board of directors determines.

All share numbers reflected in this plan summary, as well as the exercise price or purchase price applicable to outstanding options or purchase rights, will be automatically proportionately adjusted in the event we undertake certain changes in our capital structure, such as a stock split, stock dividend or other similar transaction.

The administrator of the plan is our board of directors or a committee of our board. In the case of options and stock purchase rights intended to qualify as “performance based compensation” within the meaning of Section 162(m) of the Internal Revenue Code of 1986, as amended, the committee will consist of two or more “outside directors” within the meaning of Section 162(m). In addition, in administering the plan, we intend to comply with other applicable legal and regulatory requirements as may apply from time to time, including any NASDAQ listing requirements. The administrator determines the terms of options and stock purchase rights granted under this plan, including the number of shares subject to the award, the exercise or purchase price and the vesting and/or exercisability of the award and any other conditions to which the award is subject. No employee, however, may receive awards for more than 1 million shares under this plan in any fiscal year. Incentive stock options granted under this plan must have an exercise price of at least 100% of the fair market value of the common stock on the date of grant. Incentive stock options granted to an employee who holds more than 10% of the total voting power of all classes of our stock or any parent or subsidiary’s stock cannot be less than 110% of the fair market value of the common stock on the date of grant. The exercise price of nonstatutory stock options and the purchase price of stock purchase rights will be the price determined by the administrator, although nonstatutory stock options and stock purchase rights granted to our Chief Executive Officer and our four other most highly compensated officers will generally equal at least 100% of the grant date fair market value if we intend that the awards to those individuals will qualify as “performance-based compensation” within the meaning of Section 162(m) of the Internal Revenue Code. Payment of the exercise or purchase price may be made in cash or any other consideration determined by the administrator.

The administrator will determine the term of options granted under this plan, which may not exceed 10 years, or 5 years in the case of an incentive stock option granted to a holder of more than 10% of the total voting power of all classes of our stock or a parent or subsidiary’s stock. Generally, an option

granted under this plan is nontransferable, other than by will or the laws of descent or distribution, and may be exercised during the lifetime of the optionee only by the optionee. However, the administrator may, in its discretion, provide for the limited transferability of nonstatutory stock options granted under this plan. We generally have the right to repurchase any stock issued pursuant to stock purchase rights granted under this plan upon the termination of the holder's employment or consulting relationship with us for any reason, including death or disability. The repurchase price is the exercise price of the stock purchase right or the fair market value of the shares at the date of the repurchase, whichever is less. This repurchase right will lapse at such rate as the administrator may determine.

If we sell all or substantially all of our assets or if we are acquired by another corporation, each outstanding option and stock purchase right may be assumed or an equivalent award may be substituted by the successor corporation, with appropriate adjustments made to both the price and number of shares subject to the option or purchase right. If the successor does assume the outstanding options and purchase rights, the lesser of 25% of the shares subject to an option or initially subject to repurchase or the remaining unvested shares will vest immediately prior to the closing of the transaction, and, if the holder is "involuntarily terminated" within one year after the closing, the lesser of another 25% of the shares subject to the option or initially subject to repurchase or the remaining unvested shares will vest on termination. "Involuntary termination" includes termination by Xcyte without cause, a reduction in the optionholder's base salary of more than 20% (except where there is a similar reduction in the base salaries of similarly situated employees) or relocation of the optionholder's principal work site by more than 50 miles. If the successor corporation does not assume options and purchase rights or substitute equivalent options or purchase rights, then vesting of all shares subject to options will accelerate fully, all repurchase rights will lapse immediately prior to the closing of the transaction and options and purchase rights will terminate as of the closing of the transaction.

The administrator has authority to amend or terminate this plan, but no action may be taken that impairs the rights of any holder of an outstanding option or stock purchase right without the holder's consent. In addition, we must obtain stockholder approval of amendments to the plan as required by applicable law. Unless terminated earlier by the board of directors, this plan will terminate in 2013.

1996 Stock Option Plan

Our 1996 Stock Option Plan was adopted by our board of directors in September 1996. As of September 30, 2003:

- 3,985,560 shares were issuable upon exercise of outstanding options granted under this option plan at a weighted average exercise price of $0.81;
- 816,406 shares of common stock were issued upon exercise of options at purchase prices ranging between $0.10 and $1.00; and
- 1,611,367 shares of common stock remained available for future grants under this plan.

The board of directors amended this plan in September 2003 to increase the number of shares reserved for issuance under the plan by an additional 2 million to 6.4 million. The amended plan will be submitted to our stockholders for approval prior to completion of this offering. All share numbers reflected in this plan summary, as well as the exercise price or purchase price applicable to outstanding options or purchase rights, will be automatically proportionately adjusted in the event we make certain changes in our capital structure, such as a stock split, stock dividend or other similar transaction.

The terms of the awards under this plan are generally the same as the terms of the awards that may be issued under the 2003 Stock Plan, except for the following features:

- only options can be granted under this plan;
- stock options granted under this plan are nontransferable except by will or the laws of descent and distribution; and
- options granted to residents of California prior to the closing of this offering must meet certain specific requirements with respect to a minimum 20% vesting per year, a minimum post-termination exercise periods of 30 days in circumstances other than death or disability (and 6 months in the case of death or disability) and a minimum exercise price of 85% of fair market value for nonstatutory options.

If we sell all or substantially all of our assets, or if we are acquired by another corporation, each outstanding option may be assumed or an equivalent award substituted by the successor corporation, with appropriate adjustments made to both the price and number of shares subject to the option. If the successor does assume the outstanding options or substitutes equivalent options, 25% of the shares subject to each option that are unvested immediately prior to the consummation of the transaction will vest immediately prior to the closing of the transaction. If the successor corporation does not assume options or substitute equivalent options or a comparable cash incentive program based on the value of the options at the closing, then vesting of all shares subject to options will accelerate fully immediately prior to the closing of the transaction unless otherwise provided under an individual grant.

2003 Employee Stock Purchase Plan

Our 2003 Employee Stock Purchase Plan was adopted by the board of directors in September 2003 and will be submitted for approval by our stockholders prior to completion of this offering. A total of 600,000 shares of common stock will be reserved for issuance under this plan, none of which have been issued as of the date of this prospectus. The number of shares reserved for issuance under this plan will automatically increase on the first day of each of our fiscal years beginning in 2005 and ending in 2010 and equal to the lesser of:

- 300,000 shares;
- 1% of the number of shares of common stock outstanding on the last day of the immediately preceding fiscal year; or
- any lesser number of shares that our board of directors determines.

All share numbers reflected in this plan summary, as well as the exercise price or purchase price applicable to outstanding options or purchase rights, will be automatically proportionately adjusted in the event we make certain changes in our capital structure, such as a stock split, stock dividend or other similar transaction. If approved by our stockholders, this plan becomes effective upon the date of this offering. Unless terminated earlier by our board of directors, this plan terminates in 2023.

This plan, which is intended to qualify under Section 423 of the Internal Revenue Code, allows employees to purchase our common stock at a discount from the market price through payroll deductions. The plan will be implemented by a series of offering periods, each of which has a duration of approximately six months, commencing generally on May 1 and November 1 of each year. We expect the first offering period to commence on the effective date of the registration statement of which this prospectus is a part and end on April 30, 2004. Each eligible employee will automatically be granted an option to participate in the plan and will be automatically enrolled in the first offering period. Payroll

deductions and continued participation in the initial offering period will not be determined until after the effective date of the Form S-8 registration statement, which we intend to file to register the shares reserved for issuance under this plan, as described below. At the end of each offering period, an automatic purchase will be made for participants.

Our board of directors, or a committee appointed by the board, will administer this plan. In addition, in administering the plan, we intend to comply with other applicable legal and regulatory requirements as may apply from time to time, including any NASDAQ listing requirements. Our employees, including officers and employee directors or employees of any majority-owned subsidiary designated by the board, are eligible to participate in this plan if they are customarily employed by us or any such subsidiary for at least 20 hours per week and more than five months per year. The plan prohibits granting an option to an employee in the following circumstances:

- where, immediately after the grant, the employee would own stock and/or hold outstanding options to purchase stock equaling 5% or more of the total voting power or value of all classes of our stock or the stock of our subsidiaries; or
- where the option would permit the employee to purchase stock under this plan at a rate that exceeds $25,000 of the fair market value of the stock per calendar year in which the option is outstanding.

This plan permits eligible employees to purchase common stock through payroll deductions of up to 15% of an employee's eligible cash compensation, which includes salary, bonuses and other wage payments made by us to the participants. A participant may purchase a maximum of 2,500 shares of our common stock under this plan in any one offering period.

Amounts deducted and accumulated by plan participants are used to purchase shares of our common stock at the end of each six-month offering period. The purchase price is equal to 85% of the fair market value of the common stock at the beginning of the offering period or at the end the offering period, whichever is less. Employees may end their participation in this plan at any time during an offering period, and participation ends automatically on termination of employment.

If we merge or consolidate with or into another corporation or sell all or substantially all of our assets, each right to purchase stock under this plan may be assumed, or an equivalent right substituted by the successor corporation. However, if the successor corporation refuses to assume each purchase right or to substitute an equivalent right, the board of directors will shorten any ongoing offering period so that employees' rights to purchase stock under this plan are exercised prior to the transaction. Our board of directors may extend future offering periods to up to 27 months and may increase or decrease the maximum contribution rate of an employee's eligible cash compensation. Our board of directors has the power to amend or terminate this plan as long as the action does not adversely affect any outstanding rights to purchase stock under the plan. However, our board of directors may amend or terminate this plan or an offering period even if it would adversely affect outstanding options in order to avoid our incurring adverse accounting charges or if the board of directors determines that termination of the plan or offering period is in our best interests and the best interests of our stockholders. We must obtain stockholder approval for any amendment to the purchase plan to the extent required by law.

2003 Directors' Stock Option Plan

Our 2003 Directors' Stock Option Plan was adopted by our board of directors in September 2003 and will be submitted for approval by our stockholders prior to completion of this offering. If approved by our stockholders, this plan will become effective on the effective date of the registration statement of

which this prospectus is a part. A total of 500,000 shares of common stock will be reserved for issuance under the this plan, all of which remain available for future grants as of the date of this prospectus. All share numbers reflected in this plan summary, as well as the exercise price or purchase price applicable to outstanding options or purchase rights, will be automatically proportionately adjusted in the event we make certain changes in our capital structure, such as a stock split, stock dividend or other similar transaction.

This plan is designed to work automatically, without administration. However, to the extent administration is necessary, it will be performed by our board of directors. It is expected that any conflicts of interest that may arise will be addressed by abstention of any interested director from both deliberations and voting regarding matters in which the director has a personal interest. Unless terminated earlier by the board of directors, this plan will terminate in 2013.

This plan provides that each person who becomes a non-employee director after the completion of this offering will be granted a nonstatutory stock option to purchase 25,000 shares of our common stock on the date when the person first becomes a member of our board of directors. On the date of each annual meeting of our stockholders, each of our nonemployee directors (including nonemployee directors who did not receive the 25,000 share grant described above) will be granted an option to purchase 10,000 shares of common stock if, on that date, the director has served on our board of directors for at least six months. The exercise price of all stock options granted under this plan will be equal to the fair market value of the common stock on the date of grant of the option. This plan provides that one third of the total number of shares subject to each option granted to a new director will vest 12 months after the date of grant. Afterwards, the remaining shares will vest in equal monthly installments over the next two years so that the option will be fully vested after three years. Annual options granted to directors will vest in full on the day prior to the first anniversary of the date of the grant of the option.

All options granted under this plan will have a term of 10 years and an exercise price equal to the fair market value on the date of grant. If a non-employee director ceases to serve as a director for any reason other than death or disability, he or she may, within the 90 days after the date he or she ceases to be a director, exercise options that were vested as of the date of termination. If the former director does not exercise the option within this 90-day period, the option will terminate. If a director’s service terminates as a result of his or her disability or death, or if a director dies within three months following termination, the director or his or her estate may exercise options that were vested as of the date of termination or death at any time during the 12 months after the date of termination or death. Options granted under this plan are generally non-transferable by the option holder other than by will or the laws of descent or distribution, pursuant to a qualified domestic relations order or to family members or family trusts or foundations. Generally, only the option holder or a permitted transferee may exercise the option during the lifetime of the option holder.

If we are acquired by another corporation, each option outstanding under this plan will be assumed or equivalent options will be substituted by our acquirer, unless our acquirer does not agree to this assumption or substitution. If our acquirer does not agree to assume the options or substitute them, the options will terminate upon consummation of the transaction to the extent not previously exercised. In connection with an acquisition, the vesting of each outstanding option will accelerate in full, and each director holding options under this plan will have the right to exercise his or her options immediately before the consummation of the acquisition as to all shares underlying the options. Our board of directors may amend or terminate this plan as long as doing so does not adversely affect any outstanding option and we obtain stockholder approval for any amendment to the extent required by applicable law.

401(k) plan

Effective February 1, 1997, we established a tax-qualified employee savings and retirement plan, or 401(k) plan, which covers all of our employees. This plan is intended to qualify under Section 401 of the Internal Revenue Code so that contributions by us to the plan, if any, will be deductible by us when made. Under this plan, eligible employees may elect to reduce their current compensation and defer their pre-tax earnings, subject to the Internal Revenue Service's annual contribution limits. Deferral contributions are fully vested at all times. This plan permits, but does not require, discretionary matching contributions by a percentage amount that our board of directors may annually determine. The plan also permits additional discretionary contributions by us on behalf of all participants in the plan. These additional company contributions vest 25% per year of service and will be fully vested after four years of service. The trustee under the plan invests an employee's account balance under the plan in accordance with the employee's written direction. To the extent an employee directs the investment of his or her account balance under the plan, the Employment Retirement Income Security Act relieves the trustee from liability for any loss resulting from the employee's direction of the investment.

Certain relationships and related party transactions

Since our inception, we have engaged in transactions with our executive officers, directors and holders of more than 5% of our voting securities and their respective affiliates. The following table summarizes the shares of our stock purchased by our executive officers, directors and 5% stockholders and persons and entities associated with them in private placement transactions. Each share of each series of preferred stock converts automatically upon closing of this offering into one share of common stock.

Investor(1)	Common stock	Series A preferred stock	Series B preferred stock	Series C preferred stock	Series D preferred stock	Series E preferred stock	Series F preferred stock
Directors and executive officers							
Ronald J. Berenson, M.D.(2)	2,373,256	57,895	—	—	—	—	—
Robert M. Williams, Ph.D.	200,000	—	—	—	—	—	—
Entities affiliated with directors							
Alta Partners(3)	—	1,894,737	805,281	971,331	584,547	351,677	8,035
ARCH Venture Partners(4)	—	789,469	2,045,454	1,119,265	1,321,942	935,251	899,104
Sprout Group(5)	—	2,631,579	545,454	1,142,937	323,741	356,079	3,634
MPM Capital(6)	483,453	—	—	—	4,316,547	719,424	—
Five percent stockholders							
Ronald J. Berenson, M.D.(2)	2,373,256	57,895	—	—	—	—	—
Alta Partners(3)	—	1,894,737	805,281	971,331	584,547	351,677	8,035
ARCH Venture Partners(4)	—	789,469	2,045,454	1,119,265	1,321,942	935,251	899,104
Sprout Group(5)	—	2,631,579	545,454	1,142,937	323,741	356,079	3,634
MPM Capital(6)	483,453	—	—	—	4,316,547	719,424	—
W Capital Partners Ironworks, L.P.	—	—	—	1,796,410	286,022	301,601	—
Vector Fund	—	—	—	—	719,425	—	1,114,889
Vulcan Ventures	80,575	—	—	598,802	719,424	719,424	—

(1) See "Principal stockholders" for more details on shares held by these purchasers.
(2) Includes shares held in trust.
(3) Dr. Deleage is managing director of Alta Partners.
(4) Mr. Nelsen is a managing director of entities affiliated with ARCH Venture Partners. Excludes shares held by ARCH Development Corporation, which was previously affiliated with ARCH Venture Partners.
(5) Dr. Curry is a consultant of Sprout Group.
(6) Dr. Henner is a general partner of MPM Capital.

The following table summarizes the number of shares of common stock and preferred stock issuable pursuant to warrants granted to 5% stockholders, directors, executive officers and entities affiliated with our executive officers and directors in private placement transactions:

Investor(1)	Shares of common stock underlying warrants	Shares of Series A preferred stock underlying warrants
Alta Partners(2)	261,312	—
ARCH Venture Partners(3)	1,146,760	276,307
Sprout Group(4)	232,101	—
MPM Asset Management LLC(5)	391,686	—
W Capital Partners Ironworks, L.P.	196,239	—
Vector Fund	687,570	—
Vulcan Ventures	391,686	—

(1) See "Principal stockholders" for more details on shares held by these purchasers.
(2) Dr. Deleage is managing director of Alta Partners.
(3) Mr. Nelsen is a managing director of entities affiliated with ARCH Venture Partners. Excludes shares held by ARCH Development Corporation, which was previously affiliated with ARCH Venture Partners.
(4) Dr. Curry is a consultant of Sprout Group.
(5) Dr. Henner is a general partner of MPM Capital.

Certain relationships and related party transactions

In July 1999, we entered into a License Agreement with Genecraft, Inc., or Genecraft, of which Dr. Jeffrey Ledbetter, our former Chief Scientific Officer and one of our scientific founders, is a principal founder. Under this agreement, we granted an exclusive sublicense to Genecraft for the rights to several pending patent applications that we are not using in the field of *in vivo* activation of T cells.

We have entered into indemnification agreements with our officers and directors containing provisions which require us, among other things, to indemnify our officers and directors against liabilities that may arise by reason of their status or service as officers or directors (other than liabilities arising from willful misconduct) and to advance their expenses incurred as a result of any proceeding against them as to which they could be indemnified. See "Management—Limitation on liability and indemnification of officers and directors."

We maintain key person life insurance, under which we are the beneficiary, on Dr. Berenson in the amount of $2 million.

In connection with our acquisition of all of the outstanding capital stock of CellGenEx, Inc., we reserved an aggregate of 1,582,340 shares of our common stock in a milestone pool, or a Milestone Pool, for issuance to our scientific founders, Drs. Jeffrey Bluestone, Carl June, Jeffrey Ledbetter and Craig Thompson, upon the achievement of scientific milestones determined by a milestone committee. In February 2001, we entered into a settlement agreement with each of Drs. Bluestone, June and Thompson to terminate the Milestone Pool and no option grants were made pursuant to the Milestone Pool. In addition, we entered into a consulting agreement with each of Drs. Bluestone, June and Thompson under which each agreed to consult with us and to continue to serve on our Scientific Advisory Board. In exchange for these services, each consultant was awarded a non-statutory stock option for 125,000 shares of our common stock. Forty percent of these shares vested upon the execution of the consulting agreement and $^{1}/_{48}$ of the remaining shares subject to the option vest each following month. Dr. Ledbetter, our former Chief Scientific Officer, waived his rights to the Milestone Pool in connection with his resignation in March 1999.

Dr. Frohlich's employment agreement, dated August 27, 2001, provides that we will forgive over the next two years up to $40,000 in loans made to him by the Company in connection with commencement of his employment.

James R. Berenson, M.D., a brother of our President and Chief Executive Officer, has acted as and will continue to act as, a principal investigator for some of our clinical trials run by a site management organization called Oncotherapeutics.

Principal stockholders

The following table shows information known to us with respect to the beneficial ownership of our common stock as of September 30, 2003, as adjusted to reflect the sale of the shares of common stock offered by:

- each of our directors;
- each named executive officer;
- each person or group of affiliated persons known by us to beneficially own more than 5% of our common stock; and
- all of our directors and executive officers as a group.

Beneficial ownership and percentage ownership are determined in accordance with the rules of the SEC. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, shares of common stock underlying options and warrants that are exercisable within 60 days of September 30, 2003 are considered to be outstanding. To our knowledge, except as indicated in the footnotes to the following table and subject to community property laws where applicable, the persons named in this table have sole voting and investment power with respect to all shares of our common stock shown as beneficially owned by them.

The following table reflects the conversion of all shares of our preferred stock outstanding as of September 30, 2003 into an aggregate of 37,300,234 shares of our common stock which will become effective at the closing of this offering. This table is based on 45,702,870 shares of our common stock outstanding as of September 30, 2003 and shares outstanding immediately after this offering. The address for those individuals for which an address is not otherwise indicated is: c/o Xcyte Therapies, Inc., 1124 Columbia Street, Suite 130, Seattle, Washington 98104.

Principal stockholders

Name and address of beneficial owner	Number of shares beneficially owned(1)	Number of shares underlying options or warrants	Percent of shares beneficially owned	
			Before this offering	After this offering
Directors and named executive officers				
Ronald J. Berenson, M.D.(2)	2,431,151	212,499	5.8%	%
Stewart Craig, Ph.D.	—	326,666	*	
Mark Frohlich, M.D.	—	86,165	*	
Kathi L. Cordova, C.P.A.(3)	75,000	57,666	*	
Jean Deleage, Ph.D.(4)	4,615,608	291,312	10.7	
c/o Alta Partners One Embarcadero Center Suite 4050 San Francisco, CA 94111				
Peter Langecker, M.D., Ph.D.	—	30,000	*	
Robert T. Nelsen(5)	7,110,485	1,423,067	18.6	
c/o ARCH Venture Partners 8725 W. Higgins Road, Suite 290 Chicago, IL 60631				
Robert E. Curry, Ph.D.(6)	5,003,424	232,101	11.4	
c/o the Sprout Group 3000 Sand Hill Road Building 1, Suite 170 Menlo Park, CA 94025				
Dennis Henner, Ph.D.(7)	5,519,424	391,686	12.8	
c/o MPM Asset Management LLC 111 Huntington Avenue 31st Floor Boston, MA 02199				
Robert M. Williams, Ph.D.	200,000	30,000	*	
Joanna S. Black, J.D.	—	43,749	*	
Mark L. Bonyhadi, Ph.D.	—	70,333	*	
All executive officers and directors as a group (12 persons)	24,955,092	4,196,553	58.4	
Five percent stockholders				
Alta Partners(4)	4,615,608	291,312	10.7	
One Embarcadero Center Suite 4050 San Francisco, CA 94111				
Arch Venture Partners(5)	7,110,485	1,423,067	18.6	
8725 W. Higgins Road, Suite 290 Chicago, IL 60631				
Sprout Group(6)	5,003,424	232,101	11.4	
c/o the Sprout Group 3000 Sand Hill Road Building 1, Suite 170 Menlo Park, CA 94025				
MPM Capital(7)	5,519,424	391,686	12.8	
c/o MPM Asset Management LLC 111 Huntington Avenue 31st Floor Boston, MA 02199				
W Capital Partners Ironworks, L.P.(8)	2,384,033	196,239	5.6	
245 Park Avenue 39th Floor New York, NY 10167				
Ronald J. Berenson, M.D.(2)	2,431,151	212,499	5.8	
Vector Fund(9)	1,834,314	687,570	5.4	
1751 Lake Cook Road Suite 350 Deerfield, IL 60015				
Vulcan Ventures(10)	2,118,225	391,686	5.4	
505 Orion Station 505 Fifth Avenue South Suite 900 Seattle, WA 98104				

* *Represents beneficial ownership of less than 1%.*

Principal stockholders

(1) Shares of preferred stock are shown on an as-converted basis.
(2) Includes 2,162,282 shares of common stock, 174,054 of which are subject to repurchase, and 57,895 shares of Series A preferred stock held by Dr. Berenson; and 210,974 shares of common stock held by the Irrevocable Intervivos Trust Agreement of Ronald J. Berenson and Cheryl L. Berenson.
(3) Includes 75,000 shares of common stock.
(4) Includes 1,840,086 shares of Series A preferred stock, 787,294 shares of Series B preferred stock, 949,635 shares of Series C preferred stock, 571,491 shares of Series D preferred stock and 351,677 shares of Series E preferred stock held by Alta California Partners, L.P.; 255,475 shares of common stock issuable upon the exercise of immediately exercisable warrants held by Alta California Partners, L.P.; 54,651 shares of Series A preferred stock, 17,987 shares of Series B preferred stock, 21,696 shares of Series C preferred stock, 13,056 shares of Series D preferred stock and 8,035 shares of Series F preferred stock held by Alta Embarcadero Partners, L.L.C.; 5,837 shares of common stock issuable upon the exercise of immediately exercisable warrants held by Alta Embarcadero Partners, L.L.C.; and 30,000 shares issuable upon the exercise of immediately exercisable options held by Dr. Deleage within 60 days of February 7, 2002, none of which are subject to a repurchase right. Dr. Deleage is a general partner of each of these partnerships, shares voting and dispositive power with respect to the shares held by each of these entities and disclaims beneficial ownership of the shares in which he has no pecuniary interest.
(5) Includes 631,579 shares of Series A preferred stock and 363,636 shares of Series B preferred stock held by ARCH Venture Fund II, L.P.; 157,890 shares of Series A preferred stock, 1,681,818 shares of Series B preferred stock, 1,119,265 shares of Series C preferred stock, 1,321,942 shares of Series D preferred stock, 935,251 shares of Series E preferred stock and 276,307 shares of Series A preferred stock and 657,248 shares of common stock issuable upon the exercise of immediately exercisable warrants held by ARCH Venture Fund III, L.P.; and 899,104 shares of Series F preferred stock and 489,512 shares of common stock issuable upon the exercise of immediately exercisable warrants held by Healthcare Focus Fund, L.P. Excludes shares held by ARCH Development Corporation, which was previously affiliated with ARCH Venture Corporation. Mr. Nelsen is a managing director of the general partner of the general partner of the general partner of ARCH Venture Fund II, L.P. Mr. Nelsen is a managing director of the general partner of ARCH Venture Fund III, L.P. Mr. Nelsen is a managing director of the general partner of the general partner of the Healthcare Focus Fund, L.P. Mr. Nelsen shares voting and dispositive power with respect to the shares held by each of these entities and disclaims beneficial ownership of the shares in which he has no pecuniary interest.
(6) Includes 52,632 shares of Series A preferred stock, 10,909 shares of Series B preferred stock, 22,859 shares of Series C preferred stock, 6,475 shares of Series D preferred stock and 7,194 shares of Series E preferred stock held by DLJ Capital Corporation; 4,642 shares of common stock issuable upon the exercise of immediately exercisable warrants held by DLJ Capital Corporation; 263,158 shares of Series A preferred stock, 54,545 shares of Series B preferred stock, 114,294 shares of Series C preferred stock, 32,374 shares of Series D preferred stock and 35,971 shares of Series E preferred stock held by DLJ First ESC, L.P.; 23,209 shares of common stock issuable upon the exercise of immediately exercisable warrants held by DLJ First ESC, L.P.; 2,289,197 shares of Series A preferred stock, 474,488 shares of Series B preferred stock, 994,235 shares of Series C preferred stock, 281,622 shares of Series D preferred stock and 312,914 shares of Series E preferred stock held by Sprout Capital VII, L.P.; 201,905 shares of common stock issuable upon the exercise of immediately exercisable warrants held by Sprout Capital VII, L.P.; 26,592 shares of Series A preferred stock, 5,512 shares of Series B preferred stock, 11,549 shares of Series C preferred stock, 3,270 shares of Series D preferred stock and 3,634 shares of Series F preferred stock held by the Sprout CEO Fund, L.P.; and 2,345 shares of common stock issuable upon the exercise of immediately exercisable warrants held by the Sprout CEO Fund, L.P. Dr. Curry is a general partner of each of these partnerships, shares voting and dispositive power with respect to the shares held by of these entities and disclaims beneficial ownership of the shares in which he has no pecuniary interest.
(7) Includes 7,494 shares of common stock, 66,906 shares of Series D preferred stock and 11,151 shares of Series E preferred stock held by MPM Asset Management Investors 2000 B, LLC; 6,071 shares of common stock issuable upon the exercise of immediately exercisable warrants held by MPM Asset Management Investors 2000 B, LLC; 114,578 shares of common stock, 1,023,022 shares of Series D preferred stock and 170,504 shares of Series E preferred stock held by MPM Bioventures GMBH & Co. Parallel-Beteiligungs KG; 92,830 shares of common stock issuable upon the exercise of immediately exercisable warrants held by MPM Bioventures GMBH & Co. Parallel-Beteiligungs KG.; 35,921 shares of common stock, 320,719 shares of Series D preferred stock and 53,453 shares of Series E preferred stock held by MPM Bioventures II, L.P.; 29,102 shares of common stock issuable upon the exercise of immediately exercisable warrants held by MPM Bioventures II, L.P.; 325,460 shares of common stock, 2,905,900 shares of Series D preferred stock and 484,316 shares of Series E preferred stock held by MPM Bioventures II-QP, L.P.; and 263,683 shares of common stock issuable upon the exercise of immediately exercisable warrants held by MPM Bioventures II-QP, L.P. Dr. Henner is a general partner of each of these partnerships, shares voting and dispositive power with respect to the shares held by each of these entities and disclaims beneficial ownership of the shares in which he has no pecuniary interest.
(8) Includes 1,796,410 shares of Series C preferred stock, 286,022 shares of Series D preferred stock and 301,601 shares of Series E preferred stock held by W Capital Partners Ironworks, L.P, and 196,239 shares of common stock issuable upon the exercise of immediately exercisable warrants held by W Capital Partners Ironworks, L.P.
(9) Includes 539,569 shares of Series D preferred stock, 809,194 shares of Series F preferred stock and 500,992 shares of common stock issuable upon the exercise of immediately exercisable warrants held by Vector Later-Stage Equity Fund II (QP) LP.; 179,856 shares of Series D preferred stock, 269,731 shares of Series F preferred stock and 166,998 shares of common stock issuable upon the exercise of immediately exercisable warrants held by Vector Later-Stage Equity Fund II LP.; and 35,964 shares of Series F preferred stock and 19,580 shares of common stock issuable upon the exercise of immediately exercisable warrants held by Palivacinni Partners, LLC.
(10) Includes 80,575 shares of common stock, 598,802 shares of Series C preferred stock, 719,424 shares of Series D preferred stock and 719,424 shares of Series E preferred stock held by Vulcan Ventures, Inc.; and 391,686 shares of common stock issuable upon the exercise of immediately exercisable warrants held by Vulcan Ventures, Inc.

Description of capital stock

GENERAL

Our amended and restated certificate of incorporation, which will become effective upon the closing of this offering, authorizes the issuance of up to 100 million shares of common stock, par value $0.001 per share, and 5 million shares of preferred stock, par value $0.001 per share. The rights and preferences of the preferred stock may be established from time to time by our board of directors. As of September 30, 2003, 8,402,636 shares of common stock were issued and outstanding and 37,300,234 shares of preferred stock convertible into 37,300,234 shares of common stock upon the completion of this offering were issued and outstanding. As of September 30, 2003, we had 79 common stockholders of record and 44 preferred stockholders of record.

Immediately after the closing of this offering, we will have approximately shares of common stock outstanding, assuming no exercise of the underwriters' over-allotment option and no exercise of options to acquire 3,985,560 additional shares of common stock or warrants to purchase 256,353 shares of preferred stock convertible into 256,353 shares of common stock that are outstanding as of September 30, 2003.

The description below gives effect to the filing of our amended and restated certificate of incorporation and the adoption of our amended and restated bylaws and is qualified in its entirety by reference to these documents, copies of which are filed as exhibits to the registration statement of which this prospectus is a part.

COMMON STOCK

Each holder of common stock is entitled to one vote for each share on all matters to be voted upon by the stockholders and there are no cumulative voting rights. Subject to preferences to which holders of preferred stock issued after the sale of the common stock being offered may be entitled, holders of common stock are entitled to receive ratably those dividends, if any, that may be declared from time to time by our board of directors out of funds legally available for the payment of dividends. In the event of a liquidation, dissolution or winding up of us, holders of our common stock would be entitled to share in our assets remaining after the payment of liabilities and the satisfaction of any liquidation preference granted to holders of any outstanding shares of preferred stock. Holders of our common stock have no preemptive or conversion rights or other subscription rights and there are no redemption or sinking fund provisions applicable to our common stock. All outstanding shares of common stock are, and the shares of common stock offered by us in this offering, when issued and paid for will be, fully paid and nonassessable. The rights, preferences and privileges of the holders of common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock which we may designate in the future.

PREFERRED STOCK

Upon the closing of this offering, our board of directors will be authorized, subject to any limitations prescribed by law, without stockholder approval, to issue from time to time up to an aggregate of 5 million shares of preferred stock in one or more series. Each series of preferred stock will have the rights and preferences, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, as our board of directors determines. The issuance of preferred stock could adversely affect the voting power of holders of our common stock and the likelihood that holders of our common stock will receive dividend payments and payments upon liquidation. In addition, the issuance of preferred stock could have the effect of making it more difficult for a third party to acquire, or of

discouraging a third party from attempting to acquire, a majority of our outstanding voting stock. We have no present plans to issue any shares of preferred stock.

WARRANTS

As of September 30, 2003, the following warrants were outstanding:

- warrants that expire between July 2006 and February 2009 to purchase an aggregate of 256,353 shares of our preferred stock convertible into 256,353 shares of common stock upon the closing of this offering;
- warrants that will expire upon the closing of this offering to purchase an aggregate of 471,959 shares of our preferred stock; and
- warrants that will expire upon the closing of this offering to purchase an aggregate of 4,990,344 shares of our common stock.

REGISTRATION RIGHTS

We and the holders of our preferred stock, certain holders of warrants to purchase our preferred stock and certain holders of our common stock entered into an investor rights agreement, dated May 25, 2000, as amended on August 8, 2000, October 18, 2000, November 13, 2001, February 5, 2002, May 22, 2002 and August 9, 2003. This investors rights agreement provides these holders with customary demand and piggyback registration rights with respect to the shares of common stock held by them and common stock to be issued upon conversion or exercise of preferred stock and warrants held by them. In addition, the holders of our preferred stock are entitled to receive quarterly and annual financial statements, subject to certain conditions and limitations.

Demand registration

According to the terms of the investor rights agreement the holders of 44,099,397 shares of our common stock or warrants to purchase shares of our common stock have the right to require us to register their shares with the SEC for resale to the public. To demand such a registration, holders who hold together an aggregate of at least 50% of the shares having registration rights must request a registration statement to register shares for an aggregate offering price of at least $10 million, net of underwriting discounts and commissions. We are not required to effect more than two demand registrations. We have currently not effected, or received a request for, any demand registrations. We may defer the filing of a demand registration statement for a period of up to 90 days once in any 12-month period.

Piggyback registration

If we file a registration statement for a public offering of any of our securities solely for cash, other than a registration statement relating solely to our stock plans, the holders of demand registration rights will have the right to include their shares in the registration statement.

Form S-3 registration

At any time after we become eligible to file a registration statement on Form S-3, holders of shares of common stock having demand and piggyback registration rights may require us to file a Form S-3 registration statement. We are obligated to file only one Form S-3 registration statement in any six-month period. Furthermore, the aggregate offering proceeds of the requested Form S-3 registration, before deducting underwriting discounts and expenses, must be at least $500,000. We may defer one registration request for 120 days in any 12-month period.

These registration rights are subject to certain conditions and limitations, including the right of the underwriters of an offering to limit the number of shares of common stock to be included in the registration. We are generally required to bear the expenses of all registrations, except underwriting discounts and commissions. However, we will not pay for any expenses of any demand registration if the request is subsequently withdrawn by the holders of a majority of the securities to be registered. The investors rights agreement also contains our commitment to indemnify the holders of registration rights for losses attributable to statements or omissions by us incurred with registrations under the agreement. The registration rights terminate five years after the closing of this offering.

ANTI-TAKEOVER EFFECTS OF PROVISIONS OF OUR AMENDED AND RESTATED CERTIFICATE OF INCORPORATION AND BYLAWS AND DELAWARE AND WASHINGTON LAW

Provisions of our amended and restated certificate of incorporation and bylaws, which will become effective upon the closing of this offering, may have the effect of making it more difficult for a third party to acquire, or of discouraging a third party from attempting to acquire, control of us. These provisions could limit the price that investors might be willing to pay in the future for shares of our common stock. Our amended and restated bylaws and certificate of incorporation eliminate the right of stockholders to call special meetings of stockholders or to act by written consent without a meeting and require advance notice for stockholder proposals and director nominations, which may preclude stockholders from bringing matters before an annual meeting of stockholders or from making nominations for directors at an annual meeting of stockholders. The authorization of undesignated preferred stock makes it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change control of us. These and other provisions may have the effect of deferring hostile takeovers or delaying changes in control or management of us. In addition, we are subject to Section 203 of the Delaware General Corporation Law, which, subject to certain exceptions, generally prohibits a Delaware corporation from engaging in any business combination with any interested stockholder, unless:

- prior to the business combination, our board of directors approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of our voting stock outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding:
  - shares owned by persons who are directors and also officers; and
  - shares owned by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- at or after the time the stockholder became an interested stockholder, the business combination is:
  - approved by our board of directors; and
  - authorized at an annual or special meeting of our stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of our outstanding voting stock which is not owned by the interested stockholder.

In general, the Delaware General Corporation Law defines an interested stockholder to be an entity or person that beneficially owns 15% or more of the outstanding voting stock of the corporation or any entity or person that is an affiliate or associate of such entity or person.

Description of capital stock

The Delaware General Corporation Law generally defines business combination to include the following:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, lease, exchange, mortgage, pledge, transfer or other disposition of 10% or more of the assets of the corporation or its majority-owned subsidiary that involves interested stockholder;
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- subject to certain exceptions, any transaction involving the corporation that has the effect of increasing the interested stockholder's proportionate share of the stock of any class or series of the corporation; and
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

The laws of the State of Washington, where our principal executive offices are located, impose restrictions on certain transactions between certain foreign corporations and significant stockholders. Chapter 23B.19 of the Washington Business Corporation Act, or the WBCA, generally prohibits a target corporation, with certain exceptions, from engaging in certain significant business transactions with an acquiring person for a period of five years after the acquiring person first became an acquiring person, unless the transaction or the purchase of shares by the acquiring person is approved by a majority of the members of the target corporation's board of directors prior to the time the acquiring person first became an acquiring person. An acquiring person is generally a person or group of persons who beneficially owns 10% or more of the voting securities of the target corporation. Prohibited transactions include, among other things:

- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation;
- a merger or consolidation with, disposition of assets to, or issuance or redemption of stock to or from, the acquiring person;
- termination of 5% or more of the employees of the target corporation as a result of the acquiring person's acquisition of 10% or more of the shares of the target corporation; and
- allowing the acquiring person to receive disproportionate benefit as a stockholder;

After the five-year period, a significant business transaction may take place as long as it complies with certain fair price provisions of the statute. A target corporation includes a foreign corporation if:

- the corporation has a class of voting shares registered pursuant to Section 12 or 15 of the Securities Exchange Act of 1934, as amended;
- the corporation's principal executive office is located in Washington;
- the corporation has either:
  - more than 10% of its stockholders of record resident in Washington;
  - more than 10% of its shares owned of record by Washington residents; or
  - 1,000 or more stockholders of record resident in Washington;

- a majority of the corporation's employees are Washington residents or more than 1,000 Washington residents are employees of the corporation; and
- a majority of the corporation's tangible assets are located in Washington or the corporation has more than $50 million of tangible assets located in Washington.

Because a corporation may not opt out of this statute, we anticipate this statute will apply to us. Depending on whether we meet the definition of a target corporation, Chapter 23B.19 of the WBCA may have the effect of delaying, deferring or preventing a change in control of us.

NASDAQ NATIONAL MARKET LISTING

We have applied to have our common stock approved for quotation on The Nasdaq National Market under the symbol "XCYT."

TRANSFER AGENT AND REGISTRAR

The transfer agent and registrar for our common stock is American Stock Transfer and Trust Company. Its address is 59 Maiden Lane, New York, NY 10038, and its telephone number is (212) 936-5100.

Shares eligible for future sale

Prior to this offering, there has been no public market for our common stock. Future sales of substantial amounts of our common stock in the public market, or the perception that these sales could occur, could adversely affect the price of our common stock.

Based on the number of shares outstanding as of September 30, 2003, we will have approximately shares of our common stock outstanding after the completion of this offering (approximately shares if the underwriters exercise their overallotment option in full). Of those shares, the shares of common stock sold in this offering (shares if the underwriters exercise their overallotment option in full) will be freely transferable without restriction, unless purchased by our affiliates. The remaining shares of common stock to be outstanding immediately following the completion of this offering, which are "restricted securities" under Rule 144 of the Securities Act of 1933, or Rule 144, as well as any other shares held by our affiliates, may not be resold except pursuant to an effective registration statement or an applicable exemption from registration, including an exemption under Rule 144.

All of our officers, directors and security holders holding over % of our outstanding common stock shares subject to outstanding options and warrants, have entered into lock-up agreements pursuant to which they have generally agreed, subject to limited exceptions, not to offer or sell any shares of common stock or securities convertible into or exchangeable or exercisable for shares of common stock for a period of 180 days from the date of this prospectus without the prior written consent of UBS Securities LLC. See "Underwriting."

After the offering, the holders of shares of our common stock (including shares issuable upon exercise of outstanding warrants) will be entitled to registration rights. For more information on these registration rights, see "Description of capital stock—Registration rights."

In general, under Rule 144, as currently in effect, an affiliate of ours who beneficially owns shares of our common stock that are not restricted securities, or a person who beneficially owns for more than one year shares of our common stock that are restricted securities, may generally sell, within any three-month period, a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately shares immediately after this offering; and
- the average weekly trading volume of our common stock on The Nasdaq National Market during the four preceding calendar weeks.

Sales under Rule 144 are also subject to requirements with respect to manner of sale, notice and the availability of current public information about us. Generally, a person who was not our affiliate at any time during the three months before the sale, and who has beneficially owned shares of our common stock that are restricted securities for at least two years, may sell those shares without regard to the volume limitations, manner of sale provisions, notice requirements or the requirements with respect to availability of current public information about us.

Generally, an employee, officer, director or consultant who purchased shares of our common stock before the effective date of the registration statement of which this prospectus is a part, or who holds options as of that date, pursuant to a written compensatory plan or contract may rely on the resale provisions of Rule 701 under the Securities Act. Under Rule 701, these persons who are not our affiliates may generally sell their eligible securities, commencing 90 days after the effective date of the registration statement of which this prospectus is a part, without having to comply with the public information,

holding period, volume limitation or notice provisions of Rule 144. These persons who are our affiliates may generally sell their eligible securities under Rule 701, commencing 90 days after the effective date of the registration statement of which this prospectus is a part, without having to comply with Rule 144's one-year holding period restriction.

Neither Rule 144 nor Rule 701 supersedes the contractual obligations of our security holders set forth in the lock-up agreements described above.

The shares of our common stock that were outstanding on September 30, 2003 will, assuming conversion of our preferred stock in connection with this initial public offering pursuant to Rule 144 or Rule 701, become eligible for sale without registration approximately as follows:

- Ø shares of common stock will be immediately eligible for sale in the public market without restriction;
- Ø shares of common stock will be eligible for sale in the public market under Rule 144 or Rule 701, beginning 90 days after the effective date of the registration statement of which this prospectus is a part, subject to the volume, manner of sale and other limitations under those rules; and
- Ø the remaining shares of common stock will become eligible under Rule 144 for sale in the public market from time to time after the effective date of the registration statement of which this prospectus is a part upon expiration of their respective holding periods.

The above does not take into consideration the effect of the lock-up agreements described above.

STOCK OPTIONS

We have reserved an aggregate of 6.4 million shares of our common stock for issuance under our 1996 Stock Option Plan, 3.5 million shares of our common stock for issuance under our 2003 Stock Plan, 500,000 shares of our common stock for issuance under our 2003 Directors' Stock Option Plan and 600,000 shares of our common stock for issuance under our 2003 Employee Stock Purchase Plan. As of September 30, 2003, we had outstanding options under our 1996 Stock Option Plan to purchase 3,985,560 shares of our common stock. We intend to register the shares subject to these plans and the options on a registration statement under the Securities Act of 1933 on Form S-8 following this offering. Subject to the lock-up agreements, the restrictions imposed under the 1996 Stock Option Plan, the 2003 Stock Plan, the 2003 Directors' Stock Option Plan, the 2003 Employee Stock Purchase Plan and related option agreements, shares of common stock issued under these plans or agreements after the effective date of any registration statement on Form S-8 will be available for sale in the public market without restriction to the extent that they are held by persons who are not our affiliates.

Underwriting

We are offering the shares of our common stock described in this prospectus through the underwriters named below. UBS Securities LLC, U.S. Bancorp Piper Jaffrey Inc. and Wells Fargo Securities, LLC are the representatives of the underwriters. We have entered into an underwriting agreement with the representatives. Subject to the terms and conditions of the underwriting agreement, each of the underwriters has severally agreed to purchase the number of shares of common stock listed next to its name in the following table:

Underwriters	Number of shares
UBS Securities LLC	
U.S. Bancorp Piper Jaffray Inc	
Wells Fargo Securities, LLC	
Total	

The underwriting agreement provides that the underwriters must buy all of the shares if they buy any of them. However, the underwriters are not required to take or pay for the shares covered by the underwriters' over-allotment option described below.

Our common stock is offered subject to a number of conditions, including:

- receipt and acceptance of our common stock by the underwriters; and
- the underwriters' right to reject orders in whole or in part.

We have been advised by the representatives that the underwriters intend to make a market in our common stock but that they are not obligated to do so and may discontinue making a market at any time without notice.

In connection with this offering, certain of the underwriters or securities dealers may distribute prospectuses electronically.

Over-allotment option

We have granted the underwriters an option to buy up to an aggregate of additional shares of our common stock. The underwriters may exercise this option solely for the purpose of covering over-allotments, if any, made in connection with this offering. The underwriters have 30 days from the date of this prospectus to exercise this option. If the underwriters exercise this option, they will each purchase additional shares approximately in proportion to the amounts specified in the table above.

Commissions and discounts

Shares sold by the underwriters to the public will initially be offered at the initial offering price set forth on the cover of this prospectus. Any shares sold by the underwriters to securities dealers may be sold at a discount of up to $ per share from the initial public offering price. Any of these securities dealers may resell any shares purchased from the underwriters to other brokers or dealers at a discount of up to $ per share from the initial public offering price. If all the shares are not sold at the initial public offering price, the representatives may change the offering price and the other selling terms. Sales of shares made outside of the United States may be made by affiliates of the underwriters. Upon execution

Underwriting

of the underwriting agreement, the underwriters will be obligated to purchase the shares at the prices and upon the terms stated therein and, as a result, will thereafter bear any risk associated with changing the offering price to the public or other selling terms. The underwriters have informed us that they do not expect discretionary sales to exceed % of the shares of common stock to be offered.

The following table shows the per share and total underwriting discounts and commissions we will pay to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase up to an additional shares.

	No exercise	Full exercise
Per share	$	$
Total	$	$

We estimate that the total expenses of this offering payable by us, not including the underwriting discounts and commissions, will be approximately .

No sales of similar securities

We, our executive officers and directors and substantially all existing stockholders have entered into lock-up agreements with the underwriters. Under these agreements, we and each of these persons may not, without the prior written approval of UBS Securities LLC, offer, sell, contact to sell or otherwise dispose of or hedge our common stock or securities convertible into or exchangeable for our common stock. These restrictions will be in effect for a period of 180 days after the date of this prospectus. At any time and without public notice, UBS Securities LLC may, in their sole discretion, release all or some of the securities from these lock-up agreements.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act. If we are unable to provide this indemnification, we will contribute to payments the underwriters may be required to make in respect of those liabilities.

Nasdaq National Market quotation

We have applied to have our common stock approved for quotation on The Nasdaq National Market under the trading symbol "XCYT."

Price stabilization, short positions

In connection with this offering, the underwriters may engage in activities that stabilize, maintain or otherwise affect the price of our common stock, including:

- stabilizing transactions;
- short sales;
- purchases to cover positions created by short sales;
- imposition of penalty bids; and
- syndicate covering transactions.

Stabilizing transactions consist of bids or purchases made for the purpose of preventing or retarding a decline in the market price of our common stock while this offering is in progress. These transactions may also include making short sales of our common stock, which involve the sale by the underwriters of

a greater number of shares of common stock than they are required to purchase in this offering and purchasing shares of common stock in the open market to cover positions created by short sales. Short sales may be "covered" shorts, which are short positions in an amount not greater than the underwriters' over-allotment option referred to above, or may be "naked" shorts, which are short positions in excess of that amount.

The underwriters may close out any covered short position by either exercising their over-allotment option, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the over-allotment option.

Naked short sales are in excess of the over-allotment option. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market that could adversely affect investors who purchased in this offering.

The underwriters also may impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of that underwriter in stabilizing or short covering transactions.

As a result of these activities, the price of our common stock may be higher that the price that otherwise might exist in the open market. If these activities are commenced, they may be discontinued by the underwriters at any time. The underwriters may carry out these transactions on The Nasdaq National Market, in the over-the-counter market or otherwise.

Prior to this offering, there has been no public market for our common stock. The initial public offering price will be determined by negotiation by us and the representatives of the underwriters. The principal factors to be considered in determining the initial public offering price include:

- the information set forth in this prospectus and otherwise available to representatives;
- our history and prospects and the history and prospects of the industry in which we compete;
- our past and present financial performance and an assessment of our management;
- our prospects for future earnings and the present state of our development;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

At our request, certain of the underwriters have reserved up to % of the common stock being offered by this prospectus for sale to our directors, officers, employees and other individuals associated with us and members of their families at the initial offering price. The sales will be made by UBS Warburg LLC through a directed share program. We do not know if these persons will choose to purchase all or any portion of these reserved shares, but any purchases they do make will reduce the number of shares available to the general public. These persons must commit to purchase no later than the close of business on the day following the date of this prospectus. Any employees or other persons purchasing such reserved shares will be prohibited from disposing of or hedging such shares for a period of at least 180 days after the date of this prospectus.

Underwriting

The underwriters and their affiliates have provided and may provide certain commercial banking, financial advisory and investment banking services for us for which they receive customary fees.

The underwriters and their affiliates may from time to time in the future engage in transactions with us and perform services for us in the ordinary course of their business.

Legal matters

The validity of the common stock we are offering will be passed upon for us by Heller Ehrman White & McAuliffe LLP, Seattle, Washington. Dewey Ballantine LLP, East Palo Alto, California, is counsel for the underwriters in connection with this offering. Investment partnerships associated with Heller Ehrman White & McAuliffe LLP and individual attorneys of Heller Ehrman White & McAuliffe LLP beneficially own an aggregate of 16,188 shares of our Series D preferred stock and warrants to purchase 1,812 shares of our common stock. These shares of Series D preferred stock will convert into 16,188 shares of our common stock upon completion of this offering.

Experts

The financial statements of Xcyte Therapies, Inc. at December 31, 2002 and 2001, and for each of the three years in the period ended December 31, 2002, appearing in this Prospectus and Registration Statement have been audited by Ernst & Young LLP, independent auditors, as set forth in their report thereon (which contains an emphasis paragraph describing conditions that adversely affect the Company's liquidity as described in Note 1 to the financial statements) appearing elsewhere herein, and are included in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

Where you can find more information

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of common stock we are offering. This prospectus does not contain all of the information in the registration statement and the exhibits to the registration statement. For further information with respect to us and our common stock, we refer you to the registration statement and to the exhibits to the registration statement. Statements contained in this prospectus about the contents of any contract or any other document are not necessarily complete, and, in each instance, we refer you to the copy of the contract or other document filed as an exhibit to the registration statement. Each of these statements is qualified in all respects by this reference.

You may read and copy the registration statement of which this prospectus is a part at the SEC's Public Reference Room, which is located at 450 Fifth Street, N.W., Washington, D.C. 20549. You can request copies of the registration statement by writing to the SEC and paying a fee for the copying cost. Please call the SEC at 1-800-SEC-0330 for more information about the operation of the SEC's Public Reference Room. In addition, the SEC maintains an Internet website, which is located at www.sec.gov, that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC. You may access the registration statement of which this prospectus is a part at the SEC's Internet website. Upon completion of this offering, we will be subject to the information reporting requirements of the Securities Exchange Act of 1934, and we will file reports, proxy statements and other information with the SEC.

We maintain an Internet website at www.xcytetherapies.com. We have not incorporated by reference into this prospectus the information on our website, and you should not consider it to be a part of this prospectus.

Where you can find more information

This prospectus includes statistical data that were obtained from industry publications. These industry publications generally indicate that the authors of these publications have obtained information from sources believed to be reliable but do not guarantee the accuracy and completeness of their information. While we believe these industry publications to be reliable, we have not independently verified their data.

Index to financial statements

	Page
Report of Ernst & Young LLP, independent auditors	F-2
Balance sheets	F-3
Statements of operations	F-4
Statements of changes in stockholders' deficit	F-5
Statements of cash flows	F-7
Notes to financial statements	F-8

REPORT OF ERNST & YOUNG LLP, INDEPENDENT AUDITORS

The Board of Directors
Xcyte Therapies, Inc.

We have audited the accompanying balance sheets of Xcyte Therapies, Inc. (a development stage company) (the Company) as of December 31, 2001 and 2002, and the related statements of operations, stockholders' deficit and cash flows for each of the three years in the period ended December 31, 2002. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

Since the date of completion of our audit of the accompanying financial statements and initial issuance of our report thereon dated April 25, 2003, the Company, as discussed in Note 14, has experienced a decrease in its cash and cash equivalents and short-term investments and continues to incur substantial operating losses that adversely affect the Company's current results of operations and liquidity. Note 14 describes management's plans to address these issues.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Xcyte Therapies, Inc. (a development stage company) at December 31, 2001 and 2002, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2002, in conformity with accounting principles generally accepted in the United States.

As described in Note 1 to the financial statements, the Company has restated its balance sheets as of December 31, 2001 and 2002 and its statements of operations and stockholders' deficit for each of the three years in the period ended December 31, 2002.

/s/ Ernst & Young LLP

Seattle, Washington
April 25, 2003,
except for the second and fourth paragraphs of Note 1 and Note 13,
as to which the date is October 9, 2003

Xcyte Therapies, Inc. (a development stage company)

BALANCE SHEETS
(in thousands, except share and per share data)

	December 31,		June 30,	Pro forma stockholders' equity at June 30,
	2001	2002	2003	2003 (Note 13)
	(restated)	(restated)	(unaudited)	
Assets				
Current assets:				
Cash and cash equivalents	$ 21,098	$ 3,728	$ 1,918	
Short-term investments	—	13,616	6,974	
Prepaid expenses and other current assets	349	699	494	
Total current assets	21,447	18,043	9,386	
Property and equipment, net	2,303	2,613	2,469	
Deposits and other assets	977	879	840	
Total assets	$ 24,727	$ 21,535	$ 12,695	
Liabilities and stockholders' equity (deficit)				
Current liabilities:				
Accounts payable	$ 1,023	$ 595	$ 728	
Accrued compensation and related benefits	387	339	361	
Other accrued liabilities	259	721	241	
Current portion of equipment financings	643	818	804	
Total current liabilities	2,312	2,473	2,134	
Equipment financings, less current portion	738	1,052	960	
Other liabilities	308	462	517	
Commitments and contingencies				
Redeemable convertible preferred stock, par value $0.001 per share Issued and outstanding—32,809,142, 37,253,393 and 37,300,234 shares as of December 31, 2001, December 31, 2002 and June 30, 2003, respectively (no shares, pro forma); aggregate preference in liquidation—$76,475 and $76,520 at December 31, 2002 and June 30, 2003, respectively	56,552	64,540	64,604	
Redeemable convertible preferred stock warrants	1,077	1,133	1,069	
Stockholders' equity (deficit):				
Preferred stock, $0.001 par value per share Authorized—42,000,000 shares (5,000,000 shares, pro forma) Designated redeemable and convertible—41,909,976 (issued and outstanding—none, pro forma)	—	—	—	—
Common stock, par value $0.001 per share Authorized—70,000,000 shares (100,000,000 shares, pro forma) Issued and outstanding—7,437,380, 8,381,539 and 8,402,636 shares at December 31, 2001, December 31, 2002 and June 30, 2003, respectively (45,702,870 shares, pro forma)	7	8	8	46
Additional paid-in capital	14,482	21,881	21,963	87,598
Deferred stock compensation	(2,064)	(1,880)	(1,236)	(1,236)
Accumulated other comprehensive income	—	4	3	3
Deficit accumulated during the development stage	(48,685)	(68,138)	(77,327)	(77,327)
Total stockholders' equity (deficit)	(36,260)	(48,125)	(56,589)	$ 9,084
Total liabilities and stockholders' deficit	$ 24,727	$ 21,535	$ 12,695	

The accompanying notes are an integral part of these financial statements.

Xcyte Therapies, Inc. (a development stage company)

STATEMENTS OF OPERATIONS
(in thousands, except share and per share data)

	Year ended December 31,			Six months ended June 30,		Period from inception (January 5, 1996) to June 30, 2003
	2000	2001	2002	2002	2003	
Revenue:	(restated)	(restated)	(restated)	(unaudited)		(unaudited)
License fee	$ —	$ —	$ —	$ —	$ —	$ 100
Collaborative agreement	—	—	—	—	72	72
Government grant	98	30	—	—	—	144
Total revenue	98	30	—	—	72	316
Operating expense:						
Research and development	11,257	14,701	14,663	7,651	7,029	60,169
General and administrative	2,403	5,204	4,979	2,883	2,194	19,323
Total operating expense	13,660	19,905	19,642	10,534	9,223	79,492
Loss from operations	(13,562)	(19,875)	(19,642)	(10,534)	(9,151)	(79,176)
Other income (expense):						
Interest income	868	698	467	247	94	3,417
Interest expense	(247)	(260)	(267)	(123)	(131)	(1,373)
Loss on sale of equipment	—	(75)	(11)	(2)	(1)	(195)
Other income, net	621	363	189	122	(38)	1,849
Net loss	(12,941)	(19,512)	(19,453)	(10,412)	(9,189)	(77,327)
Accretion of preferred stock	—	(8,411)	(8,001)	(8,001)	—	(16,412)
Net loss applicable to common stockholders	$ (12,941)	$ (27,923)	$ (27,454)	$ (18,413)	$ (9,189)	$ (93,739)
Basic and diluted net loss per common share	$ (2.16)	$ (4.03)	$ (3.52)	$ (2.45)	$ (1.13)	
Shares used in computation of basic and diluted net loss per common share	6,002,557	6,935,989	7,808,653	7,523,096	8,143,609	

The accompanying notes are an integral part of these financial statements.

Xcyte Therapies, Inc. (a development stage company)

STATEMENTS OF CHANGES IN STOCKHOLDERS' DEFICIT
(in thousands, except share data)

	Common stock		Additional paid-in capital	Deferred stock compensation	Deficit accumulated during the development stage	Accumulated other comprehensive loss	Total
	Shares	Amount					
			(restated)				(restated)
Common stock issued upon incorporation (unaudited)	3,374,634	$ 3	$ —	$ —	$ —	$ —	$ 3
Deferred stock-based compensation (unaudited)	—	—	7	(7)	—	—	—
Amortization of deferred compensation (unaudited)	—	—	—	2	—	—	2
Common stock issued for technology license (unaudited)	198,609	—	—	—	—	—	—
Net loss (unaudited)		—	—	—	(551)	—	(551)
Balance at December 31, 1996 (unaudited)	3,573,243	3	7	(5)	(551)	—	(546)
Common stock repurchases (unaudited)	(635,000)	(1)	—	—	—	—	(1)
Common stock issued in acquisition (unaudited)	2,999,910	3	327	—	—	—	330
Deferred stock-based compensation (unaudited)	—	—	9	(9)	—	—	—
Amortization of deferred compensation (unaudited)	—	—	—	4	—	—	4
Common stock issued for technology license (unaudited)	407,198	1	—	—	—	—	1
Stock options exercised (unaudited)	12,750	—	1	—	—	—	1
Net loss (unaudited)	—	—	—	—	(3,288)	—	(3,288)
Balance at December 31, 1997 (unaudited)	6,358,101	6	344	(10)	(3,839)	—	(3,499)
Repurchase of founder's stock (unaudited)	(88,542)	—	—	—	—	—	—
Stock options exercised (unaudited)	250	—	—	—	—	—	—
Deferred stock-based compensation (unaudited)	—	—	8	(8)	—	—	—
Amortization of deferred compensation (unaudited)	—	—	—	6	—	—	6
Net loss (unaudited)	—	—	—	—	(5,446)	—	(5,446)
Balance at December 31, 1998 (unaudited)	6,269,809	6	352	(12)	(9,285)	—	(8,939)
Common stock returned for technology license termination	(400,000)	—	—	—	—	—	—
Common stock issued for technology license	20,000	—	2	—	—	—	2
Deferred stock-based compensation	—	—	720	(720)	—	—	—
Amortization of deferred compensation	—	—	—	93	—	—	93
Stock options exercised	53,770	—	5	—	—	—	5
Change in unrealized loss on investments	—	—	—	—	—	(18)	(18)
Net loss	—	—	—	—	(6,947)	—	(6,947)
Comprehensive loss	—	—	—	—	—	—	(6,965)
Balance at December 31, 1999	5,943,579	6	1,079	(639)	(16,232)	(18)	(15,804)
Common stock issued for technology license	150,000	—	744	—	—	—	744
Issuance of common stock warrants	—		2,716	—	—	—	2,716
Deferred stock-based compensation	—	—	1,988	(1,988)	—	—	—
Amortization of deferred compensation	—	—	—	770	—	—	770
Remeasurement and issuance of stock options in exchange for consulting services	—	—	112	—	—	—	112
Stock options exercised	709,149	1	227	—	—	—	228
Change in unrealized loss on investments	—	—	—	—	—	18	18
Net loss	—	—	—	—	(12,941)	—	(12,941)
Comprehensive loss	—	—	—	—	—	—	(12,923)
Balance at December 31, 2000 (restated)	6,802,728	7	6,866	(1,857)	(29,173)	—	(24,157)
Common stock repurchased	(13,333)	—	(2)	—	—	—	(2)
Warrants issued and beneficial conversion in preferred stock	—	—	13,060	—	—	—	13,060
Deferred stock-based compensation	—	—	1,652	(1,652)	—	—	—
Amortization of deferred compensation	—	—	—	1,445	—	—	1,445
Remeasurement and issuance of stock options in exchange for consulting services	—	—	1,122	—	—	—	1,122
Stock options and warrants exercised	647,985	—	195	—	—	—	195
Accretion of redeemable convertible preferred stock	—	—	(8,411)	—	—	—	(8,411)
Net loss and comprehensive loss	—	—	—	—	(19,512)	—	(19,512)

The accompanying notes are an integral part of these financial statements.

Xcyte Therapies, Inc. (a development stage company)

STATEMENTS OF CHANGES IN STOCKHOLDERS' DEFICIT (continued)
(in thousands, except share data)

	Common stock		Additional paid-in capital	Deferred stock compensation	Accumulated deficit during the development stage	Accumulated other comprehensive loss	Total
	Shares	Amount					
			(restated)				(restated)
Balance at December 31, 2001 (restated)	7,437,380	$ 7	$ 14,482	$ (2,064)	$ (48,685)	$ —	$ (36,260)
Common stock issued for technology license	350,000	—	679	—	—	—	679
Warrants issued and beneficial conversion in preferred stock	—	—	12,325	—	—	—	12,325
Deferred stock-based compensation	—	—	3,188	(3,188)	—	—	—
Amortization of deferred compensation, net of reversal of $867 for terminated employees	—	—	(867)	3,372	—	—	2,505
Remeasurement and issuance of stock options in exchange for consulting services	—	—	65	—	—	—	65
Stock options and warrants exercised	594,159	1	10	—	—	—	11
Accretion of redeemable convertible preferred stock	—	—	(8,001)	—	—	—	(8,001)
Change in unrealized gain on investments	—	—	—	—	—	4	4
Net loss	—	—	—	—	(19,453)	—	(19,453)
Comprehensive loss							(19,449)
Balance at December 31, 2002 (restated)	8,381,539	8	21,881	(1,880)	(68,138)	4	(48,125)
Deferred stock-based compensation (unaudited)	—	—	86	(86)	—	—	—
Amortization of deferred compensation, net of reversal of $135 for terminated employees (unaudited)	—	—	(135)	730	—	—	595
Remeasurement and issuance of stock options in exchange for consulting services (unaudited)	—	—	130	—	—	—	130
Stock options and warrants exercised (unaudited)	21,097	—	1	—	—	—	1
Change in unrealized gain on investments (unaudited)	—	—	—	—	—	(1)	(1)
Net loss (unaudited)	—	—	—	—	(9,189)	—	(9,189)
Comprehensive loss (unaudited)							(9,190)
Balance at June 30, 2003 (unaudited)	8,402,636	$ 8	$ 21,963	$ (1,236)	$ (77,327)	$ 3	$ (56,589)

The accompanying notes are an integral part of these financial statements.

Xcyte Therapies, Inc. (a development stage company)

STATEMENTS OF CASH FLOWS
(in thousands, except share data)

	Years ended December 31,			Six months ended June 30,		Period from Inception (January 5, 1996) to June 30, 2003
	2000	2001	2002	2002	2003	
				(unaudited)		(unaudited)
Cash flows from operating activities						
Net loss	$ (12,941)	$ (19,512)	$ (19,453)	$ (10,412)	$ (9,189)	$ (77,327)
Adjustments to reconcile net loss to net cash used in operating activities:						
Noncash research and development expense	744	—	679	679	—	1,716
Amortization of investment premiums, net	—	—	217	71	47	264
Noncash stock compensation expense	882	2,567	2,570	1,523	725	6,849
Noncash interest expense	21	44	55	26	25	163
Noncash rent expense	—	34	34	17	17	85
Depreciation and amortization	670	766	823	388	430	4,281
Loss on sale of property and equipment	—	75	11	2	1	195
Changes in assets and liabilities:						
Increase (decrease) in accounts payable	232	—	—	—	—	—
(Increase) decrease in prepaid expenses and other current assets	(384)	140	(350)	(317)	204	(659)
(Increase) decrease in deposits and other assets	(1,242)	766	63	70	23	(433)
Increase (decrease) in accounts payable	330	(312)	(428)	(326)	134	729
Increase in accrued liabilities	499	333	568	11	(404)	1,118
Net cash used in operating activities	(11,189)	(15,099)	(15,211)	(8,268)	(7,987)	(63,019)
Cash flows from investing activities						
Purchases of property and equipment	(799)	(888)	(1,144)	(737)	(287)	(6,209)
Proceeds from sale of property and equipment	—	31	—	—	—	64
Net cash acquired in acquisition	—	—	—	—	—	437
Purchases of investments available-for-sale	—	—	(26,975)	(17,698)	(16,642)	(49,433)
Purchases of investments held-to-maturity	—	—	—	—	—	(17,732)
Proceeds from sales and maturities of investments available-for-sale	7,257	—	13,146	—	23,236	54,786
Proceeds from sales and maturities of investment, held-to-maturity	—	—	—	—	—	5,145
Net cash provided by (used in) investing activities	6,458	(857)	(14,973)	(18,435)	6,307	(12,942)
Cash flows from financing activities						
Net proceeds from issuance of preferred stock	27,988	13,111	12,313	12,313	—	75,554
Common stock repurchased	—	(2)	—	—	—	(3)
Proceeds from stock options and warrants exercised	228	195	11	8	1	440
Proceeds from equipment financings	977	706	1,304	716	330	5,469
Principal payments on equipment financings	(660)	(882)	(814)	(365)	(461)	(3,581)
Net cash provided by (used in) financing activities	28,533	13,128	12,814	12,672	(130)	77,879
Net increase (decrease) in cash and cash equivalents	23,802	(2,828)	(17,370)	(14,031)	(1,810)	1,918
Cash and cash equivalents at beginning of period	124	23,926	21,098	21,098	3,728	—
Cash and cash equivalents at end of period	$ 23,926	$ 21,098	$ 3,728	$ 7,067	$ 1,918	$ 1,918
Supplemental cash flow information						
Interest paid	$ 229	$ 216	$ 212	$ 98	$ 106	$ 1,235

The accompanying notes are an integral part of these financial statements.

NOTES TO FINANCIAL STATEMENTS

(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

1. Organization and significant accounting policies

Organization

Xcyte Therapies, Inc. (the Company), a development stage enterprise, operates in one business segment, developing products based on T cell activation to treat cancer, infectious diseases and other medical conditions associated with compromised immune systems. As a development stage enterprise, substantially all efforts of the Company have been devoted to performing research and experimentation, conducting clinical trials, developing and acquiring intellectual properties, raising capital, and recruiting and training personnel.

Liquidity

We have experienced losses since our inception, including a net loss for the six months ended June 30, 2003. Net losses may continue for at least the next several years as we proceed with the development of our technologies. The size of these losses will depend on the creation of revenue from the commercialization and development of our technologies, if any, and on the level of our expenses. Our cash, cash equivalents and short-term investments have decreased from $17.3 million as of December 31, 2002 to $8.9 million as of June 30, 2003. In October 2003 we issued convertible notes of approximately $12.7 million. The notes convert to common stock upon the closing of this offering. These convertible notes are due in October 2004, if not converted prior to that date. If the notes do not convert, we will require additional funding to continue our business activities through at least December 31, 2004. We believe that sufficient funding will be available to meet our projected operating and capital requirements through December 31, 2004 and are considering various options, including securing additional equity financing and obtaining new collaborators. If we raise additional capital by issuing equity or convertible debt securities, our existing stockholders may experience substantial dilution. If we require additional financing, there can be no assurance that it will be available on satisfactory terms, or at all. If we are unable to secure additional financing on reasonable terms, or are unable to generate sufficient new sources of revenue through arrangements with customers, collaborators and licensees, we will be forced to take substantial restructuring actions, which may include significantly reducing our anticipated level of expenditures, the sale of some or all of our assets, or obtaining funds by entering into financing or collaborative agreements on unattractive terms, or we well not be able to fund operations.

Unaudited interim financial information

The financial information as of June 30, 2003 and for the six months ended June 30, 2002 and 2003, and the period from inception (January 5, 1996) to June 30, 2003 is unaudited. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. Operating results for the six months ended June 30, 2003 are not necessarily indicative of results that may be expected for the entire year.

Restatement of financial information

The balance sheet as of December 31, 2001 and 2002 and the consolidated statements of operations and changes in stockholders' deficit for each of the three years in the period ended December 31, 2002, have been restated to recognize the accretion associated with beneficial conversion feature of the Company's Series E and F redeemable convertible preferred stock immediately upon issuance (earliest date of

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

conversion) and to reverse the accretion previously recognized on the discount associated with the Company's Series D, E and F redeemable convertible preferred stock due to redemption not being probable. Management believes that it is unlikely that the investors would redeem the preferred stock due to the Company's plans for an initial public offering. This restatement was the result of application of Emerging Issues Task Force Topic D-98, *Classification and Measurement of Redeemable Securities*, and Emerging Issues Task Force Issue No. 00-27, *Application of Issue No. 98-5 to Certain Convertible Securities.* The effect of this restatement is to increase (decrease) net loss applicable to common stockholders by ($614), $4,171 and ($15,421) for the years ended December 31, 2000, 2001 and 2002, respectively; to increase (decrease) additional paid-in-capital by ($614), $3,557 and ($11,688), respectively, and to increase (decrease) stockholders' deficit and redeemable convertible preferred stock by ($614), $3,703 and ($11,688), at December 31, 2000, 2001 and 2002, respectively.

Cash, cash equivalents and investments

Cash equivalents include highly liquid investments with a maturity on the date of purchase of three months or less. The Company's cash equivalents consist of money market securities. While cash and cash equivalents held by financial institutions may at times exceed federally insured limits, management believes that no material credit or market risk exposure exists due to the high quality of the institutions. The Company has not experienced any losses on such accounts.

All investment securities are classified as available-for-sale and are carried at fair value. Unrealized gains and losses are reported in a separate component of stockholders' deficit. Amortization, accretion, interest and dividends, realized gains and losses and declines in value judged to be other-than-temporary on available-for-sale securities are included in interest income. The cost of securities sold is based on the specific-identification method. Investments in securities with maturities of less than one year or which management intends to use to fund current operations are classified as short-term investments.

The Company evaluates whether an investment is other-than-temporarily impaired. This evaluation is dependent on the specific facts and circumstances. Factors that are considered in determining whether an other-than-temporary decline in value has occurred include: the market value of security in relation to its cost basis; the financial condition of the investee; and the intent and ability to retain the investment for a sufficient period of time to allow for recovery in the market value of the investment.

Property and equipment

Property and equipment is stated at cost and is depreciated using the straight-line method over the assets' useful lives, which are six years for equipment and furniture and fixtures and three years for computer equipment. Leasehold improvements are amortized over the lesser of their estimated useful lives or the term of the lease.

Impairment of long-lived assets

In accordance with the provisions of Statement of Financial Accounting Standards No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* (SFAS 144), the Company reviews long-lived assets, including property and equipment, for impairment whenever events or changes in business circumstances indicate that the carrying amounts of the assets may not be fully recoverable. An

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

impairment loss will be recognized when estimated undiscounted future cash flows expected to result from the use of an asset and its eventual disposition are less than its carrying amount. In that event, a loss is recognized based on the amount by which the carrying value exceeds the fair value of the long-lived asset.

Revenue recognition

To date, the Company has generated no revenues from sales of products. Revenues relate to fees received for licensed technology, cost reimbursement contracts and a Small Business Innovation Research (SBIR) grant awarded to the Company by the National Institutes of Health. Revenue associated with up-front license fees and research and development funding payments are recognized ratably over the relevant periods specified in the agreement, generally the research and development period. Revenue under research and development cost-reimbursement agreements is recognized as the related costs are incurred. Revenue related to grant agreements is recognized as related research and development expenses are incurred.

Other comprehensive income (loss)

Other comprehensive income (loss) includes certain changes in equity that are excluded from net income (loss). The Company's only other comprehensive income (loss) is unrealized gain (loss) on investments.

Research and development expenses

Research and development expenses are charged to expense as incurred and include, but are not limited to, personnel costs, lab supplies, depreciation, amortization and other indirect costs.

Segments

The Company has adopted Statement of Financial Accounting Standards No. 131, *Disclosure about Segments of an Enterprise and Related Information* (SFAS 131), and related disclosures about its products, services, geographic areas and major customers. The Company has determined that it operates in only one segment.

Stock-based compensation

The Company has adopted the disclosure-only provisions of Statement of Financial Accounting Standards No. 123, *Accounting for Stock-Based Compensation* (SFAS 123), and applies Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees* (APB 25), and related interpretations in accounting for stock options. Accordingly, employee stock-based compensation expense is recognized based on the intrinsic value of the option at the date of grant.

As required under SFAS No. 123, the pro forma effects of stock-based compensation on net loss are estimated at the date of grant using the minimum value method of the Black-Scholes option pricing model, as allowed for nonpublic companies. The Black-Scholes option pricing model was developed for use in estimating the fair value of traded options that have no vesting restrictions and are fully transferable. Because the Company's employee stock options have characteristics significantly different

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimate, the existing models do not, in management's opinion, necessarily provide a reliable single measure of the fair value of its employee stock options.

The fair value of these options was estimated at the date of grant using the minimum value method with the following weighted average assumptions for the years ended December 31, 2000, 2001 and 2002 and the six months ended June 30, 2002 and 2003: risk-free interest rates of 5.61%, 4.5%, 5.0%, 5.0% and 5.0%, respectively; a dividend yield of 0% for all periods; expected volatility of 0% for all periods; and weighted average expected lives of the options of 3.7, 4, 4, 4 and 4 years, respectively. The estimated weighted average fair value of stock options granted during 2000, 2001 and 2002 and the six months ended June 30, 2002 and 2003 was $2.71, $4.60, $2.28, $3.20 and $1.15 per share of common stock, respectively.

For purposes of pro forma disclosures, the estimated fair value of the options is amortized to expense over the vesting period of the related options. The Company's pro forma information follows (in thousands):

	Year ended December 31,			Six months ended June 30,	
	2000	2001	2002	2002	2003
Net loss applicable to common stockholders; as reported	$ (12,941)	$ (27,923)	$ (27,454)	$ (18,413)	$ (9,189)
Add: Employee stock-based compensation as reported	770	1,445	2,505	1,522	595
Deduct: Stock-based compensation determined under the fair value method	(798)	(1,591)	(2,879)	(1,695)	(805)
Pro forma net loss	$ (12,969)	$ (28,069)	$ (27,828)	$ (18,586)	$ (9,399)
Basic and diluted pro forma net loss per share	$ (2.16)	$ (4.05)	$ (3.56)	$ (2.47)	$ (1.15)

Stock options granted to nonemployees are recorded using the fair value approach in accordance with SFAS 123 and Emerging Issues Task Force Consensus (EITF) Issue No. 96-18, *Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services* (EITF 96-18). The options to nonemployees are subject to periodic revaluation over their vesting terms.

Deferred stock compensation includes amounts recorded when the exercise price of an option is lower than the fair value of the underlying common stock on the date of grant. Deferred stock-based compensation is amortized over the vesting period of the underlying option using the graded-vesting method.

Income taxes

The Company accounts for income taxes utilizing the liability method in accordance with Statement of Financial Accounting Standards No. 109, *Accounting for Income Taxes* (SFAS 109). Deferred tax assets or liabilities are recorded for all temporary differences between financial and tax reporting. A valuation allowance is recorded when it is more likely than not that the deferred tax asset will not be recovered.

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

Net loss per share

Basic net loss per share is computed by dividing net loss applicable to common stockholders by the weighted average number of common shares outstanding for the period. Common stock equivalents, including redeemable convertible preferred stock, stock options and warrants are excluded from the computation of diluted loss per share as their effect is anti-dilutive. For the periods presented, there is no difference between the basic and diluted net loss per share.

Financial instruments

Financial instruments, including cash and cash equivalents and payables, are recorded at cost which approximates fair value based on the short-term maturities of these instruments. The fair value of investments is determined based on quoted market prices. Refer to Note 2 for further information on the fair value of investments. Based on the borrowing rates currently available to the Company for loans with similar terms, management believes that the carrying value of equipment financing arrangements approximates fair value.

Use of estimates

The preparation of financial statements in conformity with generally accepted accounting principles in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

Recent accounting pronouncements

In June 2002, the FASB issued SFAS 146, *Accounting for Costs Associated with Exit or Disposal Activities*, which addresses accounting for restructuring, discontinued operation, plant closing or other exit or disposal activity. SFAS 146 requires companies to recognize costs associated with exit or disposal activities when they are incurred rather than at the date of a commitment to an exit or disposal plan. SFAS 146 is to be applied prospectively to exit or disposal activities initiated after December 31, 2002. The adoption of SFAS 146 had no initial impact on the Company's financial statements.

In November 2002, the FASB issued FIN 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, and Interpretation of FASB Statements No. 5, 57 and 107 and Rescission of FASB Interpretation No. 34.* FIN 45 clarifies the requirements of SFAS 5, *Accounting for Contingencies*, relating to the guarantor's accounting for, and disclosure of, the issuance of certain types of guarantees. The disclosure provisions of FIN 45 are effective for financial statements of periods ending after December 15, 2002. However, the provisions for initial recognition and measurement are effective on a prospective basis for guarantees that are issued or modified after December 31, 2002. The adoption of FIN 45 had no initial impact on the Company's financial statements.

In November 2002, the Emerging Issues Task Force reached a consensus on Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables*. EITF Issue No. 00-21 provides guidance on how to account for arrangements that involve the delivery or performance of multiple products, services and/or rights to

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

use assets. The provisions of EITF Issue No. 00-21 will apply to revenue arrangements entered into in fiscal periods beginning after June 15, 2003. The Company is currently evaluating the effects that the adoption of EITF Issue No. 00-21 will have on the financial statements.

In January 2003, the FASB issued FIN 46, *Consolidation of Variable Interest Entities*. FIN 46 clarifies the application of Accounting Research Bulletin No. 51, *Consolidated Financial Statements*, to certain entities in which the equity investors do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. FIN 46 applies immediately to variable interest entities created after January 31, 2003 and to variable interest entities in which an enterprise obtains an interest after that date. It applies in the first fiscal year or interim period beginning after June 15, 2003 to variable interest entities in which an enterprise holds a variable interest that it acquired before February 1, 2003. FIN 46 applies to public enterprises as of the beginning of the applicable interim or annual period. The Company does not believe there will be a material effect upon its financial condition or results of operations from the adoption of the provisions of FIN 46.

In May 2003, the FASB issued SFAS 150, *Accounting for Certain Financial Instruments with Characteristics of Both Liabilities and Equity*. SFAS 150 establishes standards for how an issuer classifies and measures certain financial instruments with characteristics of both liabilities and equity. SFAS 150 requires that an issuer classify a financial instrument that is within its scope as a liability by reporting the cumulative effect of a change in accounting principle. The requirements of SFAS 150 are to be applied to the first fiscal period beginning after December 15, 2004. The Company is currently evaluating the impact of adopting SFAS 150.

Reclassifications

Certain prior year amounts have been reclassified to conform to current year presentation.

2. Investments

A summary of investments follows (in thousands):

	December 31, 2002			
	Amortized cost	Gross unrealized gains	Gross unrealized losses	Fair value
Federal agency obligations	$ 1,532	$ 1	$ —	$ 1,533
Corporate bonds	9,859	5	(2)	9,862
Municipal bonds	2,221	—	—	2,221
Total	$ 13,612	$ 6	$ (2)	$ 13,616

	June 30, 2003			
	Amortized cost	Gross unrealized gains	Gross unrealized losses	Fair value
Federal agency obligations	$ 6,006	$ 2	$ —	$ 6,008
Corporate bonds	965	1	—	966
Total	$ 6,971	$ 3	$ —	$ 6,974

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

The Company has realized no gains or losses upon the sale of available-for-sale securities during the years ended December 31, 2000, 2001 and 2002 and the six months ended June 30, 2003. All investments held at December 31, 2002 and June 30, 2003 have contractual maturities within one year. During the year ended December 31, 2001, the Company held only cash and cash equivalents and no investments.

3. Property and equipment

Property and equipment consists of the following (in thousands):

	December 31,		June 30, 2003
	2001	2002	
Equipment	$ 2,270	$ 2,957	$ 3,194
Furniture and fixtures	191	197	199
Leasehold improvements	769	916	920
Computer equipment	612	888	925
Property and equipment, gross	3,842	4,958	5,238
Less accumulated amortization and depreciation	(1,539)	(2,345)	(2,769)
Property and equipment, net	$ 2,303	$ 2,613	$ 2,469

Depreciation expense totaled $470,000, $632,000 and $823,000 during the years ended December 31, 2000, 2001 and 2002, respectively and $430,000 during the six months ended June 30, 2003.

4. Employee note receivable

During the year ended December 31, 2001, the Company made a $50,000 secured loan to an employee in connection with an individual employment agreement. The loan bears interest at an annual rate of 8.24% and is repayable in equal quarterly installments over four years. The note balance of $50,000, $36,000 and $33,000 at December 31, 2001 and 2002 and June 30, 2003, respectively, has been classified in deposits and other assets. Interest earned on the note has been immaterial to date.

5. Significant agreements

Technology licenses

In 1998, the Company entered into a license agreement with Genetics Institute, under which the Company was granted the use of several patents for intellectual property in exchange for the payment of a nonrefundable fee of approximately $53,000, 145,875 shares of Series B preferred stock, and warrants to purchase 194,500 shares of Series B preferred stock at $1.10 per share. The nonrefundable fee was charged to research and development expense when paid. The Company, or sublicensee, is required to spend no less than $500,000 annually on research and development activities related to product development until the first commercial sale of the product. In 1999, the Company entered into a license and supply agreement with Diaclone S.A., in which the Company was granted a license to develop and commercialize a specific antibody. In consideration for the license, the Company paid and charged to research and development expense a $75,000 nonrefundable fee. In addition, the Company entered into a license agreement with the Fred Hutchinson Cancer Research Center in which the Company was granted

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

a license to develop and commercialize a specific antibody. In consideration for the license, the Company paid nonrefundable license fees of $50,000. The Company also agreed to issue 150,000 shares of common stock, valued at $744,000, to the Fred Hutchinson Cancer Research Center. The Company charged research and development expense for all nonrefundable fees paid and the value of the common stock issued.

During the year ended December 31, 2002, the Company entered into a license agreement with the Trustees of the University of Pennsylvania, whereby the Company was granted the right to use certain intellectual property in exchange for payment of nonrefundable license fees of $150,000. The Company also agreed to issue 350,000 shares of common stock, valued at $679,000, to the Trustees of the University of Pennsylvania. In addition, the Company may be required to make future payments under the license agreement based on the achievement of certain milestone events, which could total $3.9 million. The Company charged research and development expense for all nonrefundable fees paid and the value of common stock issued.

All license agreements require the payment of royalties by the Company based on sales and services. No royalty payments have been required or paid through December 31, 2002.

Manufacturing and supply contracts

The Company entered into a development and supply agreement with Dynal S.A. during the year ended December 31, 1999. The Company has agreed to make nonrefundable payments totaling $3.0 million for certain development activities conducted by Dynal S.A. As of December 31, 2002, the Company had made payments totaling $2.0 million under the agreement ($2.5 million as of June 30, 2003) which were charged to research and development expense. Of the Company's remaining $1.0 million in payments, $500,000 was accrued at December 31, 2003 and paid in January 2003. The remaining $500,000 payment is payable upon the achievement of specified milestones per the development work plans. As estimated completion dates of the milestone activities are speculative and subject to delivery and acceptance of the product from Dynal to the Company, the Company will expense such payment in the period the products are delivered and accepted. Under the terms of the supply agreement, the Company is required to buy a minimum $250,000 of beads in the first 12 months after the development phase ends and $500,000 of beads annually thereafter over the remaining term of the agreement, which expires in 2009 or earlier upon breach by either party. The term may be extended five years by either party.

During the year ended December 31, 2000, the Company entered into development and supply agreements with Lonza Biologics PLC (Lonza). Under the terms of the agreements, the Company is obligated to make payments in British pounds. Exchange rate gains and losses have been insignificant to date. The Company paid approximately $252,000, $1.7 million and $1.6 million under the agreements during the years ended December 31, 2000, 2001 and 2002, respectively, and $1.3 million during the six months ended June 30, 2003, all of which were charged to research and development expense. As of June 30, 2003, the Company had no significant contractual obligations to Lonza.

Corporate collaboration

In March 2003, the Company entered into an agreement with Fresenius Biotechnology GmbH, a wholly owned subsidiary of Fresenius AG. Under the terms of the agreement, which expired in August 2003, Fresenius was granted the right to use the Company's Xcellerate Technology to conduct a Phase I/II HIV gene therapy study in Europe. The Company is required to transfer its Xcellerate Technology, including

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

manufacturing capability, to Fresenius and supply all antibody-coated beads required by Fresenius to support the trial. Fresenius is required to reimburse the Company for expenses associated with transferring the technology and supplying the antibody-coated beads. As of June 30, 2003, the Company has recognized $72,000 as revenue related to the reimbursement of its costs.

6. Redeemable convertible preferred stock and warrants

Preferred stock

A summary of redeemable convertible preferred stock follows (in thousands, except share data):

	December 31, 2002				June 30, 2003			
	Shares authorized and designated	Issued and outstanding shares	Aggregate redemption and liquidation preference	Carrying value	Shares authorized and designated	Issued and outstanding shares	Aggregate redemption and liquidation preference	Carrying value
Series A	7,300,080	6,860,512	$ 6,517	$ 6,596	7,300,080	6,907,353	$ 6,562	$ 6,660
Series B	4,097,580	3,903,080	4,293	4,293	4,097,580	3,903,080	4,293	4,293
Series C	7,212,316	7,185,630	12,000	11,976	7,212,316	7,185,630	12,000	11,976
Series D	10,300,000	10,109,825	28,105	25,263	10,300,000	10,109,825	28,105	25,263
Series E	6,500,000	4,750,095	13,205	8,411	6,500,000	4,750,095	13,205	8,411
Series F	6,500,000	4,444,251	12,355	8,001	6,500,000	4,444,251	12,355	8,001
	41,909,976	37,253,393	$ 76,475	$ 64,540	41,909,976	37,300,234	$ 76,520	$ 64,604

From inception through December 31, 1999, the Company issued 6,334,212 shares of Series A preferred stock at $0.95 per share for proceeds of $6.0 million; 3,757,205 shares of Series B preferred stock at $1.10 per share for proceeds of $4.1 million; and 7,185,630 shares of Series C preferred stock at $1.67 per share for proceeds of $12.0 million. The Company also issued an additional 526,300 shares of Series A preferred stock in conjunction with a business acquisition. The value of the Series A preferred stock of $579,000 was included in the determination of the purchase price of the acquired business. The Company also issued 145,875 shares of Series B preferred stock to acquire technology licenses. These shares were valued at $1.10 per share for an aggregate amount of $160,000. There were no significant costs associated with the Series A, B and C private placements.

During the year ended December 31, 2000, the Company completed a private placement of 10,109,825 shares at $2.78 per share of Series D redeemable preferred stock for $28.0 million, net of offering costs of $117,000. In connection with the offering, holders of the Series D preferred stock received 1,132,287 warrants to purchase shares of common stock at an exercise price of $0.30 per share. The warrants were valued at $2.7 million using the Black-Scholes option pricing model. The warrants expire in August 2005 or upon the completion of an initial public offering of the Company’s common stock. Of the total net proceeds of $28.0 million, $2.7 million has been recorded in paid-in capital and $25.3 million has been recorded as redeemable convertible preferred stock.

During the year ended December 31, 2001, the Company completed a private placement of 4,750,095 shares at $2.78 per share of Series E redeemable preferred stock for $13.1 million, net of offering costs of $145,000. In connection with the offering, holders of the Series E preferred stock received warrants to purchase 2,586,162 shares of common stock at an exercise price of $0.01 per share. The warrants expire

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

in November 2006 or upon completion of an initial public offering. The net proceeds from the Series E preferred stock offering were allocated based on the relative fair values of the warrants, using the Black-Scholes option pricing model, and the preferred stock. The Company assigned $4.6 million to the value of the warrants and $8.4 million to the value of the preferred stock. After allocating a portion of the proceeds to the common stock warrants, the effective conversion price of the preferred stock was at a discount to the price of the common stock into which the preferred stock is convertible. The discount associated with the beneficial conversion feature is limited to the proceeds allocated to the preferred stock, or $8.4 million. Accordingly, the preferred stock was initially recorded at zero. The Company has recognized the amortization of the discount associated with the beneficial conversion of $8.4 million as a charge to additional paid-in capital (also shown as a deduction to arrive at net loss applicable to common stockholders) and a credit to preferred stock immediately upon issuance since the preferred stock may be converted into common stock at any time, at the holder's option. The remaining discount of $4.6 million will be amortized at the time that redemption by the holders is considered probable or the preferred stock is converted into common stock.

During the year ended December 31, 2002, the Company completed a private placement of 4,444,251 shares at $2.78 per share of Series F redeemable preferred stock for $12.3 million, net of offering costs of $30,000. In connection with the offering, holders of the Series F preferred stock received 2,419,649 warrants to purchase shares of common stock at an exercise price of $0.01 per share. The warrants expire in February 2007 or upon completion of an initial public offering of the Company's common stock. The net proceeds from the Series F preferred stock offering were allocated based on the relative fair values of the warrants, using the Black-Scholes option pricing model, and the preferred stock. The Company assigned $4.3 million to the value of the warrants and $8.0 million to the value of the preferred stock. After allocating a portion of the proceeds to the common stock warrants, the effective conversion price of the preferred stock was at a discount to the price of the common stock into which the preferred stock is convertible. The discount associated with the beneficial conversion is limited to the proceeds allocated to the preferred stock, or $8.0 million. The Company has recognized the amortization of the discount associated with the beneficial conversion of $8.0 million as a charge to additional paid-in capital (also shown as a deduction to arrive at net loss applicable to common stockholders) and a credit to preferred stock immediately upon issuance since the preferred stock may be converted into common stock at any time, at the holder's option. The remaining discount of $4.3 million will be amortized at the time that redemption by the holders is considered probable or the preferred stock is converted into common stock.

Holders of Series A, B, C, D, E and F preferred stock have preferential rights to noncumulative dividends at a rate of $0.076, $0.088, $0.1336, $0.2224, $0.2224 and $0.2224 per share, respectively, when and if declared by the Board of Directors. The holders are entitled to the number of votes equal to the number of shares of common stock into which the preferred stock could be converted. In the event of liquidation, the holders of Series A, B, C, D, E and F preferred stock have preferential rights to liquidation payments of $0.95, $1.10, $1.67, $2.78, $2.78 and $2.78 per share, respectively, plus any accrued but unpaid dividends. After the distributions to the holders of preferred stock have been made, the remaining assets of the Company available for distribution to stockholders shall be distributed pro rata among the holders of common stock and preferred stock.

The preferred stock can be converted, at the option of the holder, one-for-one into common stock subject to adjustment for antidilutive events. The conversion price for Series A, B, C, D, E and F preferred stock

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

is $0.95, $1.10, $1.67, $2.78, $2.78 and $2.78, respectively. Each share of the preferred stock shall automatically be converted into shares of common stock upon the closing of an initial public offering, provided that the price per share is not less than $4.00 and the aggregate gross proceeds to the Company are not less than $20.0 million.

In addition, the Company has granted registration rights and rights of first offer to the preferred stockholders and is precluded from carrying out certain actions without the approval of the majority of the preferred stockholders voting as a group.

As of December 31, 2002, the preferred stock is redeemable at the option of the holder of a majority of the outstanding shares of preferred stock at any time. The Series A, B, C, D, E and F redemption price is $0.95, $1.10, $1.67, $2.78, $2.78 and $2.78 per share, respectively.

Warrants

From inception through December 31, 1999, warrants were issued to purchase 368,410 shares of Series A preferred stock in connection with a business acquisition at an exercise price of $0.95 per share. The value of the warrants of $330,000 was included in the determination of the purchase price of the business. In addition, warrants to purchase 71,158 shares of Series A preferred stock at $0.95 per share and warrants to purchase 12,315 shares of Series C preferred stock at $1.67 per share were issued in connection with equipment financing. The estimated fair value of the warrants issued of $64,000 and $15,000, respectively, was recorded as an additional financing cost and is being amortized over the term of the loan as interest expense. The warrants to purchase 71,158 shares of Series A preferred stock were exercised in March 2003 through a net exercise, resulting in the issuance of 46,841 shares of Series A preferred stock. In addition, the Company issued warrants to purchase 194,500 shares of Series B preferred stock as partial consideration for a technology license. The warrants were issued at an exercise price of $1.10 per share, and the estimated fair value of the warrants of $131,000 was charged to research and development expense.

During the years ended December 31, 2000, 2001 and 2002, the Company issued warrants to purchase 14,371, 23,741 and 23,741 shares, respectively, of Series C, D and F preferred stock at an exercise price of $1.67, $2.78 and $2.78 per share, respectively, in connection with equipment financing. The estimated fair value of the warrants issued of $36,000, $113,000 and $56,000, respectively, was recorded as additional financing cost and is being amortized over the term of the loan as interest expense using the effective interest method.

During the year ended December 31, 2000, the Company issued a warrant for the purchase of 80,000 shares of Series D preferred stock at an exercise price of $2.78 per share, in connection with a lease for a manufacturing facility. The estimated fair value of the warrant of $340,000 was recorded as deferred rent and is being recognized as additional rent expense over the initial term of the lease.

During the year ended December 31, 2001, the Company issued a warrant for the purchase of 10,000 shares of Series E preferred stock at an exercise price of $2.78 per share, for services provided in connection with the private placement of Series E redeemable preferred stock. The estimated fair value of the warrants of $48,000 was included in offering costs of the placement.

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

Warrants expire at various dates from August 2005 to February 2012, including 470,725 warrants outstanding at December 31, 2002, which will expire upon the closing of an initial public offering. All remaining preferred stock warrants, (327,511 at December 31, 2002 and 256,353 at June 30, 2003) that do not expire upon the closing of an offering, will convert to common stock warrants upon the closing of an initial public offering. The Company has valued the warrants issued during the years ended December 31, 2000, 2001 and 2002 using the Black-Scholes option pricing model with the following assumptions: no dividend yields; life of 5 years to 10 years; risk-free interest rates of 4.5% to 5.42%; and volatility of 75% to 80%.

7. Stock option plan

Under the Company's Amended and Restated 1996 Stock Option Plan (1996 Plan), 4.4 million shares of common stock have been reserved for grants to employees, directors and consultants as of December 31, 2002. The term of the 1996 Plan is 10 years unless terminated earlier by the Board of Directors. Options granted under the 1996 Plan may be designated as incentive or nonqualified at the discretion of the 1996 Plan administrator. The vesting period, exercise price and expiration period of options are also established at the discretion of the 1996 Plan administrator. Vesting periods are typically four or five years, and incentive stock options are exercisable at no less than the fair market value at the date of grant and nonqualified stock options are exercisable at prices determined by the 1996 Plan administrator. In no event shall the term of any incentive stock option exceed 10 years.

Shares issued upon exercise of options that are unvested are restricted and subject to repurchase by the Company at the original exercise price upon termination of employment, and such restrictions lapse over the original vesting schedule. During the year ended December 31, 2000, the Board of Directors amended the 1996 Plan to allow options granted to certain executives to become exercisable immediately. Three executives elected to early exercise stock options for 513,858 shares of restricted common stock in the year ended December 31, 2000. During the year ended December 31, 2001, the Company repurchased 13,333 shares of restricted stock. The shares were repurchased in an amount equal to the original purchase price of the shares. At December 31, 2002, there were a total of 261,080 shares of restricted common stock outstanding and subject to repurchase (213,611 at June 30, 2003). A summary of stock option activity and related information follows:

	Years ended December 31,						Six months ended June 30,	
	2000		2001		2002		2003	
	Options	Weighted-average exercise price	Options	Weighted average exercise price	Options	Weighted average exercise price	Options	Weighted average exercise price
Outstanding at beginning of period	1,222,125	$ 0.14	1,139,268	$ 0.24	1,880,606	$ 0.53	3,358,067	$ 0.77
Granted at fair value	—	—	—	—	697,750	1.00	—	—
Granted at less than fair value	999,094	0.38	820,500	0.91	1,263,248	1.00	143,250	1.00
Canceled	(372,802)	0.16	(66,516)	0.30	(476,793)	0.78	(87,142)	0.85
Exercised	(709,149)	0.32	(12,646)	0.17	(6,744)	0.36	(21,097)	0.22
Outstanding at end of period	1,139,268	$ 0.24	1,880,606	$ 0.53	3,358,067	$ 0.77	3,393,078	$ 0.78

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

The following summarizes information about stock options outstanding and exercisable at December 31, 2002:

Range of exercise price	Outstanding Number of options	Outstanding weighted average remaining contractual life (years)	Outstanding Weighted average exercise price	Exercisable Number of options	Exercisable Weighted average exercise price
$0.10-$0.11	186,416	4.37	$ 0.10	186,416	$ 0.10
$0.17	434,021	6.87	0.17	422,311	0.17
$0.30-$0.50	432,931	7.87	0.43	331,751	0.44
$1.00	2,304,699	9.12	1.00	312,930	1.00
	3,358,067	8.40	$ 0.77	1,253,408	$ 0.44

The number of options exercisable at December 31, 2000, 2001 and 2002 was 669,821, 1,026,385 and 1,253,408, respectively. The weighted average exercise price of options vested and exercisable at December 31, 2000, 2001 and 2002 was $0.15, $0.30 and $0.46, respectively.

During the years ended December 31, 2000, 2001 and 2002, the Company granted options to purchase a total of 122,500, 395,000 and 35,000 shares of common stock, respectively, to consultants and Scientific Advisory Board members for services to be performed through October 2007. No stock option grants have been made to non-employees during the six months ended June 30, 2003. In accordance with SFAS 123 and EITF 96-18, options granted to consultants and Scientific Advisory Board members are periodically revalued over the related service periods. The Company recorded stock compensation of $112,000, $1.1 million and $65,000 during the years ended December 31, 2000, 2001 and 2002, respectively, and $130,000 during the six months ended June 30, 2003, related to consulting services.

During the years ended December 31, 2000, 2001 and 2002 and the six months ended June 30, 2003, in connection with the grant of certain options to employees, the Company recorded deferred stock compensation of $2.0 million, $1.7 million, $3.2 million and $86,000, respectively, representing the difference between the exercise price and the subsequently determined fair value of the Company's common stock on the date such stock options were granted. The subsequently determined fair value of the Company's common stock was $5.31 during the years ended December 31, 2000 and 2001, ranged from $1.00 to $3.82 during the year ended December 31, 2002 and ranged from $1.00 to $2.51 during the six months ended June 30, 2003. Deferred stock compensation is being amortized on a graded vesting method. During the years ended December 31, 2000, 2001 and 2002 and the six months ended June 30, 2003, the Company recorded noncash deferred stock compensation expense of $770,000, $1.4 million, $2.5 million and $595,000, respectively.

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

8. Common stock

Common stock reserved for future issuance at December 31, 2002 and June 30, 2003 is as follows:

Description	December 31, 2002	June 30, 2003
1996 Stock Option Plan		
Options granted and outstanding	3,358,067	3,393,078
Options reserved for future grant	259,957	203,849
Series A preferred stock	7,300,080	7,300,080
Series B preferred stock	4,097,580	4,097,580
Series C preferred stock	7,212,316	7,212,316
Series D preferred stock	10,300,000	10,300,000
Series E preferred stock	6,500,000	6,500,000
Series F preferred stock	6,500,000	6,500,000
Preferred stock warrants	798,236	727,078
Common stock warrants	4,915,344	4,990,344
	51,241,580	51,224,325

Milestone pool

Pursuant to a business acquisition prior to January 1, 1999, the Company reserved 1,582,340 shares of common stock (Milestone Pool) for the Company's possible acquisition of new technology from the scientific founders of the acquired business. During the year ended December 31, 2001, the Milestone Pool was terminated. In exchange for the termination of all rights to the remaining Milestone Pool shares, these scientific founders entered in consulting agreements and were granted options to purchase a total of 375,000 shares of the Company's common stock, of which 150,000 shares immediately vested. The remaining options vest over the four-year consulting term and will be periodically revalued and recognized as expense over the related service period. During the years ended December 31, 2001 and 2002 and the six months ended June 30, 2003, the Company recorded stock-based compensation of $980,000, $30,000 and $63,000, respectively.

Common stock warrants

During the years ended December 31, 2000, 2001 and 2002, the Company issued warrants to purchase 1,132,287, 2,586,162 and 2,419,649 shares of common stock, respectively, to private investors in connection with the issuance of Series D, E and F preferred stock. During the six months ended June 30, 2003, the Company issued warrants to purchase 75,000 shares of common stock in connection with a consulting arrangement. During the years ended December 31, 2001 and 2002, warrants to purchase 635,339 and 587,415 shares of common stock were exercised, respectively. No warrants were exercised during the year ended December 31, 2000 or the six months ended June 30, 2003.

9. Income taxes

At December 31, 2002, the Company had operating loss carryforwards of approximately $55.9 million and research and development tax credit carryforwards of $3.0 million for federal income tax reporting purposes. The net operating losses and tax credits will expire beginning in 2011 if not previously utilized.

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

In certain circumstances, as specified in the Internal Revenue Code of 1986, as amended, due to ownership changes, the Company's ability to utilize its net operating loss carryforwards may be limited.

Deferred income taxes reflect the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. The significant components of deferred taxes are as follows (in thousands):

	December 31,	
	2001	2002
Deferred tax assets:		
Net operating loss carryforwards	$ 13,959	$ 19,008
Research and development tax credit	2,265	2,972
License agreements	302	562
Other	161	230
	16,687	22,772
Less valuation allowance	(16,532)	(22,679)
Net deferred tax assets	155	93
Deferred tax liabilities:		
Depreciation	(155)	(93)
Net deferred taxes	$ —	$ —

A valuation allowance has been recorded for deferred tax assets because realization is primarily dependent on generating sufficient taxable income prior to the expiration of net operating loss carryforwards. The valuation allowance for deferred tax assets increased $4.3 million, $6.5 million and $6.1 million during the years ended December 31, 2000, 2001 and 2002, respectively, principally due to net operating losses recorded during those periods. There have been no offsets or other deductions to the valuation allowance in any period since the Company's inception.

10. Long-term obligations and lease obligations

The Company has commitments for noncancelable operating leases for a manufacturing facility, building space and office equipment. The building lease includes rent escalation clauses (3% annually) and has two five-year renewal options. The manufacturing facility lease contains annual rent escalations of 4.5% and an option to renew the lease for two additional five-year periods. In addition to base rent, the Company is required to pay a pro rata share of the operating costs related to the manufacturing facility and building leased space. The Company was required to provide security under the manufacturing lease agreement totaling $435,000 in the form of cash and issued a preferred stock warrant to the lessor.

The Company has financed the acquisition of laboratory and scientific equipment, furniture and fixtures, computer equipment and leasehold improvements through financing arrangements with various third parties. In connection with the financings, the Company has issued preferred stock warrants to the third parties. At December 31, 2002, the Company has one financing arrangement under which it may borrow up to $1.7 million. At June 30, 2002, borrowings under this arrangement are limited to $500,000 until the Company receives additional funding acceptable to the lender. At June 30, 2003, the Company has $170,000 available to it under the outstanding arrangement, which expires in January 2004 unless

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

renewed. Subsequent to June 30, 2003, the Company entered into a financing arrangement with a new lender. Under the terms of the agreement, the Company may borrow up to $2.5 million to finance the acquisition of laboratory and scientific equipment, furniture and fixtures, computer equipment and leasehold improvements. Outstanding borrowings under the current and previous financing arrangements were $1.5 million and $2.0 at December 31, 2001 and 2002, respectively, and $1.9 million at June 30, 2003. Outstanding borrowings require monthly principal and interest payments and mature at various dates through 2007. Interest rates applicable to the outstanding borrowings at December 31, 2002 range from 9.18% to 14.12%. The weighted average interest rates for borrowings outstanding during the years ended December 31, 2000, 2001 and 2002 and the six months ended June 30, 2003 were 13.24%, 12.66%, 11.09% and 10.61%, respectively. Borrowings are secured by the acquired assets that have a net book value of $2.2 million at December 31, 2002. Under all agreements, the Company is required to comply with certain nonfinancial covenants.

Future minimum payments under operating leases and equipment financing arrangements at December 31, 2002 are as follows (in thousands):

	Equipment financings arrangements	Operating leases
Year ended December 31,		
2003	$ 818	$ 1,469
2004	661	1,514
2005	391	1,572
2006	121	1,416
2007	—	1,058
Thereafter	—	3,366
	1,991	$ 10,395
Less unamortized discount	(121)	
Less current portion	(818)	
Long-term equipment obligations	$ 1,052	

Rent expense totaled $643,000, $1.6 million and $1.6 million during each of the years ended December 31, 2000, 2001 and 2002 and $807,000 during the six months ended June 30, 2003, respectively.

11. Commitments and contingencies

The Company has been named as a defendant in a complaint involving several other parties. Due to the uncertainty of litigation, the Company's management and external legal counsel are unable to determine the ultimate outcome of the matter or estimate the amount or range of potential loss, if any, which may arise.

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

12. Net loss per share

The calculation of basic and diluted loss per share is as follows (in thousands, except share and per share data):

	Year ended December 31,			Six months ended June 30,	
	2000	2001	2002	2002	2003
Net loss	$ (12,941)	$ (19,512)	$ (19,453)	$ (10,412)	$ (9,189)
Accretion of preferred stock	—	(8,411)	(8,001)	(8,001)	—
Net loss applicable to common stockholders	$ (12,941)	$ (27,923)	$ (27,454)	$ (18,413)	$ (9,189)
Weighted average common shares	6,067,480	7,405,576	8,121,940	7,860,690	8,384,910
Weighted average common shares subject to repurchase	(64,923)	(469,587)	(313,287)	(337,594)	(241,301)
Weighted average number of shares used for basic and diluted per share amounts	6,002,557	6,935,989	7,808,653	7,523,096	8,143,609
Basic and diluted net loss per common share	$ (2.16)	$ (4.03)	$ (3.52)	$ (2.45)	$ (1.13)
Pro forma (unaudited):					
Weighted average shares used above			7,808,653		8,143,609
Pro forma adjustment to reflect weighted effect of assumed conversion of redeemable convertible preferred stock			36,741,509		37,283,671
Pro forma weighted average shares outstanding			44,550,162		45,427,280
Pro forma basic and diluted net loss per share			$ (0.44)		$ (0.20)

The Company has excluded all redeemable convertible preferred stock, redeemable convertible preferred stock warrants, common stock warrants and outstanding stock options from the calculation of diluted net loss per common share because all securities are antidilutive for the periods presented. The total number of shares excluded from the calculations of diluted net loss per common share was 31,073,109, 38,547,353 and 46,325,040 for the years ended December 31, 2000, 2001 and 2002, respectively, and 45,832,527 and 46,410,734 for the six months ended June 30, 2002 and 2003, respectively.

13. Subsequent events

Initial public offering

In September 2003, the Company's Board of Directors authorized the Company to file a registration statement with the Securities and Exchange Commission for an initial public offering of its common stock (the Offering). Prior to completion of the Offering, the Company will amend and restate its Certificate of Incorporation to authorize the issuance of up to 100 million shares of common stock, par value $0.001 per share, and 5 million shares of preferred stock, par value $0.001 per share, the rights and preferences of which may be established from time to time by the Board of Directors. If the Company's Offering is consummated, all of the outstanding redeemable convertible preferred stock will be automatically converted into common stock, and 470,725 redeemable convertible preferred stock warrants will expire upon the closing of the Offering. All remaining preferred stock warrants (256,353) which do not expire upon the closing will convert to common stock warrants upon the closing of the

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

Offering. Unaudited pro forma stockholders' equity as of June 30, 2003, reflects the effect of the assumed conversion of the preferred stock.

If the Offering is consummated, all related costs will be offset against the proceeds in equity. If not consummated, the costs will be charged to expense in the period the Offering is terminated. At June 30, 2003, there were no costs deferred associated with the Offering.

1996 Stock Plan

In September 2003, the 1996 Plan was amended to increase common stock reserved for grants to 6.4 million shares.

Other stock plans

In connection with the Offering, the Board of Directors authorized, subject to final shareholder approval, the following additional plans.

The 2003 Stock Plan (2003 Plan) provides for the grant of incentive stock options and stock purchase rights to employees (including employee directors) and nonstatutory stock options to employees, directors and consultants. A total of 3.5 million shares of common stock have been reserved for issuance under the 2003 Plan. The number of shares reserved for issuance under the 2003 Plan will be subject to an automatic annual increase on the first day of each fiscal year beginning in 2005 and ending in 2010 equal to the lesser of 600,000 shares, 4% of the number of outstanding shares of common stock on the last day of the immediately preceding fiscal year or such lesser number of shares as the Board of Directors determines. With respect to options granted under the 2003 Plan, the term of options may not exceed 10 years. In no event may an employee receive awards for more than 1 million shares under the 2003 Plan in any fiscal year.

A total of 500,000 shares of common stock has been reserved for issuance under the 2003 Directors' Stock Option Plan (2003 Directors' Plan). Under the 2003 Directors' Plan, each non-employee director who first becomes a non-employee director after the effective date of the plan will receive an automatic initial grant of an option to purchase 25,000 shares of common stock upon becoming a member of the Board of Directors. On the date of each annual meeting of stockholders, each non-employee director will be granted an option to purchase 10,000 shares of common stock if, on such a date, the director has served on the Board of Directors for at least six months. The 2003 Directors' Plan provides that each option granted to a new director shall vest at the rate of one-third of the total number of shares subject to such option 12 months after the date of grant, with the remaining shares vesting thereafter in equal monthly installments over the next two years so that the option will be fully vested after three years. Each annual option granted to a director vests in full at the end of one year. All options granted under the 2003 Directors' Plan have a term of 10 years and an exercise price equal to the fair market value on the date of the grant.

A total of 600,000 shares of common stock have been reserved for issuance under the 2003 Employee Stock Purchase Plan (2003 Employee Plan). The number of shares reserved for issuance under the 2003 Employee Plan will be increased on the first day of each of the fiscal years in 2005 to 2010 by the lesser of 300,000 shares, 1% of the number of outstanding shares of common stock on the last day of the

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

immediately preceding fiscal year or such lesser number of shares as the Board of Directors determines. Unless terminated earlier by the Board of Directors, the 2003 Employee Plan will terminate in September 2023.

Stock options

In September 2003, the Company's Board of Directors granted 886,500 and 15,000 stock options to employees and non-employees, respectively, under the 1996 Plan. The Company will record additional deferred compensation of $2.0 million related to these option grants to employees in the third quarter of 2003, which will be amortized over the vesting period. The options to non-employees will be periodically revalued and recognized as expense over the related service period.

SBIR grant

In August 2003, the Company was awarded a $1.2 million SBIR grant by the National Institutes of Health to help fund the Company's clinical trial evaluating the use of Xcellerated T Cells to treat patients with chronic lymphocytic leukemia.

Corporate collaborations

The Company has a letter of intent to establish an alliance with Taiwan Cellular Therapy Company, or TCTC, a company newly formed under the laws of Taiwan, to develop and market our Xcellerate Technology in Australia and Asia, excluding Japan. The letter of intent requires the Company to negotiate in good faith a definitive agreement with TCTC on or before November 15, 2003. The letter of intent provides that the definitive agreement is subject to, among other things, TCTC closing, or obtaining commitments for, at least $25 million in equity financing on or before December 30, 2003. If the Company elects not to proceed with the alliance for any reason, other than for a good faith inability to negotiate a definitive agreement, and the Company enters into an agreement with a third party in Australia or Asia before February 22, 2004, the Company will be required to pay a break-up fee to TCTC.

The Company has agreed to reserve the rights to its Xcellerate Technology in Australia and Asia for TCTC until at least December 30, 2003. If the Company completes an alliance with TCTC, the Company will be required to expend significant resources to transfer technology to TCTC and assist them in developing and manufacturing components of the Xcellerate Technology. The Company will also be required to invest $2.5 million in TCTC's equity financing.

Convertible promissory notes

In October 2003, the Company issued Convertible Promissory Notes for $12.7 million. Interest on the unpaid principal amount of the Notes accrues annually at a rate of 6 percent. Principal and any accrued but unpaid interest under these Notes are due and payable upon demand by the holder at any time after October 2004; provided, however, that on or after February 1, 2004, the holders of at least a majority of the aggregate principal amount of the Notes may elect to accelerate the maturity to a date after February 1, 2004.

NOTES TO FINANCIAL STATEMENTS — (continued)
(Information as of June 30, 2003, for the six months ended June 30, 2002 and 2003 and for the period from inception (January 5, 1996) to June 30, 2003 is unaudited)

In connection with the issuance of the Convertible Promissory Notes, the holders of the Notes received warrants to purchase additional shares of the Company's stock at a price defined in the warrant agreement. If an initial public offering occurs prior to the maturity date of the Notes and the closing of the next private financing, then the warrants will be null and void.

If the Company consummates its initial public offering in which all of the Company's outstanding preferred stock converts to common stock, prior to the maturity date, the entire principal amount of and accrued but unpaid interest on these Notes will be converted into shares of the Company's common stock with a par value per share of $0.001 simultaneously with the closing of the initial public offering.

Table of Contents

Part II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other expenses of issuance and distribution

The following table sets forth the costs and expenses, other than underwriting discounts and commissions, payable by us in connection with the sale of common stock being registered. All amounts are estimates except the SEC registration fee, the NASD filing fee and The Nasdaq National Market listing fee.

	Amount
SEC registration fee	$ 6,068
NASD filing fee	8,000
Nasdaq National Market listing fee	5,000
Printing and engraving expenses	75,000
Legal fees and expenses	150,000
Accounting fees and expenses	*
Blue sky qualification fees and expenses	*
Transfer agent and registrar fees	3,500
Miscellaneous fees and expenses	*
Total	$ *

* *To be filed by amendment.*

Item 14. Indemnification of directors and officers

Section 145 of the Delaware General Corporation Law authorizes a court to award, or a corporation to grant, indemnity to directors and officers in terms sufficiently broad to permit indemnification under certain circumstances for liabilities, including reimbursement for expenses incurred, arising under the Securities Act of 1933, as amended. Article XIV of our Amended and Restated Certificate of Incorporation (Exhibit 3.2 hereto) and Article VI of our Amended and Restated Bylaws (Exhibit 3.3 hereto), provide for indemnification of our directors and officers, and permits indemnification of our employees and other agents to the maximum extent permitted under the laws of Delaware. Delaware law provides that a corporation may eliminate the personal liability of its directors for monetary damages for breach of their fiduciary duties as directors, except liability for:

- breach of their duty of loyalty to the corporation or its stockholders;
- acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions; and
- any transaction from which the director derived an improper personal benefit.

In addition, we intend to enter into indemnification agreements (Exhibit 10.1 hereto) with our officers and directors. The underwriting agreement (Exhibit 1.1 hereto) also provides for cross-indemnification among us, and the underwriters with respect to certain matters, including matters arising under the Securities Act. We maintain directors' and officers' liability insurance.

Item 15. Recent Sales of Unregistered Securities

Since September 30, 2000, we have sold and issued the following securities:

1. As of September 30, 2003, we had granted and issued options to purchase 3,985,560 shares of our common stock with a weighted average price of $0.81 to a number of our employees, directors and consultants pursuant to our 1996 stock incentive compensation plan. Among those receiving options

were Ronald J. Berenson, Joanna S. Black, Mark Frohlich, Mark Bonyhadi, Kathi Cordova, Stewart Craig, Jean Deleage, Peter Langecker and Robert Williams.

2. As of September 30, 2003, we had issued an aggregate of 816,406 shares of our common stock to executive officers, directors and employees upon the exercise of stock options granted pursuant to our 1996 stock incentive compensation plan with an aggregate exercise price of $234,564. Among those that we have issued shares to were Ronald J. Berenson and Kathi Cordova.

3. In December 2000, we granted and issued a warrant with an expiration date of the earlier of either the closing of this offering or December 7, 2005, to purchase 80,000 shares of Series D Preferred Stock at an exercise price of $2.78 to Hibbs/Woodinville Associates, LLC in connection with a lease.

4. In December 2000, we issued 150,000 shares of our common stock to the Fred Hutchinson Cancer Research Center in connection with a license agreement.

5. In July 2001, we granted and issued a warrant with an expiration date of July 17, 2008 to purchase 23,741 shares of Series D Preferred Stock at an exercise price of $2.78 to General Electric Capital Corporation in connection with a loan agreement.

6. In November 2001, we issued 4,750,095 shares of our Series E Preferred Stock to investors, including but not limited to Alta Partners, ARCH Venture Corporation, MPM Capital, entities affiliated with Sprout Group and W Capital Partners Ironworks, L.P.for an aggregate cash consideration of $13,205,264.

7. In November 2001, we granted and issued warrants with an expiration date of the earlier of either the closing of this offering or November 12, 2006, to purchase an aggregate of 2,586,162 shares of common stock at an exercise price of $0.01 per share to our Series E investors for an aggregate cash consideration of $2,586, in connection with our Series E financing.

8. In November 2001, we granted and issued a warrant with an expiration date of the earlier of either the closing of this offering or August 8, 2005 to purchase 10,000 shares of Series E Preferred Stock at an exercise price of $2.78 to Chun-Te Liao in connection with consulting services.

9. In February and March 2002, we issued 4,444,251 shares of our Series F Preferred Stock to investors, including but not limited to Alta Partners, ARCH Venture Corporation, RiverVest, and affiliates of Sprout Group and W Capital Partners Ironworks, L.P. for an aggregate cash consideration of $12,355,018.

10. In February and March 2002, we granted and issued warrants with an expiration date of the earlier of either the closing of this offering or February and March 2012 to purchase an aggregate of 2,419,649 shares of common stock at an exercise price of $0.01 per share to our Series F investors for an aggregate cash consideration of $2,420, in connection with our Series F financing.

11. In February 2002, we granted and issued a warrant with an expiration date of February 7, 2009 to purchase 23,741 shares of Series F Preferred Stock at an exercise price of $2.78 to General Electric Capital Corporation in connection with a loan agreement.

12. In April 2003, we granted and issued a warrant with an expiration date of April 1, 2008 to purchase 35,000 shares of common stock at an exercise price of $1.00 to Inkeun Lee in connection with consulting services.

13. In April 2003, we granted and issued a warrant with an expiration date of April 1, 2008 to purchase 40,000 shares of common stock at an exercise price of $1.00 to Inkeun Lee in connection with consulting services.

14. In May 2002, we issued 350,000 shares of our common stock to the Trustees of the University of Pennsylvania in connection with a license agreement.

Part II

15. In July 2003, we granted and issued a warrant with an expiration date of the earlier of July 17, 2010 or the closing of this offering to purchase 464 shares of Series F Preferred Stock at an exercise price of $2.78 to Oxford Finance Corporation in connection with equipment loan.

16. In September 2003, we granted and issued a warrant with an expiration date of the earlier of September 5, 2010 or the closing of this offering to purchase 770 shares of Series F Preferred Stock at an exercise price of $2.78 to Oxford Finance Corporation in connection with equipment loan.

17. In October 2003, we sold convertible promissory notes in an aggregate amount of approximately $12.7 million to investors, including but not limited to Alta Partners, ARCH Venture Partners, MPM Capital, Sprout Group, Vector Fund and W Capital Partners Ironworks L.P. These convertible promissory notes will be converted into 7,268,265 shares of our common stock upon completion of this offering.

18. In October 2003, in connection with the sale of convertible promissory notes, we issued warrants to purchase shares of either preferred stock issued in our next equity financing at the then applicable price per share, or, if we have not had a next equity financing on or before the maturity date of the convertible promissory notes, our Series F Preferred Stock at an exercise price of $2.78 per share. The warrants are not exercisable on or prior to completion of this offering and terminate upon completion of this offering.

The issuances of the above securities were deemed to be exempt from registration under the Securities Act in reliance on Section 4(2) thereof or Regulation D, or another applicable exemption of the Securities Act as transactions by an issuer not involving any public offering. In addition, certain issuances described in Items 1 and 2 were deemed exempt from registration under the Securities Act in reliance upon Rule 701 promulgated under the Securities Act. The recipients of securities in each such transaction represented to us their intentions to acquire the securities for investment purposes only and not with a view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the share certificates and warrants issued in such transactions. All recipients had adequate access, through their relationships with us and otherwise, to information about us.

Item 16. Exhibits

Exhibit number	Description
1.1	Form of Underwriting Agreement.
3.1	Amended and Restated Certificate of Incorporation of Xcyte Therapies, Inc.
3.2	Form of Amended and Restated Certificate of Incorporation of Xcyte Therapies, Inc. to be filed and effective upon completion of this offering.
3.3	Amended and Restated Bylaws of Xcyte Therapies, Inc. to be effective upon completion of this offering.
4.1*	Form of Xcyte Therapies, Inc. Stock Certificate.
5.1*	Opinion of Heller Ehrman White & McAuliffe LLP.
10.1	Form of Indemnification Agreement between Xcyte Therapies and each of its officers and directors.
10.2	Series E Preferred Stock and Warrant Purchase Agreement dated November 13, 2001.
10.3	Series F Preferred Stock and Warrant Purchase Agreement dated February 5, 2002.

Part II

Exhibit number	Description
10.4	Amended and Restated Investor Rights Agreement dated February 5, 2002.
10.5	Amendment to Amended and Restated Investor Rights Agreement dated May 22, 2002.
10.6	Form of Warrant to purchase Common Stock issued by Xcyte Therapies, Inc.
10.7	Warrant to purchase Series D Preferred Stock dated December 7, 2000 issued by Xcyte Therapies, Inc. in favor of Hibbs/Woodinville Associates, LLC.
10.8	Form of Warrant to purchase Series F Preferred Stock issued by Xcyte Therapies, Inc. in favor of General Electric Capital Corporation.
10.9	Series E Preferred Stock Purchase Warrant issued by Xcyte Therapies in favor of Chun-Te Liao dated November 30, 2001.
10.10	Warrant to purchase Common Stock issued by Xcyte Therapies, Inc. in favor of Inkeun Lee dated April 1, 2003.
10.11	Warrant to purchase Common Stock issued by Xcyte Therapies, Inc. in favor of Inkeun Lee dated April 1, 2003.
10.12	Master Security Agreement between Xcyte Therapies, Inc. and Oxford Finance Corporation dated July 1, 2003.
10.13	Warrant to purchase Series F Preferred Stock issued by Xcyte Therapies, Inc. in favor of Oxford Finance Corporation dated July 17, 2003.
10.14	Warrant to purchase Series F Preferred Stock issued by Xcyte Therapies, Inc. in favor of Oxford Finance Corporation dated September 5, 2003.
10.15	Senior Loan and Security Agreement dated July 1, 1999 between Xcyte Therapies, Inc. and Phoenix Leasing Incorporated.
10.16	Master Security Agreement dated January 15, 2000 between Xcyte Therapies, Inc. and General Electric Capital Corporation.
10.17	Facility Lease dated June 21, 1999 between Xcyte Therapies, Inc. and Alexandria Real Estate Equities, Inc.
10.18	First Amendment to Lease dated October 23, 2001 to Lease dated June 21, 1999 between Xcyte Therapies, Inc. and Alexandria Real Estate Equities, Inc.
10.19	Second Amendment to Lease dated March 26, 2003 between Xcyte Therapies, Inc. and Alexandria Real Estate Equities, Inc.
10.20	Facility Lease dated December 7, 2000 between Xcyte Therapies, Inc. and Hibbs/ Woodinville Associates, LLC.
10.21	Amended and Restated 1996 Stock Option Plan.
10.22	2003 Stock Plan.
10.23	2003 Employee Stock Purchase Plan.
10.24	2003 Directors' Stock Option Plan.
10.25†*	Agreement dated August 28, 2003 between Xcyte Therapies, Inc. and Taiwan Cell Therapy Company, as amended.
10.26†*	License and Supply Agreement dated October 15, 1999 between Xcyte Therapies, Inc. and Diaclone S.A., as amended.

Part II

Exhibit number	Description
10.27†*	Development and Supply Agreement dated August 1, 1999 between Xcyte Therapies, Inc. and Dynal S.A.
10.28†	License Agreement dated July 8, 1998 between Xcyte Therapies, Inc., and Genetics Institute, Inc.
10.29†	Non-Exclusive License Agreement dated October 20, 1999 between Xcyte Therapies, Inc. and the Fred Hutchinson Cancer Research Center, as amended.
10.30†	Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.31†	Amendment No. 1 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.32†	Amendment No. 2 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.33†	Amendment No. 3 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.34†	Amendment No. 4 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.35†	Amendment No. 5 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.36†	Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.37†	Amendment No. 2 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.38†	Amendment No. 3 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.39	Employment Agreement between Xcyte Therapies, Inc. and Mark Frohlich, M.D. dated as of August 27, 2001.
10.40	Employment Agreement between Xcyte Therapies, Inc. and Joanna S. Black, J.D. dated as of December 31, 2001.
23.1	Consent of Ernst & Young LLP, Independent Auditors.
23.2*	Consent of Heller Ehrman White & McAuliffe LLP (included in Exhibit 5.1).
24.1	Power of Attorney (see page II-7).

* To be supplied by amendment.

† Certain information in these exhibits has been omitted and filed separately with the Securities and Exchange Commission pursuant to a confidential treatment request under 17 C.F.R. Sections 200.80(b)(4), 200.83 and 230.406.

Part II

Item 17. Undertakings

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) for purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective; and

(2) for the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Seattle, State of Washington on October 10, 2003.

XCYTE THERAPIES, INC.

By: /S/ RONALD J. BERENSON

Ronald J. Berenson, M.D.
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints, jointly and severally, Ronald J. Berenson, Joanna S. Black and Kathi L. Cordova, and each of them, as his attorney-in-fact, with full power of substitution, for him in any and all capacities, to sign any and all amendments to this Registration Statement (including post-effective amendments), and any and all Registration Statements filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, in connection with or related to the offering contemplated by this Registration Statement and its amendments, if any, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming such person's signature as it may be signed by said attorney to any and all amendments to said Registration Statement.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated:

Signature	Title	Date
/S/ RONALD J. BERENSON Ronald J. Berenson, M.D.	President, Chief Executive Officer and Director (Principal Executive Officer)	October 10, 2003
/S/ KATHI L. CORDOVA Kathi L. Cordova	Senior Vice President of Finance and Treasurer (Principal Financial and Accounting Officer)	October 10, 2003
/S/ ROBERT CURRY Robert Curry, Ph.D.	Director	October 10, 2003
/S/ JEAN DELEAGE Jean Deleage, Ph.D.	Director	October 10, 2003
/S/ DENNIS HENNER Dennis Henner, Ph.D.	Director	October 10, 2003
/S/ PETER LANGECKER Peter Langecker, M.D., Ph.D.	Director	October 10, 2003
/S/ ROBERT T. NELSEN Robert T. Nelsen	Director	October 10, 2003
Robert M. Williams, Ph.D.	Director	

Table of Contents

Exhibit index

Exhibit number	Description
1.1	Form of Underwriting Agreement.
3.1	Amended and Restated Certificate of Incorporation of Xcyte Therapies, Inc.
3.2	Form of Amended and Restated Certificate of Incorporation of Xcyte Therapies, Inc. to be filed and effective upon completion of this offering.
3.3	Amended and Restated Bylaws of Xcyte Therapies, Inc. to be effective upon completion of this offering.
4.1*	Form of Xcyte Therapies, Inc. Stock Certificate.
5.1*	Opinion of Heller Ehrman White & McAuliffe LLP.
10.1	Form of Indemnification Agreement between Xcyte Therapies and each of its officers and directors.
10.2	Series E Preferred Stock and Warrant Purchase Agreement dated November 13, 2001.
10.3	Series F Preferred Stock and Warrant Purchase Agreement dated February 5, 2002.
10.4	Amended and Restated Investor Rights Agreement dated February 5, 2002.
10.5	Amendment to Amended and Restated Investor Rights Agreement dated May 22, 2002.
10.6	Form of Warrant to purchase Common Stock issued by Xcyte Therapies, Inc.
10.7	Warrant to purchase Series D Preferred Stock dated December 7, 2000 issued by Xcyte Therapies, Inc. in favor of Hibbs/Woodinville Associates, LLC.
10.8	Form of Warrant to purchase Series F Preferred Stock issued by Xcyte Therapies, Inc. in favor of General Electric Capital Corporation.
10.9	Series E Preferred Stock Purchase Warrant issued by Xcyte Therapies in favor of Chun-Te Liao dated November 30, 2001.
10.10	Warrant to purchase Common Stock issued by Xcyte Therapies, Inc. in favor of Inkeun Lee dated April 1, 2003.
10.11	Warrant to purchase Common Stock issued by Xcyte Therapies, Inc. in favor of Inkeun Lee dated April 1, 2003.
10.12	Master Security Agreement between Xcyte Therapies, Inc. and Oxford Finance Corporation dated July 1, 2003.
10.13	Warrant to purchase Series F Preferred Stock issued by Xcyte Therapies, Inc. in favor of Oxford Finance Corporation dated July 17, 2003.
10.14	Warrant to purchase Series F Preferred Stock issued by Xcyte Therapies, Inc. in favor of Oxford Finance Corporation dated September 5, 2003.
10.15	Senior Loan and Security Agreement dated July 1, 1999 between Xcyte Therapies, Inc. and Phoenix Leasing Incorporated.
10.16	Master Security Agreement dated January 15, 2000 between Xcyte Therapies, Inc. and General Electric Capital Corporation.
10.17	Facility Lease dated June 21, 1999 between Xcyte Therapies, Inc. and Alexandria Real Estate Equities, Inc.
10.18	First Amendment to Lease dated October 23, 2001 to Lease dated June 21, 1999 between Xcyte Therapies, Inc. and Alexandria Real Estate Equities, Inc.
10.19	Second Amendment to Lease dated March 26, 2003 between Xcyte Therapies, Inc. and Alexandria Real Estate Equities, Inc.
10.20	Facility Lease dated December 7, 2000 between Xcyte Therapies, Inc. and Hibbs/ Woodinville Associates, LLC.
10.21	Amended and Restated 1996 Stock Option Plan.

Exhibit number	Description
10.22	2003 Stock Plan.
10.23	2003 Employee Stock Purchase Plan.
10.24	2003 Directors' Stock Option Plan.
10.25†*	Agreement dated August 28, 2003 between Xcyte Therapies, Inc. and Taiwan Cell Therapy Company, as amended.
10.26†*	License and Supply Agreement dated October 15, 1999 between Xcyte Therapies, Inc. and Diaclone S.A., as amended.
10.27†*	Development and Supply Agreement dated August 1, 1999 between Xcyte Therapies, Inc. and Dynal S.A.
10.28†	License Agreement dated July 8, 1998 between Xcyte Therapies, Inc., and Genetics Institute, Inc.
10.29†	Non-Exclusive License Agreement dated October 20, 1999 between Xcyte Therapies, Inc. and the Fred Hutchinson Cancer Research Center, as amended.
10.30†	Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.31†	Amendment No. 1 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.32†	Amendment No. 2 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.33†	Amendment No. 3 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.34†	Amendment No. 4 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.35†	Amendment No. 5 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.36†	Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.37†	Amendment No. 2 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.38†	Amendment No. 3 to the Services Agreement dated June 6, 2000 between Xcyte Therapies, Inc. and Lonza Biologics PLC.
10.39	Employment Agreement between Xcyte Therapies, Inc. and Mark Frohlich, M.D. dated as of August 27, 2001.
10.40	Employment Agreement between Xcyte Therapies, Inc. and Joanna S. Black, J.D. dated as of December 31, 2001.
23.1	Consent of Ernst & Young LLP, Independent Auditors.
23.2*	Consent of Heller Ehrman White & McAuliffe LLP (included in Exhibit 5.1).
24.1	Power of Attorney (see page II-7).

* To be supplied by amendment.

† Certain information in these exhibits has been omitted and filed separately with the Securities and Exchange Commission pursuant to a confidential treatment request under 17 C.F.R. Sections 200.80(b)(4), 200.83 and 230.406.

Exhibit 1.1

XCYTE THERAPIES, INC.

____ Shares

Common Stock
($0.001 par value per Share)

UNDERWRITING AGREEMENT

[trade date]

UNDERWRITING AGREEMENT

[trade date]

UBS Securities LLC
U.S. Bancorp Piper Jaffray Inc.
Wells Fargo Securities, LLC
as Managing Underwriters
c/o UBS Securities LLC
299 Park Avenue
New York, New York 10171-0026

Ladies and Gentlemen:

Xcyte Therapies, Inc., a Delaware corporation (the "Company"), proposes to issue and sell to the underwriters named in Schedule A annexed hereto (the "Underwriters"), for whom you are acting as representatives, an aggregate of [# of firm shares] shares (the "Firm Shares") of Common Stock, $0.001 par value per share (the "Common Stock"), of the Company. In addition, solely for the purpose of covering over-allotments, the Company proposes to grant to the Underwriters the option to purchase from the Company up to an additional [# of additional shares] shares of Common Stock (the "Additional Shares"). The Firm Shares and the Additional Shares are hereinafter collectively sometimes referred to as the "Shares." The Shares are described in the Prospectus which is referred to below.

The Company hereby acknowledges that, in connection with the proposed offering of the Shares, it has requested UBS Financial Services Inc. ("UBS-FinSvc") to administer a directed share program (the "Directed Share Program") under which up to [# of reserved shares] Firm Shares, or [__]% of the Firm Shares to be purchased by the Underwriters (the "Reserved Shares"), shall be reserved for sale by UBS-FinSvc at the initial public offering price to the Company's officers, directors, employees and consultants and other persons having a relationship with the Company as designated by the Company (the "Directed Share Participants") as part of the distribution of the Shares by the Underwriters, subject to the terms of this Agreement, the applicable rules, regulations and interpretations of the National Association of Securities Dealers, Inc. ("NASD") and all other applicable laws, rules and regulations. The number of Shares available for sale to the general public will be reduced to the extent that Directed Share Participants purchase Reserved Shares. The Underwriters may offer any Reserved Shares not purchased by Directed Share Participants to the general public on the same basis as the other Shares being issued and sold hereunder. Without limiting the generality of the foregoing, any Reserved Shares not confirmed in writing for purchase by any Directed Share Participants by the end of the business day immediately following the date hereof shall be deemed not to be purchased by Directed Share Participants and may be offered by the Underwriters to the general public on the same basis as the other Shares being issued and sold hereunder. The Company has supplied UBS-FinSvc with the names, addresses and telephone numbers of the individuals or other entities which the Company has designated to be participants in the Directed Share Program. It is understood that any number of those so designated to participate in the Directed Share Program may decline to do so.

The Company has filed, in accordance with the provisions of the Securities Act of 1933, as amended, and the rules and regulations thereunder (collectively, the "Act"), with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-1 (File No. [_____]), including a prospectus, relating to the Shares. The Company has furnished to you, for use by the Underwriters and by dealers, copies of one or more preliminary prospectuses (each such preliminary prospectus being herein called a "Preliminary Prospectus") relating to the Shares. Except where the context otherwise requires, the registration statement, as amended when it became or becomes effective, including all documents filed as a part thereof, and including any information contained in a prospectus subsequently filed with the Commission pursuant to Rule 424(b) under the Act and deemed to be part of the registration statement at the time of effectiveness pursuant to Rule 430A under the Act and also including any registration statement filed pursuant to Rule 462(b) under the Act, is herein called the "Registration Statement," and the prospectus in the form filed by the Company with the Commission pursuant to Rule 424(b) under the Act on or before the second business day after the date hereof (or such earlier time as may be required under the Act), or, if no such filing is required, the form of final prospectus included in the Registration Statement at the time it became effective, is herein called the "Prospectus." As used herein, "business day" shall mean a day on which the New York Stock Exchange is open for trading.

The Company and the Underwriters agree as follows:

1. Sale and Purchase. Upon the basis of the representations and warranties and subject to the terms and conditions herein set forth, the Company agrees to issue and sell to the respective Underwriters and each of the Underwriters, severally and not jointly, agrees to purchase from the Company the number of Firm Shares set forth opposite the name of such Underwriter in Schedule A attached hereto, subject to adjustment in accordance with Section 8 hereof, in each case at a purchase price of $[__] per Share. The Company is advised by you that the Underwriters intend (i) to make a public offering of their respective portions of the Firm Shares as soon after the effective date of the Registration Statement as in your judgment is advisable and (ii) initially to offer the Firm Shares upon the terms set forth in the Prospectus. You may from time to time increase or decrease the public offering price after the initial public offering to such extent as you may determine.

In addition, the Company hereby grants to the several Underwriters the option to purchase, and upon the basis of the representations and warranties and subject to the terms and conditions herein set forth, the Underwriters shall have the right to purchase, severally and not jointly, from the Company, ratably in accordance with the number of Firm Shares to be purchased by each of them, all or a portion of the Additional Shares as may be necessary to cover over-allotments made in connection with the offering of the Firm Shares, at the same purchase price per share to be paid by the Underwriters to the Company for the Firm Shares. This option may be exercised by UBS Securities LLC ("UBS") on behalf of the several Underwriters at any time and from time to time on or before the thirtieth day following the date of the Prospectus, by written notice to the Company. Such notice shall set forth the aggregate number of Additional Shares as to which the option is being exercised and the date and time when the Additional Shares are to be delivered (such date and time being herein referred to as

the "additional time of purchase"); provided, however, that the additional time of purchase shall not be earlier than the time of purchase (as defined below) nor earlier than the second business day after the date on which the option shall have been exercised nor later than the tenth business day after the date on which the option shall have been exercised. The number of Additional Shares to be sold to each Underwriter shall be the number which bears the same proportion to the aggregate number of Additional Shares being purchased as the number of Firm Shares set forth opposite the name of such Underwriter on Schedule A hereto bears to the total number of Firm Shares (subject, in each case, to such adjustment as you may determine to eliminate fractional shares), subject to adjustment in accordance with Section 8 hereof.

2. Payment and Delivery. Payment of the purchase price for the Firm Shares shall be made to the Company by Federal Funds wire transfer against delivery of the certificates for the Firm Shares to you through the facilities of The Depository Trust Company ("DTC") for the respective accounts of the Underwriters. Such payment and delivery shall be made at 10:00 A.M., New York City time, on [closing date] (unless another time shall be agreed to by you and the Company or unless postponed in accordance with the provisions of Section 8 hereof). The time at which such payment and delivery are to be made is hereinafter sometimes called "the time of purchase." Electronic transfer of the Firm Shares shall be made to you at the time of purchase in such names and in such denominations as you shall specify.

Payment of the purchase price for the Additional Shares shall be made at the additional time of purchase in the same manner and at the same office as the payment for the Firm Shares. Electronic transfer of the Additional Shares shall be made to you at the additional time of purchase in such names and in such denominations as you shall specify.

Deliveries of the documents described in Section 6 hereof with respect to the purchase of the Shares shall be made at the offices of Dewey Ballantine LLP at 1301 Avenue of the Americas, New York, New York 10019, at 9:00 A.M., New York City time, on the date of the closing of the purchase of the Firm Shares or the Additional Shares, as the case may be.

3. Representations and Warranties of the Company. The Company represents and warrants to and agrees with each of the Underwriters that:

(a) the Registration Statement has been declared effective under the Act; no stop order of the Commission preventing or suspending the use of any Preliminary Prospectus or the effectiveness of the Registration Statement has been issued and no proceedings for such purpose have been instituted or, to the Company's knowledge after due inquiry, are contemplated by the Commission; each Preliminary Prospectus, at the time of filing thereof, complied with the requirements of the Act, and the last Preliminary Prospectus distributed in connection with the offering of the Shares did not, as of its date, and does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; the Registration Statement complied when it became effective, complies and, at the time of purchase and any additional time of purchase and any time at which any sales with respect to which the Prospectus is delivered, will comply with the requirements of the Act, and the Prospectus

will comply, as of its date and at the time of purchase and any additional times of purchase and any time at which any sales with respect to which the Prospectus is delivered, with the requirements of the Act; any statutes, regulations, contracts or other documents that are required to be described in the Registration Statement or the Prospectus or to be filed as exhibits to the Registration Statement have been and will be so described or filed; the conditions to the use of Form S-1 have been satisfied; the Registration Statement did not when it became effective, does not and, at the time of purchase and any additional time of purchase and any time at which any sales with respect to which the Prospectus is delivered, will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and the Prospectus will not, as of its date and at the time of purchase and any additional time of purchase and any time at which any sales with respect to which the Prospectus is delivered, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the Company makes no warranty or representation with respect to any statement contained in the last Preliminary Prospectus, the Registration Statement or the Prospectus in reliance upon and in conformity with information concerning an Underwriter and furnished in writing by or on behalf of such Underwriter through you to the Company expressly for use in the last Preliminary Prospectus, the Registration Statement or the Prospectus; and the Company has not distributed and will not distribute any "prospectus" (within the meaning of the Act) or offering material in connection with the offering or sale of the Shares other than the Registration Statement, the then most recent Preliminary Prospectus and the Prospectus;

(b) as of the date of this Agreement, the Company has an authorized and outstanding capitalization as set forth in the section of the Registration Statement and the Prospectus entitled "Capitalization" and "Description of capital stock," and, as of the time of purchase and the additional time of purchase, as the case may be, the Company shall have an authorized and outstanding capitalization as set forth in the section of the Registration Statement and the Prospectus entitled "Capitalization" and "Description of capital stock" (subject, in each case, to the issuance of shares of Common Stock upon exercise of stock options and warrants disclosed as outstanding in the Registration Statement and the Prospectus and the grant of options under existing stock option plans described in the Registration Statement and the Prospectus); all of the issued and outstanding shares of capital stock, including the Common Stock, of the Company have been duly authorized and validly issued and are fully paid and non-assessable, have been issued in compliance with all federal and state securities laws and were not issued in violation of any preemptive right, resale right, right of first refusal or similar right; prior to the time of purchase, all outstanding shares of the Company's [legal description of p/s], $[__] par value per share, and $[aggregate principal amount] of [legal description of notes], shall convert into the number of shares of Common Stock, and shall convert in the manner, set forth in the Registration Statement and the Prospectus; and, prior to the date hereof, the Company has duly effected and completed a [x] for [x] reverse stock split of the Common Stock in the manner set forth in the Registration Statement and the Prospectus;

(c) the Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware, with full corporate power and authority to own, lease and operate its properties and conduct its business as described in the Registration Statement and the Prospectus, to execute and deliver this Agreement and to issue, sell and deliver the Shares as contemplated herein;

(d) the Company is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where the ownership or leasing of its properties or the conduct of its business requires such qualification, except where the failure to be so qualified and in good standing would not, individually or in the aggregate, have a material adverse effect on the business, properties, financial condition, results of operation or prospects of the Company and the Subsidiaries (as hereinafter defined) taken as a whole (a "Material Adverse Effect");

(e) the Company has no subsidiaries (as defined under the Act) other than [_____] (collectively, the "Subsidiaries"); the Company owns all of the issued and outstanding capital stock of each of the Subsidiaries; other than the capital stock of the Subsidiaries, the Company does not own, directly or indirectly, any shares of stock or any other equity or long-term debt securities of any corporation or have any equity interest in any firm, partnership, joint venture, association or other entity; complete and correct copies of the certificates of incorporation and the bylaws of the Company and the Subsidiaries and all amendments thereto have been delivered to you, and, except as set forth in the exhibits to the Registration Statement, no changes therein will be made on or after the date hereof or on or before the time of purchase or, if later, the additional time of purchase; each Subsidiary has been duly incorporated and is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation, with full corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement and the Prospectus; each Subsidiary is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where the ownership or leasing of its properties or the conduct of its business requires such qualification, except where the failure to be so qualified and in good standing would not, individually or in the aggregate, have a Material Adverse Effect; all of the outstanding shares of capital stock of each of the Subsidiaries have been duly authorized and validly issued, are fully paid and non-assessable and are owned by the Company subject to no security interest, other encumbrance or adverse claims; no options, warrants or other rights to purchase, agreements or other obligations to issue or other rights to convert any obligation into shares of capital stock or ownership interests in the Subsidiaries are outstanding; and the Company has no "significant subsidiary," as that term is defined in Rule 1-02(w) of Regulation S-X under the Act, and no group consisting of any or all of the Subsidiaries would, in the aggregate, constitute a "significant subsidiary" of the Company;

(f) the Shares have been duly and validly authorized and, when issued and delivered against payment therefor as provided herein, will be duly and validly issued, fully paid and non-assessable and free of statutory and contractual preemptive rights,

resale rights, rights of first refusal and similar rights;

(g) the capital stock of the Company, including the Shares, conforms to the description thereof contained in the Registration Statement and the Prospectus, and the certificates for the Shares are in due and proper form and the holders of the Shares will not be subject to personal liability by reason of being such holders;

(h) this Agreement has been duly authorized, executed and delivered by the Company;

(i) neither the Company nor any of the Subsidiaries is in breach or violation of or in default under (nor has any event occurred which with notice, lapse of time or both would result in any breach or violation of, constitute a default under or give the holder of any indebtedness (or a person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a part of such indebtedness under) its respective charter or bylaws, or any indenture, mortgage, deed of trust, bank loan or credit agreement or other evidence of indebtedness, or any license, lease, contract or other agreement or instrument to which the Company or any of the Subsidiaries is a party or by which any of them or any of their properties may be bound or affected, and the execution, delivery and performance of this Agreement, the issuance and sale of the Shares and the consummation of the transactions contemplated hereby will not conflict with, result in any breach or violation of or constitute a default under (nor constitute any event which with notice, lapse of time or both would result in any breach or violation of or constitute a default under) the charter or bylaws of the Company or any of the Subsidiaries, or any indenture, mortgage, deed of trust, bank loan or credit agreement or other evidence of indebtedness, or any license, lease, contract or other agreement or instrument to which the Company or any of the Subsidiaries is a party or by which any of them or any of their respective properties may be bound or affected, or any federal, state, local or foreign law, regulation or rule or any decree, judgment or order applicable to the Company or any of the Subsidiaries;

(j) no approval, authorization, consent or order of or filing with any federal, state, local or foreign governmental or regulatory commission, board, body, authority or agency, or of or with the National Association of Securities Dealers Automated Quotation National Market System ("NASDAQ"), or approval of the stockholders of the Company, is required in connection with the issuance and sale of the Shares or the consummation by the Company of the transactions contemplated hereby other than registration of the Shares under the Act, which has been effected, and any necessary qualification under the securities or blue sky laws of the various jurisdictions in which the Shares are being offered by the Underwriters or under the rules and regulations of the NASD;

(k) except as expressly set forth in the Registration Statement and the Prospectus, (i) no person has the right, contractual or otherwise, to cause the Company to issue or sell to it any shares of Common Stock or shares of any other capital stock or other equity interests of the Company, (ii) no person has any preemptive rights, resale

rights, rights of first refusal or other rights to purchase any shares of Common Stock or shares of any other capital stock of or other equity interests in the Company and (iii) no person has the right to act as an underwriter or as a financial advisor to the Company in connection with the offer and sale of the Shares, in the case of each of the foregoing clauses (i), (ii) and (iii), whether as a result of the filing or effectiveness of the Registration Statement or the sale of the Shares as contemplated thereby or otherwise; no person has the right, contractual or otherwise, to cause the Company to register under the Act any shares of Common Stock or shares of any other capital stock of or other equity interests in the Company, or to include any such shares or interests in the Registration Statement or the offering contemplated thereby, whether as a result of the filing or effectiveness of the Registration Statement or the sale of the Shares as contemplated thereby or otherwise;

(l) each of the Company and the Subsidiaries has all necessary licenses, authorizations, consents and approvals and has made all necessary filings required under any federal, state, local or foreign law, regulation or rule, and has obtained all necessary licenses, authorizations, consents and approvals from other persons, in order to conduct its respective business; neither the Company nor any of the Subsidiaries is in violation of, or in default under, or has received notice of any proceedings relating to revocation or modification of, any such license, authorization, consent or approval or any federal, state, local or foreign law, regulation or rule or any decree, order or judgment applicable to the Company or any of the Subsidiaries, except where such violation, default, revocation or modification would not, individually or in the aggregate, have a Material Adverse Effect;

(m) all legal or governmental proceedings, affiliate transactions, off-balance sheet transactions (including, without limitation, transactions related to, and the existence of, "variable interest entities" within the meaning of Financial Accounting Standards Board Interpretation No. 46), contracts, licenses, agreements, leases or documents of a character required to be described in the Registration Statement or the Prospectus or to be filed as an exhibit to the Registration Statement have been so described or filed as required;

(n) there are no actions, suits, claims, investigations or proceedings pending or threatened or, to the Company's knowledge after due inquiry, contemplated to which the Company or any of the Subsidiaries or any of their respective directors or officers is or would be a party or of which any of their respective properties is or would be subject at law or in equity, before or by any federal, state, local or foreign governmental or regulatory commission, board, body, authority or agency, except any such action, suit, claim, investigation or proceeding which would not result in a judgment, decree or order having, individually or in the aggregate, a Material Adverse Effect or preventing consummation of the transactions contemplated hereby;

(o) Ernst & Young LLP, whose report on the consolidated financial statements of the Company and the Subsidiaries is included the Registration Statement and the Prospectus, are independent public accountants as required by the Act and by Rule 3600T of the Public Company Accounting Oversight Board (the "PCAOB");

PricewaterhouseCoopers LLP, whose report on the consolidated financial statements of the Company and the Subsidiaries is included the Registration Statement and the Prospectus, are independent public accountants as required by the Act and by Rule 3600T of the PCAOB;

(p) the financial statements included in the Registration Statement and the Prospectus, together with the related notes and schedules, present fairly the consolidated financial position of the Company and the Subsidiaries as of the dates indicated and the consolidated results of operations and cash flows of the Company and the Subsidiaries for the periods specified and have been prepared in compliance with the requirements of the Act and in conformity with generally accepted accounting principles applied on a consistent basis during the periods involved; any pro forma financial statements or data included in the Registration Statement and the Prospectus comply with the requirements of Regulation S-X of the Act, including, without limitation, Article 11 thereof, and the assumptions used in the preparation of such pro forma financial statements and data are reasonable, the pro forma adjustments used therein are appropriate to give effect to the transactions or circumstances described therein and the pro forma adjustments have been properly applied to the historical amounts in the compilation of those statements and data; the other financial and statistical data set forth in the Registration Statement and the Prospectus are accurately presented and prepared on a basis consistent with the financial statements and books and records of the Company; there are no financial statements (historical or pro forma) that are required to be included in the Registration Statement and the Prospectus (including, without limitation, as required by Rules 3-12 or 3-05 or Article 11 of Regulation S-X under the Act) that are not included as required; the Company and the Subsidiaries do not have any material liabilities or obligations, direct or contingent (including any off-balance sheet obligations or any "variable interest entities" within the meaning of Financial Accounting Standards Board Interpretation No. 46), not disclosed in the Registration Statement and the Prospectus; and all disclosures contained in the Registration Statement or the Prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply with Regulation G of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (collectively, the "Exchange Act") and Item 10 of Regulation S-K under the Act, to the extent applicable;

(q) subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, there has not been (i) any material adverse change, or any development involving a prospective material adverse change, in the business, properties, management, financial condition or results of operations of the Company and the Subsidiaries taken as a whole, (ii) any transaction which is material to the Company and the Subsidiaries taken as a whole, (iii) any obligation, direct or contingent (including any off-balance sheet obligations), incurred by the Company or the Subsidiaries, which is material to the Company and the Subsidiaries taken as a whole, (iv) any change in the capital stock or outstanding indebtedness of the Company or the Subsidiaries or (v) any dividend or distribution of any kind declared, paid or made on the capital stock of the Company;

(r) the Company has obtained for the benefit of the Underwriters the agreement (a "Lock-Up Agreement"), in the form set forth as Exhibit A hereto, of each of its directors and officers and each holder of shares of Common Stock or any security convertible into or exercisable or exchangeable for Common Stock or any warrant or other right to purchase Common Stock or any such security;

(s) the Company is not and, after giving effect to the offering and sale of the Shares, will not be an "investment company" or an entity "controlled" by an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended (the "Investment Company Act");

(t) the Company is not and, after giving effect to the offering and sale of the Shares, will not be a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of a "holding company" or of a "subsidiary company," as such terms are defined in the Public Utility Holding Company Act of 1935, as amended (the "Public Utility Holding Company Act");

(u) the Company and each of the Subsidiaries have good and marketable title to all property (real and personal) described the Registration Statement or in the Prospectus as being owned by each of them, free and clear of all liens, claims, security interests or other encumbrances; all the property described in the Registration Statement and the Prospectus as being held under lease by the Company or a Subsidiary is held thereby under valid, subsisting and enforceable leases;

(v) the Company and the Subsidiaries own, or have obtained valid and enforceable licenses for, or other rights to use, the inventions, patent applications, patents, trademarks (both registered and unregistered), tradenames, service names, copyrights, trade secrets and other proprietary information described in the Registration Statement or the Prospectus as being owned or licensed by them or which are necessary for the conduct of their respective businesses, except where the failure to own, license or have such rights would not, individually or in the aggregate, have a Material Adverse Effect (collectively, "Intellectual Property"); (i) there are no third parties who have or, to the Company's knowledge after due inquiry, will be able to establish rights to any Intellectual Property, except for the ownership rights of the owners of the Intellectual Property which is licensed to the Company; (ii) there is no infringement by third parties of any Intellectual Property; (iii) there is no pending or threatened action, suit, proceeding or claim by others challenging the Company's rights in or to any Intellectual Property, and the Company is unaware of any facts which could form a reasonable basis for any such action, suit, proceeding or claim; (iv) there is no pending or threatened action, suit, proceeding or claim by others challenging the validity or scope of any Intellectual Property, and the Company is unaware of any facts which could form a reasonable basis for any such action, suit, proceeding or claim; (v) there is no pending or threatened action, suit, proceeding or claim by others that the Company or any Subsidiary infringes or otherwise violates any patent, trademark, tradename, service name, copyright, trade secret or other proprietary rights of others, and the Company is unaware of any facts which could form a reasonable basis for any such action, suit, proceeding or claim;

(vi) there is no patent or patent application that contains claims that interfere with the issued or pending claims of any of the Intellectual Property; and (vii) there is no prior art that may render any patent application owned by the Company or any Subsidiary of the Intellectual Property unpatentable that has not been disclosed to the U.S. Patent and Trademark Office;

(w) neither the Company nor any of the Subsidiaries is engaged in any unfair labor practice; except for matters which would not, individually or in the aggregate, have a Material Adverse Effect, (i) there is (A) no unfair labor practice complaint pending or, to the Company's knowledge after due inquiry, threatened against the Company or any of the Subsidiaries before the National Labor Relations Board, and no grievance or arbitration proceeding arising out of or under collective bargaining agreements is pending or threatened, (B) no strike, labor dispute, slowdown or stoppage pending or, to the Company's knowledge after due inquiry, threatened against the Company or any of the Subsidiaries and (C) no union representation dispute currently existing concerning the employees of the Company or any of the Subsidiaries, and (ii) to the Company's knowledge after due inquiry, (A) no union organizing activities are currently taking place concerning the employees of the Company or any of the Subsidiaries and (B) there has been no violation of any federal, state, local or foreign law relating to discrimination in the hiring, promotion or pay of employees, any applicable wage or hour laws or any provision of the Employee Retirement Income Security Act of 1974 ("ERISA") or the rules and regulations promulgated thereunder concerning the employees of the Company or any of the Subsidiaries;

(x) the Company and the Subsidiaries and their properties, assets and operations are in compliance with, and hold all permits, authorizations and approvals required under, Environmental Laws (as defined below), except to the extent that failure to so comply or to hold such permits, authorizations or approvals would not, individually or in the aggregate, have a Material Adverse Effect; there are no past, present or, to the Company's knowledge after due inquiry, reasonably anticipated future events, conditions, circumstances, activities, practices, actions, omissions or plans that could reasonably be expected to give rise to any material costs or liabilities to the Company or the Subsidiaries under, or to interfere with or prevent compliance by the Company or the Subsidiaries with, Environmental Laws; except as would not, individually or in the aggregate, have a Material Adverse Effect, neither the Company nor any of the Subsidiaries (i) is the subject of any investigation, (ii) has received any notice or claim, (iii) is a party to or affected by any pending or threatened action, suit or proceeding, (iv) is bound by any judgment, decree or order or (v) has entered into any agreement, in each case relating to any alleged violation of any Environmental Law or any actual or alleged release or threatened release or cleanup at any location of any Hazardous Materials (as defined below) (as used herein, "Environmental Law" means any federal, state, local or foreign law, statute, ordinance, rule, regulation, order, decree, judgment, injunction, permit, license, authorization or other binding requirement, or common law, relating to health, safety or the protection, cleanup or restoration of the environment or natural resources, including those relating to the distribution, processing, generation, treatment, storage, disposal, transportation, other handling or release or threatened release of

Hazardous Materials, and "Hazardous Materials" means any material (including, without limitation, pollutants, contaminants, hazardous or toxic substances or wastes) that is regulated by or may give rise to liability under any Environmental Law);

(y) in the ordinary course of its business, the Company and each of the Subsidiaries conducts a periodic review of the effect of the Environmental Laws on its business, operations and properties, in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for cleanup, closure of properties or compliance with the Environmental Laws or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties);

(z) all tax returns required to be filed by the Company and each of the Subsidiaries have been filed, and all taxes and other assessments of a similar nature (whether imposed directly or through withholding) including any interest, additions to tax or penalties applicable thereto due or claimed to be due from such entities have been paid, other than those being contested in good faith and for which adequate reserves have been provided;

(aa) the Company and each of the Subsidiaries maintains insurance covering its properties, operations, personnel and businesses as the Company deems adequate; such insurance insures against such losses and risks to an extent which is adequate in accordance with customary industry practice to protect the Company and the Subsidiaries and their businesses; all such insurance is fully in force on the date hereof and will be fully in force at the time of purchase and any additional time of purchase;

(bb) neither the Company nor any of the Subsidiaries has sustained since the date of the last audited financial statements included in the Registration Statement and the Prospectus any loss or interference with its respective business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree;

(cc) the Company has not sent or received any communication regarding termination of, or intent not to renew, any of the contracts or agreements referred to or described in, or filed as an exhibit to, the Registration Statement, and no such termination or non-renewal has been threatened by the Company or, to the Company's knowledge after due inquiry, any other party to any such contract or agreement;

(dd) the Company and each of the Subsidiaries maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with

respect to any differences;

(ee) the Company has established and maintains and evaluates "disclosure controls and procedures" (as such term is defined in Rule 13a-14 and 15d-14 under the Exchange Act) and "internal control over financial reporting" (as such term is defined in Rule 13a-15 and 15d-15 under the Exchange Act); such disclosure controls and procedures are designed to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the Company's Chief Executive Officer and its Chief Financial Officer by others within those entities, and such disclosure controls and procedures are effective to perform the functions for which they were established; the Company's auditors and the Audit Committee of the Board of Directors of the Company have been advised of: (i) any significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize, and report financial data; and (ii) any fraud, whether or not material, that involves management or other employees who have a role in the Company's internal controls; any material weaknesses in internal controls have been identified for the Company's auditors; and since the date of the most recent evaluation of such disclosure controls and procedures, there have been no significant changes in internal controls or in other factors that could significantly affect internal controls, including any corrective actions with regard to significant deficiencies and material weaknesses;

(ff) the Company has provided you true, correct and complete copies of all documentation pertaining to any extension of credit in the form of a personal loan made, directly or indirectly, by the Company or any Subsidiary to any director or executive officer of the Company, or to any family member or affiliate of any director or executive officer of the Company; and on or after July 30, 2002, the Company has not, directly or indirectly, including through any Subsidiary: (i) extended credit, arranged to extend credit, or renewed any extension of credit, in the form of a personal loan, to or for any director or executive officer of the Company, or to or for any family member or affiliate of any director or executive officer of the Company; or (ii) made any material modification, including any renewal thereof, to any term of any personal loan to any director or executive officer of the Company, or any family member or affiliate of any director or executive officer, which loan was outstanding on July 30, 2002;

(gg) all statistical or market-related data included in the Registration Statement or the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate, and the Company has obtained the written consent to the use of such data from such sources to the extent required;

(hh) neither the Company nor any of the Subsidiaries nor, to the Company's knowledge after due inquiry, any employee or agent of the Company or the Subsidiaries has made any payment of funds of the Company or the Subsidiaries or received or retained any funds in violation of any law, rule or regulation, which payment, receipt or retention of funds is of a character required to be disclosed in the Registration Statement or the Prospectus;

(ii) the preclinical tests and clinical trials that are described in, or the results of which are referred to in, the Registration Statement or the Prospectus were and, if still pending, are being conducted in accordance with protocols filed with the appropriate regulatory authorities for each such test or trial, as the case may be; the description of the results of such tests and trials contained in the Registration Statement or the Prospectus are accurate and complete, and the Company has no knowledge of any other studies or tests the results of which are inconsistent with, or otherwise call into question, the results described or referred to in the Registration Statement or the Prospectus; the Company has not received any notices or other correspondence from the Food and Drug Administration of the U.S. Department of Health and Human Services or any committee thereof or from any other governmental agency requiring the termination, suspension or modification of any clinical trials that are described or referred to in the Registration Statement or the Prospectus;

(jj) except pursuant to this Agreement, neither the Company nor any of the Subsidiaries has incurred any liability for any finder's or broker's fee or agent's commission in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby or by the Prospectus;

(kk) neither the Company nor any of the Subsidiaries nor any of their respective directors, officers, affiliates or controlling persons has taken, directly or indirectly, any action designed, or which has constituted or might reasonably be expected to cause or result in, under the Exchange Act or otherwise, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Shares;

(ll) to the Company's knowledge after due inquiry, there are no affiliations or associations between any member of the NASD and any of the Company's officers, directors or 5% or greater securityholders, except as set forth in the Registration Statement and the Prospectus;

(mm) the Registration Statement, the Prospectus and any Preliminary Prospectus comply, and any further amendments or supplements thereto will comply, with any applicable laws or regulations of any foreign jurisdiction in which the Prospectus or any preliminary prospectus is distributed in connection with the Directed Share Program; and no approval, authorization, consent or order of or filing with any governmental or regulatory commission, board, body, authority or agency, other than those heretofore obtained, is required in connection with the offering of the Reserved Shares in any jurisdiction where the Reserved Shares are being offered; and

(nn) the Company has not offered, or caused the Underwriters to offer, Shares to any person pursuant to the Directed Share Program with the intent to influence unlawfully (i) a customer or supplier of the Company or any of the Subsidiaries to alter the customer's or supplier's level or type of business with the Company or any of the Subsidiaries, or (ii) a trade journalist or publication to write or publish favorable information about the Company or any of the Subsidiaries or any of their respective products or services.

In addition, any certificate signed by any officer of the Company or any of the Subsidiaries and delivered to the Underwriters or counsel for the Underwriters in connection with the offering of the Shares shall be deemed to be a representation and warranty by the Company or Subsidiary, as the case may be, as to matters covered thereby, to each Underwriter.

4. Certain Covenants of the Company. The Company hereby agrees:

(a) to furnish such information as may be required and otherwise to cooperate in qualifying the Shares for offering and sale under the securities or blue sky laws of such states or other jurisdictions as you may designate and to maintain such qualifications in effect so long as you may request for the distribution of the Shares; provided, however, that the Company shall not be required to qualify as a foreign corporation or to consent to the service of process under the laws of any such jurisdiction (except service of process with respect to the offering and sale of the Shares); and to promptly advise you of the receipt by the Company of any notification with respect to the suspension of the qualification of the Shares for offer or sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(b) to make available to the Underwriters in New York City, as soon as practicable after the Registration Statement becomes effective, and thereafter from time to time to furnish to the Underwriters, as many copies of the Prospectus (or of the Prospectus as amended or supplemented if the Company shall have made any amendments or supplements thereto after the effective date of the Registration Statement) as the Underwriters may request for the purposes contemplated by the Act; in case any Underwriter is required to deliver a prospectus after the nine-month period referred to in Section 10(a)(3) of the Act in connection with the sale of the Shares, the Company will prepare, at its expense, promptly upon request such amendment or amendments to the Registration Statement and the Prospectus as may be necessary to permit compliance with the requirements of Section 10(a)(3) of the Act;

(c) if, at the time this Agreement is executed and delivered, it is necessary for the Registration Statement or any post-effective amendment thereto to be declared effective before the Shares maybe sold, the Company will endeavor to cause the Registration Statement or such post-effective amendment to become effective as soon as possible, and the Company will advise you promptly and, if requested by you, will confirm such advice in writing, (i) when the Registration Statement and any such post-effective amendment thereto has become effective, and (ii) if Rule 430A under the Act is used, when the Prospectus is filed with the Commission pursuant to Rule 424(b) under the Act (which the Company agrees to file in a timely manner under such Rule);

(d) to advise you promptly, confirming such advice in writing, of any request by the Commission for amendments or supplements to the Registration Statement or the Prospectus or for additional information with respect thereto, or of notice of institution of

proceedings for, or the entry of a stop order, suspending the effectiveness of the Registration Statement and, if the Commission should enter a stop order suspending the effectiveness of the Registration Statement, to use its best efforts to obtain the lifting or removal of such order as soon as possible; to advise you promptly of any proposal to amend or supplement the Registration Statement or the Prospectus and to provide you and Underwriters' counsel copies of any such documents for review and comment a reasonable amount of time prior to any proposed filing and to file no such amendment or supplement to which you shall object in writing;

(e) to file promptly all reports and any definitive proxy or information statement required to be filed by the Company with the Commission in order to comply with the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus is required in connection with the offering or sale of the Shares; to provide you with a copy of such reports and statements and other documents to be filed by the Company pursuant to Section 13, 14 or 15(d) of the Exchange Act during such period for your review and comment a reasonable amount of time prior to any proposed filing, and to file no such report, statement or document to which you shall object in writing; and to promptly notify you of any such filing;

(f) if necessary or appropriate, to file a registration statement pursuant to Rule 462(b) under the Act and pay the applicable fees in accordance with the Act;

(g) to advise the Underwriters promptly of the happening of any event within the time during which a prospectus relating to the Shares is required to be delivered under the Act which could require the making of any change in the Prospectus then being used so that the Prospectus would not include an untrue statement of material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading, and, during such time, subject to Section 4(d) hereof, to prepare and furnish, at the Company's expense, to the Underwriters promptly such amendments or supplements to such Prospectus as may be necessary to reflect any such change;

(h) to make generally available to its security holders, and to deliver to you, an earnings statement of the Company (which will satisfy the provisions of Section 11(a) of the Act) covering a period of twelve months beginning after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act) as soon as is reasonably practicable after the termination of such twelve-month period but in any case not later than, March 1, 2005;

(i) to furnish to its stockholders as soon as practicable after the end of each fiscal year an annual report (including a consolidated balance sheet and statements of income, shareholders' equity and cash flow of the Company and the Subsidiaries for such fiscal year, accompanied by a copy of the certificate or report thereon of nationally recognized independent certified public accountants duly registered with the PCAOB);

(j) to furnish to you five (5) copies of the Registration Statement, as initially filed with the Commission, and of all amendments thereto (including all exhibits thereto) and sufficient copies of the foregoing (other than exhibits) for distribution of a copy to each of the other Underwriters;

(k) to furnish to you promptly and, upon request, to each of the other Underwriters for a period of five years from the date of this Agreement (i) copies of any reports, proxy statements, or other communications which the Company shall send to its stockholders or shall from time to time publish or publicly disseminate, (ii) copies of all annual, quarterly, transition and current reports filed with the Commission on Forms 10-K, 10-Q or 8-K, or such other similar forms as may be designated by the Commission, (iii) copies of documents or reports filed with any national securities exchange on which any class of securities of the Company is listed and (iv) such other information as you may reasonably request regarding the Company or the Subsidiaries;

(l) to furnish to you as early as practicable prior to the time of purchase and any additional time of purchase, as the case may be, but not later than two business days prior thereto, a copy of the latest available unaudited interim and monthly consolidated financial statements, if any, of the Company and the Subsidiaries which have been read by the Company's independent certified public accountants, as stated in their letter to be furnished pursuant to Section 6(e) hereof;

(m) to apply the net proceeds from the sale of the Shares in the manner set forth under the caption "Use of proceeds" in the Prospectus;

(n) to pay all costs, expenses, fees and taxes in connection with (i) the preparation and filing of the Registration Statement, each Preliminary Prospectus, the Prospectus and any amendments or supplements thereto, and the printing and furnishing of copies of each thereof to the Underwriters and to dealers (including costs of mailing and shipment), (ii) the registration, issue, sale and delivery of the Shares including any stock or transfer taxes and stamp or similar duties payable upon the sale, issuance or delivery of the Shares to the Underwriters, (iii) the producing, word processing and/or printing of this Agreement, any Agreement Among Underwriters, any dealer agreements, any Powers of Attorney and any closing documents (including compilations thereof) and the reproduction and/or printing and furnishing of copies of each thereof to the Underwriters and (except closing documents) to dealers (including costs of mailing and shipment), (iv) the qualification of the Shares for offering and sale under state or foreign laws and the determination of their eligibility for investment under state or foreign law as aforesaid (including the legal fees and filing fees and other disbursements of counsel for the Underwriters) and the printing and furnishing of copies of any blue sky surveys or legal investment surveys to the Underwriters and to dealers, (v) any listing of the Shares on any securities exchange or qualification of the Shares for quotation on the NASDAQ and any registration thereof under the Exchange Act, (vi) any filing for review of the public offering of the Shares by the NASD, including the legal fees and filing fees and other disbursements of counsel to the Underwriters, (vii) the fees and disbursements of any transfer agent or registrar for the Shares, (viii) the costs and expenses of the Company relating to presentations or meetings undertaken in connection with the

marketing of the offering and sale of the Shares to prospective investors and the Underwriters' sales forces, including, without limitation, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations, travel, lodging and other expenses incurred by the officers of the Company and any such consultants, and the cost of any aircraft chartered in connection with the road show, (ix) the offer and sale of the Reserved Shares, including all costs and expenses of UBS-FinSvc and the Underwriters, including the fees and disbursement of counsel for the Underwriters, and (x) the performance of the Company's other obligations hereunder;

(o) not to sell, offer to sell, contract or agree to sell, hypothecate, pledge, grant any option to purchase or otherwise dispose of or agree to dispose of, directly or indirectly, any Common Stock or securities convertible into or exchangeable or exercisable for Common Stock or warrants or other rights to purchase Common Stock or any other securities of the Company that are substantially similar to Common Stock, or file or cause to be declared effective a registration statement under the Act relating to the offer and sale of any shares of Common Stock or securities convertible into or exercisable or exchangeable for Common Stock or warrants or other rights to purchase Common Stock or any other securities of the Company that are substantially similar to Common Stock for a period of 180 days after the date hereof (the "Lock-Up Period"), without the prior written consent of UBS, except for (i) the registration of the Shares and the sales to the Underwriters pursuant to this Agreement, (ii) issuances of Common Stock upon the exercise of options or warrants disclosed as outstanding in the Registration Statement and the Prospectus, and (iii) the issuance of employee stock options not exercisable during the Lock-Up Period pursuant to stock option plans described in the Registration Statement and the Prospectus;

(p) prior to the time of purchase or the additional time of purchase, as the case may be, to issue no press release or other communication directly or indirectly and hold no press conferences with respect to the Company or any Subsidiary, the financial condition, results of operations, business, properties, assets, or liabilities of the Company or any Subsidiary, or the offering of the Shares, without your prior consent;

(q) to use its best efforts to cause the Common Stock to be listed for quotation on the NASDAQ and to maintain such listing;

(r) to maintain a transfer agent and, if necessary under the jurisdiction of incorporation of the Company, a registrar for the Common Stock; and

(s) to ensure that the Reserved Shares will be restricted from sale, transfer, assignment, pledge or hypothecation to such extent as may be required by the NASD and its rules for a period of three (3) months following the date of effectiveness of the Registration Statement (or such longer period of time as may be required by the NASD and its rules); provided, that UBS-FinSvc will notify the Company as to which Directed Share Participants whose Reserved Shares are to be so restricted; to direct the transfer agent to place stop transfer restrictions upon such Reserved Shares for such period or

time; and to comply with all applicable securities and other applicable laws, rules and regulations in each jurisdiction in which the Reserved Shares are offered in connection with the Directed Share Program.

5. Reimbursement of Underwriters' Expenses. If the Shares are not delivered for any reason other than the termination of this Agreement pursuant to the fifth paragraph of Section 8 hereof or the default by one or more of the Underwriters in its or their respective obligations hereunder, the Company shall, in addition to paying the amounts described in Section 4(n) hereof, reimburse the Underwriters for all of their out-of-pocket expenses, including the fees and disbursements of their counsel.

6. Conditions of Underwriters' Obligations. The several obligations of the Underwriters hereunder are subject to the accuracy of the representations and warranties on the part of the Company on the date hereof, at the time of purchase and, if applicable, at the additional time of purchase, the performance by the Company of its obligations hereunder and to the following additional conditions precedent:

(a) The Company shall furnish to you at the time of purchase and, if applicable, at the additional time of purchase, an opinion of Heller Ehrman White & McAuliffe, LLP, counsel for the Company, addressed to the Underwriters, and dated the time of purchase or the additional time of purchase, as the case may be, with executed copies for each of the other Underwriters, and in form and substance satisfactory to Dewey Ballantine LLP, counsel for the Underwriters, in the form set forth in Exhibit B hereto.

(b) The Company shall furnish to you at the time of purchase and, if applicable, at the additional time of purchase, an opinion of Seed Intellectual Property Law Group PLLC, special counsel for the Company with respect to patents and proprietary rights, addressed to the Underwriters, and dated the time of purchase or the additional time of purchase, as the case may be, with executed copies for each of the other Underwriters, and in form and substance satisfactory to Dewey Ballantine LLP, counsel for the Underwriters, in the form set forth in Exhibit C hereto.

(c) The Company shall furnish to you at the time of purchase and, if applicable, at the additional time of purchase, an opinion of [Covington & Burling], special counsel for the Company with respect to regulatory matters, addressed to the Underwriters, and dated the time of purchase or the additional time of purchase, as the case may be, with executed copies for each of the other Underwriters, and in form and substance satisfactory to Dewey Ballantine LLP, counsel for the Underwriters, in the form set forth in Exhibit D hereto.

(d) The Company shall furnish to you at the time of purchase and, if applicable, at the additional time of purchase, an opinion of [Covington & Burling], litigation counsel for the Company, addressed to the Underwriters, and dated the time of purchase or the additional time of purchase, as the case may be, with executed copies for each of the other Underwriters, and in form and substance satisfactory to Dewey

Ballantine LLP, counsel for the Underwriters, in the form set forth in Exhibit E hereto.

(e) You shall have received from Ernst & Young LLP letters dated, respectively, the date of this Agreement, the time of purchase and, if applicable, the additional time of purchase, and addressed to the Underwriters (with executed copies for each of the Underwriters) in the forms heretofore approved by UBS.

(f) You shall have received from PricewaterhouseCoopers LLP letters dated, respectively, the date of this Agreement, the time of purchase and, if applicable, the additional time of purchase, and addressed to the Underwriters (with executed copies for each of the Underwriters) in the forms heretofore approved by UBS.

(g) You shall have received at the time of purchase and, if applicable, at the additional time of purchase, the favorable opinion of Dewey Ballantine LLP, counsel for the Underwriters, dated the time of purchase or the additional time of purchase, as the case may be, in form and substance reasonably satisfactory to UBS.

(h) No Prospectus or amendment or supplement to the Registration Statement or the Prospectus shall have been filed to which you object in writing.

(i) The Registration Statement shall become effective not later than 5:30 P.M., New York City time, on the date of this Agreement and, if Rule 430A under the Act is used, the Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Act at or before 5:30 P.M., New York City time, on the second full business day after the date of this Agreement and any registration statement pursuant to Rule 462(b) under the Act required in connection with the offering and sale of the Shares shall have been filed and become effective no later than 10:00 P.M., New York City time, on the date of this Agreement.

(j) Prior to the time of purchase, and, if applicable, the additional time of purchase, (i) no stop order with respect to the effectiveness of the Registration Statement shall have been issued under the Act or proceedings initiated under Section 8(d) or 8(e) of the Act; (ii) the Registration Statement and all amendments thereto shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and (iii) the Prospectus and all amendments or supplements thereto shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading.

(k) Between the time of execution of this Agreement and the time of purchase or the additional time of purchase, as the case may be, (A) no material adverse change or any development involving a prospective material adverse change in the business, properties, management, financial condition or results of operations of the Company and the Subsidiaries taken as a whole shall occur or become known and (B) no transaction which is material and adverse to the Company has been entered into by the Company or any of the Subsidiaries.

(l) The Company will, at the time of purchase and, if applicable, at the additional time of purchase, deliver to you a certificate of its Chief Executive Officer and its Chief Financial Officer in the form attached as Exhibit F hereto.

(m) You shall have received signed Lock-up Agreements referred to in Section 3(r) hereof.

(n) The Company shall have furnished to you such other documents and certificates as to the accuracy and completeness of any statement in the Registration Statement and the Prospectus as of the time of purchase and, if applicable, the additional time of purchase, as you may reasonably request.

(o) The Shares shall have been approved for quotation on the NASDAQ, subject only to notice of issuance at or prior to the time of purchase or the additional time of purchase, as the case may be.

7. Effective Date of Agreement; Termination. This Agreement shall become effective (i) if Rule 430A under the Act is not used, when you shall have received notification of the effectiveness of the Registration Statement, or (ii) if Rule 430A under the Act is used, when the parties hereto have executed and delivered this Agreement.

The obligations of the several Underwriters hereunder shall be subject to termination in the absolute discretion of UBS or any group of Underwriters (which may include UBS) which has agreed to purchase in the aggregate at least 50% of the Firm Shares, if (x) since the time of execution of this Agreement or the earlier respective dates as of which information is given in the Registration Statement and the Prospectus, there has been any material adverse change or any development involving a prospective material adverse change in the business, properties, management, financial condition or results of operations of the Company and the Subsidiaries taken as a whole, which would, in UBS' judgment or in the judgment of such group of Underwriters, make it impracticable or inadvisable to proceed with the public offering or the delivery of the Shares on the terms and in the manner contemplated in the Registration Statement and the Prospectus, or (y) since of execution of this Agreement, there shall have occurred: (i) a suspension or material limitation in trading in securities generally on the New York Stock Exchange, the American Stock Exchange or the NASDAQ; (ii) a suspension or material limitation in trading in the Company's securities on NASDAQ; (iii) a general moratorium on commercial banking activities declared by either federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; (iv) an outbreak or escalation of hostilities or acts of terrorism involving the United States or a declaration by the United States of a national emergency or war; or (v) any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (iv) or (v) in UBS' judgment or in the judgment of such group of Underwriters makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Shares on the terms and in the manner contemplated in the Registration Statement and the Prospectus, or (z) since the time of execution

of this Agreement, there shall have occurred any downgrading, or any notice or announcement shall have been given or made of (i) any intended or potential downgrading or (ii) any watch, review or possible change that does not indicate an affirmation or improvement in the rating accorded any securities of or guaranteed by the Company or any Subsidiary by any "nationally recognized statistical rating organization," as that term is defined in Rule 436(g)(2) under the Act.

If UBS or any group of Underwriters elects to terminate this Agreement as provided in this Section 7, the Company and each other Underwriter shall be notified promptly in writing.

If the sale to the Underwriters of the Shares, as contemplated by this Agreement, is not carried out by the Underwriters for any reason permitted under this Agreement, or if such sale is not carried out because the Company shall be unable to comply with any of the terms of this Agreement, the Company shall not be under any obligation or liability under this Agreement (except to the extent provided in Sections 4(n), 5 and 9 hereof), and the Underwriters shall be under no obligation or liability to the Company under this Agreement (except to the extent provided in Section 9 hereof) or to one another hereunder.

8. Increase in Underwriters' Commitments. Subject to Sections 6 and 7 hereof, if any Underwriter shall default in its obligation to take up and pay for the Firm Shares to be purchased by it hereunder (otherwise than for a failure of a condition set forth in Section 6 hereof or a reason sufficient to justify the termination of this Agreement under the provisions of Section 7 hereof) and if the number of Firm Shares which all Underwriters so defaulting shall have agreed but failed to take up and pay for does not exceed 10% of the total number of Firm Shares, the non-defaulting Underwriters shall take up and pay for (in addition to the aggregate number of Firm Shares they are obligated to purchase pursuant to Section 1 hereof) the number of Firm Shares agreed to be purchased by all such defaulting Underwriters, as hereinafter provided. Such Shares shall be taken up and paid for by such non-defaulting Underwriters in such amount or amounts as you may designate with the consent of each Underwriter so designated or, in the event no such designation is made, such Shares shall be taken up and paid for by all non-defaulting Underwriters pro rata in proportion to the aggregate number of Firm Shares set forth opposite the names of such non-defaulting Underwriters in Schedule A.

Without relieving any defaulting Underwriter from its obligations hereunder, the Company agrees with the non-defaulting Underwriters that it will not sell any Firm Shares hereunder unless all of the Firm Shares are purchased by the Underwriters (or by substituted Underwriters selected by you with the approval of the Company or selected by the Company with your approval).

If a new Underwriter or Underwriters are substituted by the Underwriters or by the Company for a defaulting Underwriter or Underwriters in accordance with the foregoing provision, the Company or you shall have the right to postpone the time of purchase for a period not exceeding five business days in order that any necessary changes in the Registration Statement and the Prospectus and other documents may be effected.

The term "Underwriter" as used in this Agreement shall refer to and include any Underwriter substituted under this Section 8 with like effect as if such substituted Underwriter had originally been named in Schedule A hereto.

If the aggregate number of Firm Shares which the defaulting Underwriter or Underwriters agreed to purchase exceeds 10% of the total number of Firm Shares which all Underwriters agreed to purchase hereunder, and if neither the non-defaulting Underwriters nor the Company shall make arrangements within the five business day period stated above for the purchase of all the Firm Shares which the defaulting Underwriter or Underwriters agreed to purchase hereunder, this Agreement shall terminate without further act or deed and without any liability on the part of the Company to any non-defaulting Underwriter and without any liability on the part of any non-defaulting Underwriter to the Company. Nothing in this paragraph, and no action taken hereunder, shall relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

9. Indemnity and Contribution.

(a) The Company agrees to indemnify, defend and hold harmless each Underwriter, its partners, directors and officers, and any person who controls any Underwriter within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, and the successors and assigns of all of the foregoing persons, from and against any loss, damage, expense, liability or claim (including the reasonable cost of investigation) which, jointly or severally, any such Underwriter or any such person may incur under the Act, the Exchange Act, the common law or otherwise, insofar as such loss, damage, expense, liability or claim arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or in the Registration Statement as amended by any post-effective amendment thereof by the Company) or in a Prospectus (the term Prospectus for the purpose of this Section 9 being deemed to include any Preliminary Prospectus, the Prospectus and the Prospectus as amended or supplemented by the Company), or arises out of or is based upon any omission or alleged omission to state a material fact required to be stated in either such Registration Statement or such Prospectus or necessary to make the statements made therein not misleading, except insofar as any such loss, damage, expense, liability or claim arises out of or is based upon any untrue statement or alleged untrue statement of a material fact contained in, and in conformity with information concerning such Underwriter furnished in writing by or on behalf of such Underwriter through you to the Company expressly for use in, such Registration Statement or such Prospectus or arises out of or is based upon any omission or alleged omission to state a material fact in connection with such information required to be stated in such Registration Statement or such Prospectus or necessary to make such information not misleading, (ii) any untrue statement or alleged untrue statement made by the Company in Section 3 hereof or the failure by the Company to perform when and as required any agreement or covenant contained herein, (iii) any untrue statement or alleged untrue statement of any material fact contained in any audio or visual materials provided by the Company or based upon written information furnished by or on behalf of the Company including, without limitation, slides, videos, films or tape recordings used in connection with the marketing

of the Shares, or (iv) the Directed Share Program, provided that the Company shall not be responsible under this clause (iv) for any loss, damage, expense, liability or claim that is finally judicially determined to have resulted from the gross negligence or willful misconduct of the Underwriters in conducting the Directed Share Program.

If any action, suit or proceeding (each, a "Proceeding") is brought against an Underwriter or any such person in respect of which indemnity may be sought against the Company pursuant to the foregoing paragraph, such Underwriter or such person shall promptly notify the Company in writing of the institution of such Proceeding and the Company shall assume the defense of such Proceeding, including the employment of counsel reasonably satisfactory to such indemnified party and payment of all fees and expenses; provided, however, that the omission to so notify the Company shall not relieve the Company from any liability which the Company may have to any Underwriter or any such person or otherwise. Such Underwriter or such person shall have the right to employ its or their own counsel in any such case, but the fees and expenses of such counsel shall be at the expense of such Underwriter or of such person unless the employment of such counsel shall have been authorized in writing by the Company in connection with the defense of such Proceeding or the Company shall not have, within a reasonable period of time in light of the circumstances, employed counsel to have charge of the defense of such Proceeding or such indemnified party or parties shall have reasonably concluded that there may be defenses available to it or them which are different from, additional to or in conflict with those available to the Company (in which case the Company shall not have the right to direct the defense of such Proceeding on behalf of the indemnified party or parties), in any of which events such fees and expenses shall be borne by the Company and paid as incurred (it being understood, however, that the Company shall not be liable for the expenses of more than one separate counsel (in addition to any local counsel) in any one Proceeding or series of related Proceedings in the same jurisdiction representing the indemnified parties who are parties to such Proceeding). The Company shall not be liable for any settlement of any Proceeding effected without its written consent but, if settled with the written consent of the Company, the Company agrees to indemnify and hold harmless any Underwriter and any such person from and against any loss or liability by reason of such settlement. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by the second sentence of this paragraph, then the indemnifying party agrees that it shall be liable for any settlement of any Proceeding effected without its written consent if (i) such settlement is entered into more than 60 business days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall not have fully reimbursed the indemnified party in accordance with such request prior to the date of such settlement and (iii) such indemnified party shall have given the indemnifying party at least 30 days' prior notice of its intention to settle. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened Proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such Proceeding and does not include an admission of fault, culpability or a failure to act, by or on behalf of such indemnified party.

The Company agrees to indemnify, defend and hold harmless UBS-FinSvc and its partners, directors and officers, and any person who controls UBS-FinSvc within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, and the successors and assigns of all of the foregoing persons, from and against any loss, damage, expense, liability or claim (including the reasonable cost of investigation) which, jointly or severally, UBS-FinSvc or any such person may incur under the Act, the Exchange Act, the common law or otherwise, insofar as such loss, damage, expense, liability or claim (1) arises out of or is based upon (a) any of the matters referred to in clauses (i) through (iii) of the first paragraph of this Section 9(a), or (b) any untrue statement or alleged untrue statement of a material fact contained in any material prepared by or with the consent of the Company for distribution to Directed Share Participants in connection with the Directed Share Program or caused by 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; (2) caused by the failure of any Directed Share Participant to pay for and accept delivery of Reserved Shares that the Directed Share Participant has agreed to purchase; or (3) otherwise arises out of or is based upon the Directed Share Program, provided that the Company shall not be responsible under this clause (3) for any loss, damage, expense, liability or claim that is finally judicially determined to have resulted from the gross negligence or willful misconduct of UBS-FinSvc in conducting the Directed Share Program. The second paragraph of this Section 9(a) shall apply equally to any Proceeding brought against UBS-FinSvc or any such person in respect of which indemnity may be sought against the Company pursuant to the foregoing sentence, except that the Company shall be liable for the expenses of one separate counsel (in addition to any local counsel) for UBS-FinSvc and any such person, separate and in addition to counsel for the Underwriters, in any such Proceeding.

(b) Each Underwriter severally agrees to indemnify, defend and hold harmless the Company, its directors and officers, and any person who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, and the successors and assigns of all of the foregoing persons, from and against any loss, damage, expense, liability or claim (including the reasonable cost of investigation) which, jointly or severally, the Company or any such person may incur under the Act, the Exchange Act, the common law or otherwise, insofar as such loss, damage, expense, liability or claim arises out of or is based upon any untrue statement or alleged untrue statement of a material fact contained in, and in conformity with information concerning such Underwriter furnished in writing by or on behalf of such Underwriter through you to the Company expressly for use in, the Registration Statement (or in the Registration Statement as amended by any post-effective amendment thereof by the Company) or in a Prospectus, or arises out of or is based upon any omission or alleged omission to state a material fact in connection with such information required to be stated in such Registration Statement or such Prospectus or necessary to make such information not misleading.

If any Proceeding is brought against the Company or any such person in respect of which indemnity may be sought against any Underwriter pursuant to the foregoing paragraph, the Company or such person shall promptly notify such Underwriter in writing of the institution of such Proceeding and such Underwriter shall assume the defense of such Proceeding, including the employment of counsel reasonably satisfactory to such indemnified party and payment of all fees and expenses; provided, however, that the omission to so notify such Underwriter shall not relieve such Underwriter from any liability which such Underwriter may have to the Company or any such person or otherwise. The Company or such person shall have the right to employ its own counsel in any such case, but the fees and expenses of such counsel shall be at the expense of the Company or such person unless the employment of such counsel shall have been authorized in writing by such Underwriter in connection with the defense of such Proceeding or such Underwriter shall not have, within a reasonable period of time in light of the circumstances, employed counsel to defend such Proceeding or such indemnified party or parties shall have reasonably concluded that there may be defenses available to it or them which are different from or additional to or in conflict with those available to such Underwriter (in which case such Underwriter shall not have the right to direct the defense of such Proceeding on behalf of the indemnified party or parties, but such Underwriter may employ counsel and participate in the defense thereof but the fees and expenses of such counsel shall be at the expense of such Underwriter), in any of which events such fees and expenses shall be borne by such Underwriter and paid as incurred (it being understood, however, that such Underwriter shall not be liable for the expenses of more than one separate counsel (in addition to any local counsel) in any one Proceeding or series of related Proceedings in the same jurisdiction representing the indemnified parties who are parties to such Proceeding). No Underwriter shall be liable for any settlement of any such Proceeding effected without the written consent of such Underwriter but, if settled with the written consent of such Underwriter, such Underwriter agrees to indemnify and hold harmless the Company and any such person from and against any loss or liability by reason of such settlement. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by the second sentence of this paragraph, then the indemnifying party agrees that it shall be liable for any settlement of any Proceeding effected without its written consent if (i) such settlement is entered into more than 60 business days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement and (iii) such indemnified party shall have given the indemnifying party at least 30 days' prior notice of its intention to settle. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened Proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such Proceeding.

(c) If the indemnification provided for in this Section 9 is unavailable to an indemnified party under subsections (a) and (b) of this Section 9 or insufficient to hold an indemnified party harmless in respect of any losses, damages, expenses, liabilities or claims referred to therein, then each applicable indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, damages, expenses, liabilities or claims (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other hand from the offering of the Shares or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and of the Underwriters on the other in connection with the statements or omissions which resulted in such losses, damages, expenses, liabilities or claims, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same respective proportions as the total proceeds from the offering (net of underwriting discounts and commissions but before deducting expenses) received by the Company, and the total underwriting discounts and commissions received by the Underwriters, bear to the aggregate public offering price of the Shares. The relative fault of the Company on the one hand and of the Underwriters on the other shall be determined by reference to, among other things, whether the untrue statement or alleged untrue statement of a material fact or omission or alleged omission relates to information supplied by the Company or by the Underwriters 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, damages, expenses, liabilities and claims referred to in this subsection shall be deemed to include any legal or other fees or expenses reasonably incurred by such party in connection with investigating, preparing to defend or defending any Proceeding.

(d) The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 9 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in subsection (c) above. Notwithstanding the provisions of this Section 9, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Shares underwritten by such Underwriter and distributed to the public were offered to the public exceeds the amount of any damage which such Underwriter has otherwise been required to pay by reason of such untrue statement or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to this Section 9 are several in proportion to their respective underwriting commitments and not joint.

(e) The indemnity and contribution agreements contained in this Section 9 and the covenants, warranties and representations of the Company contained in this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of any Underwriter, its partners, directors or officers or any person

(including each partner, officer or director of such person) who controls any Underwriter within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, or by or on behalf of the Company, its directors or officers or any person who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, and shall survive any termination of this Agreement or the issuance and delivery of the Shares. The Company and each Underwriter agree promptly to notify each other of the commencement of any Proceeding against it and, in the case of the Company, against any of the Company's officers or directors in connection with the issuance and sale of the Shares, or in connection with the Registration Statement or the Prospectus.

10. Information Furnished by the Underwriters. The statements set forth in the [eleventh] and [twelfth] paragraphs under the caption "Underwriting" in the Prospectus, only insofar as such statements relate to the amount of selling concession and reallowance or to over-allotment and stabilization activities that may be undertaken by the Underwriters, constitute the only information furnished by or on behalf of the Underwriters as such information is referred to in Sections 3 and 9 hereof.

11. Notices. Except as otherwise herein provided, all statements, requests, notices and agreements shall be in writing or by telegram and, if to the Underwriters, shall be sufficient in all respects if delivered or sent to UBS Securities LLC, 299 Park Avenue, New York, NY 10171-0026, Attention: Syndicate Department and, if to the Company, shall be sufficient in all respects if delivered or sent to the Company at the offices of the Company at 1124 Columbia Street, Suite 130, Seattle, Washington 98104, Attention: Ronald J. Berenson, MD.

12. Governing Law; Construction. This Agreement and any claim, counterclaim or dispute of any kind or nature whatsoever arising out of or in any way relating to this Agreement ("Claim"), directly or indirectly, shall be governed by, and construed in accordance with, the laws of the State of New York. The section headings in this Agreement have been inserted as a matter of convenience of reference and are not a part of this Agreement.

13. Submission to Jurisdiction. Except as set forth below, no Claim may be commenced, prosecuted or continued in any court other than the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York, which courts shall have jurisdiction over the adjudication of such matters, and the Company consents to the jurisdiction of such courts and personal service with respect thereto. The Company hereby consents to personal jurisdiction, service and venue in any court in which any Claim arising out of or in any way relating to this Agreement is brought by any third party against UBS or any indemnified party. Each of UBS and the Company (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders and affiliates) waives all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) in any way arising out of or relating to this Agreement. The Company agrees that a final judgment in any such action, proceeding or counterclaim brought in any such court shall be conclusive and binding upon the Company and may be enforced in any other courts to the jurisdiction of which the Company is or may be subject, by suit upon such judgment.

14. Parties at Interest. The Agreement herein set forth has been and is made solely for the benefit of the Underwriters and the Company and to the extent provided in Section 9 hereof the controlling persons, partners, directors and officers referred to in such Section, and their respective successors, assigns, heirs, personal representatives and executors and administrators. No other person, partnership, association or corporation (including a purchaser, as such purchaser, from any of the Underwriters) shall acquire or have any right under or by virtue of this Agreement.

15. Counterparts. This Agreement may be signed by the parties in one or more counterparts which together shall constitute one and the same agreement among the parties.

16. Successors and Assigns. This Agreement shall be binding upon the Underwriters and the Company and their successors and assigns and any successor or assign of any substantial portion of the Company's and any of the Underwriters' respective businesses and/or assets.

17. Miscellaneous. UBS, an indirect, wholly owned subsidiary of UBS AG, is not a bank and is separate from any affiliated bank, including any U.S. branch or agency of UBS AG. Because UBS is a separately incorporated entity, it is solely responsible for its own contractual obligations and commitments, including obligations with respect to sales and purchases of securities. Securities sold, offered or recommended by UBS are not deposits, are not insured by the Federal Deposit Insurance Corporation, are not guaranteed by a branch or agency, and are not otherwise an obligation or responsibility of a branch or agency.

[*The Remainder of This Page Intentionally Left Blank; Signature Page Follows*]

If the foregoing correctly sets forth the understanding between the Company and the several Underwriters, please so indicate in the space provided below for that purpose, whereupon this agreement and your acceptance shall constitute a binding agreement between the Company and the Underwriters, severally.

Very truly yours,

XCYTE THERAPIES, INC.

By: _____

Name:
Title:

Accepted and agreed to as of the
date first above written, on
behalf of themselves
and the other several Underwriters
named in Schedule A

UBS SECURITIES LLC
U.S. BANCORP PIPER JAFFRAY INC.
WELLS FARGO SECURITIES, LLC

By: UBS SECURITIES LLC

By: _____

Name:
Title:

By: _____

Name:
Title:

SCHEDULE A

Underwriter	Number of Firm Shares
UBS SECURITIES LLC	[____]
U.S. BANCORP PIPER JAFFRAY INC.	[____]
WELLS FARGO SECURITIES, LLC	[____]
Total	[____]

Exhibit 3.1

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF XCYTE THERAPIES, INC.

Xcyte Therapies, Inc., a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

A. The name of the corporation is Xcyte Therapies, Inc. The corporation was originally incorporated under the name MolecuRx, Inc. and the original Certificate of Incorporation of the corporation was filed with the Delaware Secretary of State on January 5, 1996.

B. Pursuant to Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware, this Amended and Restated Certificate of Incorporation restates and amends the provisions of the Certificate of Incorporation of this corporation.

C. The text of the Certificate of Incorporation is hereby amended and restated in its entirety to read as follows:

ONE. The name of this corporation is Xcyte Therapies, Inc.

TWO. The address of the corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, Zip Code 19801. The name of its registered agent at such address is The Corporation Trust Company.

THREE. The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOUR. The corporation is authorized to issue two classes of stock to be designated Common Stock and Preferred Stock. The total number of shares of Common Stock which this corporation has authority to issue is 70,000,000 with par value of $.001 per share. The total number of shares of Preferred Stock which this corporation has authority to issue is 42,000,000 with par value of $.001 per share, of which 7,300,080 shares are designated as Series A Preferred Stock ("Series A Preferred"), 4,097,580 shares are designated as Series B Preferred Stock

("Series B Preferred"), 7,212,316 shares are designated as Series C Preferred Stock ("Series C Preferred"), 10,300,000 shares are designated as Series D Preferred Stock ("Series D Preferred"), 6,500,000 shares are designated as Series E Preferred Stock ("Series E Preferred") and 6,500,000 shares are designated as Series F Preferred Stock ("Series F Preferred" and collectively the "Preferred Stock").

The rights, preferences, privileges and restrictions granted to or imposed on the respective classes of the shares of capital stock or the holders thereof are as follows:

1. Dividends. The holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred, Series E Preferred and Series F Preferred Stock shall be entitled to receive dividends out of assets of the corporation legally available therefor at the rate of $0.076, $0.088, $0.1336, $0.2224, $0.2224 and $0.2224 per share per annum, respectively, subject to adjustment for stock dividends, combinations, splits, recapitalizations or other adjustments payable in cash, however, such dividends shall not be cumulative, and no right shall accrue to holders of the Common Stock or Preferred Stock by reason of the fact that dividends on said shares are not declared in any prior period. Dividends on the Preferred Stock, when and if declared by the Board of Directors, shall be payable in preference and prior to any payment of any dividend on the Common Stock of the corporation. Thereafter, the holders of Preferred Stock and Common Stock shall be entitled, when and if declared by the Board of Directors, to dividends out of the corporation's assets legally available therefor; provided, however, that no such dividends may be declared or paid on any shares of Common Stock or Preferred Stock unless at the same time an equivalent dividend is declared and paid on all outstanding shares of Common Stock and Preferred Stock; and provided further that the dividend on any series of any Preferred Stock shall be payable at the same rate per share as would be payable on the shares of Common Stock or other securities into which such series of Preferred Stock is convertible immediately prior to the record date for such dividend.

2. Liquidation Preference.

2.1 Preference. In the event of any liquidation, dissolution or winding up of the corporation, either voluntarily or involuntarily, the holders of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred, Series E Preferred and Series F Preferred Stock shall be entitled to receive prior and in preference to any distribution of any of the assets or surplus funds of the corporation to the holders of Common Stock of the corporation by reason of their ownership thereof, $0.95, $1.10, $1.67, $2.78, $2.78 and $2.78 per share, respectively for each share of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred, Series E Preferred or Series F Preferred Stock then so held, plus a further amount equal to any declared but unpaid dividends on such shares (the "Preferred Preference" for each respective series). After the distributions to the holders of Preferred Stock have been made, the remaining assets of the corporation available for distribution to stockholders shall be distributed pro rata among the holders of Common Stock and the Preferred Stock, on an as converted basis, until the holders of Series A Preferred have received an aggregate of $1.90 per share, not including the Preferred Preference, the holders of Series B Preferred have received an aggregate of $2.20 per

share, not including the Preferred Preference, the holders of Series C Preferred have received an aggregate of $3.34 per share, not including the Preferred Preference, the holders of Series D Preferred have received an aggregate of $5.56 per share, not including the Preferred Preference, the holders of Series E Preferred have received an aggregate of $5.56 per share, not including the Preferred Preference and the holders of Series F Preferred have received an aggregate of $5.56 per share, not including the Preferred Preference (each of such participation amount, the "Participation Amount," and together with the Preferred Preference, the "Liquidation Preference Amount"). After such additional distributions are made to holders of Preferred Stock, the remaining assets of the corporation legally available for distribution shall be distributed ratably among the holders of Common Stock.

2.1.1 If, upon such liquidation, dissolution or winding up of the corporation, the assets of the corporation are insufficient to provide for the cash payment of the full preference due hereunder, such assets as are legally available shall be distributed ratably among the holders of Preferred Stock in proportion to the Preferred Preference that each such holder is otherwise entitled to receive.

2.1.2 Notwithstanding the foregoing, if, upon any liquidation, dissolution or winding up of the corporation, the holders of the outstanding shares of Preferred Stock would receive more than the Liquidation Preference Amount in the event all of their shares were converted into shares of Common Stock immediately prior to the record date for distributions in connection with such liquidation, dissolution or winding up of the corporation, then each holder of an outstanding share of Preferred Stock shall receive, upon delivery of shares of Preferred Stock held by such holder for conversion pursuant to Section 5 below and in lieu of the Liquidation Preference Amount, the number of shares of Common Stock into which each such share of Preferred Stock is then convertible in accordance with the terms hereof, before any amount shall be paid or distributed to the holders of Common Stock or of any other stock ranking on liquidation junior to the Preferred Stock, and thereafter shall share ratably with the holders of Common Stock and any other stock ranking on liquidation junior to the Preferred Stock in the assets available for distribution. The provisions of this paragraph shall not in any way limit the right of the holders of Preferred Stock to elect to convert their shares of Preferred Stock into shares of Common Stock pursuant to Section 5 prior to or in connection with any liquidation, dissolution or winding up of the corporation.

2.2 Extraordinary Transactions.

2.2.1 An "Extraordinary Transaction" shall be any merger, reorganization, acquisition consolidation or sale of all or substantially all of the assets of the corporation in which the corporation's stockholders immediately prior to such transaction, or series of related transactions, possess less than 50% of the voting power of the surviving, continuing or purchasing entity (or parent, if any) immediately after the transaction or series of related transactions.

2.2.2 In connection with an Extraordinary Transaction, the holder(s) of not less than a majority of the outstanding Preferred Stock (the "Preferred Election"), may elect to redeem all (but not less than all) of the outstanding shares of Preferred Stock held by each holder of Preferred Stock on the effective date of such Extraordinary Transaction for an amount per share equal to the Liquidation Preference Amount, such Liquidation Preference Amount to be payable in cash or securities based on the valuation determined in accordance with Section 2.2.5.

2.2.3 Notwithstanding the foregoing, if in connection with any Extraordinary Transaction, the holders of the outstanding shares of Preferred Stock would receive more than the Liquidation Preference Amount if their shares were converted into shares of Common Stock immediately prior to such Extraordinary Transaction, then each holder of an outstanding share of Preferred Stock shall receive, upon delivery of shares of Preferred Stock held by such holder for conversion and in lieu of the Liquidation Preference Amount, the number of shares of Common Stock into which each such share of Preferred Stock is then convertible in accordance with the terms hereof, before any amount shall be paid or distributed to the holders of Common Stock or of any other stock ranking on liquidation junior to the Preferred Stock, and thereafter shall share ratably with the holders of Common Stock and any other stock ranking on liquidation junior to the Preferred Stock in the proceeds of such Extraordinary Transaction.

2.2.4 If, in connection with an Extraordinary Transaction, the Preferred Election is made and the shares of the Preferred Stock are to be redeemed pursuant to subsection 2.2.2 above, the holders of not less than a majority of the outstanding Common Stock may elect to redeem all (but not less than all) of the outstanding shares of Common Stock held by each holder of Common Stock on the effective date of such Extraordinary Transaction. Upon such election and after the payment of the Preferred Preference to the holders of the Preferred Stock pursuant to subsection 2.2.2 above, the corporation shall redeem such shares of Common Stock and the holders of the Common Stock shall share ratably in the proceeds of the Extraordinary Transaction with the holders of the Preferred Stock until such holders of Preferred Stock have received in aggregate their applicable Liquidation Preference Amount, after which time, the remaining proceeds of the Extrordinary Transaction shall be distributed ratably among the holders of the Common Stock.

2.2.5 Valuation of Consideration. In the event of a Extraordinary Transaction, if the consideration received by the corporation is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:

(i) If traded on a securities exchange or The Nasdaq Stock Market, the value shall be based on a formula approved by the Board of Directors and derived from the closing prices of the securities on such exchange or Nasdaq over a specified time period;

(ii) If actively traded over-the-counter, the value shall be based on a formula approved by the Board of Directors and derived from the closing prices of the securities on such exchange or Nasdaq over a specified time period; and

(iii) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board of Directors.

2.2.6 Notice of Transaction. In the event of an Extraordinary Transaction, the corporation shall give each holder of record of Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred, Series E Preferred or Series F Preferred Stock written notice of such impending transaction not later than ten (10) days prior to the stockholders' meeting called to approve such transaction, or twenty (20) days prior to the closing of such transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such transaction. The first of such notices shall describe the material terms and conditions of the impending transaction and the provisions of this Section 2, and the corporation shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than twenty (20) days after the corporation has given the first notice provided for herein or sooner than ten (10) days after the corporation has given notice of any material changes provided for herein; provided, however, that such periods may be shortened upon the written consent of the holders of Preferred Stock that are entitled to such notice rights or similar notice rights and that represent at least a majority of the voting power of all then outstanding shares of such Preferred Stock. Each holder of shares to be redeemed pursuant to this Section 2.2 shall surrender its certificate or certificates representing such shares to the corporation, in the manner and at the place designated by the corporation, and thereupon the redemption price of such shares shall be payable to the order of the person or entity whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall thereafter be canceled. In the event less than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing such unredeemed shares. Upon redemption, all rights of the holders of such shares of the corporation (except the right to receive the redemption price without interest upon surrender of their certificate or certificates) shall cease with respect to such shares, and such shares shall not thereafter be transferred on the books of the corporation or be deemed to be outstanding for any purpose whatsoever.

2.2.7 Insufficient Funds. If the funds of the corporation legally available for redemption pursuant to this Section 2.2 are insufficient to redeem the total number of shares entitled to be redeemed, those funds which are legally available will be used to redeem the shares ratably among the holders entitled to redemption pursuant to this Section 2.2. At any time thereafter when additional funds of the corporation are legally available for the redemption of the entitled shares, such funds will be immediately used to redeem the balance of the shares which the corporation became obligated to redeem pursuant to Section 2.2 but which it has not redeemed.

2.2.8 Effect of Noncompliance. In the event the requirements of this Section 2.2 are not complied with, the corporation shall forthwith either cause the closing of the transaction to be postponed until such requirements have been complied with, or cancel such transaction, in which event the rights, preferences and privileges of the holders of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred, Series E Preferred and

Series F Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately prior to the date of the first notice referred to in Section 2.2.6 hereof.

3. Redemption Rights.

3.1 Redemption at the Holders' Option. The Preferred Stock shall be redeemable in whole or in part at the option of the holders of a majority of the outstanding shares of Preferred Stock at any time and from time to time after June 30, 2002. Such redemption right may be exercised by giving no less than one hundred twenty (120) days notice by certified or registered mail, postage prepaid to the corporation at its principal office, attention to the president, prior to the date of commencement of such redemption (the "Redemption Date"). After receipt of such notice of a redemption pursuant to this Section 3.1, the corporation shall, to the extent it may lawfully do so and to the extent such redemption will not be violative of senior lending covenants, redeem all of the outstanding shares of Preferred Stock in eight equal installments on the last day of each calendar quarter (commencing with the first calendar quarter ending after the one hundred twenty (120) day notice period). The redemption price of the Series A Preferred, Series B Preferred, Series C Preferred, Series D Preferred, Series E Preferred and Series F Preferred Stock shall be $0.95, $1.10, $1.67, $2.78, $2.78 and $2.78 per share, respectively, (as adjusted for any stock dividends, combinations or splits) plus any declared but unpaid dividends ("Redemption Price"). Any redemption of only a part of the outstanding Preferred Stock by the corporation pursuant to this Section 3 shall be pro rata as among all holders of Preferred Stock.

3.2 Notice Regarding Redemption. At least thirty (30) but no more than sixty (60) days prior to any Redemption Date, written notice shall be mailed, postage prepaid, to each holder of record (determined at the close of business on the business day next preceding the day on which notice is given) of Preferred Stock to be redeemed, at such holder's post office address last shown on the records of the corporation, notifying such holder of the redemption of such shares, specifying the Redemption Date, the Redemption Price and the date on which such holder's Conversion Rights (as hereinafter defined) as to such shares terminate (such Conversion Rights to expire no later than the close of business on the Redemption Date) and calling upon such holder to surrender to the corporation, in the manner and at the place designated in the continental United States, its certificate or certificates representing the shares to be redeemed (such notice is hereinafter referred to as the "Redemption Notice"). Unless such holder elects to convert its shares in accordance with Section 5 prior to or on the Redemption Date, each holder of shares of Preferred Stock to be redeemed shall surrender its certificate or certificates representing such shares to the corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price of such shares shall be payable to the order of the person or entity whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall thereafter be canceled. In the event less than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing such unredeemed shares. If, prior to or on the Redemption Date, the funds necessary for such redemption shall have been set aside by the corporation and deposited with a bank or trust company, for the benefit of the holders of shares of Preferred Stock whose shares

are being redeemed, then from and after the close of business on the Redemption Date, all rights of the holders of such shares of Preferred Stock of the corporation (except the right to receive the Redemption Price without interest upon surrender of their certificate or certificates) shall cease with respect to such shares, and such shares shall not thereafter be transferred on the books of the corporation or be deemed to be outstanding for any purpose whatsoever.

3.3 Trust Fund. On or prior to the Redemption Date, the corporation shall deposit the Redemption Price of all shares of Preferred Stock designated for redemption in the Redemption Notice and not yet redeemed or converted with a bank or trust company, having an aggregate capital surplus in excess of $100 million, as a trust fund for the benefit of the respective holders of the shares designated for redemption and not yet redeemed or converted. Any monies deposited by the corporation pursuant to this Section 3.3 for the redemption of shares thereafter converted into shares of Common Stock pursuant to Section 5 hereof no later than the close of business on the Redemption Date shall be returned to the corporation forthwith upon such conversion. The balance of any monies deposited by the corporation pursuant to this Section 3.3 remaining unclaimed at the expiration of one (1) year following the Redemption Date shall thereafter be returned to the corporation upon its request expressed in a resolution of the board of directors of the corporation, provided that the stockholder to which such monies would be payable hereunder shall be entitled, upon surrender of his certificates representing such shares of Preferred Stock to the corporation, to receive such monies but without interest from the Redemption Date.

3.4 Insufficient Funds. If the funds of the corporation legally available for redemption of Preferred Stock on any Redemption Date are insufficient to redeem the total number of shares of Preferred Stock to be redeemed on such date, those funds which are legally available will be used to redeem the shares of Preferred Stock ratably among the holders in accordance with the last sentence of Section 3.1. At any time thereafter when additional funds of the corporation are legally available for the redemption of Preferred Stock, such funds will be immediately used to redeem the balance of the shares of Preferred Stock which the corporation became obligated to redeem on such Redemption Date but which it has not redeemed.

4. Voting Rights.

4.1 Preferred Stock. Except as otherwise provided herein or required by law, the holders of each share of Preferred Stock shall be entitled to vote on all matters and shall be entitled to the number of votes equal to the number of shares of Common Stock into which each share of Preferred Stock could be converted pursuant to Section 5 hereof at the record date for the determination of the stockholders entitled to vote on such matters or, if no such record date is established, at the date such vote is taken. Except as otherwise provided herein or required by law, the Preferred Stock shall have voting rights and powers equal to the voting rights and powers of the Common Stock. Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula shall be rounded to the nearest whole number (with one-half rounded upward to one).

4.2 Election of Directors. The holders of a majority of the Series A Preferred Stock, voting as a separate class, shall be entitled to elect two (2) members of the corporation's board of directors. The holders of a majority of the Series B Preferred Stock, voting as a separate class, shall be entitled to elect one (1) member of the corporation's Board of Directors. The holders of a majority of the Series C Preferred Stock, voting as a separate class, shall be entitled to elect one (1) member of the corporation's Board of Directors. The holders of a majority of the Series D Preferred Stock, voting as a separate class, shall be entitled to elect one (1) member of the corporation's Board of Directors. The holders of Common Stock, voting as a separate class, shall elect two (2) members of the corporation's board of directors. The holders of a majority of the Preferred Stock and a majority of the Common Stock shall jointly elect one (1) member of the corporation's Board of Directors with relevant industry experience. In the event the size of the Board of Directors is increased, the holders of Common Stock and Preferred Stock, voting together as a class, shall elect the remaining directors. In the case of any vacancy in the office of a director elected by a specific class or series of capital stock, a successor shall be elected to hold office for the unexpired term of such director by the affirmative vote of a majority of the shares of such class or series given at a special meeting of such stockholders duly called or by an action by written consent for that purpose. Any director who shall have been elected by a specified group of stockholders may be removed during the aforesaid term of office, either for or without cause, by, and only by, the affirmative vote of the holders of a majority of the shares of such class or series, given at a special meeting of such stockholders duly called or by an action by written consent for that purpose and any such vacancy thereby created may be filled by the vote of the holders of a majority of the shares of such series or class of capital stock represented at such meeting or in such consent.

4.3 Common Stock. Each holder of shares of Common Stock shall be entitled to one vote for each share thereof held.

4.4 Election by Ballot. The election of directors need not be by written ballot unless the Bylaws of the corporation shall so provide.

5. Conversion. The holders of Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

5.1 Right to Convert. Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of the corporation or any transfer agent for the Preferred Stock. Each share of Preferred Stock shall be convertible into the number of shares of Common Stock which results from dividing the "Conversion Price" per share in effect for such series of Preferred Stock at the time of conversion into the "Conversion Value" per share of such series of Preferred Stock. The number of shares of Common Stock into which each series of Preferred Stock is convertible is hereinafter referred to as the "Conversion Rate" for such series of Preferred Stock. The Conversion Price per share of Series A Preferred shall be $0.95, the Conversion Price per share of the Series B Preferred shall be $1.10, the Conversion Price per share of the Series C Preferred shall be $1.67, the Conversion Price per share of the Series D Preferred shall be $2.78, the Conversion Price per share of the

Series E Preferred shall be $2.78 and the Conversion Price per share of the Series F Preferred shall be $2.78. The Conversion Value per share of Series A Preferred shall be $0.95, the Conversion Value per share of Series B Preferred shall be $1.10, the Conversion Value per share of the Series C Preferred shall be $1.67, the Conversion Value per share of the Series D Preferred shall be $2.78, the Conversion Value per share of the Series E Preferred shall be $2.78 and the Conversion Value per share of the Series F Preferred shall be $2.78. The Conversion Price of each series of Preferred Stock shall be subject to adjustment as hereinafter provided.

5.2 Automatic Conversion. Each share of Preferred Stock shall automatically be converted into shares of Common Stock at the then effective Conversion Rate immediately upon the closing of a firmly underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering any of the corporation's securities (as that term is defined under the Securities Act of 1933, as then in effect) with a per share public offering price (as adjusted for combinations, stock dividends, subdivisions or split-ups) of at least $4.00 (before deduction of underwriting commissions, discounts and expenses) and with aggregate gross proceeds to the corporation, at the public offering price, of at least $20,000,000. Upon any conversion (automatic or otherwise) any declared but unpaid dividends shall be paid in accordance with Section 5.3 herein.

5.3 Mechanics of Conversion. Before any holder of Preferred Stock shall be entitled to convert such shares into shares of Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the corporation or of any transfer agent for such Preferred Stock and shall give written notice to the corporation at such office that it elects to convert the same. The corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock a certificate or certificates for the number of shares of Common Stock to which it shall be entitled as aforesaid and any declared but unpaid dividends on the Preferred Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date.

5.4 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the corporation shall pay cash equal to such fraction multiplied by the applicable Conversion Price.

5.5 Adjustment of Conversion Price. The Conversion Price of each series of Preferred Stock shall be subject to adjustment from time to time as follows:

5.5.1 If the corporation shall issue any Common Stock or convertible securities other than "Excluded Stock" (as defined below) for a consideration per share less than the Conversion Price of any series of Preferred Stock in effect immediately prior to the issuance of such Common Stock (excluding stock dividends, subdivisions, split-ups, combinations,

dividends or recapitalizations which are covered by Sections 5.5.3, 5.5.4, 5.5.5 and 5.5.6), the Conversion Price for such series of Preferred Stock in effect after each such issuance shall thereafter (except as provided in this Section 5.5) be adjusted to a price equal to the quotient obtained by dividing:

(1) an amount equal to the sum of

(x) the total number of shares of Common Stock outstanding (including any shares of Common Stock issuable upon conversion of the Preferred Stock, or deemed to have been issued pursuant to subdivision (iii) of this clause 5.5.1 and to clause 5.5.2 below) immediately prior to such issuance multiplied by the Conversion Price in effect immediately prior to such issuance, plus

(y) the consideration received by the corporation upon such issuance, by

(2) the total number of shares of Common Stock outstanding (including any shares of Common Stock issuable upon conversion of the Preferred Stock or deemed to have been issued pursuant to subdivision (iii) of this clause 5.5.1 and to clause 5.5.2 below) immediately prior to such issuance plus the additional shares of Common Stock issued in such issuance (but not including any additional shares of Common Stock deemed to be issued as a result of any adjustment in the Conversion Price of any series of Preferred Stock resulting from such issuance).

For purposes of any adjustment of the Conversion Price of any series of Preferred Stock pursuant to this clause 5.5.1, the following provisions shall be applicable:

(i) In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor after deducting any discounts or commissions paid or incurred by the corporation in connection with the issuance and sale thereof.

(ii) In the case of the issuance of Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair market value thereof as determined by the board of directors of the corporation, in accordance with generally accepted accounting treatment; provided, however, that if, at the time of such determination, the corporation's Common Stock is traded in the over-the-counter market or on a national or regional securities exchange, such fair market value as determined by the board of directors of the corporation shall not exceed the aggregate "Current Market Price" (as defined below) of the shares of Common Stock being issued.

(iii) In the case of the issuance of: (i) options to purchase or rights to subscribe for Common Stock (other than Excluded Stock), (ii) securities by their

terms convertible into or exchangeable for Common Stock (other than Excluded Stock), or (iii) options to purchase or rights to subscribe for such convertible or exchangeable securities:

(A) the aggregate maximum number of shares of Common Stock deliverable upon exercise of such options to purchase or rights to subscribe for Common Stock shall be deemed to have been issued at the time such options or rights were issued and for a consideration equal to the consideration (determined in the manner provided in subdivisions (1) and (2) above), if any, received by the corporation upon the issuance of such options or rights plus the minimum purchase price provided in such options or rights for the Common Stock covered thereby;

(B) the aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange for any such convertible or exchangeable securities or upon the exercise of options to purchase or rights to subscribe for such convertible or exchangeable securities and subsequent conversion or exchange thereof, shall be deemed to have been issued at the time such securities were issued or such options or rights were issued and for a consideration equal to the consideration received by the corporation for any such securities and related options or rights (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by the corporation upon the conversion or exchange of such securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in subdivisions (1) and (2) above);

(C) on any change in the number of shares of Common Stock deliverable upon exercise of any such options or rights or conversion of or exchange for such convertible or exchangeable securities, or on any change in the minimum purchase price of such options, rights or securities, other than a change resulting from the antidilution provisions of such options, rights or securities, the Conversion Price shall forthwith be readjusted to such Conversion Price as would have obtained had the adjustment made upon (x) the issuance of such options, rights or securities not exercised, converted or exchanged prior to such change, as the case may be, been made upon the basis of such change or (y) the options or rights related to such securities not converted or exchanged prior to such change, as the case may be, been made upon the basis of such change; and

(D) on the expiration of any such options or rights, the termination of any such rights to convert or exchange or the expiration of any options or rights related to such convertible or exchangeable securities, the Conversion Price shall forthwith be readjusted to such Conversion Price as would have obtained had the adjustment made upon the issuance of such options, rights, convertible or exchangeable securities or options or rights related to such convertible or exchangeable securities, as the case may be, been made upon the basis of the issuance of only the number of shares of Common Stock actually issued upon the exercise of such options or rights, upon the conversion or exchange of such convertible or exchangeable securities or upon the exercise of the options or rights related to such convertible or exchangeable securities, as the case may be.

5.5.2 “Excluded Stock” shall mean:

(a) all shares of Common Stock and Preferred Stock issued and outstanding on the date hereof;

(b) all shares of Common Stock into which the shares of Preferred Stock are convertible;

(c) all shares of Common Stock or other securities, or options or warrants to purchase Common Stock or any such other securities, issuable to employees, officers, consultants or directors of, or licensors of technology to, the corporation, under any agreement, arrangement or plan, including any incentive stock plan, approved by the Board of Directors of the corporation;

(d) all shares of Common Stock issuable pursuant to the exercise of options, warrants or convertible securities outstanding as of the date this Certificate of Incorporation is filed with the Secretary of State of the State of Delaware;

(e) all shares of Common Stock or other securities, or options or warrants to purchase Common Stock or any such other securities, issued in connection with the corporation’s Series F Preferred Stock financing or issuable pursuant to such securities;

(f) all shares of Common Stock or other securities, or options or warrants to purchase Common Stock or any such other securities, issuable to landlords, financial institutions or lessors in connection with office leases, commercial credit arrangements, equipment financings or similar transactions;

(g) all convertible promissory notes and warrants issued pursuant to that Convertible Note and Warrant Purchase Agreement dated on or about October 8, 2003, and all shares of Common Stock or other securities issuable upon conversion of such convertible promissory notes or exercise of such warrants or other securities issuable upon conversion of such securities; and

(h) all securities and shares of Common Stock specifically identified as not constituting “Excluded Stock” by the affirmative vote of at least a majority of the then outstanding shares of Preferred Stock, voting together as a class.

All outstanding shares of Excluded Stock (including any shares issuable upon conversion of the Preferred Stock but excluding shares reserved for issuance for option plans for which options have not yet been granted) shall be deemed to be outstanding for all purposes of the computations of Section 5.5.1 above.

5.5.3 If the number of shares of Common Stock outstanding at any time after the date hereof is increased by a stock dividend payable in shares of Common Stock or by a subdivision or split-up of shares of Common Stock, then, on the date such payment is made or such change is effective, the Conversion Price for each series of Preferred Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of any shares of the Preferred Stock shall be increased in proportion to such increase of outstanding shares.

5.5.4 If the number of shares of Common Stock outstanding at any time after the date hereof is decreased by a combination of the outstanding shares of Common Stock, then, on the effective date of such combination, the Conversion Price for each series of Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of shares of the Preferred Stock shall be decreased in proportion to such decrease in outstanding shares.

5.5.5 In case the corporation shall declare a cash dividend upon its Common Stock payable otherwise than out of retained earnings or shall distribute to holders of its Common Stock shares of its capital stock (other than Common Stock), stock or other securities of other persons, evidences of indebtedness issued by the corporation or other persons, assets (excluding cash dividends) or options or rights (excluding options to purchase and rights to subscribe for Common Stock or other securities of the corporation convertible into or exchangeable for Common Stock), then, in each such case, immediately following the record date fixed for the determination of the holders of Common Stock entitled to receive such dividend or distribution, the Conversion Price for each series of Preferred Stock in effect thereafter shall be determined by multiplying the Conversion Price for such series of Preferred Stock in effect immediately prior to such record date by a fraction of which the numerator shall be an amount equal to the remainder of (x) the Current Market Price of one share of Common Stock less (y) the amount of such cash dividend in respect of one share of Common Stock or the fair market value (as determined by the Board of Directors, whose determination shall be conclusive) of the stock, securities, evidences or indebtedness, assets, options or rights so distributed in respect of one share of Common Stock, as the case may be, and of which the denominator shall be the Current Market Price of one share of Common Stock. Such adjustment shall be made on the date such dividend or distribution is made, and shall become effective at the opening of business on the business day next following the record date for the determination of stockholders entitled to such dividend or distribution.

5.5.6 In case, at any time after the date hereof, of any capital reorganization, or any reclassification of the stock of the corporation (other than a change in par value or as a result of a stock dividend or subdivision, split-up or combination of shares), or the consolidation or merger of the corporation with or into another person (other than a consolidation or merger in which the corporation is the continuing entity and which does not result in any change in the Common Stock), or of the sale or other disposition of all or substantially all the properties and assets of the corporation as an entirety to any other person, the shares of Preferred

Stock shall, after such reorganization, reclassification, consolidation, merger, sale or other disposition, be convertible into the kind and number of shares of stock or other securities or property of the corporation or of the entity resulting from such consolidation or surviving such merger or to which such properties and assets shall have been sold or otherwise disposed to which such holder would have been entitled if immediately prior to such reorganization, reclassification, consolidation, merger, sale or other disposition he had converted his shares of Preferred Stock into Common Stock. The provisions of this Section 5.5.4 shall similarly apply to successive reorganizations, reclassifications, consolidations, mergers, sales or other dispositions.

5.5.7 All calculations under this Section 5 shall be made to the nearest cent or to the nearest one hundredth (1/100) of a share, as the case may be.

5.5.8 For the purpose of any computation pursuant to this Section 5.5, the "Current Market Price" at any date of one share of Common Stock, shall be deemed to be the average of the highest reported bid and the lowest reported offer prices on the preceding business day as furnished by the National Quotation Bureau, Incorporated (or equivalent recognized source of quotations); provided, however, that if the Common Stock is not traded in such manner that the quotations referred to in this Section 5.5 are available for the period required hereunder, Current Market Price shall be determined in good faith by the Board of Directors of the corporation.

5.6 Minimal Adjustments. No adjustment in a Conversion Price need be made if such adjustment would result in a change in such Conversion Price of less than $0.01. Any adjustment of less than $0.01 which is not made shall be carried forward and shall be made at the time of and together with any subsequent adjustment which, on a cumulative basis, amounts to an adjustment of $0.01 or more in a Conversion Price.

5.7 No Impairment. The corporation will not, through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 5 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Preferred Stock against impairment. This provision shall not restrict the corporation from amending its Certificate of Incorporation in accordance with the General Corporation Law of the State of Delaware.

5.8 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Rate pursuant to this Section 5, the corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The corporation shall, upon written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments

and readjustments, (ii) the Conversion Rate at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of the Preferred Stock held by such holder.

5.9 Notices of Record Date. In the event of any taking by the corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, the corporation shall mail to each holder of Preferred Stock at least twenty (20) days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution.

5.10 Reservation of Stock Issuable Upon Conversion. The corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the shares of Preferred Stock such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Preferred Stock, the corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

5.11 Notices. Any notice required by the provisions of this Section 5 to be given to the holder of shares of Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the corporation.

6. Protective Provisions.

6.1 Series A Protective Provisions. For so long as shares of Series A Preferred shall be outstanding, the corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of more than two-thirds of the outstanding shares of Series A Preferred:

6.1.1 No Adverse Change. Adversely alter or change the powers, preferences or special rights of the Series A Preferred; or

6.1.2 Create Any New Class or Series. Create any new class or series of shares having any powers, preferences, or special rights superior to or on a parity with the Series A Preferred.

6.2 Series B Protective Provisions. For so long as shares of Series B Preferred shall be outstanding, the corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of more than two-thirds of the outstanding shares of Series B Preferred:

6.2.1 No Adverse Change. Adversely alter or change the powers, preferences or special rights of the Series B Preferred; or

6.2.2 Create Any New Class or Series. Create any new class or series of shares having any powers, preferences, or special rights superior to or on a parity with the Series B Preferred.

6.3 Series C Protective Provisions. For so long as shares of Series C Preferred shall be outstanding, the corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of more than two-thirds of the outstanding shares of Series C Preferred:

6.3.1 No Adverse Change. Adversely alter or change the powers, preferences or special rights of the Series C Preferred; or

6.3.2 Create Any New Class or Series. Create any new class or series of shares having any powers, preferences, or special rights superior to or on a parity with the Series C Preferred.

6.4 Series D Protective Provisions. For so long as shares of Series D Preferred shall be outstanding, the corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of more than two-thirds of the outstanding shares of Series D Preferred:

6.4.1 No Adverse Change. Adversely alter or change the powers, preferences or special rights of the Series D Preferred; or

6.4.2 Create Any New Class or Series. Create any new class or series of shares having any powers, preferences, or special rights superior to or on a parity with the Series D Preferred.

6.5 Series E Protective Provisions. For so long as shares of Series E Preferred shall be outstanding, the corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of more than two-thirds of the outstanding shares of Series E Preferred:

6.5.1 No Adverse Change. Adversely alter or change the powers, preferences or special rights of the Series E Preferred; or

6.5.2 Create Any New Class or Series. Create any new class or series of shares having any powers, preferences, or special rights superior to or on a parity with the Series E Preferred.

6.6 Series F Protective Provisions. For so long as shares of Series F Preferred shall be outstanding, the corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of more than two-thirds of the outstanding shares of Series F Preferred:

6.6.1 No Adverse Change. Adversely alter or change the powers, preferences or special rights of the Series F Preferred; or

6.6.2 Create Any New Class or Series. Create any new class or series of shares having any powers, preferences, or special rights superior to or on a parity with the Series F Preferred.

6.7 Preferred Stock Protective Provisions. For so long as shares of the Preferred Stock shall be outstanding, the corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of a majority of the outstanding shares of Preferred Stock:

6.7.1 Sale of Assets. Sell, lease, exchange, convey, or otherwise dispose of, all or substantially all of the property of the corporation;

6.7.2 Merger or Consolidation. Complete a merger, consolidation or sale of all or substantially all of the assets of the corporation in which the corporation's stockholders immediately prior to such transaction, or series of related transactions, possess less than 50% of the voting securities of the surviving, continuing or purchasing entity (or parent, if any) immediately after the transaction or series of related transactions in which an excess of 50% of the corporation's voting power is transferred;

6.7.3 Dividends/Redemption. Redeem or repurchase or otherwise make any distributions with respect to outstanding securities, other than (i) the repurchase of shares of Common Stock issued to or held by employees, directors or consultants of or to the corporation or any of its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of such repurchase between the corporation and such persons and (ii) the repurchase of shares of Common Stock in connection with the exercise of the right of first refusal pursuant to agreements providing for the right of first refusal between the corporation and any of its stockholder;

6.7.4 Authorized Number. Increase or decrease the authorized number of shares of Preferred Stock;

6.7.5 Restatement of Certificate/Bylaws. Amend, restate, alter or repeal any provision of the corporation's Certificate of Incorporation or the Bylaws of the corporation; or

6.7.6 Section 305. Do any act or thing which would result in the taxation of the holders of the Preferred Stock under Section 305 of the Internal Revenue Code of 1986, as amended (or any successor provision).

6.8 Preferred Stock Protective Provisions - Super Majority. For so long as shares of the Preferred Stock shall be outstanding, the corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of a two-thirds of the outstanding shares of Preferred Stock:

6.8.1 Board Size. Increase the size of the Board of Directors to a number greater than that set forth in the Bylaws of the corporation.

FIVE. The corporation is to have perpetual existence.

SIX. Subject to Article FOUR, Section 6 herein, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter, amend or repeal the Bylaws of the corporation.

SEVEN. The number of directors which constitute the whole Board of Directors of the corporation shall be as specified in the Bylaws of the corporation.

EIGHT. Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the corporation may be kept (subject to any provisions contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the corporation.

NINE. To the fullest extent permitted by the Delaware General Corporation Law, a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. Neither any amendment nor repeal of this Article NINE, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article NINE, shall eliminate or reduce the effect of this Article NINE in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article NINE, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

TEN. Advance notice of new business and stockholder nominations for the election of directors shall be given in the manner and to the extent provided in the Bylaws of the corporation.

ELEVEN. Subject to Article FOUR, Section 6 herein, the corporation reserves the right to amend, alter, change or repeal any provisions contained in this Certificate, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

IN WITNESS WHEREOF, the corporation has caused this Certificate to be signed by Ronald J. Berenson, its President, this _____ day of October, 2003.

XCYTE THERAPIES, INC.

By: _____

Ronald J. Berenson, President

Exhibit 3.2

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
XCYTE THERAPIES, INC.

The undersigned, Ronald J. Berenson, hereby certifies that:

1. He is the duly elected and acting President of Xcyte Therapies, Inc., a Delaware corporation.

2. The Certificate of Incorporation of this corporation was originally filed with the Secretary of State of Delaware on January 5, 1996 under the name of MolecuRx, Inc.

3. The Certificate of Incorporation of this corporation shall be amended and restated to read in full as follows:

"ARTICLE I

The name of this corporation is Xcyte Therapies, Inc. (the "Corporation").

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE IV

[Upon the effective date of the filing of this Amended and Restated Certificate of Incorporation, each share of the Corporation's outstanding capital stock shall be converted and reconstituted into _____ shares of Common Stock of the Corporation (the "Stock Split"). No further adjustment of any preference or price set forth in this Article IV shall be made as a result of the Stock Split, as all share amounts per share and per share numbers set forth in this Amended and Restated Certificate of Incorporation have been appropriately adjusted to reflect the Stock Split.]

(A) The Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Corporation is authorized to issue is one hundred five million (105,000,000) shares, each with a par value of $0.001 per share. One hundred million (100,000,000) shares shall be Common Stock and five million (5,000,000) shares shall be Preferred Stock.

(B) The Preferred Stock may be issued from time to time in one or more series. The Board of Directors is hereby authorized, by filing a certificate pursuant to the applicable law of the state of Delaware and within the limitations and restrictions stated in this Certificate of Incorporation, to determine or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Stock and the number of shares constituting any such series and the designation thereof, or any of them; and to increase or decrease the number of shares of any series subsequent to the issuance of shares of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

ARTICLE V

The number of directors of the Corporation shall be fixed from time to time by a bylaw or amendment thereof duly adopted by the Board of Directors.

ARTICLE VI

On or prior to the date on which the Corporation first provides notice of an annual meeting of the stockholders, the Board of Directors of the Corporation shall divide the directors into three classes, as nearly equal in number as reasonably possible, designated Class I, Class II and Class III, respectively. Directors shall be assigned to each class in accordance with a resolution or resolutions adopted by the Board of Directors. At the first annual meeting of stockholders or any special meeting in lieu thereof, the terms of the Class I directors shall expire and Class I directors shall be elected for a full term of three years. At the second annual meeting of stockholders or any special meeting in lieu thereof, the terms of the Class II directors shall expire and Class II directors shall be elected for a full term of three years. At the third annual meeting of stockholders or any special meeting in lieu thereof, the terms of the Class III directors shall expire and Class III directors shall be elected for a full term of three years. At each succeeding annual meeting of stockholders or special meeting in lieu thereof, directors elected to succeed the directors of the class whose terms expire at such meeting shall be elected for a full term of three years.

Notwithstanding the foregoing provisions of this Article VI, each director shall serve until his or her successor is duly elected and qualified or until his or her death, resignation, or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal, or other causes shall be filled by either (i) the affirmative vote of the holders of a majority of the voting power of the then-outstanding shares of voting stock of the Corporation entitled to vote generally in the election of directors (the "Voting Stock") voting together as a single class; or (ii) by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors. Subject to the rights of any series of Preferred Stock then outstanding, newly created directorships resulting from any

increase in the number of directors shall, unless the Board of Directors determines by resolution that any such newly created directorship shall be filled by the stockholders, be filled only by the affirmative vote of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified.

In addition to the requirements of law and any other provisions hereof (and notwithstanding the fact that approval by a lesser vote may be permitted by law or any other provision thereof), the affirmative vote of the holders of at least 66 2/3% of the voting power of the then-outstanding stock shall be required to amend, alter, repeal or adopt any provision inconsistent with this Article VI.

ARTICLE VII

In the election of directors, each holder of shares of any class or series of capital stock of the Corporation shall be entitled to one vote for each share held. No stockholder will be permitted to cumulate votes at any election of directors.

ARTICLE VIII

If at any time this Corporation shall have a class of stock registered pursuant to the provisions of the Securities Exchange Act of 1934, as amended, for so long as such class is so registered, any action by the stockholders of such class must be taken at an annual or special meeting of stockholders, upon due notice and in accordance with the provisions of the Bylaws of this Corporation, and may not be taken by written consent.

ARTICLE IX

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

ARTICLE X

(A) Except as otherwise provided in the Bylaws, the Bylaws may be altered or amended or new Bylaws adopted by the affirmative vote of at least 66 2/3% of the voting power of all of the then-outstanding shares of the voting stock of the Corporation entitled to vote. The Board of Directors of the Corporation is expressly authorized to adopt, amend or repeal Bylaws.

(B) The directors of the Corporation need not be elected by written ballot unless the Bylaws so provide.

(C) Advance notice of stockholder nominations for the election of directors or of business to be brought by the stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the Bylaws.

ARTICLE XI

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the bylaws of the Corporation.

ARTICLE XII

The Corporation shall have perpetual existence.

ARTICLE XIII

(A) To the fullest extent permitted by the General Corporation Law of Delaware, as the same may be amended from time to time, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law of Delaware is hereafter amended to authorize, with the approval of a corporation's stockholders, further reductions in the liability of a corporation's directors for breach of fiduciary duty, then a director of the Corporation shall not be liable for any such breach to the fullest extent permitted by the General Corporation Law of Delaware, as so amended.

(B) Any repeal or modification of the foregoing provisions of this Article XIII shall not adversely affect any right or protection of a director of the Corporation with respect to any acts or omissions of such director occurring prior to such repeal or modification.

ARTICLE XIV

(A) To the fullest extent permitted by applicable law, the Corporation is also authorized to provide indemnification of (and advancement of expenses to) such agents (and any other persons to which Delaware law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law of Delaware, subject only to limits created by applicable Delaware law (statutory or non-statutory), with respect to actions for breach of duty to a corporation, its stockholders, and others.

(B) Any repeal or modification of any of the foregoing provisions of this Article XIV shall not adversely affect any right or protection of a director, officer, agent or other person existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director, officer or agent occurring prior to such repeal or modification."

* * *

The foregoing Amended and Restated Certificate of Incorporation has been duly adopted by this Corporation's Board of Directors and stockholders in accordance with the applicable provisions of Section 228, 242 and 245 of the General Corporation Law of the State of Delaware.

Executed at Seattle, Washington, on the _____ day of _____, 2003.

Ronald J. Berenson, President

BYLAWS

OF

XCYTE THERAPIES, INC.

(AS AMENDED AND RESTATED EFFECTIVE _____ __, 2003)

TABLE OF CONTENTS

		Page
ARTICLE I - CORPORATE OFFICES		1
1.1	Registered Office.	1
1.2	Other Offices	1
ARTICLE II - MEETINGS OF STOCKHOLDERS		1
2.1	Place of Meetings	1
2.2	Annual Meeting	1
2.3	Special Meeting	2
2.4	Notice of Stockholder's Meetings; Affidavit of Notice	2
2.5	Advance Notice of Stockholder Nominees and Other Stockholder Proposals	3
2.6	Quorum	4
2.7	Adjourned Meeting; Notice	4
2.8	Organization; Conduct of Business	5
2.9	Voting	5
2.10	Waiver of Notice	6
2.11	Record Date for Stockholder Notice; Voting	6
2.12	Proxies	6
ARTICLE III - DIRECTORS		7
3.1	Powers	7
3.2	Number of Directors	7
3.3	Election, Qualification and Term of Office of Directors	7
3.4	Resignation and Vacancies	7
3.5	Place of Meetings; Meetings by Telephone	8
3.6	Regular Meetings	9
3.7	Special Meetings; Notice.	9
3.8	Quorum	9
3.9	Waiver of Notice	9
3.10	Board Action by Written Consent Without a Meeting	10
3.11	Fees and Compensation of Directors	10
3.12	Approval of Loans to Officers	10
3.13	Removal of Directors	11
3.14	Chairman of the Board of Directors	12
ARTICLE IV - COMMITTEES		12
4.1	Committees of Directors	12
4.2	Committee Minutes	12
4.3	Meetings and Action of Committees	12
ARTICLE V - OFFICERS		13
5.1	Officers	13

		Page
5.2	Appointment of Officers	13
5.3	Subordinate Officers	13
5.4	Removal and Resignation of Officers	13
5.5	Vacancies in Offices	13
5.6	Chief Executive Officer	14
5.7	President	14
5.8	Vice Presidents	14
5.9	Secretary	14
5.10	Chief Financial Officer	15
5.11	Representation of Shares of Other Corporations	15
5.12	Authority and Duties of Officers	15
ARTICLE VI - INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS		16
6.1	Indemnification of Directors and Officers	16
6.2	Indemnification of Others	16
6.3	Payment of Expenses in Advance	16
6.4	Indemnity Not Exclusive	16
6.5	Insurance	17
6.6	Conflicts	17
ARTICLE VII - RECORDS AND REPORTS		17
7.1	Maintenance and Inspection of Records	17
7.2	Inspection by Directors	18
ARTICLE VIII - GENERAL MATTERS		18
8.1	Checks	18
8.2	Execution of Corporate Contracts And Instruments	18
8.3	Stock Certificates; Partly Paid Shares	19
8.4	Special Designation on Certificates	19
8.5	Lost Certificates	19
8.6	Construction; Definitions	20
8.7	Dividends	20
8.8	Fiscal Year	20
8.9	Seal	20
8.10	Transfer of Stock	20
8.11	Stock Transfer Agreements	21
8.12	Registered Stockholders	21
8.13	Facsimile Signatures	21
ARTICLE IX		21

AMENDED AND RESTATED

BYLAWS

OF

XCYTE THERAPIES, INC.

ARTICLE I

CORPORATE OFFICES

1.1 **Registered Office**.

The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

1.2 **Other Offices**.

The Board of Directors may at any time establish other offices at any place or places where the Corporation is qualified to do business.

ARTICLE II

MEETINGS OF STOCKHOLDERS

2.1 **Place of Meetings**.

Meetings of stockholders shall be held at any place, within or outside the State of Delaware, designated by the Board of Directors. In the absence of any such designation, stockholders' meetings shall be held at the registered office of the Corporation.

2.2 **Annual Meeting**.

(a) The annual meeting of stockholders shall be held each year on a date and at a time designated by resolution of the Board of Directors. At the meeting, directors shall be elected and any other proper business may be transacted.

(b) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be transacted by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice with respect to such meeting, (ii) by or at the direction of the Board of Directors or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of giving of the notice provided for in this Section 2.2, who is entitled to vote at the meeting and who has complied with the notice procedures set forth in this Section 2.2.

(c) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (b) of this Section 2.2, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation, as provided in Section 2.5, and such business must be a proper matter for stockholder action under the General Corporation Law of Delaware.

(d) Only such business shall be conducted at an annual meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in these Bylaws. The chairman of the meeting shall determine whether a nomination or any business proposed to be transacted by the stockholders has been properly brought before the meeting and, if any proposed nomination or business has not been properly brought before the meeting, the chairman shall declare that such proposed business or nomination shall not be presented for stockholder action at the meeting.

(e) Nothing in this Section 2.2 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

2.3 **Special Meeting**.

(a) A special meeting of the stockholders may be called at any time by the Board of Directors, the chairman of the board or the president.

(b) Only such business shall be conducted at a special meeting of the stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting.

(c) Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders, if such election is set forth in the notice of such special meeting. Such nominations may be made either by or at the direction of the Board of Directors, or by any stockholder of record entitled to vote at such special meeting, provided the stockholder follows the notice procedures set forth in Section 2.5.

(d) Notwithstanding the foregoing provisions of this Section 2.3, a stockholder shall also comply with all applicable requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder with respect to matters set forth in this Section 2.3.

2.4 **Notice of Stockholder's Meetings; Affidavit of Notice**.

(a) All notices of meetings of stockholders shall be in writing and shall be sent or otherwise given in accordance with this Section 2.4 of these Bylaws not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting (or such longer or shorter time as is required by Section 2.5 of these Bylaws, if applicable). The notice shall specify the place (if any), date, and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Written notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the

Corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic mail or other electronic transmission, in the manner provided in Section 232 of the Delaware General Corporation Law. An affidavit of the secretary or an assistant secretary or of the transfer agent of the Corporation that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(b) If a special meeting is called by stockholders representing the percentage of the total votes outstanding designated in Section 2.3(a), the request shall be in writing, specifying the time of such meeting and the general nature of the business proposed to be transacted, and shall be delivered personally, or sent by registered mail or by facsimile transmission to the chairman of the board, the president, any vice president, or the secretary of the corporation. No business may be transacted at such special meeting otherwise than specified in such request. The officer receiving the request shall cause notice to be promptly given to the stockholders entitled to vote, in accordance with the provisions of this Section 2.4, that a meeting will be held at the time requested by the person or persons calling the meeting, not less than 35 nor more than 60 days after the receipt of the request. If the notice is not given within 20 days after the receipt of the request, the person or persons requesting the meeting may give the notice. Nothing contained in this Section 2.4(b) shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board of Directors may be held.

2.5 **Advance Notice of Stockholder Nominees and Other Stockholder Proposals**.

Only persons who are nominated in accordance with the procedures set forth in this Section 2.5 shall be eligible for election as directors. Nominations of persons for election to the Board of Directors of the Corporation may be made at a meeting of stockholders by or at the direction of the Board of Directors or by any stockholder of the Corporation entitled to vote for the election of directors at the meeting who complies with the notice procedures set forth in this Section 2.5. Such nominations, other than those made by or at the direction of the Board of Directors, shall be made pursuant to timely notice in writing to the secretary of the Corporation. Stockholders may bring other business before the annual meeting, provided that timely notice is provided to the secretary of the Corporation in accordance with this section, and provided further that such business is a proper matter for stockholder action under the General Corporation Law of Delaware. To be timely, a stockholder's notice shall be delivered to or mailed and received at the principal executive offices of the Corporation not less than 90 days nor more than 120 days prior to the anniversary date of the prior year's meeting; provided, however, that in the event that (i) the date of the annual meeting is more than 30 days prior to or more than 60 days after such anniversary date, and (ii) less than 60 days notice or prior public disclosure of the date of the meeting is given or made to stockholders, notice by the stockholder to be timely must be so received not later than the close of business on the 10th day following the day on which such notice of the date of the meeting was mailed or such public disclosure was made. Such stockholder's notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or re-election as a directors, (i) the name, age, business address and residence address of such person, (ii) the principal occupation or employment of such person, (iii) the class and number of shares of the Corporation which are beneficially owned by such person and (iv) any other information relating to such person that is required to be disclosed in

solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934 (including, without limitation, such person's written consent to being name in the proxy statement as a nominee and to serving as a director if elected); (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of such business, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is made (i) the name and address of the stockholder, as they appear on the Corporation's books, and of such beneficial owner and (ii) the class and number of shares of the Corporation which are owned of record by such stockholder and beneficially by such beneficial owner. At the request of the Board of Directors any person nominated by the Board of Directors for election as a director shall furnish to the secretary of the Corporation that information required to be set forth in a stockholder's notice of nomination which pertains to the nominee. No person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 2.5. The chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the procedures prescribed by the Bylaws, and if he or she should so determine, he or she shall so declare to the meeting and the defective nomination shall be disregarded.

Notwithstanding the foregoing provisions of this Section 2.5, a stockholder shall also comply with all applicable requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder with respect to matters set forth in this Section 2.5.

2.6 **Quorum**.

The holders of a majority of the shares of stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the Certificate of Incorporation. If, however, such quorum is not present or represented at any meeting of the stockholders, then either (a) the chairman of the meeting or (b) holders of a majority of the shares of stock entitled to vote who are present, in person or by proxy, shall have power to adjourn the meeting to another place (if any), date or time.

2.7 **Adjourned Meeting; Notice**.

When a meeting is adjourned to another place (if any), date or time, unless these Bylaws otherwise require, notice need not be given of the adjourned meeting if the time and place (if any), thereof and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present and vote at such adjourned meeting, are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the place (if any), date and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

2.8 **Organization; Conduct of Business**.

(a) Such person as the Board of Directors may have designated or, in the absence of such a person, the President of the Corporation or, in his or her absence, such person as may be chosen by the holders of a majority of the shares entitled to vote who are present, in person or by proxy, shall call to order any meeting of the stockholders and act as Chairman of the meeting. In the absence of the Secretary of the Corporation, the Secretary of the meeting shall be such person as the Chairman of the meeting appoints.

(b) The Chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including the manner of voting and the conduct of business. The date and time of opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

2.9 **Voting**.

(a) The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of Section 2.11 of these Bylaws, subject to the provisions of Sections 217 and 218 of the General Corporation Law of Delaware (relating to voting rights of fiduciaries, pledgors and joint owners of stock and to voting trusts and other voting agreements).

(b) Except as may be otherwise provided in the Certificate of Incorporation, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder.

(c) The Corporation may, and to the extent required by law, shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting may, and to the extent required by law, shall, appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. Every vote taken by ballots shall be counted by an inspector or inspectors appointed by the chairman of the meeting.

(d) All elections shall be determined by a plurality of the votes cast, and except as otherwise required by law, all other matters shall be determined by a majority of the votes cast affirmatively or negatively.

2.10 **Waiver of Notice**.

Whenever notice is required to be given under any provision of the General Corporation Law of Delaware or of the Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or waiver by electronic mail or other electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice, or any waiver of notice by electronic transmission, unless so required by the Certificate of Incorporation or these Bylaws.

2.11 **Record Date for Stockholder Notice; Voting**.

In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. If the Board of Directors does not so fix a record date:

(a) The record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

(b) The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting, if such adjournment is for thirty (30) days or less; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

2.12 **Proxies**.

Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by an instrument in writing or by an electronic transmission permitted by law filed with the secretary of the Corporation, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A proxy shall be deemed signed if the stockholder’s name is placed on the proxy (whether by manual signature, typewriting, electronic or telegraphic transmission or otherwise)

by the stockholder or the stockholder's attorney-in-fact. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212(e) of the General Corporation Law of Delaware.

ARTICLE III
DIRECTORS

3.1 **Powers**.

Subject to the provisions of the General Corporation Law of Delaware and any limitations in the Certificate of Incorporation or these Bylaws relating to action required to be approved by the stockholders or by the outstanding shares, the business and affairs of the Corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board of Directors.

3.2 **Number of Directors**.

The number of directors constituting the entire Board of Directors shall be [**eight (8)**].

Thereafter, this number may be changed by a resolution of the Board of Directors or of the stockholders, subject to Section 3.4 of these Bylaws. No reduction of the authorized number of directors shall have the effect of removing any director before such director's term of office expires.

3.3 **Election, Qualification and Term of Office of Directors**.

Except as provided in Section 3.4 of these Bylaws, and unless otherwise provided in the Certificate of Incorporation, directors shall be elected at each annual meeting of stockholders to hold office until the next annual meeting. Directors need not be stockholders unless so required by the Certificate of Incorporation or these Bylaws, wherein other qualifications for directors may be prescribed. Each director, including a director elected to fill a vacancy, shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal.

Unless otherwise specified in the Certificate of Incorporation, elections of directors need not be by written ballot.

3.4 **Resignation and Vacancies**.

Any director may resign at any time upon written notice to the attention of the secretary of the Corporation. When one or more directors so resigns and the resignation is effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in this section in the filling of other vacancies. Unless otherwise provided in

the Certificate of Incorporation, and subject to the rights of the holders of any series of Preferred Stock that may then be outstanding, a vacancy created by the removal of a director by the vote of the stockholders or by court order may be filled only by the affirmative vote of a majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute a majority of the quorum. Each director so elected shall hold office until the next annual meeting of the stockholders and until a successor has been elected and qualified.

Unless otherwise provided in the Certificate of Incorporation or these Bylaws:

(a) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(b) Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

If at any time, by reason of death or resignation or other cause, the Corporation should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the Certificate of Incorporation or these Bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the General Corporation Law of Delaware.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole Board of Directors (as constituted immediately prior to any such increase), then the Court of Chancery may, upon application of any stockholder or stockholders holding at least 10% of the total number of the shares at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the General Corporation Law of Delaware as far as applicable.

3.5 **Place of Meetings; Meetings by Telephone**.

The Board of Directors of the Corporation may hold meetings, both regular and special, either within or outside the State of Delaware. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors, or any committee, by means of conference telephone or other communications

equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

3.6 **Regular Meetings**.

Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by the Board of Directors.

3.7 **Special Meetings; Notice**.

Special meetings of the board of directors for any purpose or purposes may be called at any time by the chairman of the board, the president, any vice president, the secretary or any two directors.

Notice of the time and place of special meetings shall be delivered personally or by telephone to each director or sent by first-class mail, facsimile, electronic transmission or telegram, charges prepaid, addressed to each director at that director's address as it is shown on the records of the Corporation. If the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. If the notice is delivered personally, or by facsimile, electronic transmission or telegram, it shall be delivered at least 24 hours before the time of the holding of the meeting, or on such shorter notice as the person or persons calling such meeting may deem necessary and appropriate in the circumstances. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. The notice need not specify the purpose of the meeting. The notice need not specify the place of the meeting, if the meeting is to be held at the principal executive office of the Corporation.

3.8 **Quorum**.

At all meetings of the Board of Directors, a majority of the total number of directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the Certificate of Incorporation. If a quorum is not present at any meeting of the Board of Directors, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

3.9 **Waiver of Notice**.

Whenever notice is required to be given under any provision of the General Corporation Law of Delaware or of the Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or waiver by electronic mail or other

electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the directors, or members of a committee of directors, need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or these Bylaws.

3.10 **Board Action by Written Consent Without a Meeting**.

Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee. Written consents representing actions taken by the board or committee may be executed by telex, telecopy or other facsimile transmission, or by electronic mail or other electronic transmission, and such facsimile or electronic transmission shall be valid and binding to the same extent as if it were an original. If the minutes of the board or committee are maintained in paper form, consents obtained by electronic transmission shall be reduced to written form and filed with such minutes.

Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

3.11 **Fees and Compensation of Directors**.

Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board of Directors shall have the authority to fix the compensation of directors. No such compensation shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

3.12 **Approval of Loans to Officers**.

The Corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or of its subsidiary, including any officer or employee who is a director of the Corporation or its subsidiary, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the Corporation. The loan, guaranty or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the Corporation. Nothing in this section shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

3.13 **Removal of Directors**.

On or prior to the date on which the Corporation first provides notice of an annual meeting of the stockholders following the Effective Time, the Board of Directors of the Corporation shall divide the directors into three classes, as nearly equal in number as reasonably possible, designated Class I, Class II and Class III, respectively. Directors shall be assigned to each class in accordance with a resolution or resolutions adopted by the Board of Directors. At the first annual meeting of stockholders or any special meeting in lieu thereof following the Effective Time, the terms of the Class I directors shall expire and Class I directors shall be elected for a full term of three years. At the second annual meeting of stockholders or any special meeting in lieu thereof following the Effective Time, the terms of the Class II directors shall expire and Class II directors shall be elected for a full term of three years. At the third annual meeting of stockholders or any special meeting in lieu thereof following the Effective Time, the terms of the Class III directors shall expire and Class III directors shall be elected for a full term of three years. At each succeeding annual meeting of stockholders or special meeting in lieu thereof, directors elected to succeed the directors of the class whose terms expire at such meeting shall be elected for a full term of three years.

Prior to the Effective Time, the provisions of the preceding paragraph shall not apply, and all directors shall be elected at each annual meeting of stockholders or any special meeting in lieu thereof to hold office until the next annual meeting or special meeting in lieu thereof.

Notwithstanding the foregoing provisions of this Section 3.13, each director shall serve until his or her successor is duly elected and qualified or until his or her death, resignation, or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal, or other causes shall be filled by either (i) the affirmative vote of the holders of a majority of the voting power of the then-outstanding shares of voting stock of the Corporation entitled to vote generally in the election of directors (the "Voting Stock") voting together as a single class; or (ii) by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors. Subject to the rights of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such newly created directorship shall be filled by the stockholders, be filled only by the affirmative vote of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified. No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

3.14 **Chairman of the Board of Directors**.

The Corporation may also have, at the discretion of the Board of Directors, a Chairman of the Board of Directors who shall not be considered an officer of the Corporation.

ARTICLE IV
COMMITTEES

4.1 **Committees of Directors**.

The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The Board may designate 1 or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors, or in these Bylaws, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the General Corporate Law of Delaware to be submitted to stockholders for approval or (ii) adopting, amending or repealing any Bylaw of the corporation.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

4.2 **Committee Minutes**.

Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

4.3 **Meetings and Action of Committees**.

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Section 3.5 (place of meetings and meetings by telephone), Section 3.6 (regular meetings), Section 3.7 (special meetings and notice), Section 3.8 (quorum), Section 3.9 (waiver of notice), and Section 3.10 (action without a meeting) of these Bylaws, with such changes in the context of such provisions as are necessary to substitute the committee and its members for the Board of Directors and its members; provided, however, that the time of regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee, that special meetings of committees may also be called by resolution of the Board of Directors and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board of Directors may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws.

ARTICLE V

OFFICERS

5.1 **Officers**.

The officers of the Corporation shall be a chief executive officer, a president, a secretary, and a chief financial officer (or in the absence of a Chief Financial Officer, the Vice President of Finance). The Corporation may also have, at the discretion of the Board of Directors, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and any such other officers as may be appointed in accordance with the provisions of Section 5.3 of these Bylaws. Any number of offices may be held by the same person.

5.2 **Appointment of Officers**.

The officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Sections 5.3 or 5.5 of these Bylaws, shall be appointed by the Board of Directors, subject to the rights, if any, of an officer under any contract of employment.

5.3 **Subordinate Officers**.

The Board of Directors may appoint, or empower the chief executive officer or the president to appoint, such other officers and agents as the business of the Corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board of Directors may from time to time determine.

5.4 **Removal and Resignation of Officers**.

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board of Directors at any regular or special meeting of the Board of Directors or, except in the case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the attention of the secretary of the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

5.5 **Vacancies in Offices**.

Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors.

5.6 **Chief Executive Officer**.

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board, if any, the chief executive officer of the Corporation shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business and the officers of the Corporation. He or she shall preside at all meetings of the stockholders and, in the absence or nonexistence of a chairman of the board, at all meetings of the Board of Directors and shall have the general powers and duties of management usually vested in the office of chief executive officer of a corporation and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

5.7 **President**.

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board (if any) or the chief executive officer, the president shall have general supervision, direction, and control of the business and other officers of the Corporation. He or she shall have the general powers and duties of management usually vested in the office of president of a corporation and such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

5.8 **Vice Presidents**.

In the absence or disability of the chief executive officer and president, the vice presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a vice president designated by the Board of Directors, shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors, these Bylaws, the president or the chairman of the board.

5.9 **Secretary**.

The secretary shall keep or cause to be kept, at the principal executive office of the Corporation or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of directors, committees of directors, and stockholders. The minutes shall show the time and place of each meeting, the names of those present at directors' meetings or committee meetings, the number of shares present or represented at stockholders' meetings, and the proceedings thereof.

The secretary shall keep, or cause to be kept, at the principal executive office of the Corporation or at the office of the Corporation's transfer agent or registrar, as determined by resolution of the Board of Directors, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation.

The secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the Board of Directors required to be given by law or by these Bylaws. He or she shall keep the seal of the Corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these Bylaws.

5.10 **Chief Financial Officer**.

The chief financial officer, or in the absence of the Chief Financial Officer, the Vice President of Finance, shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital retained earnings, and shares. The books of account shall at all reasonable times be open to inspection by any director.

The chief financial officer, or in the absence of the Chief Financial Officer, the Vice President of Finance, shall deposit all moneys and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board of Directors. He or she shall disburse the funds of the Corporation as may be ordered by the Board of Directors, shall render to the president, the chief executive officer, or the directors, upon request, an account of all his or her transactions as chief financial officer and of the financial condition of the Corporation, and shall have other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

5.11 **Representation of Shares of Other Corporations**.

The chairman of the board, the chief executive officer, the president, any vice president, the chief financial officer, or in the absence of the Chief Financial Officer, the Vice President of Finance, the secretary or assistant secretary of this Corporation, or any other person authorized by the Board of Directors or the chief executive officer or the president or a vice president, is authorized to vote, represent, and exercise on behalf of this Corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this Corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by the person having such authority.

5.12 **Authority and Duties of Officers**.

In addition to the foregoing authority and duties, all officers of the Corporation shall respectively have such authority and perform such duties in the management of the business of the Corporation as may be designated from time to time by the Board of Directors or the stockholders.

ARTICLE VI

INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

6.1 **Indemnification of Directors and Officers**.

The Corporation shall, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware, indemnify each of its directors and officers against expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the Corporation. For purposes of this Section 6.1, a "director" or "officer" of the Corporation includes any person (a) who is or was a director or officer of the Corporation, (b) who is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, or (c) who was a director or officer of a Corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation.

6.2 **Indemnification of Others**.

The Corporation shall have the power, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware, to indemnify each of its employees and agents (other than directors and officers) against expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the Corporation. For purposes of this Section 6.2, an "employee" or "agent" of the Corporation (other than a director or officer) includes any person (a) who is or was an employee or agent of the Corporation, (b) who is or was serving at the request of the Corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or (c) who was an employee or agent of a corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation.

6.3 **Payment of Expenses in Advance**.

Expenses incurred in defending any action or proceeding for which indemnification is required pursuant to Section 6.1 or for which indemnification is permitted pursuant to Section 6.2 following authorization thereof by the Board of Directors shall be paid by the Corporation in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of the indemnified party to repay such amount if it shall ultimately be determined, by final judicial decision from which there is no further right to appeal, that the indemnified party is not entitled to be indemnified as authorized in this Article VI.

6.4 **Indemnity Not Exclusive**.

The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may been titled under any Bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in an

official capacity and as to action in another capacity while holding such office, to the extent that such additional rights to indemnification are authorized in the Certificate of Incorporation.

6.5 **Insurance**.

The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the General Corporation Law of Delaware.

6.6 **Conflicts**.

No indemnification or advance shall be made under this Article VI, except where such indemnification or advance is mandated by law or the order, judgment or decree of any court of competent jurisdiction, in any circumstance where it appears:

(a) That it would be inconsistent with a provision of the Certificate of Incorporation, these Bylaws, a resolution of the stockholders or an agreement in effect at the time of the accrual of the alleged cause of the action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

ARTICLE VII

RECORDS AND REPORTS

7.1 **Maintenance and Inspection of Records**.

The Corporation shall, either at its principal executive offices or at such place or places as designated by the Board of Directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these Bylaws as amended to date, accounting books, and other records.

Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the Corporation’s stock ledger, a list of its stockholders, and its other books and records and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person’s interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the Corporation at its registered office in Delaware or at its principal place of business.

A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in each such stockholder's name, shall be open to the examination of any such stockholder for a period of at least ten (10) days prior to the meeting in the manner provided by law. The stock list shall also be open to the examination of any stockholder during the whole time of the meeting as provided by law. This list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

7.2 **Inspection by Directors**.

Any director shall have the right to examine the Corporation's stockledger, a list of its stockholders, and its other books and records for a purpose reasonably related to his or her position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The Court may summarily order the Corporation to permit the director to inspect any and all books and records, the stock ledger, and the stock list and to make copies or extracts therefrom. The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the Court may deem just and proper.

ARTICLE VIII

GENERAL MATTERS

8.1 **Checks**.

From time to time, the Board of Directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the Corporation, and only the persons so authorized shall sign or endorse those instruments.

8.2 **Execution of Corporate Contracts and Instruments**.

The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

8.3 **Stock Certificates; Partly Paid Shares**.

The shares of the Corporation shall be represented by certificates, provided that the Board of Directors of the Corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Notwithstanding the adoption of such a resolution by the Board of Directors, every holder of stock represented by certificates and upon request every holder of uncertificated shares shall be entitled to have a certificate signed by, or in the name of the Corporation by the chairman or vice-chairman of the Board of Directors, or the chief executive officer or the president or vice-president, and by the chief financial officer or, in the absence of a Chief Financial Officer, the Vice President of Finance, or an assistant treasurer, or the secretary or an assistant secretary of the Corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

The Corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, upon the books and records of the Corporation in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the Corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

8.4 **Special Designation on Certificates**.

If the Corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the General Corporation Law of Delaware, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

8.5 **Lost Certificates**.

Except as provided in this Section 8.5, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Corporation and canceled at the same time. The Corporation may issue a new certificate of stock or

uncertificated shares in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or the owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

8.6 **Construction; Definitions**.

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Delaware General Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

8.7 **Dividends**.

The directors of the Corporation, subject to any restrictions contained in (a) the General Corporation Law of Delaware or (b) the Certificate of Incorporation, may declare and pay dividends upon the shares of its capital stock. Dividends may be paid in cash, in property, or in shares of the Corporation's capital stock.

The directors of the Corporation may set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the Corporation, and meeting contingencies.

8.8 **Fiscal Year**.

The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors and may be changed by the Board of Directors.

8.9 **Seal**.

The Corporation may adopt a corporate seal, which may be altered at pleasure, and may use the same by causing it or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

8.10 **Transfer of Stock**.

Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction in its books.

8.11 **Stock Transfer Agreements**.

The Corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the Corporation to restrict the transfer of shares of stock of the Corporation of any one or more classes owned by such stockholders in any manner not prohibited by the General Corporation Law of Delaware.

8.12 **Registered Stockholders**.

The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner, shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

8.13 **Facsimile Signatures**.

In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these Bylaws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors or a committee thereof.

ARTICLE IX

AMENDMENTS

The Bylaws of the Corporation may be adopted, amended or repealed by the stockholders entitled to vote; provided, however, that the Corporation may, in its Certificate of Incorporation, confer the power to adopt, amend or repeal Bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal Bylaws.

CERTIFICATE OF ADOPTION OF
AMENDED AND RESTATED BYLAWS

OF

XCYTE THERAPIES, INC.

The undersigned hereby certifies that the undersigned is the duly elected, qualified, and acting Secretary of Xcyte Therapies, Inc. (the "Corporation"), and that the foregoing Amended and Restated Bylaws were adopted as the Bylaws of the corporation on _____, 2003, by the Board of Directors of the Corporation.

Executed this __ day of _____, 2003.

_____

Joanna Black, Secretary

Exhibit 10.1

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (the "Agreement") is made as of January _____, 2001, by and between Xcyte Therapies, Inc., a Delaware corporation (the "Company"), and «Name» (the "Indemnitee").

RECITALS

The Company and Indemnitee recognize the increasing difficulty in obtaining liability insurance for directors, officers and key employees, the significant increases in the cost of such insurance and the general reductions in the coverage of such insurance. The Company and Indemnitee further recognize the substantial increase in corporate litigation in general, subjecting directors, officers and key employees to expensive litigation risks at the same time as the availability and coverage of liability insurance has been severely limited. Indemnitee does not regard the current protection available as adequate under the present circumstances, and Indemnitee and agents of the Company may not be willing to continue to serve as agents of the Company without additional protection. The Company desires to attract and retain the services of highly qualified individuals, such as Indemnitee, and to indemnify its directors, officers and key employees so as to provide them with the maximum protection permitted by law.

AGREEMENT

In consideration of the mutual promises made in this Agreement, and for other good and valuable consideration, receipt of which is hereby acknowledged, the Company and Indemnitee hereby agree as follows:

1. **Indemnification.**

(a) **Third Party Proceedings.** The Company shall indemnify Indemnitee if Indemnitee is or was a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company) by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, or any subsidiary of the Company, by reason of any action or inaction on the part of Indemnitee while an officer or director or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld) actually and reasonably incurred by Indemnitee in connection with such action, suit or proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee

reasonably believed to be in or not opposed to the best interests of the Company, or, with respect to any criminal action or proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(b) **Proceedings By or in the Right of the Company.** The Company shall indemnify Indemnitee if Indemnitee was or is a party or is threatened to be made a party to any threatened, pending or completed action or proceeding by or in the right of the Company or any subsidiary of the Company to procure a judgment in its favor by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, or any subsidiary of the Company, by reason of any action or inaction on the part of Indemnitee while an officer or director or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) and, to the fullest extent permitted by law, amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld), in each case to the extent actually and reasonably incurred by Indemnitee in connection with the defense or settlement of such action or suit if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and its stockholders, except that no indemnification shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudicated by court order or judgment to be liable to the Company in the performance of Indemnitee's duty to the Company and its stockholders unless and only to the extent that the court in which such action or proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) **Mandatory Payment of Expenses.** To the extent that Indemnitee has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1(a) or Section 1(b) or the defense of any claim, issue or matter therein, Indemnitee shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by Indemnitee in connection therewith.

2. **No Employment Rights.** Nothing contained in this Agreement is intended to create in Indemnitee any right to continued employment.

3. **Expenses; Indemnification Procedure.**

(a) **Advancement of Expenses.** The Company shall advance all expenses incurred by Indemnitee in connection with the investigation, defense, settlement or appeal of any civil or criminal action, suit or proceeding referred to in Section l(a) or Section 1(b) hereof (including amounts actually paid in settlement of any such action, suit or proceeding). Indemnitee hereby undertakes to repay such amounts advanced only if, and to the extent that, it shall ultimately be determined that Indemnitee is not entitled to be indemnified by the Company as authorized hereby.

(b) **Notice/Cooperation by Indemnitee.** Indemnitee shall, as a condition precedent to his or her right to be indemnified under this Agreement, give the Company notice in

writing as soon as practicable of any claim made against Indemnitee for which indemnification will or could be sought under this Agreement. Notice to the Company shall be directed to the Chief Executive Officer of the Company and shall be given in accordance with the provisions of Section 12(d) below. In addition, Indemnitee shall give the Company such information and cooperation as it may reasonably require and as shall be within Indemnitee's power.

(c) **Procedure.** Any indemnification and advances provided for in Section 1 and this Section 3 shall be made no later than thirty (30) days after receipt of the written request of Indemnitee. If a claim under this Agreement, under any statute, or under any provision of the Company's Certificate of Incorporation or Bylaws providing for indemnification, is not paid in full by the Company within thirty (30) days after a written request for payment thereof has first been received by the Company, Indemnitee may, but need not, at any time thereafter bring an action against the Company to recover the unpaid amount of the claim and, subject to Section 11 of this Agreement, Indemnitee shall also be entitled to be paid for the expenses (including attorneys' fees) of bringing such action. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in connection with any action, suit or proceeding in advance of its final disposition) that Indemnitee has not met the standards of conduct which make it permissible under applicable law for the Company to indemnify Indemnitee for the amount claimed, but the burden of proving such defense shall be on the Company and Indemnitee shall be entitled to receive interim payments of expenses pursuant to Section 3(a) unless and until such defense may be finally adjudicated by court order or judgment from which no further right of appeal exists. It is the parties' intention that if the Company contests Indemnitee's right to indemnification, the question of Indemnitee's right to indemnification shall be for the court to decide, and neither the failure of the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its stockholders) to have made a determination that indemnification of Indemnitee is proper in the circumstances because Indemnitee has met the applicable standard of conduct required by applicable law, nor an actual determination by the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its stockholders) that Indemnitee has not met such applicable standard of conduct, shall create a presumption that Indemnitee has or has not met the applicable standard of conduct.

(d) **Notice to Insurers.** If, at the time of the receipt of a notice of a claim pursuant to Section 3(b) hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(e) **Selection of Counsel.** In the event the Company shall be obligated under Section 3(a) hereof to pay the expenses of any proceeding against Indemnitee, the Company, if appropriate, shall be entitled to assume the defense of such proceeding, with counsel approved by Indemnitee, upon the delivery to Indemnitee of written notice of its election so to do. After delivery of such notice, approval of such counsel by Indemnitee and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees

of counsel subsequently incurred by Indemnitee with respect to the same proceeding, provided that (i) Indemnitee shall have the right to employ counsel in any such proceeding at Indemnitee's expense; and (ii) if (A) the employment of counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and Indemnitee in the conduct of any such defense or (C) the Company shall not, in fact, have employed counsel to assume the defense of such proceeding, then the fees and expenses of Indemnitee's counsel shall be at the expense of the Company.

4. **Additional Indemnification Rights; Nonexclusivity.**

(a) **Scope.** Notwithstanding any other provision of this Agreement, the Company hereby agrees to indemnify the Indemnitee to the fullest extent permitted by law, notwithstanding that such indemnification is not specifically authorized by the other provisions of this Agreement, the Company's Certificate of Incorporation, the Company's Bylaws or by statute. In the event of any change, after the date of this Agreement, in any applicable law, statute, or rule which expands the right of a Delaware corporation to indemnify a member of its board of directors or an officer, such changes shall be deemed to be within the purview of Indemnitee's rights and the Company's obligations under this Agreement. In the event of any change in any applicable law, statute or rule which narrows the right of a Delaware corporation to indemnify a member of its board of directors or an officer, such changes, to the extent not otherwise required by such law, statute or rule to be applied to this Agreement shall have no effect on this Agreement or the parties' rights and obligations hereunder.

(b) **Nonexclusivity.** The indemnification provided by this Agreement shall not be deemed exclusive of any rights to which Indemnitee may be entitled under the Company's Certificate of Incorporation, its Bylaws, any agreement, any vote of stockholders or disinterested members of the Company's Board of Directors, the General Corporation Law of the State of Delaware, or otherwise, both as to action in Indemnitee's official capacity and as to action in another capacity while holding such office. The indemnification provided under this Agreement shall continue as to Indemnitee for any action taken or not taken while serving in an indemnified capacity even though he or she may have ceased to serve in any such capacity at the time of any action, suit or other covered proceeding.

5. **Partial Indemnification.** If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of the expenses, judgments, fines or penalties actually or reasonably incurred in the investigation, defense, appeal or settlement of any civil or criminal action, suit or proceeding, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion of such expenses, judgments, fines or penalties to which Indemnitee is entitled.

6. **Mutual Acknowledgment.** Both the Company and Indemnitee acknowledge that in certain instances, Federal law or public policy may override applicable state law and prohibit the Company from indemnifying its directors and officers under this Agreement or otherwise. For example, the Company and Indemnitee acknowledge that the Securities and Exchange Commission (the "SEC") has taken the position that indemnification is not permissible for liabilities arising under certain federal securities laws, and federal legislation prohibits

indemnification for certain ERISA violations. Indemnitee understands and acknowledges that the Company has undertaken or may be required in the future to undertake with the SEC to submit the question of indemnification to a court in certain circumstances for a determination of the Company's right under public policy to indemnify Indemnitee.

7. **Officer and Director Liability Insurance.** The Company shall, from time to time, make the good faith determination whether or not it is practicable for the Company to obtain and maintain a policy or policies of insurance with reputable insurance companies providing the officers and directors of the Company with coverage for losses from wrongful acts, or to ensure the Company's performance of its indemnification obligations under this Agreement. Among other considerations, the Company will weigh the costs of obtaining such insurance coverage against the protection afforded by such coverage. In all policies of director and officer liability insurance, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits as are accorded to the most favorably insured of the Company's directors, if Indemnitee is a director; or of the Company's officers, if Indemnitee is not a director of the Company but is an officer; or of the Company's key employees, if Indemnitee is not an officer or director but is a key employee. Notwithstanding the foregoing, the Company shall have no obligation to obtain or maintain such insurance if the Company determines in good faith that such insurance is not reasonably available, if the premium costs for such insurance are disproportionate to the amount of coverage provided, if the coverage provided by such insurance is limited by exclusions so as to provide an insufficient benefit, or if Indemnitee is covered by similar insurance maintained by a parent or subsidiary of the Company.

8. **Severability.** Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. The Company's inability, pursuant to court order, to perform its obligations under this Agreement shall not constitute a breach of this Agreement. The provisions of this Agreement shall be severable as provided in this Section 8. If this Agreement or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify Indemnitee to the full extent permitted by any applicable portion of this Agreement that shall not have been invalidated, and the balance of this Agreement not so invalidated shall be enforceable in accordance with its terms.

9. **Exceptions.** Any other provision herein to the contrary notwithstanding, the Company shall not be obligated pursuant to the terms of this Agreement:

(a) **Claims Initiated by Indemnitee.** To indemnify or advance expenses to Indemnitee with respect to proceedings or claims initiated or brought voluntarily by Indemnitee and not by way of defense, except with respect to proceedings brought to establish or enforce a right to indemnification under this Agreement or any other statute or law or otherwise as required under Section 145 of the Delaware General Corporation Law, but such indemnification or advancement of expenses may be provided by the Company in specific cases if the Board of Directors finds it to be appropriate;

(b) **Lack of Good Faith.** To indemnify Indemnitee for any expenses incurred by Indemnitee with respect to any proceeding instituted by Indemnitee to enforce or interpret this

Agreement, if a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such proceeding was not made in good faith or was frivolous;

(c) **Insured Claims.** To indemnify Indemnitee for expenses or liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement) to the extent such expenses or liabilities have been paid directly to Indemnitee by an insurance carrier under a policy of officers' and directors' liability insurance maintained by the Company; or

(d) **Claims under Section 16(b).** To indemnify Indemnitee for expenses or the payment of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 16(b) of the Securities Exchange Act of 1934, as amended, or any similar successor statute.

10. **Construction of Certain Phrases.**

(a) For purposes of this Agreement, references to the "Company" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that if Indemnitee is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, Indemnitee shall stand in the same position under the provisions of this Agreement with respect to the resulting or surviving corporation as Indemnitee would have with respect to such constituent corporation if its separate existence had continued.

(b) For purposes of this Agreement, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on Indemnitee with respect to an employee benefit plan; and references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants, or beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Agreement.

11. **Attorneys' Fees.** In the event that any action is instituted by Indemnitee under this Agreement to enforce or interpret any of the terms hereof, Indemnitee shall be entitled to be paid all court costs and expenses, including reasonable attorneys' fees, incurred by Indemnitee with respect to such action, unless as a part of such action, the court of competent jurisdiction determines that each of the material assertions made by Indemnitee as a basis for such action were not made in good faith or were frivolous. In the event of an action instituted by or in the name of the Company under this Agreement or to enforce or interpret any of the terms of this Agreement, Indemnitee shall be entitled to be paid all court costs and expenses, including attorneys' fees, incurred by Indemnitee in defense of such action (including with respect to

Indemnitee's counterclaims and cross-claims made in such action), unless as a part of such action the court determines that each of Indemnitee's material defenses to such action were made in bad faith or were frivolous.

12. **Miscellaneous.**

(a) **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflict of law.

(b) **Entire Agreement; Enforcement of Rights.** This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.

(c) **Construction.** This Agreement is the result of negotiations between and has been reviewed by each of the parties hereto and their respective counsel, if any; accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of or against any one of the parties hereto.

(d) **Notices.** Any notice, demand or request required or permitted to be given under this Agreement shall be in writing and shall be deemed sufficient when delivered personally or sent by telegram or fax, or forty-eight (48) hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, and addressed to the party to be notified at such party's address as set forth below or as subsequently modified by written notice.

(e) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(f) **Successors and Assigns.** This Agreement shall be binding upon the Company and its successors and assigns, and inure to the benefit of Indemnitee and Indemnitee's heirs, legal representatives and assigns.

(g) **Subrogation**. In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company to effectively bring suit to enforce such rights.

[Signature Page Follows]

The parties hereto have executed this Agreement as of the day and year set forth on the first page of this Agreement.

XCYTE THERAPIES, INC.

By: _____

Title: _____

Address: 1124 Columbia Street, Suite 130
Seattle, WA 98104

AGREED TO AND ACCEPTED:

«Name»

_____

(Signature)

Address:

XCYTE THERAPIES, INC.

SERIES E PREFERRED STOCK

AND WARRANT PURCHASE AGREEMENT

November 13, 2001

TABLE OF CONTENTS

		Page
1. PURCHASE AND SALE OF STOCK		**1**
1.1	Authorization, Sale and Issuance of Shares	1
1.2	Closing	1
1.3	Delivery	2
1.4	Additional Closings	2
2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY		**2**
2.1	Organization, Good Standing and Qualification	2
2.2	Authorization	3
2.3	Capitalization	3
2.4	Subsidiaries	4
2.5	Governmental Consents	4
2.6	Proprietary Information Agreement	4
2.7	Patents and Trademarks	4
2.8	Financial Statements.	5
2.9	Changes.	5
2.10	Liabilities.	6
2.11	Litigation	6
2.12	Compliance with Other Instruments	7
2.13	Offering.	7
2.14	Agreements; Action	7
2.15	Labor Agreements and Actions	8
2.16	Tax Returns, Payments and Elections	8
2.17	Title to Property and Assets	8
2.18	Registration Rights	9
2.19	Employee Benefit Plans	9
2.20	Obligations of Management.	9
2.21	Environmental and Safety Laws.	9
2.22	Disclosure	9
2.23	Section 83(b) Elections.	9
2.24	Real Property Holding Corporation.	9
2.25	Insurance.	9
2.26	Investment Company Act.	9
3. REPRESENTATIONS AND WARRANTIES OF THE INVESTOR		**9**
3.1	Authorization	10
3.2	Purchase Entirely for Own Account	10
3.3	Disclosure of Information	10
3.4	Investment Experience	10
3.5	Regulation D.	10
3.6	Restricted Securities	10
3.7	Legends	11
3.8	Regulation S	11
4. CONDITIONS OF INVESTOR'S OBLIGATIONS AT CLOSING		**11**
4.1	Representations and Warranties	11

TABLE OF CONTENTS
(cont'd.)

		Page
4.2	PERFORMANCE	11
4.3	CERTIFICATE	11
4.4	COMPLIANCE CERTIFICATE	12
4.5	PROCEEDINGS AND DOCUMENTS	12
4.6	BOARD OF DIRECTORS.	12
4.7	RIGHTS AGREEMENT	12
4.8	CO-SALE AGREEMENT	12
4.9	OPINION OF COMPANY COUNSEL	12
5. CONDITIONS OF THE COMPANY'S OBLIGATIONS AT CLOSING		**12**
5.1	REPRESENTATIONS AND WARRANTIES	12
5.2	LEGAL MATTERS	12
6. MISCELLANEOUS		**13**
6.1	SURVIVAL OF WARRANTIES	13
6.2	SUCCESSORS AND ASSIGNS	13
6.3	GOVERNING LAW	13
6.4	COUNTERPARTS	13
6.5	TITLES AND SUBTITLES	13
6.6	NOTICES	13
6.7	FINDER'S FEE	13
6.8	AMENDMENTS AND WAIVERS	13
6.9	SEVERABILITY.	14
6.10	EXCULPATION AMONG INVESTORS.	14
6.11	EXPENSES	14

EXHIBITS

A	Schedule of Investors
B	Form of Amended and Restated Certificate of Incorporation
C	Schedule of Exceptions
D	Form of Proprietary Information Agreement
E	Form of Amended and Restated Investor Rights Agreement
F	Form of Amended and Restated Right of First Refusal and Co-Sale Agreement
G	Form of Opinion of Counsel to the Company
H	Additional Representations and Warranties of Foreign Investors

XCYTE THERAPIES, INC.

SERIES E STOCK AND WARRANT PURCHASE AGREEMENT

THIS SERIES E PREFERRED STOCK AND WARRANT PURCHASE AGREEMENT (the "Agreement") is made as of the 13th day of November, 2001, by and between Xcyte Therapies, Inc., a Delaware corporation, located at 1124 Columbia Street, Suite 130, Seattle, WA 98104 (the "Company"), and the investors listed on Exhibit A hereto, each of which is herein referred to as an "Investor."

WHEREAS, the Company desires to issue and sell up to 4,750,362 shares of Series E Preferred Stock and to issue warrants to purchase 2,586,308 shares of Common Stock to the Investors; and

WHEREAS, the Investors desire to purchase such shares and warrants from the Company on the terms and subject to the conditions of this Agreement.

NOW THEREFORE, the parties hereby agree as follows:

1. Purchase and Sale of Stock.

1.1 Authorization, Sale and Issuance of Shares

(a) The Company has authorized the sale and issuance of up to 6,500,000 shares of Series E Preferred Stock (the "Series E Shares") and the issuance of warrants to purchase 2,586,308 shares of Common Stock (the "Warrants" and together with the Series E Shares the "Shares"). The Series E Shares have the rights, preferences, privileges and restrictions as set forth in the Company's Restated Certificate of Incorporation in the form satisfactory to the Investors, a copy of which is attached hereto as Exhibit B. The Common Stock issuable upon conversion of the Series E Shares is referred to hereinafter as the "Conversion Shares" and the Common Stock issuable upon exercise of the Warrants is referred to hereinafter as the "Warrant Shares."

(b) Subject to the terms and conditions of this Agreement, the Company shall sell and issue to each Investor, and each Investor agrees, severally and not jointly, to purchase from the Company, that number of (i) Shares of Series E Preferred Stock at a purchase price of $2.78 per share and (ii) Warrants at a cash purchase price of $0.001 per share of Common Stock set forth opposite each Investor's name on Exhibit A attached hereto. Each Investor understands that the Shares and the Warrants cannot be purchased separately and must be purchased in the proportion allocated on Exhibit A.

1.2 Closing. The purchase and sale of the Shares shall take place at the offices of Venture Law Group, 4750 Carillon Point, Kirkland, Washington, at 10:00 a.m., on November 13, 2001, or at such other time and place as the Company and Investors may agree (which time

and place are designated as the "Closing"). The date of such Closing is hereinafter referred to as the "Closing Date."

1.3 Delivery. At the Closing, the Company shall deliver to each Investor a certificate representing the Shares which such Investor is purchasing against delivery to the Company by such Investor of a check, wire transfer of immediately available funds payable to the Company's order or cancellation of indebtedness (or any combination thereof) in the aggregate amount of the purchase price therefor.

1.4 Additional Closings. If the full number of Series E Shares of the Company is not sold at the Closing, the Company shall have the right, at any time within one hundred twenty (120) days of the Closing Date (the "Subsequent Closing Date"), to sell the remaining authorized but unissued shares of Series E Shares and Warrants to purchase Common Stock to one or more additional purchasers as determined by the Company, or to any Investor hereunder who wishes to acquire additional shares of Series E Shares and Warrants to purchase Common Stock at the price and on the terms set forth herein, provided that any such additional purchaser shall be required to execute counterpart signature pages to this Agreement, the Investors' Rights Agreement and the Co-Sale Agreement (each as defined in Section 2.2), and such additional purchasers will, upon delivery to the Company of such signature pages and the purchase price, become parties to, and be bound by, such agreements, each to the same extent as if they had been Investors at the initial Closing. Immediately after each additional closing, Exhibit A to this Agreement will be amended to list the additional purchasers purchasing shares of Series E Shares and Warrants to purchase Common Stock hereunder at each such additional closing. Any additional purchaser so acquiring shares of Series E Shares and Warrants to purchase Common Stock shall be considered an "Investor" for the purposes of the Financing Documents (as defined below), and any Series E Shares so acquired by such additional purchaser shall be considered "Series E Shares" and any Warrants to purchase Common Stock so acquired by such additional purchaser shall be considered "Warrants," and together with the Series E Shares the "Shares") for purposes of this Agreement and all other agreements contemplated hereby.

2. Representations and Warranties of the Company. The Company hereby represents and warrants to each Investor that, except as set forth on the Schedule of Exceptions attached hereto as Exhibit C, which exceptions shall be deemed to be representations and warranties as if made hereunder:

2.1 Organization, Good Standing and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted and as proposed to be conducted. The Company is duly qualified to transact business and is in good standing in each jurisdiction in which the failure so to qualify would have a material adverse effect on its business or properties. As of the Closing, the Certificate shall be in the form attached hereto as Exhibit B and the Bylaws of the Company shall be in the form provided to counsel for the Investors prior to the Closing.

2.2 Authorization.

(a) The Company has all requisite corporate power and authority to execute and deliver, and to consummate the transactions contemplated by this Agreement, the Amended and Restated Investor Rights Agreement attached as Exhibit E ("Rights Agreement") and the Amended and Restated Right of First Refusal and Co-Sale Agreement attached as Exhibit F (the "Co-Sale Agreement" with the Agreement and Rights Agreement, the "Financing Documents"). All corporate action on the part of the Company, its officers, directors and stockholders necessary for the execution and delivery of, and the consummation of the transactions contemplated by the Financing Documents, the performance of all obligations of the Company under the Financing Documents and the authorization, sale, issuance (or reservation for issuance) and delivery of the Shares being sold hereunder and the Conversion Shares and Warrant Shares has been taken or will be taken prior to the Closing. The Financing Documents, upon execution and delivery by the Company and assuming the due and proper execution and delivery by the other parties, constitute valid and binding obligations of the Company enforceable in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium and other laws of general application affecting the enforcement of creditors' rights.

(b) The Shares, when issued in compliance with the provisions of this Agreement, will be validly issued, fully paid and nonassessable and will be free of any liens or encumbrances known to, or caused or created by, the Company; provided, however, that the Shares may be subject to restrictions on transfer under state and/or federal securities laws as set forth herein, as may be required by changes in such laws and as contemplated by the Financing Documents. Upon conversion of the Series E Shares into the Conversion Shares and Warrants into Warrant Shares in conformity with the Certificate, such Conversion Shares and Warrant Shares will be duly authorized, validly issued, fully paid and nonassessable, and will be free of any liens or encumbrances caused or created by the Company; provided, however, that the Conversion Shares and Warrant Shares may be subject to restrictions on transfer under state and/or federal securities laws as set forth herein, as may be required by changes in such law and as contemplated by the Financing Documents.

(c) Except as set forth herein or in the Financing Documents, no entity has any right of first refusal or any preemptive rights in connection with the issuance of the Shares, the Warrant Shares, the Conversion Shares or any future issuances of securities by the Company.

2.3 Capitalization.

(a) Immediately prior to the Closing, the authorized capital of the Company shall consist of: (i) 60,000,000 shares of Common Stock, and (ii), 35,409,976 shares of Preferred Stock (the "Preferred Stock"), of which 7,300,080 have been designated Series A Preferred Stock, 4,097,580 have been designated Series B Preferred Stock, 7,212,316 have been designated Series C Preferred Stock, 10,300,000 have been designated Series D Preferred Stock and 6,500,000 have been designated Series E Preferred Stock. Immediately prior to the Closing,

7,434,567 shares of Common Stock, warrants to purchase 496,948 shares of Common Stock, 6,860,512 shares of Series A Preferred Stock, warrants to purchase 439,568 shares of Series A Preferred Stock, 3,903,080 shares of Series B Preferred Stock, warrants to purchase 194,500 shares of Series B Preferred Stock, 7,185,630 shares of Series C Preferred Stock, and warrants to purchase 26,686 shares of Series C Preferred Stock, 10,109,825 shares of Series D Preferred Stock, warrants to purchase 103,741 shares of Series D Preferred Stock and no shares of Series E Preferred Stock will be outstanding.

(b) Except as set forth in this Agreement and the exhibits thereto, there are no outstanding options, warrants, rights (including conversion or preemptive rights) or agreements for the purchase or acquisition from the Company of any shares of its capital stock except that the Company has reserved (i) the Shares for issuance at each Closing, (ii) the Common Stock issuable upon conversion of the Preferred Stock, (iii) 5,600,000 shares of Common Stock reserved for issuance pursuant to stock option plans adopted by the Company of which 1,786,049 options have been granted and remain outstanding, with 3,041,532 shares remaining for grant.

2.4 Subsidiaries. The Company does not presently own or control, directly or indirectly, any interest in any other corporation, association, or other business entity.

2.5 Governmental Consents.

(a) No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority on the part of the Company is required in connection with the consummation of the transactions contemplated by the Financing Documents.

(b) No consent, approval, waiver or other action by any person under any contract, agreement, indenture, lease, instrument or other document to which the Company is a party or bound is required or necessary for the execution, delivery and performance of, or the consummation of the transactions contemplated by, any of the Financing Documents by the Company.

2.6 Proprietary Information Agreement. Each former and present employee, consultant and officer of the Company has executed and each future employee, consultant and officer will execute, a Proprietary Information Agreement in the form attached hereto as Exhibit D and no exceptions have been taken by any such employee, consultant or officer to the terms of such agreement. The Company, after reasonable investigation, is not aware that any of its employees, officers or consultants are in violation thereof, and the Company will use its best efforts to prevent any such violation.

2.7 Patents and Trademarks. The Company has sufficient title and ownership of all patents, trademarks, service marks, trade names, copyrights, trade secrets, information, proprietary rights and processes necessary for its business as now conducted and as proposed to be conducted without any conflict with or infringement of the rights of others. There are no

outstanding options, licenses, or agreements of any kind relating to the foregoing, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, proprietary rights and processes of any other person or entity. The Company has not received any communications alleging that the Company has violated or, by conducting its business as proposed, would violate any of the patents, trademarks, service marks, trade names, copyrights or trade secrets or other proprietary rights of any other person or entity. The Company is not aware that any of its employees is obligated under any contract (including licenses, covenants or commitments of any nature) or other agreement, or subject to any judgment, decree or order of any court or administrative agency, that would interfere with the use of his or her best efforts to promote the interests of the Company or that would conflict with the Company's business as proposed to be conducted. Neither the execution nor delivery of this Agreement, nor the carrying on of the Company's business by the employees of the Company, nor the conduct of the Company's business as proposed, will, to the best of the Company's knowledge, conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under, any contract, covenant or instrument under which any of such employees is now obligated. The Company does not believe it is or will be necessary to utilize any inventions of any of its employees (or people it currently intends to hire) made prior to their employment by the Company.

2.8 Financial Statements. The Company has delivered to each Investor (i) its unaudited balance sheet as of August 31, 2001 and unaudited statement of income for the period from January 1, 2001 to August 31, 2001 and audited financial statements as of December 31, 2000 (collectively the "Financial Statements"). The Financial Statements, together with the notes thereto, are complete and correct in all material respects and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods indicated, except as disclosed therein, and present fairly the financial condition and position of the Company as of August 31, 2001; provided, however, that the unaudited financial statements are subject to normal recurring year-end audit adjustments (which are not expected to be material), and do not contain all footnotes required under generally accepted accounting principles.

2.9 Changes. Since August 31, 2001, there has not been:

(a) Any change in the assets, liabilities, financial condition or operations of the Company from that reflected in the Financial Statements, other than changes in the ordinary course of business, or any other event or condition of any character, any of which individually or in the aggregate has had or is expected to have a material adverse effect on such assets, liabilities, financial condition or operations of the Company;

(b) Any resignation or termination of any key officers of the Company; and the Company, to the best of its knowledge, does not know of the impending resignation or termination of employment of any such officer;

(c) Any material change, except in the ordinary course of business, in the contingent obligations of the Company by way of guaranty, endorsement, indemnity, warranty or otherwise;

(d) Any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting the properties, business or prospects or financial condition of the Company;

(e) Any direct or indirect loans made by the Company to, or any material change in, any compensation arrangement or agreement with, any stockholder, employee, officer or director of the Company, other than advances made in the ordinary course of business;

(f) Any declaration or payment of any dividend or other distribution of the assets of the Company;

(g) Any debt, obligation or liability incurred, assumed or guaranteed by the Company, except those for immaterial amounts and for current liabilities incurred in the ordinary course of business; or any waiver by the Company of a valuable right or of a material debt owed to it;

(h) Any sale, assignment or transfer of any patents, trademarks, copyrights, trade secrets or other intangible assets; and

(i) To the Company's knowledge, any change in any material agreement to which the Company is a party or by which it is bound which materially and adversely affects the business, assets, liabilities, financial condition, operations or prospects of the Company, including compensation agreements with the Company's employees.

2.10 Liabilities. The Company has no material liabilities and knows of no material contingent liabilities not disclosed in the Financial Statements, except current liabilities incurred in the ordinary course of business subsequent to August 31, 2001, which have not been, either in any individual case or in the aggregate, materially adverse.

2.11 Litigation. There is no action, suit, proceeding or investigation pending or currently threatened against the Company that questions the validity of this Agreement or the right of the Company to enter into it, or to consummate the transactions contemplated hereby, or which might result, either individually or in the aggregate, in any material adverse changes in the assets, condition, affairs or prospects of the Company, financially or otherwise, or any change in the current equity ownership of the Company, nor is the Company aware that there is any basis for the foregoing. The foregoing includes, without limitation, actions pending or threatened (or any basis therefor known to the Company) involving the prior employment of any of the Company's employees, their use in connection with the Company's business of any information or techniques allegedly proprietary to any of their former employers, or their obligations under any agreements with prior employers. The Company is not a party or subject to the provisions of

any order, writ, injunction, judgment or decree of any court or government agency or instrumentality. There is no action, suit, proceeding or investigation by the Company currently pending or which the Company intends to initiate.

2.12 Compliance with Other Instruments. The Company is not in violation or default of any provision of its Certificate or Bylaws or any provision of any mortgage, indenture, contract, agreement, instrument, judgment, order, writ, or decree to which it is a party or by which it is bound or, to its knowledge, of any provision of federal or state statute, rule or regulation applicable to the Company which would materially and adversely affect the business, assets, liabilities, financial condition, operations or prospects of the Company. The execution, delivery and performance of this Agreement, the Rights Agreement and the Co-Sale Agreement and the consummation of the transactions contemplated hereby and thereby will not result in any such material violation or be in conflict with or constitute, with or without the passage of time and giving of notice, either a default under any such provision, instrument, judgment, order, writ, decree or contract or an event which results in the creation of any lien, charge or encumbrance upon any assets of the Company.

2.13 Offering. Subject in part to the accuracy of the Investors' representations set forth in Section 3 hereof, the offer, sale and issuance of the Shares as contemplated by this Agreement and the issuance of the Conversion Shares or Warrant Shares upon the conversion of such Shares are exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), and the registration, qualification or compliance requirements of any applicable blue sky or other state securities laws, and neither the Company nor any authorized agent acting on its behalf will take any action that would cause the loss of any such exemption.

2.14 Agreements; Action.

(a) There are no agreements, understandings or proposed transactions between the Company and any of its officers, directors, affiliates, or any affiliate thereof.

(b) There are no agreements, understandings, instruments, contracts or proposed transactions to which the Company is a party or by which it is bound which involve (i) obligations of, or payments to the Company in excess of $25,000, or (ii) the license of any patent, copyright, trade secret or other proprietary right to or from the Company (other than licenses arising from the purchase of "off-the-shelf" products) or (iii) obligations of, or payments by, the Company to any officer, director, employee or family member of any such individual.

(c) The Company has not (i) declared or paid any dividends, or authorized or made any distribution upon or with respect to any class or series of its capital stock, (ii) incurred any indebtedness for money borrowed or incurred any other liabilities individually in excess of $25,000 or in excess of $75,000 in the aggregate, (iii) made any loans or advances to any person, other than ordinary advances for travel expenses, or (iv) sold, exchanged or otherwise disposed of any of its assets or rights, other than in the ordinary course of business.

(d) The Company is not a party to and is not bound by any contract, agreement or instrument, or subject to any restriction under its Certificate or Bylaws, which materially adversely affects its business as now conducted and as proposed to be conducted.

(e) The Company has not engaged in the past twelve (12) months in any discussion (i) with any representative of any corporation or corporations regarding the consolidation or merger of the Company with or into any such corporation or corporations, (ii) with any corporation, partnership, association or other business entity or any individual regarding the sale, conveyance or disposition of all or substantially all of the assets of the Company, or (iii) regarding any other form of liquidation, dissolution or winding up of the Company.

2.15 Labor Agreements and Actions. The Company is not bound by or subject to (and none of its assets or properties is bound by or subject to) any written or oral, express or implied, contract, commitment or arrangement with any labor union, and no labor union has requested or, to the knowledge of the Company, has sought to represent any of the employees, representatives or agents of the Company. There is no strike or other labor dispute involving the Company pending, or to the knowledge of the Company threatened, which could have a material adverse effect on the assets, properties, financial condition, operating results, or business of the Company (as such business is presently conducted and as it is proposed to be conducted), nor is the Company aware of any labor organization activity involving its employees. To the best of its knowledge, the Company is not aware that any officer or key employee, or that any group of key employees, intends to terminate their employment with the Company, nor does the Company have a present intention to terminate the employment of any of the foregoing. The employment of each officer and employee of the Company is terminable at the will of the Company.

2.16 Tax Returns, Payments and Elections. The Company has filed all tax returns and reports as required by law. These returns and reports are true and correct in all material respects. The Company has paid all taxes and other assessments due, except those contested by it in good faith which are listed in the Schedule of Exceptions, attached hereto as Exhibit C. The provision for taxes of the Company as shown in the Balance Sheet is adequate for taxes due or accrued as of the date thereof. The Company has not elected pursuant to the Internal Revenue Code of 1986, as amended (the "Code"), to be treated as a Subchapter S corporation or a collapsible corporation pursuant to Section 1362(a) or Section 341(f) of the Code, respectively, nor has it made any other elections pursuant to the Code (other than elections which relate solely to methods of accounting, depreciation or amortization) which would have a material effect on the Company, its financial condition, its business as presently conducted or proposed to be conducted or any of its properties or material assets.

2.17 Title to Property and Assets. The Company owns its property and assets free and clear of all mortgages, liens, loans and encumbrances, except such encumbrances and liens which arise in the ordinary course of business and do not materially impair the Company's ownership or use of such property or assets. With respect to the property and assets it leases, the Company is in compliance with such leases and, to the best of its knowledge, holds a valid leasehold interest free of any liens, claims or encumbrances.

2.18 Registration Rights. Except as provided in the Rights Agreement, a form of which is attached hereto as Exhibit E, the Company has not granted or agreed to grant any registration rights, including piggyback rights, to any person or entity.

2.19 Employee Benefit Plans. The Company does not have any Employee Benefit Plan as defined in the Employee Retirement Income Security Act of 1974, as amended.

2.20 Obligations of Management. Each officer of the Company is currently devoting his or her full-time to the conduct of the business of the Company. The Company is not aware of any officer or key employee or the Company planning to work less than full-time at the Company in the future.

2.21 Environmental and Safety Laws. To the best of its knowledge, the Company is not in violation of any applicable statute, law or regulation relating to the environment or occupational health and safety, and to its knowledge, no material expenditures are or will be required in order to comply with any such existing statute, law or regulation.

2.22 Disclosure. The Company has fully provided each Investor with all the information which such Investor has requested for deciding whether to purchase the Shares and all information which the Company believes is reasonably necessary to enable such Investor to make such decision. To the best of the Company's knowledge, neither this Agreement, the Rights Agreement, the Co-Sale Agreement nor any other statements or certificates made or delivered in connection herewith, when taken as a whole, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements herein or therein not misleading.

2.23 Section 83(b) Elections. To the Company's knowledge, all elections and notices permitted by Section 83(b) of the Internal Revenue Code and analogous provisions of applicable state tax laws have been timely filed by all employees who have purchased shares of the Company's common stock under agreements that provide for the vesting of such shares.

2.24 Real Property Holding Corporation. The Company is not a real property holding corporation within the meaning of Internal Revenue Code Section 897(c)(2) and any regulations promulgated thereunder.

2.25 Insurance. The Company has fire and casualty insurance policies with coverage customary for companies similarly situated to the Company.

2.26 Investment Company Act. The Company is not an "investment company", or a company "controlled" by an "investment", within the meaning of the Investment Company Act of 1940, as amended.

3. Representations and Warranties of the Investor. Each Investor hereby severally and not jointly represents and warrants that:

3.1 Authorization. This Agreement when executed and delivered by such Investor shall constitute a valid and legally binding obligation, enforceable in accordance with its terms, subject to the effect of applicable bankruptcy, insolvency, reorganization, moratorium or other similar federal or state laws affecting the rights of creditors and the effect of rules of law governing specific performance, injunctive relief or other equitable remedies.

3.2 Purchase Entirely for Own Account. This Agreement is made with each Investor in reliance upon such Investor's representations and warranties to the Company, which by such Investor's execution of this Agreement such Investor hereby confirms, that the Shares to be received by such Investor, the Warrant Shares and the Conversion Shares (collectively, the "Securities") will be acquired for investment for such Investor's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that such Investor has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, each Investor further represents that such Investor does not have any contract, undertaking, agreement or arrangement with any person or entity to sell, transfer or grant participation to such person or to any third person, with respect to any of the Securities. Each Investor represents that it has full power and authority to enter into this Agreement.

3.3 Disclosure of Information. Each Investor believes it has received all the information it considers necessary or appropriate for deciding whether to purchase the Shares. Each Investor further represents that it has had an opportunity to ask questions, if any, and receive answers from the Company regarding the terms and conditions of the offering of the Shares. The foregoing, however, does not limit or modify the representations and warranties of the Company in Section 2 of this Agreement or the right of the Investors to rely thereon.

3.4 Investment Experience. Each Investor is an investor in securities of companies in the development stage and acknowledges that it is able to fend for itself, and bear the economic risk of its investment and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of the investment in the Shares. If other than an individual, Investor also represents it has not been organized for the purpose of acquiring the Shares.

3.5 Regulation D. Each Investor is an "Accredited Investor" as that term is defined in Regulation D promulgated under the Securities Act.

3.6 Restricted Securities. Each Investor understands that the Shares it is purchasing (and the Conversion Shares) are characterized as "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such securities may be resold without registration under the Securities Act only in certain limited circumstances. In this connection, each Investor represents that it is familiar with Rule 144, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act.

3.7 Legends. It is understood that the certificates evidencing the Series E Preferred Stock (or the Conversion Shares) and the Warrants (or the Warrant Shares) may bear one or all of the following legends:

(a) "THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF A REGISTRATION STATEMENT IN EFFECT WITH RESPECT TO THE SECURITIES UNDER SUCH ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED OR UNLESS SOLD PURSUANT TO RULE 144 OF SUCH ACT. THESE SECURITIES ARE SUBJECT TO A CERTAIN VOTING PROVISION ENTERED INTO BY AND AMONG THE INVESTORS."

(b) "THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") OR APPLICABLE SECURITIES LAWS. THESE SECURITIES MAY NOT BE SOLD, MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED OTHER THAN IN COMPLIANCE WITH REGULATION S OF THE ACT OR WITHOUT AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS, OR THE AVAILABILITY OF AN EXEMPTION FROM THE REGISTRATION PROVISIONS OF THE ACT AND APPLICABLE STATE SECURITIES LAWS."

(c) Any other legends required by the laws of the State of Delaware or any other applicable blue sky or state securities laws.

3.8 Regulation S. China Development Industrial Bank Inc. hereby makes the additional representations and warranties set forth in Exhibit H.

4. Conditions of Investor's Obligations at Closing. The obligations of each Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions, any of which may be waived in whole or in part by such Investor with respect to himself, herself or itself unless required by state or federal law:

4.1 Representations and Warranties. The representations and warranties of the Company contained in Section 2 shall be true on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the date of the Closing.

4.2 Performance. The Company shall have performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing.

4.3 Certificate. The Certificate shall have been filed with the Secretary of State of the State of Delaware.

4.4 Compliance Certificate. The President of the Company shall deliver to counsel for the Investors at the Closing a certificate certifying that the conditions specified in Sections 4.1, 4.2 and 4.3 have been fulfilled and stating that there shall have been no adverse change in the business, affairs, prospects, operations, properties, assets, liabilities or condition of the Company since the date of this Agreement.

4.5 Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated at the Closing and all documents incident thereto shall be reasonably satisfactory in form and substance to each Investor and counsel to any of the Investors, and they shall have received all such counterpart original and certified or other copies of such documents as they may reasonably request.

4.6 Board of Directors. As of the Closing, the Board of Directors will be comprised of seven members: Ronald J. Berenson, Robert Curry, Jean Deleage, Peter Langecker, Robert Nelsen, Michael Steinmetz and Robert Williams.

4.7 Rights Agreement. The Company and the Investors shall have entered into the Rights Agreement in the form attached hereto as Exhibit E.

4.8 Co-Sale Agreement. The Company, certain stockholders and certain of the Investors shall have entered into the Co-Sale Agreement in the form attached hereto as Exhibit F.

4.9 Opinion of Company Counsel. The Investors shall have received from Venture Law Group, counsel to the Company, an opinion addressed to them, dated the Closing Date, in the form attached hereto as Exhibit G.

5. Conditions of the Company's Obligations at Closing. The obligations of the Company to each Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions any of which may be waived in whole or in part by the Company unless required by state or federal law:

5.1 Representations and Warranties. The representations and warranties of each Investor contained in Section 3 hereof shall be true and correct on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of that date; and each Investor shall have performed all obligations and conditions required to be performed or observed by he, she or it on or prior to the Closing Date.

5.2 Legal Matters. All material matters of a legal nature which pertain to this agreement and the transactions contemplated hereby, shall have been reasonably approved by counsel to the Company.

6. Miscellaneous.

6.1 Survival of Warranties. The warranties, representations and covenants of the Company and Investors contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing and shall in no way be affected by any investigation of the subject matter thereof made by or on behalf of the Investors or the Company.

6.2 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

6.3 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Washington.

6.4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.5 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.

6.6 Notices. Unless otherwise provided, any notice required or permitted under this Agreement shall be given in writing and shall be deemed effectively given upon personal deliver to the party to be notified, the refusal of delivery by such person, or five (5) days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the party to be notified at the address indicated for such party in Exhibit A attached hereto or in the case of the Company on the first page of this Agreement, or at such other address as such party may designate by ten (10) days' advance written notice to the other parties.

6.7 Finder's Fee. Each party represents that it neither is nor will be obligated for any finders' fee or commission in connection with this transaction. Each Investor agrees to indemnify and to hold harmless the Company from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which the Investor or any of its officers, partners, employees, or representatives is responsible. The Company agrees to indemnify and hold harmless each Investor from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which the Company or any of its officers, employees or representatives is responsible.

6.8 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement 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 Series E Shares. Any amendment or waiver effected in accordance with this Section 6.8 shall be binding upon each holder of any securities purchased under this Agreement at the time outstanding (including securities into which such securities are convertible), each future holder of all such securities, and the Company; provided, however, that no condition set forth in Section 4 hereof may be waived with respect to any Investor who does not consent thereto.

6.9 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.

6.10 Exculpation Among Investors. Each Investor acknowledges that it is not relying upon any person, firm or corporation, other than the Company and its officers and directors, in making its investment decision to invest in the Company. Each Investor agrees that no other Investor nor the respective controlling persons, officers, directors, partners, agents or employees of any such other Investor shall be liable for any action heretofore or hereafter taken or omitted to be taken by any of them in connection with each Investor's purchase of the Shares, Conversion Shares and Warrant Shares.

6.11 Expenses. Upon the Closing of the purchase and sale of securities as contemplated by this Agreement and the exhibits thereto, the Company shall pay the fees and reasonable expenses of counsel for the Investors, which fees shall not exceed $10,000.00.

(signature page follows)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

XCYTE THERAPIES, INC.

By: /s/ RONALD J. BERENSON

Name: Ronald Jay Berenson

(print)

Title: President & CEO

**[SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES E STOCK AND WARRANT PURCHASE AGREEMENT]**

CDIB Biotech USA Investment, Co., Ltd.

By: /s/ BING SHEN

Name: Bing Shen

Title: Chairman

Legal Address: PO Box 3444
Road Town
Tortola, British Virgin Islands

Mailing Address: CDIB Biotech, Inc.
21 N. Skokie Highway
Suite 104
Lake Bluff, IL 60044
Attn: Bing Shen, Chairman

Phone Number: (847) 283-9780

**[SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES E STOCK AND WARRANT PURCHASE AGREEMENT]**

DLJ CAPITAL CORP.

By: /s/ ARTHUR S. ZUCKERMAN

Name: Arthur S. Zuckerman

Title: President

Address: 3000 Sand Hill Road
Building Three, Suite 170
Menlo Park, CA 94025
Attn: Robert Curry

DLJ FIRST ESC L.P.

By: /s/ ARTHUR S. ZUCKERMAN

Name: Arthur S. Zuckerman

Title: Attorney In Fact

Address: 3000 Sand Hill Road
Building Three, Suite 170
Menlo Park, CA 94025
Attn: Robert Curry

SPROUT CAPITAL VII, L.P.

By: /s/ ARTHUR S. ZUCKERMAN

Name: Arthur S. Zuckerman

Title: President

Address: 3000 Sand Hill Road
Building Three, Suite 170
Menlo Park, CA 94025
Attn: Robert Curry

ARCH VENTURE FUND III, L.P.

ARCH Venture Fund III, L.P.
a Delaware limited partnership
By: ARCH Venture Partners L.L.C.
a Delaware limited partnership,
its General Partner

By: /s/ ROBERT T. NELSEN

Name: Robert T. Nelsen

Title: Managing Director

Address: 1000 Second Avenue, Suite 3700
Seattle, WA 98104-1053
Attn: Bob Nelsen

[SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES E STOCK AND WARRANT PURCHASE AGREEMENT]

ALTA CALIFORNIA PARTNERS, L.P.
By: Alta California Management Partners, L.P.

By: /s/ JEAN DELEAGE

General Partner

Name:

Address: One Embarcadero Center, Suite 4050
San Francisco, CA 94111
Attn: Elaine Walker

[SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES E STOCK AND WARRANT PURCHASE AGREEMENT]

TGI FUND II, LC

By: Tredegar Investments, Inc.
Its Sale Manager

By: /s/ NANCY M. TAYLOR

Name: Nancy M. Taylor

Title: Vice President

Address: 6501 Columbia Center
701 - 5th Avenue
Seattle, WA 98104
Attn: Michael Beblo and Steven Johnson

**[SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES E STOCK AND WARRANT PURCHASE AGREEMENT]**

MPM ASSET MANAGEMENT INVESTORS 2000 B, L.L.C.

By: /s/ MICHAEL STEINMETZ

Name: Michael Steinmetz
Title: Investment Manager

MPM BIOVENTURES GMBH & CO. PARALLEL-BETEILIGUNGS KG
By: MPM Asset Management II, L.P., in its capacity as the Special Limited Partner
By: MPM Asset Management II LLC, Its General Partner

By: /s/ MICHAEL STEINMETZ

Name: Michael Steinmetz
Title: Investment Manager

MPM BIOVENTURES II, L.P.
By: MPM Asset Management II, L.P., Its General Partner
By: MPM Asset Management II LLC, Its General Partner

By: /s/ MICHAEL STEINMETZ

Name: Michael Steinmetz
Title: Investment Manager

MPM BIOVENTURES II-QP, L.P.
By: MPM Asset Management II, L.P., Its General Partner
By: MPM Asset Management II LLC, Its General Partner

By: /s/ MICHAEL STEINMETZ

Name: Michael Steinmetz
Title: Investment Manager

Address: One Cambridge Center
Cambridge, MA 02142

[SIGNATURE PAGE TO XCYTE THERAPIES, INC. SERIES E STOCK AND WARRANT PURCHASE AGREEMENT]

VULCAN VENTURES, INC.

By: /s/ WILLIAM D. SAVOY

Name: William D. Savoy

Title: President

Address: 505 Union Station
505 Fifth Avenue South
Suite 900
Seattle, WA 98104
Attn: Ruth Kunath

**[SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES E STOCK AND WARRANT PURCHASE AGREEMENT]**

EXHIBIT A

SCHEDULE OF INVESTORS

Investor Name and Address	Number of Series E Preferred Shares	Number of Warrant Shares	Amount of Investment for Series E Shares	Purchase Price for Warrants
First Closing – November 13, 2001				
ARCH VENTURE FUND III, L.P. 1000 Second Avenue, Suite 3700 Seattle, WA 98104-1053 Attn: Bob Nelsen	935,251	509,192	$ 2,599,997.78	$ 509.19
MPM BioVentures II-QP, LP One Cambridge Center Cambridge, MA 02142 Attn: Julia Carpena	484,316	263,683	$ 1,346,398.48	$ 263.68
MPM BioVentures GmbH & Co. Parallel-Beteiligungs KG One Cambridge Center Cambridge, MA 02142 Attn: Julia Carpena	170,504	92,830	$ 474,001.12	$ 92.83
MPM BioVentures II, LP One Cambridge Center Cambridge, MA 02142 Attn: Julia Carpena	53,453	29,102	$ 148,599.34	$ 29.10
MPM Asset Management Investors 2000 B, LLC One Cambridge Center Cambridge, MA 02142 Attn: Julia Carpena	11,151	6,071	$ 30,999.78	$ 6.07
SPROUT CAPITAL VII, L.P. 3000 Sand Hill Road Building Three, Suite 170 Menlo Park, CA 94025 Attn: Robert Curry	312,914	170,364	$ 869,900.92	$ 170.36

Investor Name and Address	Number of Series E Preferred Shares	Number of Warrant Shares	Amount of Investment for Series E Shares	Purchase Price for Warrants
DLJ FIRST ESC L.P. 3000 Sand Hill Road Building Three, Suite 170 Menlo Park, CA 94025 Attn: Robert Curry	35,971	19,584	$ 99,999.38	$ 19.58
DLJ CAPITAL CORP. 3000 Sand Hill Road Building Three, Suite 170 Menlo Park, CA 94025 Attn: Robert Curry	7,194	3,917	$ 19,999.32	$ 3.92
ALTA CALIFORNIA PARTNERS, L.P. One Embarcadero Center, Suite 4050 San Francisco, CA 94111 Attn: Elaine Walker	351,677	191,469	$ 977,662.06	$ 191.47
TGI FUND II, LC 6501 Columbia Center 701 - 5th Avenue Seattle, WA 98104 Attn: Michael Beblo and Steven Johnson	301,601	164,205	$ 838,450.78	$ 164.21
China Development Industrial Bank Inc. 125, Nanking East Road, Section 5 Taipei, Taiwan Attn: Mr. Tai-Ying Liu Chairman & CEO	1,078,925	587,415	$ 2,999,411.50	$ 587.41
CDIB Biotech USA Investment, Co., Ltd. PO Box 3444 Road Town Tortola, British Virgin Islands *Mailing Address:* CDIB Biotech, Inc. 21 N. Skokie Hwy., Suite 104 Lake Bluff, IL 60044 Attn: Bing Shen, Chairman Phone: (847) 283-9780	287,714	156,644	$ 799,844.92	$ 156.64

Investor Name and Address	Number of Series E Preferred Shares	Number of Warrant Shares	Amount of Investment for Series E Shares	Purchase Price for Warrants
Second Closing – November 15, 2001				
Vulcan Ventures, Inc. 505 Union Station 505 Fifth Avenue South, Suite 900 Seattle, WA 98104 Attn: Ruth Kunath	719,424	391,686	$ 1,999,998.72	$ 391.69
TOTAL	**4,750,095**	**2,586,162**	**$ 13,205,264.10**	**$ 2,586.15**

EXHIBIT B

FORM OF AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION

EXHIBIT C

SCHEDULE OF EXCEPTIONS

EXHIBIT D

FORM OF PROPRIETARY INFORMATION AGREEMENT

EXHIBIT E

FORM OF AMENDED AND RESTATED
INVESTOR RIGHTS AGREEMENT

EXHIBIT F

FORM OF AMENDED AND RESTATED
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT

EXHIBIT G

FORM OF OPINION OF COUNSEL TO THE COMPANY

EXHIBIT H

ADDITIONAL REPRESENTATIONS AND WARRANTIES OF FOREIGN INVESTORS

China Development Industrial Bank Inc., CDIB Biotech USA Investment, Co., Ltd. and CDIB Biotech, Inc. (each a "Foreign Investor"), in addition to the other representations and warranties it has made in this Agreement, each further represents and warrants to the Company that:

It is familiar with Regulation S under the Securities Act and is not a "U.S. Person" as that term is defined in Regulation S and is not acquiring the Shares for the account or benefit of a U.S. Person, and it agrees not to make any disposition of all or any portion of the Shares unless and until (A) such disposition is in accordance with Regulation S, and (B) (1) there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement, or (2) the Foreign Investor shall have notified the Company of the proposed disposition and shall have furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition, and if requested by the Company, the Foreign Investor shall have furnished the Company with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration under the Securities Act.

The acquisition by the Foreign Investor of the Shares shall constitute a confirmation of the representations and warranties made by the Foreign Investor as of the Closing. The Foreign Investor further represents that it understands and agrees that, until registered under the Securities Act or properly transferred pursuant to the provisions of Rule 144 as promulgated by the SEC, all certificates evidencing any of the Shares, whether upon initial issuance or upon any transfer thereof, shall bear a legend (in addition to any legend required pursuant to the Investors' Rights Agreement), prominently stamped or printed thereon, reading substantially as stated in Section 3.7(b).

XCYTE THERAPIES, INC.
SERIES F PREFERRED STOCK
AND WARRANT PURCHASE AGREEMENT
February 5, 2002

TABLE OF CONTENTS

			Page
1.	Purchase and Sale of Stock		1
	1.1	Authorization, Sale and Issuance of Shares	1
	1.2	Closing	1
	1.3	Delivery	2
	1.4	Additional Closings	2
2.	Representations and Warranties of the Company		2
	2.1	Organization, Good Standing and Qualification	2
	2.2	Authorization	3
	2.3	Capitalization	3
	2.4	Subsidiaries	4
	2.5	Governmental Consents	4
	2.6	Proprietary Information Agreement	4
	2.7	Patents and Trademarks	4
	2.8	Financial Statements	5
	2.9	Changes	5
	2.10	Liabilities	6
	2.11	Litigation	6
	2.12	Compliance with Other Instruments	7
	2.13	Offering	7
	2.14	Agreements; Action	7
	2.15	Labor Agreements and Actions	8
	2.16	Tax Returns, Payments and Elections	8
	2.17	Title to Property and Assets	8
	2.18	Registration Rights	9
	2.19	Employee Benefit Plans	9
	2.20	Obligations of Management	9
	2.21	Environmental and Safety Laws	9
	2.22	Disclosure	9
	2.23	Section 83(b) Elections	9
	2.24	Real Property Holding Corporation	9
	2.25	Insurance	9
	2.26	Investment Company Act	9
3.	Representations and Warranties of the Investor		9
	3.1	Authorization	10
	3.2	Purchase Entirely for Own Account	10
	3.3	Disclosure of Information	10
	3.4	Investment Experience	10
	3.5	Regulation D	10
	3.6	Restricted Securities	10

TABLE OF CONTENTS
(cont'd.)

			Page
	3.7	Legends	11
	3.8	Regulation S	11
4.	Conditions of Investor's Obligations at Closing		11
	4.1	Representations and Warranties	11
	4.2	Performance	11
	4.3	Certificate	12
	4.4	Compliance Certificate	12
	4.5	Proceedings and Documents	12
	4.6	Board of Directors	12
	4.7	Rights Agreement	12
	4.8	Co-Sale Agreement	12
	4.9	Opinion of Company Counsel	12
5.	Conditions of the Company's Obligations at Closing		12
	5.1	Representations and Warranties	12
	5.2	Legal Matters	12
6.	Miscellaneous		13
	6.1	Survival of Warranties	13
	6.2	Successors and Assigns	13
	6.3	Governing Law	13
	6.4	Counterparts	13
	6.5	Titles and Subtitles	13
	6.6	Notices	13
	6.7	Finder's Fee	13
	6.8	Amendments and Waivers	14
	6.9	Severability	14
	6.10	Exculpation Among Investors	14
	6.11	Expenses	14

EXHIBITS

A Schedule of Investors
B Form of Amended and Restated Certificate of Incorporation
C Schedule of Exceptions
D Form of Proprietary Information Agreement
E Form of Amended and Restated Investor Rights Agreement
F Form of Amended and Restated Right of First Refusal and Co-Sale Agreement
G Form of Opinion of Counsel to the Company
H Additional Representations and Warranties of Foreign Investors

XCYTE THERAPIES, INC.

SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

THIS SERIES F PREFERRED STOCK AND WARRANT PURCHASE AGREEMENT (the "Agreement") is made as of the fifth day of February, 2002, by and between Xcyte Therapies, Inc., a Delaware corporation, located at 1124 Columbia Street, Suite 130, Seattle, WA 98104 (the "Company"), and the investors listed on Exhibit A hereto, each of which is herein referred to as an "Investor."

WHEREAS, the Company desires to issue and sell up to 5,395,683 shares of Series F Preferred Stock and to issue warrants to purchase 2,937,650 shares of Common Stock to the Investors; and

WHEREAS, the Investors desire to purchase such shares and warrants from the Company on the terms and subject to the conditions of this Agreement.

NOW THEREFORE, the parties hereby agree as follows:

1. Purchase and Sale of Stock.

1.1 Authorization, Sale and Issuance of Shares

(a) The Company has authorized the sale and issuance of up to 6,500,000 shares of Series F Preferred Stock (the "Series F Shares") and the issuance of warrants to purchase 2,937,650 shares of Common Stock (the "Warrants" and together with the Series F Shares the "Shares"). The Series F Shares have the rights, preferences, privileges and restrictions as set forth in the Company's Restated Certificate of Incorporation in the form satisfactory to the Investors, a copy of which is attached hereto as Exhibit B. The Common Stock issuable upon conversion of the Series F Shares is referred to hereinafter as the "Conversion Shares" and the Common Stock issuable upon exercise of the Warrants is referred to hereinafter as the "Warrant Shares."

(b) Subject to the terms and conditions of this Agreement, the Company shall sell and issue to each Investor, and each Investor agrees, severally and not jointly, to purchase from the Company, that number of (i) Shares of Series F Preferred Stock at a purchase price of $2.78 per share and (ii) Warrants at a cash purchase price of $0.001 per share of Common Stock set forth opposite each Investor's name on Exhibit A attached hereto. Each Investor understands that the Shares and the Warrants cannot be purchased separately and must be purchased in the proportion allocated on Exhibit A.

1.2 Closing. The purchase and sale of the Shares shall take place at the offices of Venture Law Group, 4750 Carillon Point, Kirkland, Washington, at 10:00 a.m., on February 5, 2002, or at such other time and place as the Company and Investors may agree (which time and

place are designated as the "Closing"). The date of such Closing is hereinafter referred to as the "Closing Date."

1.3 Delivery. At the Closing, the Company shall deliver to each Investor a certificate representing the Shares which such Investor is purchasing against delivery to the Company by such Investor of a check, wire transfer of immediately available funds payable to the Company's order or cancellation of indebtedness (or any combination thereof) in the aggregate amount of the purchase price therefor.

1.4 Additional Closings. If the full number of Series F Shares of the Company is not sold at the Closing, the Company shall have the right, at any time within thirty (30) days of the Closing Date (the "Subsequent Closing Date"), to sell the remaining authorized but unissued shares of Series F Shares and Warrants to purchase Common Stock to one or more additional purchasers as determined by the Company, or to any Investor hereunder who wishes to acquire additional shares of Series F Shares and Warrants to purchase Common Stock at the price and on the terms set forth herein, provided that any such additional purchaser shall be required to execute counterpart signature pages to this Agreement, the Investors' Rights Agreement and the Co-Sale Agreement (each as defined in Section 2.2), and such additional purchasers will, upon delivery to the Company of such signature pages and the purchase price, become parties to, and be bound by, such agreements, each to the same extent as if they had been Investors at the initial Closing. Immediately after each additional closing, Exhibit A to this Agreement will be amended to list the additional purchasers purchasing shares of Series F Shares and Warrants to purchase Common Stock hereunder at each such additional closing. Any additional purchaser so acquiring shares of Series F Shares and Warrants to purchase Common Stock shall be considered an "Investor" for the purposes of the Financing Documents (as defined below), and any Series F Shares so acquired by such additional purchaser shall be considered "Series F Shares" and any Warrants to purchase Common Stock so acquired by such additional purchaser shall be considered "Warrants," and together with the Series F Shares the "Shares") for purposes of this Agreement and all other agreements contemplated hereby.

2. Representations and Warranties of the Company. The Company hereby represents and warrants to each Investor that, except as set forth on the Schedule of Exceptions attached hereto as Exhibit C, which exceptions shall be deemed to be representations and warranties as if made hereunder:

2.1 Organization, Good Standing and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted and as proposed to be conducted. The Company is duly qualified to transact business and is in good standing in each jurisdiction in which the failure so to qualify would have a material adverse effect on its business or properties. As of the Closing, the Certificate shall be in the form attached hereto as Exhibit B and the Bylaws of the Company shall be in the form provided to counsel for the Investors prior to the Closing.

2.2 Authorization.

(a) The Company has all requisite corporate power and authority to execute and deliver, and to consummate the transactions contemplated by this Agreement, the Amended and Restated Investor Rights Agreement attached as Exhibit E ("Rights Agreement") and the Amended and Restated Right of First Refusal and Co-Sale Agreement attached as Exhibit F (the "Co-Sale Agreement" with the Agreement and Rights Agreement, the "Financing Documents"). All corporate action on the part of the Company, its officers, directors and stockholders necessary for the execution and delivery of, and the consummation of the transactions contemplated by the Financing Documents, the performance of all obligations of the Company under the Financing Documents and the authorization, sale, issuance (or reservation for issuance) and delivery of the Shares being sold hereunder and the Conversion Shares and Warrant Shares has been taken or will be taken prior to the Closing. The Financing Documents, upon execution and delivery by the Company and assuming the due and proper execution and delivery by the other parties, constitute valid and binding obligations of the Company enforceable in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium and other laws of general application affecting the enforcement of creditors' rights.

(b) The Shares, when issued in compliance with the provisions of this Agreement, will be validly issued, fully paid and nonassessable and will be free of any liens or encumbrances known to, or caused or created by, the Company; provided, however, that the Shares may be subject to restrictions on transfer under state and/or federal securities laws as set forth herein, as may be required by changes in such laws and as contemplated by the Financing Documents. Upon conversion of the Series F Shares into the Conversion Shares and Warrants into Warrant Shares in conformity with the Certificate, such Conversion Shares and Warrant Shares will be duly authorized, validly issued, fully paid and nonassessable, and will be free of any liens or encumbrances caused or created by the Company; provided, however, that the Conversion Shares and Warrant Shares may be subject to restrictions on transfer under state and/or federal securities laws as set forth herein, as may be required by changes in such law and as contemplated by the Financing Documents.

(c) Except as set forth herein or in the Financing Documents, no entity has any right of first refusal or any preemptive rights in connection with the issuance of the Shares, the Warrant Shares, the Conversion Shares or any future issuances of securities by the Company.

2.3 Capitalization.

(a) As of Closing, the authorized capital of the Company shall consist of: (i) 70,000,000 shares of Common Stock, and (ii), 42,000,000 shares of Preferred Stock (the "Preferred Stock"), of which 7,300,080 have been designated Series A Preferred Stock, 4,097,580 have been designated Series B Preferred Stock, 7,212,316 have been designated Series C Preferred Stock, 10,300,000 have been designated Series D Preferred Stock, 6,500,000 have been designated Series E Preferred Stock and 6,500,000 have been designated Series F Preferred

Stock. As of the Closing, 7,437,380 shares of Common Stock, warrants to purchase 3,083,110 shares of Common Stock, 6,860,512 shares of Series A Preferred Stock, warrants to purchase 439,568 shares of Series A Preferred Stock, 3,903,080 shares of Series B Preferred Stock, warrants to purchase 194,500 shares of Series B Preferred Stock, 7,185,630 shares of Series C Preferred Stock, and warrants to purchase 26,686 shares of Series C Preferred Stock, 10,109,825 shares of Series D Preferred Stock, warrants to purchase 103,741 shares of Series D Preferred Stock, 4,750,095 shares of Series E Preferred Stock, warrants to purchase 10,000 shares of Series E Preferred Stock and no shares of Series F Preferred Stock will be outstanding.

(b) Except as set forth in this Agreement and the exhibits thereto, there are no outstanding options, warrants, rights (including conversion or preemptive rights) or agreements for the purchase or acquisition from the Company of any shares of its capital stock except that the Company has reserved (i) the Shares for issuance at each Closing, (ii) the Common Stock issuable upon conversion of the Preferred Stock, (iii) 4,400,000 shares of Common Stock reserved for issuance pursuant to stock option plans adopted by the Company of which 2,944,354 options have been granted and remain outstanding, with 680,414 shares remaining for grant as of the Closing.

2.4 Subsidiaries. The Company does not presently own or control, directly or indirectly, any interest in any other corporation, association, or other business entity.

2.5 Governmental Consents.

(a) No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority on the part of the Company is required in connection with the consummation of the transactions contemplated by the Financing Documents.

(b) No consent, approval, waiver or other action by any person under any contract, agreement, indenture, lease, instrument or other document to which the Company is a party or bound is required or necessary for the execution, delivery and performance of, or the consummation of the transactions contemplated by, any of the Financing Documents by the Company.

2.6 Proprietary Information. Each former and present employee, consultant and officer of the Company has executed and each future employee, consultant and officer will execute, a Proprietary Information Agreement in the form attached hereto as Exhibit D and no exceptions have been taken by any such employee, consultant or officer to the terms of such agreement. The Company, after reasonable investigation, is not aware that any of its employees, officers or consultants are in violation thereof, and the Company will use its best efforts to prevent any such violation.

2.7 Patents and Trademarks. The Company has sufficient title and ownership of all patents, trademarks, service marks, trade names, copyrights, trade secrets, information, proprietary rights and processes necessary for its business as now conducted and as proposed to

be conducted without any conflict with or infringement of the rights of others. There are no outstanding options, licenses, or agreements of any kind relating to the foregoing, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, proprietary rights and processes of any other person or entity. The Company has not received any communications alleging that the Company has violated or, by conducting its business as proposed, would violate any of the patents, trademarks, service marks, trade names, copyrights or trade secrets or other proprietary rights of any other person or entity. The Company is not aware that any of its employees is obligated under any contract (including licenses, covenants or commitments of any nature) or other agreement, or subject to any judgment, decree or order of any court or administrative agency, that would interfere with the use of his or her best efforts to promote the interests of the Company or that would conflict with the Company's business as proposed to be conducted. Neither the execution nor delivery of this Agreement, nor the carrying on of the Company's business by the employees of the Company, nor the conduct of the Company's business as proposed, will, to the best of the Company's knowledge, conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under, any contract, covenant or instrument under which any of such employees is now obligated. The Company does not believe it is or will be necessary to utilize any inventions of any of its employees (or people it currently intends to hire) made prior to their employment by the Company.

2.8 Financial Statements. The Company has delivered to each Investor (i) its unaudited balance sheet as of December 31, 2001 and unaudited statement of income for the period from January 1, 2001 to December 31, 2001 and audited financial statements as of December 31, 2000 (collectively the "Financial Statements"). The Financial Statements, together with the notes thereto, are complete and correct in all material respects and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods indicated, except as disclosed therein, and present fairly the financial condition and position of the Company as of December 31, 2001; provided, however, that the unaudited financial statements are subject to normal recurring year-end audit adjustments (which are not expected to be material), and do not contain all footnotes required under generally accepted accounting principles.

2.9 Changes. Since December 31, 2001, there has not been:

(a) Any change in the assets, liabilities, financial condition or operations of the Company from that reflected in the Financial Statements, other than changes in the ordinary course of business, or any other event or condition of any character, any of which individually or in the aggregate has had or is expected to have a material adverse effect on such assets, liabilities, financial condition or operations of the Company;

(b) Any resignation or termination of any key officers of the Company; and the Company, to the best of its knowledge, does not know of the impending resignation or termination of employment of any such officer;

(c) Any material change, except in the ordinary course of business, in the contingent obligations of the Company by way of guaranty, endorsement, indemnity, warranty or otherwise;

(d) Any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting the properties, business or prospects or financial condition of the Company;

(e) Any direct or indirect loans made by the Company to, or any material change in, any compensation arrangement or agreement with, any stockholder, employee, officer or director of the Company, other than advances made in the ordinary course of business;

(f) Any declaration or payment of any dividend or other distribution of the assets of the Company;

(g) Any debt, obligation or liability incurred, assumed or guaranteed by the Company, except those for immaterial amounts and for current liabilities incurred in the ordinary course of business; or any waiver by the Company of a valuable right or of a material debt owed to it;

(h) Any sale, assignment or transfer of any patents, trademarks, copyrights, trade secrets or other intangible assets; and

(i) To the Company's knowledge, any change in any material agreement to which the Company is a party or by which it is bound which materially and adversely affects the business, assets, liabilities, financial condition, operations or prospects of the Company, including compensation agreements with the Company's employees.

2.10 Liabilities. The Company has no material liabilities and knows of no material contingent liabilities not disclosed in the Financial Statements, except current liabilities incurred in the ordinary course of business subsequent to December 31, 2001, which have not been, either in any individual case or in the aggregate, materially adverse.

2.11 Litigation. There is no action, suit, proceeding or investigation pending or currently threatened against the Company that questions the validity of this Agreement or the right of the Company to enter into it, or to consummate the transactions contemplated hereby, or which might result, either individually or in the aggregate, in any material adverse changes in the assets, condition, affairs or prospects of the Company, financially or otherwise, or any change in the current equity ownership of the Company, nor is the Company aware that there is any basis for the foregoing. The foregoing includes, without limitation, actions pending or threatened (or any basis therefor known to the Company) involving the prior employment of any of the Company's employees, their use in connection with the Company's business of any information or techniques allegedly proprietary to any of their former employers, or their obligations under any agreements with prior employers. The Company is not a party or subject to the provisions of

any order, writ, injunction, judgment or decree of any court or government agency or instrumentality. There is no action, suit, proceeding or investigation by the Company currently pending or which the Company intends to initiate.

2.12 Compliance with Other Instruments. The Company is not in violation or default of any provision of its Certificate or Bylaws or any provision of any mortgage, indenture, contract, agreement, instrument, judgment, order, writ, or decree to which it is a party or by which it is bound or, to its knowledge, of any provision of federal or state statute, rule or regulation applicable to the Company which would materially and adversely affect the business, assets, liabilities, financial condition, operations or prospects of the Company. The execution, delivery and performance of this Agreement, the Rights Agreement and the Co-Sale Agreement and the consummation of the transactions contemplated hereby and thereby will not result in any such material violation or be in conflict with or constitute, with or without the passage of time and giving of notice, either a default under any such provision, instrument, judgment, order, writ, decree or contract or an event which results in the creation of any lien, charge or encumbrance upon any assets of the Company.

2.13 Offering. Subject in part to the accuracy of the Investors' representations set forth in Section 3 hereof, the offer, sale and issuance of the Shares as contemplated by this Agreement and the issuance of the Conversion Shares or Warrant Shares upon the conversion of such Shares are exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), and the registration, qualification or compliance requirements of any applicable blue sky or other state securities laws, and neither the Company nor any authorized agent acting on its behalf will take any action that would cause the loss of any such exemption.

2.14 Agreements; Action.

(a) There are no agreements, understandings or proposed transactions between the Company and any of its officers, directors, affiliates, or any affiliate thereof.

(b) There are no agreements, understandings, instruments, contracts or proposed transactions to which the Company is a party or by which it is bound which involve (i) obligations of, or payments to the Company in excess of $25,000, or (ii) the license of any patent, copyright, trade secret or other proprietary right to or from the Company (other than licenses arising from the purchase of "off-the-shelf" products) or (iii) obligations of, or payments by, the Company to any officer, director, employee or family member of any such individual.

(c) The Company has not (i) declared or paid any dividends, or authorized or made any distribution upon or with respect to any class or series of its capital stock, (ii) incurred any indebtedness for money borrowed or incurred any other liabilities individually in excess of $25,000 or in excess of $75,000 in the aggregate, (iii) made any loans or advances to any person, other than ordinary advances for travel expenses, or (iv) sold, exchanged or otherwise disposed of any of its assets or rights, other than in the ordinary course of business.

(d) The Company is not a party to and is not bound by any contract, agreement or instrument, or subject to any restriction under its Certificate or Bylaws, which materially adversely affects its business as now conducted and as proposed to be conducted.

(e) The Company has not engaged in the past twelve (12) months in any discussion (i) with any representative of any corporation or corporations regarding the consolidation or merger of the Company with or into any such corporation or corporations, (ii) with any corporation, partnership, association or other business entity or any individual regarding the sale, conveyance or disposition of all or substantially all of the assets of the Company, or (iii) regarding any other form of liquidation, dissolution or winding up of the Company.

2.15 Labor Agreements and Actions. The Company is not bound by or subject to (and none of its assets or properties is bound by or subject to) any written or oral, express or implied, contract, commitment or arrangement with any labor union, and no labor union has requested or, to the knowledge of the Company, has sought to represent any of the employees, representatives or agents of the Company. There is no strike or other labor dispute involving the Company pending, or to the knowledge of the Company threatened, which could have a material adverse effect on the assets, properties, financial condition, operating results, or business of the Company (as such business is presently conducted and as it is proposed to be conducted), nor is the Company aware of any labor organization activity involving its employees. To the best of its knowledge, the Company is not aware that any officer or key employee, or that any group of key employees, intends to terminate their employment with the Company, nor does the Company have a present intention to terminate the employment of any of the foregoing. The employment of each officer and employee of the Company is terminable at the will of the Company.

2.16 Tax Returns, Payments and Elections. The Company has filed all tax returns and reports as required by law. These returns and reports are true and correct in all material respects. The Company has paid all taxes and other assessments due, except those contested by it in good faith which are listed in the Schedule of Exceptions, attached hereto as Exhibit C. The provision for taxes of the Company as shown in the Balance Sheet is adequate for taxes due or accrued as of the date thereof. The Company has not elected pursuant to the Internal Revenue Code of 1986, as amended (the "Code"), to be treated as a Subchapter S corporation or a collapsible corporation pursuant to Section 1362(a) or Section 341(f) of the Code, respectively, nor has it made any other elections pursuant to the Code (other than elections which relate solely to methods of accounting, depreciation or amortization) which would have a material effect on the Company, its financial condition, its business as presently conducted or proposed to be conducted or any of its properties or material assets.

2.17 Title to Property and Assets. The Company owns its property and assets free and clear of all mortgages, liens, loans and encumbrances, except such encumbrances and liens which arise in the ordinary course of business and do not materially impair the Company's ownership or use of such property or assets. With respect to the property and assets it leases, the Company is in compliance with such leases and, to the best of its knowledge, holds a valid leasehold interest free of any liens, claims or encumbrances.

2.18 Registration Rights. Except as provided in the Rights Agreement, a form of which is attached hereto as Exhibit E, the Company has not granted or agreed to grant any registration rights, including piggyback rights, to any person or entity.

2.19 Employee Benefit Plans. The Company does not have any Employee Benefit Plan as defined in the Employee Retirement Income Security Act of 1974, as amended.

2.20 Obligations of Management. Each officer of the Company is currently devoting his or her full-time to the conduct of the business of the Company. The Company is not aware of any officer or key employee or the Company planning to work less than full-time at the Company in the future.

2.21 Environmental and Safety Laws. To the best of its knowledge, the Company is not in violation of any applicable statute, law or regulation relating to the environment or occupational health and safety, and to its knowledge, no material expenditures are or will be required in order to comply with any such existing statute, law or regulation.

2.22 Disclosure. The Company has fully provided each Investor with all the information which such Investor has requested for deciding whether to purchase the Shares and all information which the Company believes is reasonably necessary to enable such Investor to make such decision. To the best of the Company's knowledge, neither this Agreement, the Rights Agreement, the Co-Sale Agreement nor any other statements or certificates made or delivered in connection herewith, when taken as a whole, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements herein or therein not misleading.

2.23 Section 83(b) Elections.2.23. To the Company's knowledge, all elections and notices permitted by Section 83(b) of the Internal Revenue Code and analogous provisions of applicable state tax laws have been timely filed by all employees who have purchased shares of the Company's common stock under agreements that provide for the vesting of such shares.

2.24 Real Property Holding Corporation. The Company is not a real property holding corporation within the meaning of Internal Revenue Code Section 897(c)(2) and any regulations promulgated thereunder.

2.25 Insurance. The Company has fire and casualty insurance policies with coverage customary for companies similarly situated to the Company.

2.26 Investment Company Act. The Company is not an "investment company", or a company "controlled" by an "investment", within the meaning of the Investment Company Act of 1940, as amended.

3. Representations and Warranties of the Investor. Each Investor hereby severally and not jointly represents and warrants that:

3.1 Authorization. This Agreement when executed and delivered by such Investor shall constitute a valid and legally binding obligation, enforceable in accordance with its terms, subject to the effect of applicable bankruptcy, insolvency, reorganization, moratorium or other similar federal or state laws affecting the rights of creditors and the effect of rules of law governing specific performance, injunctive relief or other equitable remedies.

3.2 Purchase Entirely for Own Account. This Agreement is made with each Investor in reliance upon such Investor's representations and warranties to the Company, which by such Investor's execution of this Agreement such Investor hereby confirms, that the Shares to be received by such Investor, the Warrant Shares and the Conversion Shares (collectively, the "Securities") will be acquired for investment for such Investor's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that such Investor has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, each Investor further represents that such Investor does not have any contract, undertaking, agreement or arrangement with any person or entity to sell, transfer or grant participation to such person or to any third person, with respect to any of the Securities. Each Investor represents that it has full power and authority to enter into this Agreement.

3.3 Disclosure of Information. Each Investor believes it has received all the information it considers necessary or appropriate for deciding whether to purchase the Shares. Each Investor further represents that it has had an opportunity to ask questions, if any, and receive answers from the Company regarding the terms and conditions of the offering of the Shares. The foregoing, however, does not limit or modify the representations and warranties of the Company in Section 2 of this Agreement or the right of the Investors to rely thereon.

3.4 Investment Experience. Each Investor is an investor in securities of companies in the development stage and acknowledges that it is able to fend for itself, and bear the economic risk of its investment and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of the investment in the Shares. If other than an individual, Investor also represents it has not been organized for the purpose of acquiring the Shares.

3.5 Regulation D. Each Investor is an "Accredited Investor" as that term is defined in Regulation D promulgated under the Securities Act.

3.6 Restricted Securities. Each Investor understands that the Shares it is purchasing (and the Conversion Shares) are characterized as "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such securities may be resold without registration under the Securities Act only in certain limited circumstances. In this connection, each Investor represents that it is familiar with Rule 144, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act. Each Investor acknowledges that the Company filed a registration statement for a public offering of its common stock, which was withdrawn effective December 3, 2001. Each Investor

understands that this offering is not intended to be part of the public offering, and that the Investor will not be able to rely on the protection of Section 11 of the Securities Act.

3.7 Legends. It is understood that the certificates evidencing the Series F Preferred Stock (or the Conversion Shares) and the Warrants (or the Warrant Shares) may bear one or all of the following legends:

(a) "THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF A REGISTRATION STATEMENT IN EFFECT WITH RESPECT TO THE SECURITIES UNDER SUCH ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED OR UNLESS SOLD PURSUANT TO RULE 144 OF SUCH ACT. THESE SECURITIES ARE SUBJECT TO A CERTAIN VOTING PROVISION ENTERED INTO BY AND AMONG THE INVESTORS."

(b) "THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") OR APPLICABLE SECURITIES LAWS. THESE SECURITIES MAY NOT BE SOLD, MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED OTHER THAN IN COMPLIANCE WITH REGULATION S OF THE ACT OR WITHOUT AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS, OR THE AVAILABILITY OF AN EXEMPTION FROM THE REGISTRATION PROVISIONS OF THE ACT AND APPLICABLE STATE SECURITIES LAWS."

(c) Any other legends required by the laws of the State of Delaware or any other applicable blue sky or state securities laws.

3.8 Regulation S. V-Sciences Investments Pte Ltd hereby makes the additional representations and warranties set forth in Exhibit H.

4. Conditions of Investor's Obligations at Closing. The obligations of each Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions, any of which may be waived in whole or in part by such Investor with respect to himself, herself or itself unless required by state or federal law:

4.1 Representations and Warranties. The representations and warranties of the Company contained in Section 2 shall be true on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the date of the Closing.

4.2 Performance. The Company shall have performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing.

4.3 Certificate. The Certificate shall have been filed with the Secretary of State of the State of Delaware.

4.4 Compliance Certificate. The President of the Company shall deliver to counsel for the Investors at the Closing a certificate certifying that the conditions specified in Sections 4.1, 4.2 and 4.3 have been fulfilled and stating that there shall have been no adverse change in the business, affairs, prospects, operations, properties, assets, liabilities or condition of the Company since the date of this Agreement.

4.5 Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated at the Closing and all documents incident thereto shall be reasonably satisfactory in form and substance to each Investor and counsel to any of the Investors, and they shall have received all such counterpart original and certified or other copies of such documents as they may reasonably request.

4.6 Board of Directors. As of the Closing, the Board of Directors will be comprised of seven members: Ronald J. Berenson, Craig Parker, Jean Deleage, Peter Langecker, Robert Nelsen, Michael Steinmetz and Robert Williams.

4.7 Rights Agreement. The Company and the Investors shall have entered into the Rights Agreement in the form attached hereto as Exhibit E.

4.8 Co-Sale Agreement. The Company, certain stockholders and certain of the Investors shall have entered into the Co-Sale Agreement in the form attached hereto as Exhibit F.

4.9 Opinion of Company Counsel. The Investors shall have received from Venture Law Group, counsel to the Company, an opinion addressed to them, dated the Closing Date, in the form attached hereto as Exhibit G.

5. Conditions of the Company's Obligations at Closing. The obligations of the Company to each Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions any of which may be waived in whole or in part by the Company unless required by state or federal law:

5.1 Representations and Warranties. The representations and warranties of each Investor contained in Section 3 hereof shall be true and correct on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of that date; and each Investor shall have performed all obligations and conditions required to be performed or observed by he, she or it on or prior to the Closing Date.

5.2 Legal Matters. All material matters of a legal nature which pertain to this agreement and the transactions contemplated hereby, shall have been reasonably approved by counsel to the Company.

6. Miscellaneous.

6.1 Survival of Warranties. The warranties, representations and covenants of the Company and Investors contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing and shall in no way be affected by any investigation of the subject matter thereof made by or on behalf of the Investors or the Company.

6.2 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

6.3 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Washington.

6.4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.5 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.

6.6 Notices. Unless otherwise provided, any notice required or permitted under this Agreement shall be given in writing and shall be deemed effectively given upon personal deliver to the party to be notified, the refusal of delivery by such person, or five (5) days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the party to be notified at the address indicated for such party in Exhibit A attached hereto or in the case of the Company on the first page of this Agreement, or at such other address as such party may designate by ten (10) days' advance written notice to the other parties.

6.7 Finder's Fee. Each party represents that it neither is nor will be obligated for any finders' fee or commission in connection with this transaction. Each Investor agrees to indemnify and to hold harmless the Company from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which the Investor or any of its officers, partners, employees, or representatives is responsible. The Company agrees to indemnify and hold harmless each Investor from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which the Company or any of its officers, employees or representatives is responsible.

6.8 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement 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 Series F Shares. Any amendment or waiver effected in accordance with this Section 6.8 shall be binding upon each holder of any securities purchased under this Agreement at the time outstanding (including securities into which such securities are convertible), each future holder of all such securities, and the Company; provided, however, that no condition set forth in Section 4 hereof may be waived with respect to any Investor who does not consent thereto.

6.9 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.

6.10 Exculpation Among Investors. Each Investor acknowledges that it is not relying upon any person, firm or corporation, other than the Company and its officers and directors, in making its investment decision to invest in the Company. Each Investor agrees that no other Investor nor the respective controlling persons, officers, directors, partners, agents or employees of any such other Investor shall be liable for any action heretofore or hereafter taken or omitted to be taken by any of them in connection with each Investor's purchase of the Shares, Conversion Shares and Warrant Shares.

6.11 Expenses. Upon the Closing of the purchase and sale of securities as contemplated by this Agreement and the exhibits thereto, the Company shall pay the fees and reasonable expenses of counsel for the Investors, which fees shall not exceed $10,000.00.

(signature page follows)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

XCYTE THERAPIES, INC.

By: /s/ Ronald J. Berenson

Name: Ron Berenson

(print)

Title: President & CEO

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

CALPERS HEALTHCARE SIDE FUND, L.P.
By: ARCH Venture Partners V, L.P.,
its general partner
By: ARCH Venture Partners V, LLC,
its general partner

By: /s/ ROBERT T. NELSON

Name: Robert T. Nelson

Title: Its Managing Director

Address: c/o ARCH Venture Partners V, L.P.
8725 W. Higgins Road, Suite 290
Chicago, IL 60631
Attn: Mark McDonnell

Phone Number: (773) 380-6600

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

VECTOR LATER-STAGE EQUITY FUND II (QP), L.P.

By: VECTOR FUND MANAGEMENT II, L.L.C.
Its:General Partner

By: /s/ DOUGLAS REED

Douglas Reed, M.D.

Its: Managing Director

Address: 1751 Lake Cook Road, Suite 350
Deerfield, IL 60015

Phone Number: (847) 374-3946

VECTOR LATER-STAGE EQUITY FUND II, L.P.

By: VECTOR FUND MANAGEMENT II, L.L.C.
Its:General Partner

By: /s/ DOUGLAS REED

Douglas Reed, M.D.

Its: Managing Director

Address: 1751 Lake Cook Road, Suite 350
Deerfield, IL 60015

Phone Number: (847) 374-3946

PALIVACINNI PARTNERS, LLC

By: /S/ DOUGLAS REED

Douglas Reed, M.D.
Managing Member

Address: c/o Vector Fund Management, L.P.
1751 Lake Cook Road, Suite 350
Deerfield, IL 60015

Phone Number: (847) 374-3946

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

RIVERVEST VENTURE FUND I, L.P.
By: Its general partner, RiverVest Venture Partners I, LLC

By: /S/ MARK MENDEL

Name: Mark Mendel

Title: Managing Member

Address: 7733 Forsyth Boulevard, Suite 1650
St. Louis, MO 63105

Phone Number: (314) 726-6739

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

EDWARD F. BRENNAN

/s/ EDWARD F. BRENNAN

Address: 1216 Arguello Blvd.
San Francisco, CA 94122-2707

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

1998 CO-INVESTING LLC

By: /s/ JEFFREY MCDONNELL

Name: Jeffrey McDonnell

Title: Manager

Address: c/o J&J Management Services
1034 S. Brentwood Boulevard, Suite 1860
St. Louis, MO 63117-1218
Attn: Jeffrey M. McDonnell

Phone Number: (314) 862-1040

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

SPROUT CEO FUND, L.P.

By: /s/ CRAIG C. PARKER

Name: Craig C. Parker

Title: Partner

Address: c/o Sprout Group
277 Park Avenue, 42nd Floor
New York, NY 10172
Attn: Craig C. Parker

Phone Number: 650-234-2728

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

ALTA EMBARCADERO PARTNERS, LLC
By: Alta California Management Partners, L.P.

By: /s/ JEAN DELEAGE

Member

Name:

Address: One Embarcadero Center, Suite 4050
San Francisco, CA 94111
Attn: Elaine Walker

Phone Number: (415) 362-4022

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

TOM ALBERG

/s/ TOM ALBERG

Address: c/o Madrona Investment Group
1000 - 2nd Avenue
Seattle, WA 98104

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

V–Sciences Investments Pte Ltd

By: /s/ S Iswaran

Name: Mr S Iswaran

Title: Director

Address: 8 Shenton Way
38-03 Temasek Tower
Singapore 06881

Fax Number: (65) 324-4991

SIGNATURE PAGE TO XCYTE THERAPIES, INC.
SERIES F STOCK AND WARRANT PURCHASE AGREEMENT

EXHIBIT A

SCHEDULE OF INVESTORS

First Closing: February 5, 2002

Investor Name and Address	Number of Series F Preferred Shares	Number of Warrant Shares	Amount of Investment for Series F Shares	Purchase Price for Warrants
RiverVest Venture Fund I, L.P. 7733 Forsyth Boulevard, Suite 1650 St. Louis, MO 63105	1,078,925	587,415	$ 2,999,411.50	$ 587.42
CalPERS Healthcare Side Fund, L.P. c/o ARCH Venture Partners V, L.P. 8725 W. Higgins Road, Suite 290 Chicago, IL 60631 Attn: Mark McDonnell	899,104	489,512	$ 2,499,509.12	$ 489.51
Vector Later-Stage Equity Fund II (QP), L.P. 1751 Lake Cook Road, Suite 350 Deerfield, IL 60015	809,194	440,561	$ 2,249,559.32	$ 440.56
Vector Later-Stage Equity Fund II, L.P. 1751 Lake Cook Road, Suite 350 Deerfield, IL 60015	269,731	146,854	$ 749,852.18	$ 146.85
1998 Co-Investing LLC c/o J&J Management Services 1034 S. Brentwood Blvd., Suite 1860 St. Louis, MO 63117-1218 Attn: Jeffrey M. McDonnell	179,820	97,902	$ 499,899.60	$ 97.90
Tom Alberg c/o Madrona Investment Group 1000 - 2nd Avenue Seattle, WA 98104	71,928	39,161	$ 199,959.84	$ 39.16
Palivacinni Partners, LLC 1751 Lake Cook Road, Suite 350 Deerfield, IL 60015 Attn: Douglas Reed, Managing Member	35,964	19,580	$ 99,979.92	$ 19.58

Investor Name and Address	Number of Series F Preferred Shares	Number of Warrant Shares	Amount of Investment for Series F Shares	Purchase Price for Warrants
Edward F. Brennan 1216 Arguello Blvd. San Francisco, CA 94122-2707	8,991	4,895	$ 24,994.98	$ 4.90
Alta Embarcadero Partners, LLC One Embarcadero Center, Suite 4050 San Francisco, CA 94111 Attn: Elaine Walker	8,035	4,375	$ 22,337.30	$ 4.38
Sprout CEO Fund, L.P. c/o Sprout Group 277 Park Avenue, 42nd Floor New York, NY 10172 Attn: Craig C. Parker	3,634	1,979	$ 10,102.52	$ 1.98
FIRST CLOSING TOTAL:	**3,365,326**	**1,832,234**	**$ 9,355,606.28**	**$ 1,832.24**

Second Closing: March 6, 2002

Investor Name and Address	Number of Series F Preferred Shares	Number of Warrant Shares	Amount of Investment for Series F Shares	Purchase Price for Warrants
V-Sciences Investments Pte Ltd 8 Shenton Way #38-03 Temasek Tower Singapore 068811 Attn: Mr. S. Iswaran	1,078,925	587,415	$ 2,999,411.50	$ 587.42
SECOND CLOSING TOTAL:	**1,078,925**	**587,415**	**$ 2,999,411.50**	**$ 587.42**
AGGREGATE TOTAL:	**4,444,251**	**2,419,649**	**$ 12,355,017.78**	**$ 2,419.66**

EXHIBIT B

FORM OF AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

EXHIBIT C

SCHEDULE OF EXCEPTIONS

EXHIBIT D

FORM OF PROPRIETARY INFORMATION AGREEMENT

EXHIBIT E

FORM OF AMENDED AND RESTATED
INVESTOR RIGHTS AGREEMENT

EXHIBIT F

FORM OF AMENDED AND RESTATED
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT

EXHIBIT G

FORM OF OPINION OF COUNSEL TO THE COMPANY

EXHIBIT H

ADDITIONAL REPRESENTATIONS AND WARRANTIES OF FOREIGN INVESTORS

V-Sciences Investments Pte Ltd (each a "Foreign Investor"), in addition to the other representations and warranties it has made in this Agreement, each further represents and warrants to the Company that:

It is familiar with Regulation S under the Securities Act and is not a "U.S. Person" as that term is defined in Regulation S and is not acquiring the Shares for the account or benefit of a U.S. Person, and it agrees not to make any disposition of all or any portion of the Shares unless and until (A) such disposition is in accordance with Regulation S, and (B) (1) there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement, or (2) the Foreign Investor shall have notified the Company of the proposed disposition and shall have furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition, and if requested by the Company, the Foreign Investor shall have furnished the Company with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration under the Securities Act.

The acquisition by the Foreign Investor of the Shares shall constitute a confirmation of the representations and warranties made by the Foreign Investor as of the Closing. The Foreign Investor further represents that it understands and agrees that, until registered under the Securities Act or properly transferred pursuant to the provisions of Rule 144 as promulgated by the SEC, all certificates evidencing any of the Shares, whether upon initial issuance or upon any transfer thereof, shall bear a legend (in addition to any legend required pursuant to the Investors' Rights Agreement), prominently stamped or printed thereon, reading substantially as stated in Section 3.7(b).

Exhibit 10.4

XCYTE THERAPIES, INC.

AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

This Amended and Restated Investor Rights Agreement (the "Agreement") is effective as of February 5, 2002, by and among Xcyte Therapies, Inc., a Delaware corporation (the "Company"), the investors listed on Schedule A attached hereto (the "Investors") and the warrantholders listed on Schedule B attached hereto (the "Warrantholders").

RECITALS

A. The Company sold and issued to certain Investors (the "Series A Holders") 6,334,212 shares of the Series A Preferred Stock of the Company on August 28, 1996.

B. In connection with the Company's merger with CellGenEx, Inc., dated August 27, 1997, the Company issued 526,300 shares of Series A Preferred Stock to holders of CellGenEx Preferred Stock.

C. The Company sold and issued to certain Investors (the "Series B Holders") 3,903,080 shares of the Series B Preferred Stock of the Company.

D. The Company sold and issued to certain Investors (the "Series C Holders") 7,185,630 shares of the Series C Preferred Stock of the Company.

E. The Company sold and issued to certain Investors (the "Series D Holders") 10,109,825 shares of Series D Preferred Stock of the Company and warrants to purchase 496,948 shares of Common Stock of the Company.

F. The Company sold and issued to certain Investors (the "Series E Holders") 4,750,095 shares of Series E Preferred Stock of the Company and warrants to purchase 10,000 shares of Series E Preferred Stock of the Company and warrants to purchase 2,586,162 shares of Common Stock of the Company.

G. Pursuant to that certain Amended and Restated Investor Rights Agreement, dated as of November 13, 2001, as amended, (the "Prior Rights Agreement") the Company granted to such Series A Holders, Series B Holders, Series C Holders, Series D Holders and Series E Holders certain rights and the Series A Holders, Series B Holders, Series C Holders, Series D Holders and Series E Holders entered into certain covenants between themselves.

H. Pursuant to that certain Series F Preferred Stock and Warrant Purchase Agreement of even date herewith (the "Series F Agreement"), the Company has agreed to sell to certain Investors (the "Series F Holders") (i) a total of up to 5,395,683 shares of the Series F Preferred Stock of the Company and (ii) warrants to purchase 2,937,650 shares of Common Stock of the Company. As an inducement for the Series F Holders to purchase such shares and warrants, the Company, the Series A Holders, the Series B Holders, Series C Holders, Series D Holders and

the Series E Holders have agreed to enter into this Agreement to supersede, amend and restate the rights granted to and covenants agreed by the Series A Holders, Series B Holders, Series C Holders, Series D Holders and Series E Holders in the Prior Rights Agreement. All shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock are referred to herein as the "Preferred Shares."

All terms not otherwise defined herein shall have the same meaning as set forth in the Series F Agreement.

NOW THEREFORE, the parties hereby agree as follows:

1. Registration Rights.

1.1 Definitions. For purposes of this Section 1:

(a) The term "Act" shall mean the Securities Act of 1933, as amended.

(b) The term "Form S-3" means such form under the Act as in effect on the date hereof or any registration form under the Act subsequently adopted by the Securities and Exchange Commission (the "SEC") which permits inclusion or incorporation of substantial information by reference to other documents filed by the Company with the SEC;

(c) The term "Holder" means any person owning or having the right to acquire Registrable Securities or any assignee thereof in accordance with Section 1.12 hereof;

(d) The term "Qualified Public Offering" shall mean an underwritten public offering of shares of the Company's Common Stock at a public offering price per share of not less than $4.00 (as adjusted for stock splits, combinations or consolidations) with gross proceeds to the Company of not less than $20,000,000 at the public offering price;

(e) The term "register", "registered," and "registration" refer to a registration effected by preparing and filing a registration statement or similar document in compliance with the Act, and the declaration or ordering of effectiveness of such registration statement or document;

(f) The term "registration expenses" shall mean all expenses, except as otherwise stated below, incurred by the Company in complying with Sections 1.2, 1.3 and 1.11 hereof, including, without limitation, all registration, qualification and filing fees, printing expenses, escrow fees, fees and disbursements of counsel for the Company, fees and disbursement of one counsel to the Holders, blue sky fees and expenses, 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).

(g) The term "Registrable Securities" means (1) the Common Stock issued upon conversion of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock or any Common Stock issued upon conversion of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock or Series E Preferred Stock issuable upon the exercise of outstanding warrants to purchase such shares of Preferred Stock, (2) up to 4,915,344 shares of Common Stock of the Company issued or issuable upon exercise of warrants to purchase Common Stock of the Company issued in connection with a Preferred Stock financing, (3) up to 26,686 shares of Common Stock of the Company issued or issuable upon conversion of the Series C Preferred Stock issued or issuable upon exercise of warrants to purchase Series C Preferred Stock of the Company, (4) up to 80,000 shares of Common Stock of the Company issued or issuable upon conversion of the Series D Preferred Stock issued or issuable upon exercise of warrants to purchase Series D Preferred Stock of the Company and (5) any Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, such Preferred Stock or Common Stock, excluding in all cases, however, (i) any Registrable Securities sold by a person in a transaction in which such person's rights under this Section 1 are not assigned, or (ii) any Registrable Securities sold to or through a broker or dealer or underwriter in a public distribution or a public securities transaction; and

(h) The number of shares of "Registrable Securities then outstanding" shall be determined by the number of shares of Common Stock outstanding which are, and the number of shares of Common Stock issuable pursuant to then exercisable or convertible securities which are, Registrable Securities.

1.2 Request for Registration.

(a) If the Company shall receive at any time after the earlier of (i) August 15, 2002 or (ii) six (6) months after the effective date of a Qualified Public Offering (other than a registration statement relating either to the sale of securities to employees of the Company pursuant to a stock option, stock purchase or similar plan or a SEC Rule 145 transaction), a written request from the Holders of at least fifty percent (50%) of the Registrable Securities then outstanding (including securities convertible into Registrable Securities) that the Company file a registration statement under the Act covering the registration of at least fifty percent (50%) of Registrable Securities, or any lesser number of shares if the anticipated aggregate offering price, net of underwriting discounts and commissions, would exceed $10,000,000, then the Company shall, within ten (10) days of the receipt thereof, give written notice of such request to all Holders and shall, subject to the limitations of Section 1.2(b), effect as soon as practicable, and in any event within ninety (90) days of the receipt of such request, the registration under the Act of all Registrable Securities which the Holders request to be registered within twenty (20) days of the mailing of such written notice by 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 1.2(a):

(i) During the period starting with the date thirty (30) days prior to the Company's estimated date of filing of, and ending on the date one hundred twenty (120) days 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;

(ii) After the Company has effected two such registrations pursuant to this Section 1.2(a), and such registrations have been declared or ordered effective; or

(iii) If the Company shall furnish to such Holders a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors it would be seriously detrimental to the Company or its stockholders for a registration statement to be filed at such time, then the Company's obligation to use its best efforts to register, qualify or comply under this Section 1.2(a) shall be deferred for a period not to exceed ninety (90) days from the date of receipt of written request from the Holders; provided, however, that the Company may not utilize this right more than once in any twelve-month period.

(b) If the Holders initiating the registration request hereunder (the "Initiating Holders") intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to this Section 1.2 and the Company shall include such information in the written notice referred to in Section 1.2(a). In such event, the right of any Holder to include his Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the Initiating Holders and such Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 1.4(e)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by a majority in interest of the Initiating Holders and reasonably acceptable to the Company. Notwithstanding any other provision of this Section 1.2, if the underwriter advises the Initiating Holders in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Initiating Holders shall so advise all Holders of Registrable Securities which would otherwise be underwritten pursuant hereto, and the number of shares of Registrable Securities that may be included in the underwriting shall be allocated among all Holders thereof, including the Initiating Holders, in proportion (as nearly as practicable) to the amount of Registrable Securities of the Company owned by each Holder at the time of filing of such Registration Statement. 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 one hundred (100) shares.

If any Holder of Registrable Securities disapproves of the terms of the underwriting, such Holder 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 not be transferred in a public distribution prior to one hundred eighty (180) days after the effective date of such registration, or such other shorter period of time as the underwriters may require.

1.3 Company Registration. If (but without any obligation to do so) the Company proposes to register (including for this purpose a registration effected by the Company for stockholders other than the Holders) any of its stock or other securities under the Act in connection with the public offering of such securities solely for cash (other than a registration relating solely to the sale of securities to participants in a Company stock plan, or a registration on any form which does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities), the Company shall, at such time, give each Holder written notice of such registration thirty (30) days prior to such registration. Upon the written request of each Holder given within twenty (20) days after mailing of written notice by the Company, the Company shall, subject to the provisions of Section 1.8, cause to be registered under the Act all of the Registrable Securities that each such Holder has requested to be registered.

1.4 Obligations of the Company. Whenever required under this Section 1 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its best efforts to cause such registration statement to become effective, and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for up to ninety (90) days.

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

(c) Furnish to the Holders such numbers of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them.

(d) Use its best 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 provided that such underwriting agreement shall not provide for indemnification or contribution obligations on the part of the holders greater than the obligations set forth in Section 1.9.

(f) Notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing.

(g) Furnish, at the request of any Holder requesting registration of Registrable Securities pursuant to this Section 1, on the date that such Registrable Securities are delivered to the underwriters for sale in connection with a registration pursuant to this Section 1, if such securities are being sold through underwriters, or, if such securities are not being sold through underwriters, on the date that the registration statement with respect to such securities becomes effective, (i) an opinion, dated such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters, if any, and to the Holders requesting registration of Registrable Securities and (ii) if such offering is being underwritten, 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.

1.5 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 1 with respect to the Registrable Securities of any selling Holder that such holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as shall be required to effect the registration of such Holder's Registrable Securities.

1.6 Expenses of Demand Registration. All expenses other than underwriting discounts and commissions incurred in connection with the registration, filing or qualification pursuant to Section 1.2, including all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company, and the reasonable fees and disbursements of one counsel for the selling Holders shall be borne by the Company; provided, however, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 1.2 if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered (in which case all participating Holders shall bear such expenses), unless the Holders of a majority of the Registrable Securities agree to forfeit their right to a demand registration pursuant to Section 1.2; provided further, however, that if at the time of such withdrawal, the Holders have learned of a material adverse change in the condition, business, or prospects of the Company from that known to the Holders at the time of their request, of which the Company had or should have had

knowledge at the time of the request, then the Holders shall not be required to pay any of such expenses and shall retain their rights pursuant to Section 1.2.

1.7 Expenses of Company Registration. The Company shall bear and pay all expenses incurred in connection with any registration, filing or qualification of Registrable Securities with respect to the registrations pursuant to Section 1.3 for each Holder (which right may be assigned as provided in Section 1.12), including all registration, filing, and qualification fees, printers and accounting fees relating or apportionable thereto and the fees and disbursements of one counsel for the selling Holders selected by them, but excluding underwriting discounts and commissions relating to Registrable Securities.

1.8 Underwriting Requirements. In connection with any offering involving an underwriting of shares being issued by the Company, the Company shall not be required under Section 1.3 to include any of the Holders' securities in such underwriting unless they accept the terms of the underwriting as agreed upon between the Company and the underwriters selected by it, and then only in such quantity as will not, in the opinion of the underwriters, jeopardize the success of the offering by the Company; provided that such underwriting agreement shall not provide for indemnification or contribution obligations on the part of the Holders greater than the obligations set forth in Section 1.9. If the total amount of securities, including Registrable Securities requested by stockholders to be included in such offering, exceeds the amount of securities sold (other than by the Company) that the underwriters reasonably believe compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters believe will not jeopardize the success of the offering (the securities so included to be apportioned pro rata among the selling stockholders according to the total amount of securities entitled to be included therein owned by each selling stockholder or in such other proportions as shall mutually be agreed to by such selling stockholders), but in no event shall any shares being sold by a stockholder exercising a demand registration right similar to that granted in Section 1.2 be excluded from such offering. For purposes of apportionment, any selling stockholder which is a Holder of Registrable Securities and which is a partnership or corporation, the partners, retired partners and stockholders of such Holder, or the estates and family members of any such partners and retired partners 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 entities and individuals included in such "selling stockholder", as defined in this sentence. In no event, shall the amount of securities of the selling Holders included in the registration be reduced below thirty percent (30%) of the total amount of the securities included in such registration unless such registration is the Company's initial public offering and such registration does not include the shares of any other selling stockholders, in which event any or all of the Registrable Securities may be excluded if the underwriter makes the determination described above. 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 one hundred (100) shares.

If any Holder or holder disapproves of the terms of any such underwriting, such Holder or holder may elect to withdraw therefrom by written notice to the Company and the managing underwriter. Any Registrable Securities and/or securities excluded or withdrawn from such underwriting shall be withdrawn from such registration, and shall not be transferred in a public distribution prior to one hundred eighty (180) days after the effective date of the registration statement relating thereto, or such other shorter period of time as the underwriters may require.

1.9 Indemnification. In the event any Registrable Securities are included in a registration statement under this Section 1:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, any underwriter (as defined in the Act) for such Holder and each person, if any, who controls such Holder or underwriter within the meaning of the Act or the Securities Exchange Act of 1934, amended (the "1934 Act"), against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Act, the 1934 Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (collectively a "Violation"): (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Act, the 1934 Act, any state securities law or any rule or regulation promulgated under the Act, the 1934 Act or any state securities law; and the Company will pay to each such Holder, underwriter or controlling person, as incurred, any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability, or action; provided, however, that the indemnity agreement contained in this Section 1.9(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability, or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld), nor shall the Company be liable in any such case for any such loss, claim, damage, liability, or action to the extent that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by any such Holder, underwriter or controlling person.

(b) To the extent permitted by law, each selling Holder will indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each person, if any, who controls the Company within the meaning of the Act, any underwriter, any other Holder selling securities in such registration statement and any controlling person of any such underwriter or other Holder, against any losses, claims, damages, or liabilities (joint or several) to which any of the foregoing persons may become subject, under the Act, the 1934 Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Holder expressly for use in

connection with such registration; and each such Holder will pay, as incurred, any legal or other expenses reasonably incurred by any person intended to be indemnified pursuant to this Section 1.9(b), in connection with investigating or defending any such loss, claim, damage, liability, or action; provided, however, that the indemnity agreement contained in this Section 1.9(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; provided, that, in no event shall any indemnity under this Section 1.9(b) exceed the gross proceeds from the offering received by such Holder, unless such liability resulted from the willful misconduct of such Holder.

(c) Promptly after receipt by an indemnified party under this Section 1.9 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 1.9, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party shall have the right to retain its own counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if prejudicial to its ability to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this Section 1.9(c), but the omission to so deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 1.9.

(d) If the indemnification provided for in this Section 1.9 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. 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 and access to information.

(e) The obligations of the Company and Holders under this Section 1.9 shall survive the completion of any offering of Registrable Securities in a registration statement under this Section 1, and otherwise.

1.10 Reports Under Securities Exchange Act of 1934. With a view to making available to the Holders the benefits of Rule 144 promulgated under the Act and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in SEC Rule 144, at all times after ninety (90) days after the effective date of the first registration statement filed by the Company for the offering of its securities to the general public;

(b) take such action, including the voluntary registration of its Common Stock under Section 12 of the 1934 Act, as is necessary to enable the Holders to utilize Form S-3 for the sale of their Registrable Securities, such action to be taken as soon as practicable after the end of the fiscal year in which the first registration statement filed by the Company for the offering of its securities to the general public is declared effective;

(c) file with the SEC in a timely manner all reports and other documents required of the Company under the Act and the 1934 Act; and

(d) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144 (at any time after ninety (90) days after the effective date of the first registration statement filed by the Company), the Act and the 1934 Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC which permits the selling of any such securities without registration or pursuant to such form.

1.11 Form S-3 Registration.

(a) In case the Company shall receive from any Holder or Holders a written request or requests that the Company effect a registration on Form S-3 and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Holder or Holders, the Company will:

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

(ii) as soon as practicable, effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Holder’s or Holders’ Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any

other Holder or Holders joining in such request as are specified in a written request given within 15 days after receipt of such written notice from the Company; provided, however, that the Company shall not be obligated to effect any such registration, qualification or compliance, pursuant to this Section 1.11: (1) if Form S-3 is not available for such offering by the Holders; (2) if the Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) at an aggregate price to the public (net of any underwriters' discounts or commissions) of less than $500,000; (3) if the Company shall furnish to the Holders a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors of the Company, it would be seriously detrimental to the Company and its stockholders for such Form S-3 Registration to be effected at such time, in which event the Company shall have the right to defer the filing of the Form S-3 registration statement for a period of not more than 120 days after receipt of the request of the Holder or Holders under this Section 1.11; provided, however, that the Company shall not utilize this right more than once in any twelve (12) month period; (4) if the Company has already effected one registration on Form S-3 within the past six (6) months for the Holders pursuant to this Section 1.11; (5) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance; (6) if the Company, within ten (10) days of the receipt of the request of the initiating Holders, gives notice of its bona fide intention to effect the filing of a registration statement with the Commission within ninety (90) days of receipt of such request (other than with respect to a registration statement relating to a Rule 145 transaction, or an offering solely to employees); or (7) during the period starting with the date ninety (90) days prior to the Company's 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.

(b) If the Initiating Holders requesting such registration hereunder 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 this Section 1.11 and the Company shall include such information in the written notice referred to in Section 1.11(a)(i). In such event, the right of any Holder to include his Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the Initiating Holders and such Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 1.4(e)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by a majority in interest of the Initiating Holders and reasonably acceptable to the Company. Notwithstanding any other provision of this Section 1.11, if the underwriter advises the Initiating Holders in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Initiating Holders shall so advise all Holders of Registrable Securities which would otherwise be underwritten pursuant hereto, and the number of shares of Registrable

Securities that may be included in the underwriting shall be allocated among all Holders thereof, including the Initiating Holders, in proportion (as nearly as practicable) to the amount of Registrable Securities of the Company owned by each Holder. 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 one hundred (100) shares.

If any Holder or holder disapproves of the terms of any such underwriting, such Holder or holder may elect to withdraw therefrom by written notice to the Company and the managing underwriter. Any Registrable Securities and/or securities excluded or withdrawn from such underwriting shall be withdrawn from such registration, and shall not be transferred in a public distribution prior to one hundred eighty (180) days after the effective date of the registration statement relating thereto, or such other shorter period of time as the underwriters may require.

(c) Subject to the foregoing, the Company shall file a registration statement covering the Registrable Securities and other securities so requested to be registered as soon as practicable after receipt of the request or requests of the Holders. All expenses incurred in connection with a registration requested pursuant to Section 1.11, including all registration, filing, qualification, printer's and accounting fees and the reasonable fees and disbursements of one counsel for the selling Holders selected by them, but excluding any underwriters' discounts or commissions associated with Registrable Securities, shall be borne by the Company. Registrations effected pursuant to this Section 1.11 shall not be counted as demands for registration or registrations effected pursuant to Section 1.2 or 1.3, respectively.

1.12 Assignment of Registration Rights. The rights to cause the Company to register Registrable Securities pursuant to this Section 1 may be assigned by a Holder to a transferee or assignee who acquires at least the lesser of all of the shares owned by such Holder or 500,000 shares of Registrable Securities, provided the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned; and provided, further, that such assignment shall be effective only if immediately following such transfer the further disposition of such securities by the transferee or assignee is restricted under the Act. Notwithstanding the above, such rights may be assigned by a Holder to an Affiliate (as defined below) of such Holder (the "Transferee"), regardless of the number of shares acquired by such Transferee. For purposes of this Agreement, "Affiliate" includes, with respect to a party which is a partnership or limited liability company, its partners, members or an affiliated entity managed by the same manager or managing partner or management company, or managed or owned by an entity controlling, controlled by, or under common control with, such manager or managing partner or management company.

1.13 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 of at least two-thirds (66-2/3%) of the outstanding Registrable Securities, enter into any agreement with any holder or prospective holder of any securities of the Company which would allow such holder or prospective holder to include such securities in any registration filed under Section 1.3 hereof, unless (i) under the terms of such agreement, such holder or prospective holder may

include such securities in any such registration only to the extent that the inclusion of its securities will not reduce the amount of the Registrable Securities of the Holders which is included or (ii) the Board of Directors approves the grant of registration right to such holder or prospective holder.

1.14 "Market Stand-Off" Agreement. Each holder of securities which are or at one time were Registrable Securities (or which are or were convertible into Registrable Securities) hereby agrees that, during a period not to exceed one hundred eighty (180) days, following the effective date of a registration statement of the Company filed under the Act, it shall not, to the extent requested by the Company and such underwriter, sell or otherwise transfer or dispose of (other than to a donee who agrees to be similarly bound), make a short sale, loan, or grant any option for the purchase of any Common Stock or other securities of the Company held by it at any time during such period except Common Stock included in such registration; provided, however, that:

(a) such agreement shall be applicable only to the first such registration statement of the Company which covers Common Stock (or other securities) to be sold on its behalf to the public in an underwritten offering; and

(b) all officers and directors of the Company enter into similar agreements.

In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to the Registrable Securities of each Investor (and the shares or securities of every other person subject to the foregoing restriction) until the end of such period and, furthermore, each holder of securities agrees to execute all documents effectuating the above as may be requested by the underwriter at the time of the initial public offering.

1.15 Termination of Registration Rights. No stockholder shall be entitled to exercise any right provided for in this Section 1 after five (5) years following the Company's first Qualified Public Offering.

2. Preemptive Rights.

2.1 Grant of Right. Subject to the terms and conditions specified in this Section 2, the Company hereby grants to each Investor who, together with its Affiliates, holds more than 500,000 shares of Preferred Stock a preemptive right with respect to future sales by the Company of its Future Shares (as hereinafter defined).

2.2 Future Shares. "Future Shares" shall mean shares of any capital stock of the Company, whether now authorized or not, and any rights, options or warrants to purchase such capital stock, and securities of any type that are, or may become, convertible into such capital stock; provided however, that "Future Shares" do not include (i) the Shares purchased under the Series F Stock and Warrant Purchase Agreement (ii) the shares of Common Stock issued or issuable upon the conversion of the Preferred Stock, (iii) securities offered pursuant to a registration statement filed under the Act, (iv) securities issued pursuant to the acquisition of

another corporation by the Company by merger or, purchase of substantially all of the assets or other reorganization, (v) securities issued in connection with or as consideration for a collaborative partnership arrangement, as approved by a majority of the Board of Directors of the Company, or the acquisition, leasing or licensing of technology or other significant assets to be used in the Company's business, as approved by a majority of the Board of Directors of the Company (vi) securities issued or issuable to officers, directors, employees or consultants of the Company pursuant to any employee or consultant stock offering, plan or arrangement approved by a majority of the Board of Directors of the Company and (vii) all shares of Common Stock or other securities, or options or warrants to purchase Common Stock or any such other securities, issuable to landlords, financial institutions or lessors in connection with office leases, commercial credit arrangements, equipment financings or similar transactions.

2.3 Notice. In the event the Company proposes to offer any of its Future Shares, the Company shall first make an offering of such Future Shares to each Investor in accordance with the following provisions:

(a) The Company shall deliver a notice by certified mail (the "Notice") to the Investors stating (i) its bona fide intention to offer such Future Shares, (ii) the number of such Future Shares to be offered, (iii) the price, if any, for which it proposes to offer such Future Shares, and (iv) a statement as to the number of days from receipt of such Notice within which the Investor must respond to such Notice.

(b) Within twenty (20) calendar days after receipt of the Notice, the Investor may elect to purchase or obtain, at the price and on the terms specified in the Notice, up to that portion of such Future Shares which equals the proportion that the number of shares of Common Stock issued and held, or issuable upon conversion of the Shares then held, by such Investor bears to the total number of shares of Common Stock issued and outstanding, including shares issuable upon conversion of convertible securities issued and outstanding. If an Investor elects not to purchase such shares up to its pro rata allocation, any affiliate of such Investor which is also an Investor may increase its allocation to add the pro rata shares not purchased by its affiliate. The Company shall promptly, in writing, inform each Investor which purchases all of the Future Shares available to it (the "Fully-Exercising Investor") of any other Investor's failure to do likewise. During the ten (10) day period commencing after receipt of such information, each Fully-Exercising Investor shall be entitled to obtain that portion of the Future Shares offered to the Investors which was not subscribed for, which is equal to the proportion that the number of shares of Common Stock issued and held, or issuable upon conversion of the Shares then held, by such Fully-Exercising Investor bears to the total number of shares of Common Stock issued and outstanding, including shares issuable upon conversion of convertible securities issued and outstanding then held, by all Fully-Exercising Investors who wish to purchase some of the unsubscribed shares.

2.4 Sale after Notice. If all such Future Shares referred to in the Notice are not elected to be obtained as provided in Section 2.3 hereof, the Company may, during the 90-day period following the expiration of the period provided in Section 2.3 hereof, offer the remaining unsubscribed Future Shares to any person or persons at a price not less than, and upon

terms no more favorable to the offeree than those specified in the Notice. If the Company does not enter into an agreement for the sale of the Future Shares within such period, or if such agreement is not consummated within 90 days of the execution thereof, the right provided hereunder shall be deemed to be revived and such Future Shares shall not be offered unless first reoffered to the Investors in accordance herewith.

2.5 Assignment. The right of first offer granted under this Section 2 is assignable by the Investors to any transferee who acquires at least the lesser of all of the shares owned by such Investor or a minimum of 500,000 shares of Common Stock (including any shares of Common Stock into which shares of Preferred Stock are convertible).

2.6 Termination of Rights. No stockholder shall be entitled to exercise any right provided for in this Section 2 (i) upon the consummation of the sale of securities pursuant to a registration statement filed by the Company under the Act in connection with the initial firm commitment underwritten offering of its securities to the general public or (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Securities Exchange Act of 1934, whichever event shall first occur.

3. Voting Provisions. The undersigned hereby agree that in all elections of directors of the Company the Investors will vote their shares such that one nominee designated by Alta Venture Partners, one nominee designated by the Sprout Group, one nominee designated by ARCH Venture Fund III, L.P. and one nominee designated by MPM Capital will be elected to the Company's Board of Directors. This Section 3 shall automatically terminate upon the earlier to occur of: (i) a Qualified Public Offering or (ii) when the Company first becomes subject to the periodic reporting requirements of Sections 12(g) or 15(d) of the Securities Exchange Act of 1934, as amended.

4. Prior Rights Agreements. Effective upon the execution of this Agreement by the Company and at least the holders of two-thirds (66 2/3%) of the Registrable Securities under the Prior Rights Agreement, the Prior Rights Agreement is null and void and superseded in its entirety by this Agreement.

5. Waiver of Preemptive Rights. To the extent that an Investor under the Prior Rights Agreement is not purchasing its pro rata share of Series F Preferred Stock pursuant to the Series F Agreement, all rights under the Preemptive Rights set forth in Section 2 of the Prior Rights Agreement to purchase such securities and to receive notice is hereby waived. This waiver is binding upon all Investors, and effective upon the execution of this Agreement by the holders of a majority of the Registrable Securities under the Prior Rights Agreement.

6. Transferability.

6.1 Restrictions on Transferability. The Shares and the Registrable Securities shall not be sold, assigned, transferred or pledged except upon the conditions specified in this Section 6, which conditions are intended to ensure compliance with the provisions of the Securities Act. The Investors will cause any proposed purchaser, assignee, transferee, or pledgee

of the Shares or the Registrable Securities held by the Investors to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Section 6.

6.2 Restrictive Legend. Each certificate representing (i) the Shares, (ii) the Registrable Securities and (iii) any other securities issued in respect of the Shares or the Registrable Securities upon any stock split, stock dividend, recapitalization, merger, consolidation or similar event, shall (unless otherwise permitted by the provisions of Section 6.3 below) be stamped or otherwise imprinted with a legend in the following form (in addition to any legend required under applicable state securities laws):

"THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF A REGISTRATION STATEMENT IN EFFECT WITH RESPECT TO THE SECURITIES UNDER SUCH ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED OR UNLESS SOLD PURSUANT TO RULE 144 OF SUCH ACT. THESE SECURITIES ARE SUBJECT TO A CERTAIN VOTING PROVISION ENTERED INTO BY AND AMONG THE INVESTORS."

The Investors and Holders consent to the Company making a notation on its records and giving instructions to any transfer agent of the Shares or the Registrable Securities in order to implement the restrictions on transfer established in this Section 6.

6.3 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 6.3. 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 the Investors to any of its partners, or retired partners, or to the estate of any of its partners or retired partners, (iii) a transfer to an affiliated fund, partnership or company, which is not a competitor of the Company, or a transfer to an Affiliate of the holder, subject to compliance with applicable securities laws, or (iv) transfers in compliance with Rule 144, so long as the Company is furnished with satisfactory evidence of compliance with such Rule), 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 (a) a written opinion of legal counsel who shall, 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 (b) 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. 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 6.2 above, except that such certificate shall not bear such restrictive legend if in the opinion of counsel for such holder and in the reasonable opinion of the Company such legend is not required in order to establish compliance with any provision of the Securities Act.

6.4 Removal of Restrictions on Transfer of Securities. Any legend referred to in Section 6.2 hereof stamped on a certificate evidencing (i) the Shares, (ii) the Registrable Securities or (iii) any other securities issued in respect of the Shares or the Registrable Securities upon any stock split, stock dividend, recapitalization, merger, consolidation or similar event and the stock transfer instructions and record notations with respect to such security shall be removed and the Company shall issue a certificate without such legend to the holder of such security if such security is registered under the Securities Act, or if such holder provides the Company with an opinion of counsel (which may be counsel for the Company) reasonably acceptable to the Company to the effect that a public sale or transfer of such security may be made without registration under the Securities Act or such holder provides the Company with reasonable assurances, which may, at the option of the Company, include an opinion of counsel satisfactory to the Company, that such security can be sold pursuant to Section (k) of Rule 144 under the Securities Act.

7. Covenants of the Company.

7.1 Delivery of Financial Statements. The Company shall deliver to each Investor who holds, together with its Affiliates, an aggregate of 500,000 shares of Series C Preferred Stock or Series D Preferred Stock (or Conversion Shares) (a "Major Investor") and upon such Major Investors timely request for each such report:

(a) as soon as practicable, but in any event within one hundred eighty (180) days after the end of each fiscal year of the Company, statements of operations and cash flow for such fiscal year, a balance sheet of the Company as of the end of such year, and a schedule as to the sources and applications of funds for such year, such year-end financial reports to be in reasonable detail, prepared in accordance with generally accepted accounting principles ("GAAP"), and audited and certified by independent public accountants of nationally recognized standing selected by the Company;

(b) as soon as practicable, but in any event prior to the end of each fiscal year of the Company, an annual budget and plan of operations for the upcoming fiscal year approved by the Board of Directors;

(c) within twenty (20) days of the end of each month, and until a public offering of Common Stock of the Company, an unaudited statement of operations and balance sheet for and as of the end of such month, in reasonable detail and prepared in accordance with GAAP, subject to year end audit adjustments and the absence of footnotes;

(d) with respect to the financial statements called for in subsection (c) of this Section 7.1, an instrument executed by the Chief Financial Officer or President of the Company and certifying that such financials were prepared in accordance with GAAP consistently applied with prior practice for earlier periods and fairly present the financial condition of the Company and its results of operation for the period specified, subject to year-end audit adjustments and the absence of footnotes; and

(e) all accounting letters or reports from independent auditors and such other information relating to the financial condition, business, prospects or corporate affairs of the Company as the Major Investor or any assignee of the Major Investor may from time to time request, provided, however, that the Company shall not be obligated to provide information which the Board of Directors deems in good faith to be proprietary.

7.2 Confidential Information. Each Investor agrees that it will keep confidential and will not disclose any confidential, proprietary or secret information which such Investor may obtain from the Company, and which the Company has prominently marked "confidential", "proprietary" or "secret" or has otherwise identified as being such, orally or in writing, pursuant to financial statements, reports and other materials submitted by the Company as required hereunder, unless such information is or becomes known to the Investor from a source other than the Company without violation of any rights of the Company, or is or becomes publicly known, or unless the Company gives its written consent to the Investor's release of such information, except that no such written consent shall be required (and the Investor shall be free to release such information to such recipient) if such information is to be provided to Investor's counsel, in response to a subpoena or regulatory inquiry, or to an officer, director, partner or affiliate of an Investor, provided that the Investor shall inform the recipient of the confidential nature of such information, and such recipient must agree in advance of disclosure to treat the information as confidential.

7.3 Inspection. The Company shall permit each Major Investor, at such Major Investor's expense, to visit and inspect the Company's properties, to examine its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such reasonable times as may be requested by the Major Investor; provided, however, that the Company shall not be obligated pursuant to this Section 7.3 to provide access to any information which the Board of Directors reasonably considers to be a trade secret or similar confidential information.

7.4 Board Visitation Rights. Unless already represented on the Company's Board of Directors, (i) China Development Industrial Bank Inc., so long as it holds, together with its Affiliates, an aggregate of 500,000 shares of Series E Preferred Stock, (ii) TGI Fund II., so long as it holds, together with its Affiliates, an aggregate of 500,000 shares of Series C Preferred Stock and (iii) each Major Investor or its designated representative, (in either case, an "Observer"), shall have the right to attend the Company's Board of Directors meetings and to receive, at the same time such information as is provided to its directors and notice and copies of all information furnished to directors in connection with all meetings of the Board of Directors; provided, however, that the Company shall not be obligated pursuant to this Section

7.4 to provide access to any information which the Company's Board of Directors reasonably considers to be a trade secret or similar confidential information unless the Observer executes a form of nondisclosure agreement acceptable to the Company, which acceptance shall not be unreasonably withheld. The rights of the Major Investor under this Section 7.4 shall not be transferable.

7.5 Termination of Covenants. The covenants set forth in Sections 7.1, and 7.2 shall terminate as to Investors and be of no further force or effect upon the earlier to occur of: (i) a Qualified Public Offering or (ii) when the Company first becomes subject to the periodic reporting requirements of Sections 12(g) or 15(d) of the Securities Exchange Act of 1934, as amended.

8. Miscellaneous Provisions.

8.1 Waivers and Amendments. Any term of this Agreement may be amended and the observance of any term of this Agreement 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 at least a majority of the shares of Registrable Securities except that any such amendment of Sections 1.13, 3 or 8.1 shall require the written consent of the Company and the holders of at least two-thirds (66 2/3%) of the shares of Registrable Securities. Any amendment or waiver effected in accordance with this Section 8.1 shall be binding upon each person or entity which are granted certain rights under this Agreement and the Company. Notwithstanding the foregoing, the Company may, without obtaining any further consent of the holders of Registrable Securities, amend this Agreement to the extent necessary to grant rights and obligations on a pari passu basis with the rights and obligations of the Series F Investors hereunder to investors in any subsequent round of financing prior to the Subsequent Closing Date (as such term is defined in the Series F Stock and Warrant Purchase Agreement), and such investors shall become parties to this Agreement by executing a counterpart hereof.

8.2 Notices. All notices and other communications required or permitted hereunder shall be in writing and, except as otherwise noted herein, shall be deemed effectively given upon personal delivery, refusal of delivery, delivery by nationally recognized courier or five business days after deposit with the United States Post Office (by first class mail, postage prepaid), addressed: (a) if to the Company, at 1124 Columbia Street, Suite 130, Seattle, WA 98104 (or at such other address as the Company shall have furnished to the Investors in writing) attention of President and (b) if to an Investor, at the latest address of such person shown on the Company's records.

8.3 Descriptive Headings. The descriptive headings herein have been inserted for convenience only and shall not be deemed to limit or otherwise affect the construction of any provisions hereof.

8.4 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of Washington as applied to agreements among Washington residents, made and to be performed entirely within the State of Washington.

8.5 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument, but only one of which need be produced.

8.6 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 attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

8.7 Successors and Assigns. Except as otherwise expressly provided in this Agreement, this Agreement shall benefit and bind the successors, assigns, heirs, executors and administrators of the parties to this Agreement.

8.8 Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto with respect to the specific subject matter hereof.

8.9 Separability; Severability. Unless expressly provided in this Agreement, the rights of each Investor under this Agreement are several rights, not rights jointly held with any other Investors. Any invalidity, illegality or limitation on the enforceability of this Agreement with respect to any Investor shall not affect the validity, legality or enforceability of this Agreement with respect to the other Investors. If any provision of this Agreement is judicially determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

8.10 Stock Splits. All references to numbers of shares in this Agreement shall be appropriately adjusted to reflect any stock dividend, split, combination or other recapitalization of shares by the Company occurring after the date of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

COMPANY:

XCYTE THERAPIES, INC.

By: /s/ Ronald J. Berenson

Title: President & CEO

INVESTORS:

Ron Berenson

(Investor)

By: /s/ RON BERENSON

Name: Ron Berenson

(print)

Title: President & CEO

**[SIGNATURE PAGE FOR XCYTE THERAPIES, INC.
AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT]**

SCHEDULE A

SCHEDULE OF INVESTORS

Investor Name and Address	Number of Shares	
1998 Co-Investing LLC c/o J&J Management Services 1034 S. Brentwood Blvd., Suite 1860 St. Louis, MO 63117-1218 Attn: Jeffrey M. McDonnell	Series F:	179,820
Tom Alberg Madrona Investment Group 1000 Second Avenue Seattle, WA 98104	Series D: Series F:	719,424 71,928
Alta California Partners, L.P. One Embarcadero Center, Suite 4050 San Francisco, CA 94111 Attn: Elaine Walker and Jean Deleage	Series A: Series B: Series C: Series D: Series E:	1,840,086 787,294 949,635 571,491 351,677
Alta Embarcadero Partners, LLC One Embarcadero Center, Suite 4050 San Francisco, CA 94111 Attn: Elaine Walker and Jean Deleage	Series A: Series B: Series C: Series D: Series F:	54,651 17,987 21,696 13,056 3,634
ARCH Development Corporation Walker 213 1101 East 58th Street Chicago, IL 60637 Attn: Andrew Fox	Series A:	157,890
ARCH Venture Fund III, L.P. 8725 West Higgins Road, Suite 290 Chicago, IL 60631 Attn: Melanie Davis	Series A: Series B: Series C: Series D: Series E:	157,890 1,681,818 1,119,265 1,321,942 935,251

Investor Name and Address		Number of Shares
ARCH Venture Partners II, L.P. 8725 West Higgins Road, Suite 290 Chicago, IL 60631 Attn: Melanie Davis Mailing Address: 1000 Second Avenue, Suite 3700 Seattle, WA 98104 Attn: Robert T. Nelsen	Series A: Series B:	631,579 363,636
Ronald J. Berenson P.O. Box 1597 Mercer Island, WA 98040	Series A:	57,895
Charles A. Blanchard 6501 Columbia Center 701-5th Avenue Seattle, WA 98104	Series C:	14,970
Edward F. Brennan 1216 Arguello Blvd. San Francisco, CA 94122-2707	Series F:	8,991
China Development Industrial Bank Inc. 125, Nanking East Road, Section 5 Taipei, Taiwan Attn: Willie Lin, Ph.D.	Series E:	1,078,925
CDIB Biotech USA Investment, Co., Ltd. P.O. Box 3444 Road Town Tortola, British Virgin Islands Mailing Address: CDIB Biotech, Inc. 21 N. Skokie Hwy., Suite 104 Lake Bluff, IL 60044 Attn: Bing Shen, Chairman	Series E:	287,714
R. Ray Cummings Cummings Consulting 8695 N.E. Grizdale Lane Bainbridge Island, WA 98110	Series C:	11,976
CV Sofinnova Venture Partners III 140 Geary Street, 10th Floor San Francisco, CA 94108 Attn.: Michael Powell	Series A: Series B: Series C:	947,368 338,289 59,880

Investor Name and Address		Number of Shares
DLJ Capital Corp. 3000 Sand Hill Road Bldg. 3, Ste. 170 Menlo Park, CA 94025 Attn: Robert Curry	Series A: Series B: Series C: Series D: Series E:	52,632 10,909 22,859 6,475 7,194
DLJ First ESC L.P. 3000 Sand Hill Road Bldg. 3, Ste. 170 Menlo Park, CA 94025 Attn: Robert Curry	Series A: Series B: Series C: Series D: Series E:	263,158 54,545 114,294 32,374 35,971
Sprout Capital VII, L.P. 3000 Sand Hill Road Bldg. 3, Ste. 170 Menlo Park, CA 94025 Attn: Robert Curry	Series A: Series B: Series C: Series D: Series E:	2,289,197 474,488 994,235 281,622 312,914
The Sprout CEO Fund, L.P. 3000 Sand Hill Road Bldg. 3, Ste. 170 Menlo Park, CA 94025 Attn: Robert Curry	Series A: Series B: Series C: Series D: Series F:	26,592 5,512 11,549 3,270 179,820
Sonya F. Erickson 4750 Carillon Point Kirkland, WA 98033	Series D:	1,799
Falcon Technology Partners, L.P. 600 Dorset Road Devon, PA 19333 Attn: Jim Rathman	Series C: Series D:	598,802 95,341
Fluke Capital Management, L.P. 11400 SE 6th Street, Suite 230 Bellevue, WA 98004 Attn: Dennis P. Weston & Kevin C. Gabelein	Series C: Series D:	598,802 89,928
Mark Groudine 1142 - 20th Avenue E. Seattle, WA 98112	Series D:	17,986
Arnold L. Holm, Jr. Holm Construction Services 310 Third Avenue NE, Suite 103 Issaquah, WA 98027	Series D:	36,000

Investor Name and Address	Number of Shares	
Henry James 22420 North Dogwood Lane Woodway, WA 98020	Series D:	89,928
Steven M. Johnson 6501 Columbia Center 701 - 5th Avenue Seattle, WA 98104	Series C:	32,934
Jeffrey Ledbetter 18798 Ridgefield Road NW. Shoreline, WA 98177	Series A:	157,890
Little Stirrup Cay (Bahamas) Ltd. Attn: Neil Ruzic, President P.O. Box 527 Beverly Shores, IN 46301	Series D:	17,986
David J. Maki Tredegar Investments 6300 Columbia Center 701 Fifth Avenue Seattle, WA 98104-7092	Series C:	14,970
MGN Opportunity Group LLC Matthew G. Norton Company The Norton Building 801 Second Avenue, Suite 1300 Seattle, WA 98104 Attn: Stephen Humphreys	Series D:	359,712

Investor Name and Address		Number of Shares
MPM Asset Management Investors 2000 B LLC One Cambridge Center Cambridge, MA 02142 Attn: Julia Carpena	Series D: Series E:	66,906 11,151
MPM BioVentures GmbH & Co. Parallel-Beteiligungs KG One Cambridge Center Cambridge, MA 02142 Attn: Julia Carpena	Series D: Series E:	1,023,022 170,504
MPM BioVentures II, LP One Cambridge Center Cambridge, MA 02142 Attn: Julia Carpena	Series D: Series E:	320,719 53,453
MPM BioVentures II-QP, LP One Cambridge Center Cambridge, MA 02142 Attn: Julia Carpena	Series D: Series E:	2,905,900 484,316
Oki Enterprises LLC 10838 Main Street Bellevue, WA 98004	Series D:	359,712
Palivacinni Partners, LLC 1751 Lake Cook Road, Suite 350 Deerfield, IL 60015 Attn: Douglas Reed, Managing Member	Series F:	35,964
Rivervest Venture Fund I, L.P. 7733 Forsyth Boulevard, Suite 1650 St. Louis, MO 63105	Series F:	1,078,925
Jim Roberts 2540 Shoreland Drive S. Seattle, WA 98144	Series D:	17,986
Anthony P. Russo, Trustee Anthony P. Russo Separate Property Trust U/A 9/11/90 6501 Columbia Center 701-5th Avenue Seattle, WA 98104	Series C:	14,970

Investor Name and Address		Number of Shares
SMS Bader Martin Ross & Smith, P.S. 1000 Second Avenue, 34th Floor Seattle, WA 98104 Attn: Walter R. Smith, CPA	Series B:	22,727
TGI Fund II, LC 6501 Columbia Center 701-5th Avenue Seattle, WA 98104 Attn: Michael Beblo and Dave Maki	Series C: Series D: Series E:	1,796,410 286,022 301,601
V-Sciences Investments Pte Ltd 8 Shenton Way #38-03 Temasek Tower Singapore 068811 Attn: Mr. S. Iswaran	Series F:	1,078,925
Vector Later-Stage Equity Fund II (QP), L.P. Attn: Doug Reed, M.D. 1751 Lake Cook Road, Suite 350 Deerfield, IL 60015	Series D: Series F:	539,569 809,194
Vector Later-Stage Equity Fund II, L.P. Attn: Doug Reed, M.D. 1751 Lake Cook Road, Suite 350 Deerfield, IL 60015	Series D: Series F:	179,856 269,731
Vengott LC 6501 Columbia Center 701-5th Avenue Seattle, WA 98104 Attn: Michael Beblo and Dave Maki	Series C:	179,641
VLG Associates 2000 2800 Sand Hill Rod Menlo Park, CA 94025 Attn: Elias J. Blawie	Series D:	1,770
VLG Investment LLC 2800 Sand Hill Road Menlo Park, CA 94025 Attn: Elias J. Blawie	Series D:	12,619

Investor Name and Address	Number of Shares	
Vulcan Ventures, Inc. 505 Union Station 505 Fifth Avenue South Suite 900 Seattle, WA 98104 Attn: Ruth B. Kunath	Series C: Series D: Series E:	598,802 719,424 719,424

CONSENT TO AMENDMENT

OF

AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

The undersigned, a party to that certain Amended and Restated Investor Rights Agreement dated February 5, 2002, as amended (the "Rights Agreement") by and among Xcyte Therapies, Inc., a Delaware corporation (the "Company"), the parties identified on Schedule A and Schedule B attached thereto (the "Investors"), by execution of this document, hereby consents, pursuant to Section 8.1 of the Rights Agreement, to the amendment of the Rights Agreement as set forth below. Capitalized terms used herein but not defined herein shall have the meaning given to them in the Rights Agreement.

The Company and the Investors hereby agree to add The Trustees of the University of Pennsylvania ("Penn") to the Rights Agreement and Penn, upon signing a counterpart signature page to the Rights Agreement, shall be deemed as "Investor" and a "Holder" for purposes of Section 1.1(c) thereof and related sections thereto in the Rights Agreement and subject to all of the rights and obligations of the Rights Agreement therein, and the 350,000 shares of Common Stock issued to Penn pursuant to the License Agreement between Penn and the Company dated as of May 15, 2002 shall be considered "Registrable Securities" under the Rights Agreement for purposes of Section 1.1(g) thereof.

This amendment to the Rights Agreement is effective as of the date the Company and Investors holding at least a majority in interest of the Registrable Securities execute this Consent.

[signature page follows]

COMPANY:

XCYTE THEREAPIES, INC.,
a Delaware corporation

By: /s/ RONALD J. BERENSON

Ronald J. Berenson,
President and Chief Executive Officer

INVESTOR:

ALTA CALIFORNIA PARTNERS, L.P.,
By: Alta California Management Partners, L.P.

By:

General Partner

COMPANY:

XCYTE THEREAPIES, INC.,
a Delaware corporation

By: _____

Ronald J. Berenson,
President and Chief Executive Officer

INVESTOR:

ALTO EMBARCADERO PARTNERS, LLC

By: _____

Under Power of Attorney

COMPANY:

XCYTE THEREAPIES, INC.,
a Delaware corporation

By: _____

Ronald J. Berenson,
President and Chief Executive Officer

ARCH VENTURE FUND II, L.P.,
a Delaware limited Partnership

By: ARCH MANAGEMENT PARTNERS II, L.P.
a Delaware limited partnership, its
General Partner

By: ARCH VENTURE PARTNERS, L.P.,
A Delaware limited partnership, its
General Partner

By: ARCH VENTURE CORPORATION
An Illinois corporation, its
General Partner

ARCH VENTURE FUND III, L.P.,
a Delaware limited partnership

By: ARCH VENTURE PARTNERS, L.L.C.,
a Delaware limited partnership, its
General Partner

INVESTOR:

_____

By: _____

Title: _____

COMPANY:

XCYTE THEREAPIES, INC.,
a Delaware corporation

By: _____

Ronald J. Berenson,
President and Chief Executive Officer

INVESTOR:

_____

By: _____

Title: _____

DLJ Capital Corp.

By: Philippe O. Chambon
Its: Managing Director

DLJ First ESC L.P.
By: DLJ LBO Plans Management Corporation
Its: General Partner

By: Philippe O. Chambon
Its: Attorney In Fact

Sprout Capital VII, L.P.
By: DLJ Capital Corp.
Its: Managing General Partner

By: Philippe O. Chambon
Its: Managing Director

The Sprout CEO Fund, L.P.
By: DLJ Capital Corp.
Its: General Partner

By: Philippe O. Chambon
Its: Managing Director

Exhibit 10.6

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

Warrant No. «WarrantNo» Number of Shares: «NoShares»
Date of Issuance:«Date» (subject to adjustment)

XCYTE THERAPIES, INC.

Common Stock Purchase Warrant

Xcyte Therapies, Inc., a Delaware corporation (the "Company"), for value received, hereby certifies that «Holder», or its registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before the Expiration Date (as defined in Section 5 below), up to «NoShares» shares of Common Stock of the Company, at a purchase price of $0.30 per share. The shares purchasable upon exercise of this Warrant and the purchase price per share, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock" and the "Purchase Price," respectively.

This Warrant is issued pursuant to, and is subject to the terms and conditions of, an Addendum to Series D Preferred Stock Purchase Agreement and Omnibus Amendment to Series D Financing Agreements dated August 14, 2000 among the Company and certain Investors (the "Purchase Agreement").

1. **Exercise.**

(a) **Manner of Exercise.** This Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of the Company, or at such other office or agency as the Company may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check, wire transfer or by the surrender of promissory notes or other instruments representing indebtedness of the Company to the Registered Holder.

(b) **Effective Time of Exercise.** Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant shall have been surrendered to the Company as provided in Section 1(a) above. At such

time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 1(d) below shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(c) **Net Issue Exercise.**

(i) In lieu of exercising this Warrant in the manner provided above in Section 1(a), the Registered Holder may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election on the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or such Registered Holder's duly authorized attorney, in which event the Company shall issue to such Holder a number of shares of Warrant Stock computed using the following formula:

$$X = \frac{Y (A - B)}{A}$$

Where X = The number of shares of Warrant Stock to be issued to the Registered Holder.

Y = The number of shares of Warrant Stock purchasable under this Warrant (at the date of such calculation).

A = The fair market value of one share of Warrant Stock (at the date of such calculation).

B = The Purchase Price (as adjusted to the date of such calculation).

(ii) For purposes of this Section 1(c), the fair market value of Warrant Stock on the date of calculation shall mean with respect to each share of Warrant Stock:

(A) if the exercise is in connection with an initial public offering of the Company's Common Stock, and if the Company's Registration Statement relating to such public offering has been declared effective by the Securities and Exchange Commission, then the fair market value per share shall be the product of (x) the initial "Price to Public" specified in the final prospectus with respect to the offering and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the date of calculation;

(B) if (A) is not applicable, the fair market value of Warrant Stock shall be at the highest price per share which the Company could obtain on the date of calculation from a willing buyer (not a current employee or director) for shares of Warrant Stock sold by the Company, from authorized but unissued shares, as determined in good faith by the Board of Directors, unless the Company is at such time subject to an acquisition as described in Section 5(b) below, in which case the fair market value of Warrant Stock shall be deemed to be the value received by the holders of such stock pursuant to such acquisition.

(d) **Delivery to Holder.** As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within ten (10) days thereafter, the Company at its

expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Holder (upon payment by such Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Section 1(a) or 1(c) above.

2. **Adjustments.**

(a) **Stock Splits and Dividends.** If outstanding shares of the Company's Common Stock shall be subdivided into a greater number of shares or a dividend in Common Stock shall be paid in respect of Common Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Common Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (i) an amount equal to the number of shares issuable upon the exercise of this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(b) **Reclassification, Etc.** In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar corporate reorganization on or after the date hereof**,** then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Holder would have been entitled upon such consummation if such Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 2.

(c) **Adjustment Certificate.** When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 2, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(d) **Acknowledgement.** In order to avoid doubt, it is acknowledged that the holder of this Warrant shall be entitled to the benefit of all adjustments in the number of shares of Common Stock of the Company.

3. **Transfers.**

(a) **Unregistered Security.** Each holder of this Warrant acknowledges that this Warrant, the Warrant Stock and the Common Stock of the Company have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), and agrees not to sell, pledge, distribute, offer for sale, transfer or otherwise dispose of this Warrant, any Warrant Stock issued upon its exercise in the absence of (i) an effective registration statement under the Act as to this Warrant or such Warrant Stock and registration or qualification of this Warrant or such Warrant Stock under any applicable U.S. federal or state securities law then in effect, or (ii) an opinion of counsel, satisfactory to the Company, that such registration and qualification are not required. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect.

(b) **Transferability.** Subject to the provisions of Section 3(a) hereof and of Section 1.12 of the Investors' Rights Agreement dated May 25, 2000 among the Company and certain holders of the Company's securities, this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of the Warrant with a properly executed assignment (in the form of Exhibit B hereto) at the principal office of the Company.

(c) **Warrant Register.** The Company will maintain a register containing the names and addresses of the Registered Holders of this Warrant. Until any transfer of this Warrant is made in the warrant register, the Company may treat the Registered Holder of this Warrant as the absolute owner hereof for all purposes; provided, however, that if this Warrant is properly assigned in blank, the Company may (but shall not be required to) treat the bearer hereof as the absolute owner hereof for all purposes, notwithstanding any notice to the contrary. Any Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Company requesting such change.

4. **No Impairment.** The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 13 below) 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 in order to protect the rights of the holder of this Warrant against impairment.

5. **Termination.** This Warrant (and the right to purchase securities upon exercise hereof) shall terminate upon the earliest to occur of the following (the "Expiration Date"): (a) August 8, 2005, (b) the sale, conveyance or disposal of all or substantially all of the Company's property or business or the Company's merger into or consolidation with any other corporation (other than a wholly-owned subsidiary of the Company) or any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Company is disposed of, provided that this Section 5(b) shall not apply to a merger effected

exclusively for the purpose of changing the domicile of the Company, or (c) the closing of a firm commitment underwritten public offering pursuant to a registration statement on Form S-1 under the Securities Act, the public offering price of which is not less than $4.00 per share (appropriately adjusted for any stock split, dividend, combination or other recapitalization)] and which results in aggregate cash proceeds to the Company of $20,000,000 (net of underwriting discounts and commissions).

6. **Notices of Certain Transactions.** In case:

(a) the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up or redemption is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up or redemption) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

7. **Reservation of Stock.** The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

8. **Exchange of Warrants.** Upon the surrender by the Registered Holder of any Warrant or Warrants, properly endorsed, to the Company at the principal office of the Company, the Company will, subject to the provisions of Section 3 hereof, issue and deliver to or upon the order of such Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered Holder (upon payment by such Registered

Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Common Stock called for on the face or faces of the Warrant or Warrants so surrendered.

9. **Replacement of Warrants.** Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Company, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Company will issue, in lieu thereof, a new Warrant of like tenor.

10. **Mailing of Notices.** Any notice required or permitted pursuant to this Warrant shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or sent by courier, overnight delivery service or confirmed facsimile, or forty-eight (48) hours after being deposited in the regular mail, as certified or registered mail (airmail if sent internationally), with postage prepaid, addressed (a) if to the Registered Holder, to the address of the Registered Holder most recently furnished in writing to the Company and (b) if to the Company, to the address set forth below or subsequently modified by written notice to the Registered Holder.

11. **No Rights as Stockholder.** Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company.

12. **No Fractional Shares.** No fractional shares of Common Stock will be issued in connection with any exercise hereunder. In lieu of any fractional shares which would otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the fair market value of one share of Common Stock on the date of exercise, as determined in good faith by the Company's Board of Directors.

13. **Amendment or Waiver.** Any term of this Warrant may be amended or waived upon written consent of the Company and the holders of at least a majority of the Common Stock issuable upon exercise of outstanding warrants purchased pursuant to the Purchase Agreement. By acceptance hereof, the Registered Holder acknowledges that in the event the required consent is obtained, any term of this Warrant may be amended or waived with or without the consent of the Registered Holder; provided, however, that any amendment hereof that would materially adversely affect the Registered Holder in a manner different from the holders of the remaining warrants issued pursuant to the Purchase Agreement shall also require the consent of Registered Holder.

14. **Headings.** The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

15. **Governing Law.** This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of Washington, without giving effect to principles of conflicts of law.

XCYTE THERAPIES, INC.

By _____

Address: 1124 Columbia Street
Suite 130
Seattle, Washington 98104

Fax Number: (206) 262-0900

EXHIBIT A

PURCHASE/EXERCISE FORM

To: **Xcyte Therapies, Inc.** Dated:

The undersigned, pursuant to the provisions set forth in the attached Warrant No. «WarrantNo», hereby irrevocably elects to (a) purchase _____ shares of the Common Stock covered by such Warrant and herewith makes payment of $ _____, representing the full purchase price for such shares at the price per share provided for in such Warrant, or (b) exercise such Warrant for _____ shares purchasable under the Warrant pursuant to the Net Issue Exercise provisions of Section 1(c) of such Warrant.

The undersigned acknowledges that it has reviewed the representations and warranties contained in Section 3 of the Purchase Agreement (as defined in the Warrant) and by its signature below hereby makes such representations and warranties to the Company. Defined terms contained in such representations and warranties shall have the meanings assigned to them in the Purchase Agreement, provided that the term "Purchaser" shall refer to the undersigned and the term "Securities" shall refer to the Warrant Stock.

The undersigned further acknowledges that it has reviewed the market standoff provisions set forth in Section 1.14 of the Investors' Rights Agreement dated May 25, 2000, as amended, among the Company and certain holders of the Company's securities and agrees to be bound by such provisions.

Signature: _____

Name (print): _____

Title (if applic.) _____

Company (if applic.): _____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of Common Stock covered thereby set forth below, unto:

Name of Assignee	**Address/Fax Number**	**No. of Shares**

Dated: _____

Signature: _____

_____

Witness: _____

Exhibit 10.7

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

Warrant No. PD-1
80,000 shares

Date of Issuance: December 7, 2000

XCYTE THERAPIES, INC.

Series D Preferred Stock Purchase Warrant

Xcyte Therapies, Inc. (the "Company"), for value received, hereby certifies that Hibbs/Woodinville Associates LLC, or its registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before the Expiration Date (as defined in Section 5 below), up to 80,000 shares of Series D Preferred Stock of the Company ("Preferred Stock"), at a purchase price of $2.78 per share. The shares purchasable upon exercise of this Warrant and the purchase price per share, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock" and the "Purchase Price," respectively.

1. Exercise.

(a) **Manner of Exercise**. This Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of the Company, or at such other office or agency as the Company may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check, wire transfer or by the surrender of promissory notes or other instruments representing indebtedness of the Company to the Registered Holder.

(b) **Effective Time of Exercise**. Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant shall have been surrendered to the Company as provided in Section 1(a) above. At such time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 1(d) below shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(c) **Net Issue Exercise**.

(i) In lieu of exercising this Warrant in the manner provided above in Section 1(a), the Registered Holder may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election on the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or such Registered Holder's duly authorized attorney, in which event the Company shall issue to such Holder a number of shares of Warrant Stock computed using the following formula:

$$X = \frac{Y\,(A - B)}{A}$$

Where X= The number of shares of Warrant Stock to be issued to the Registered Holder.

Y= The number of shares of Warrant Stock purchasable under this Warrant (at the date of such calculation).

A= The fair market value of one share of Warrant Stock (at the date of such calculation).

B= The Purchase Price (as adjusted to the date of such calculation).

(ii) For purposes of this Section 1(c), the fair market value of Warrant Stock on the date of calculation shall mean with respect to each share of Warrant Stock:

(A) if the exercise is in connection with an initial public offering of the Company's Common Stock, and if the Company's Registration Statement relating to such public offering has been declared effective by the Securities and Exchange Commission, then the fair market value per share shall be the product of (x) the initial "Price to Public" specified in the final prospectus with respect to the offering and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the date of calculation;

(B) if (A) is not applicable, the fair market value of Warrant Stock shall be at the highest price per share which the Company could obtain on the date of calculation from a willing buyer (not a current employee or director) for shares of Warrant Stock sold by the Company, from authorized but unissued shares, as determined in good faith by the Board of Directors, unless the Company is at such time subject to an acquisition as described in Section 6(b) below, in which case the fair market value of Warrant Stock shall be deemed to be the value received by the holders of such stock pursuant to such acquisition.

(d) **Delivery to Holder**. As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within ten (10) days thereafter, the Company at its expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Holder (upon payment by such Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Section 1(a) or 1(c) above.

2. **Adjustments.**

(a) **Redemption or Conversion of Preferred Stock.** If all of the Preferred Stock is redeemed or converted into shares of Common Stock, then this Warrant shall automatically become exercisable for that number of shares of Common Stock equal to the number of shares of Common Stock that would have been received if this Warrant had been exercised in full and the shares of Preferred Stock received thereupon had been simultaneously converted into shares of Common Stock immediately prior to such event, and the Exercise Price shall be automatically adjusted to equal the number obtained by dividing (i) the aggregate Purchase Price of the shares of Preferred Stock for which this Warrant was exercisable immediately prior to such redemption or conversion, by (ii) the number of shares of Common Stock for which this Warrant is exercisable immediately after such redemption or conversion.

(b) **Stock Splits and Dividends.** If outstanding shares of the Company's Preferred Stock shall be subdivided into a greater number of shares or a dividend in Preferred Stock shall be paid in respect of Preferred Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Preferred Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (i) an amount equal to the number of shares issuable upon the exercise of this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(c) **Reclassification, Etc.** In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar corporate reorganization on or after the date hereof**,** then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Holder would have been entitled upon such consummation if such Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 2.

(d) **Adjustment Certificate.** When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 2, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(e) **Acknowledgement.** In order to avoid doubt, it is acknowledged that the holder of this Warrant shall be entitled to the benefit of all adjustments in the number of shares of Common Stock of the Company issuable upon conversion of the Preferred Stock of the Company which occur prior to the exercise of this Warrant, including without limitation, any increase in the number of shares of Common Stock issuable upon conversion as a result of a dilutive issuance of capital stock.

3. **Transfers.**

(a) **Unregistered Security.** Each holder of this Warrant acknowledges that this Warrant, the Warrant Stock and the Common Stock of the Company have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), and agrees not to sell, pledge, distribute, offer for sale, transfer or otherwise dispose of this Warrant, any Warrant Stock issued upon its exercise or any Common Stock issued upon conversion of the Warrant Stock in the absence of (i) an effective registration statement under the Act as to this Warrant, such Warrant Stock or such Common Stock and registration or qualification of this Warrant, such Warrant Stock or such Common Stock under any applicable U.S. federal or state securities law then in effect, or (ii) an opinion of counsel, satisfactory to the Company, that such registration and qualification are not required. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect.

(b) **Transferability.** Subject to the provisions of Section 3(a) hereof, this Warrant and all rights hereunder are transferable to any individual or entity with the consent of the Company, which consent shall not be unreasonably withheld; provided that any assignee shall be bound by the terms hereof. Notwithstanding the foregoing, this Warrant may not be transferred to any individual or entity engaged in any business that competes with any business of the Company, and any purported transfer to a such an individual or entity shall be void. A permitted transfer of this Warrant shall be effected by surrendering the Warrant with a properly executed assignment (in the form of Exhibit B hereto) at the principal office of the Company. This Warrant may not be transferred in part unless the transferee acquires the right to purchase all of the shares of Warrant Stock hereunder.

(c) **Warrant Register.** The Company will maintain a register containing the names and addresses of the Registered Holders of this Warrant. Until any transfer of this Warrant is made in the warrant register, the Company may treat the Registered Holder of this Warrant as the absolute owner hereof for all purposes; provided, however, that if this Warrant is properly assigned in blank, the Company may (but shall not be required to) treat the bearer hereof as the absolute owner hereof for all purposes, notwithstanding any notice to the contrary. Any

Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Company requesting such change.

4. **Representations and Warranties of Holder.** The Registered Holder hereby represents and warrants to the Company as follows:

(a) **Purchase Entirely for Own Account.** The Registered Holder acknowledges that this Warrant is given to the Registered Holder in reliance upon the Registered Holder's representation to the Company, which by its acceptance of this Warrant the Registered Holder hereby confirms, that the Warrant, the Warrant Shares, and the Common Stock issuable upon conversion of the Warrant Shares (collectively, the "Securities") being acquired by the Registered Holder are being acquired for investment for the Registered Holder's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that the Registered Holder has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, the Registered Holder further represents that the Registered Holder does not presently have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to any of the Securities. The Registered Holder represents that it has full power and authority to enter into this Agreement. The Registered Holder has not been formed for the specific purpose of acquiring any of the Securities.

(b) **Disclosure of Information.** The Registered Holder has had an opportunity to discuss the Company's business, management, financial affairs and the terms and conditions of the offering of the Securities with the Company's management and has had an opportunity to review the Company's facilities. The Registered Holder understands that such discussions, as well as the written information issued by the Company, were intended to describe the aspects of the Company's business which it believes to be material.

(c) **Restricted Securities.** The Registered Holder understands that the Securities have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Registered Holder's representations as expressed herein. The Registered Holder understands that the Securities are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, the Registered Holder must hold the Securities indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available. The Registered Holder further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Securities, and on requirements relating to the Company which are outside of the Registered Holder's control, and which the Company is under no obligation and may not be able to satisfy.

(d) **No Public Market.** The Registered Holder understands that no public market now exists for any of the securities issued by the Company, that the Company has made no assurances that a public market will ever exist for the Securities.

(e) **Legends.** The Registered Holder understands that the Securities, and any securities issued in respect of or exchange for the Securities, may bear one or all of the following legends:

(i) "THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISPOSITION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933."

(ii) Any legend required by the Blue Sky laws of any state to the extent such laws are applicable to the shares represented by the certificate so legended.

(f) **Accredited Investor.** The Registered Holder is an accredited investor as defined in Rule 501(a) of Regulation D promulgated under the Act.

5. **No Impairment.** The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will 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 in order to protect the rights of the holder of this Warrant against impairment.

6. **Termination.** This Warrant (and the right to purchase securities upon exercise hereof) shall terminate upon the earliest to occur of the following (the "Expiration Date"): (a) December 7, 2006, (b) within 20 business days of the sale, conveyance or disposal of all or substantially all of the Company's property or business or the Company's merger into or consolidation with any other corporation (other than a wholly-owned subsidiary of the Company) or within 20 business days of any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Company is disposed of, provided that this Section 6(b) shall not apply to a merger effected exclusively for the purpose of changing the domicile of the Company, or (c) the closing of a firm commitment underwritten public offering pursuant to a registration statement on Form S-1 under the Securities Act, the public offering price of which is not less than $4.00 per share (appropriately adjusted for any stock split, dividend, combination or other recapitalization) and which results in aggregate cash proceeds to the Company of $20,000,000 (net of underwriting discounts and commissions).

7. **Notices of Certain Transactions.** In case:

(a) the Company shall take a record of the holders of its Preferred Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company,

(d) of any redemption of the Preferred Stock or mandatory conversion of the Preferred Stock into Common Stock of the Company, or

(e) of a public offering described in Section 6(c).

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion is to take place, and the time, if any is to be fixed, as of which the holders of record of Preferred Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion) are to be determined, or (iii) the expected date on which the closing of a firm commitment underwritten public offering described in Section 6(c) shall occur. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

8. **Reservation of Stock.** The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

9. **Exchange of Warrants.** Upon the surrender by the Registered Holder of any Warrant or Warrants, properly endorsed, to the Company at the principal office of the Company, the Company will, subject to the provisions of Section 3 hereof, issue and deliver to or upon the order of such Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered Holder (upon payment by such Registered

Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Preferred Stock called for on the face or faces of the Warrant or Warrants so surrendered.

10. **Replacement of Warrants.** Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Company, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Company will issue, in lieu thereof, a new Warrant of like tenor.

11. **Mailing of Notices.** Any notice required or permitted pursuant to this Warrant shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or sent by courier, overnight delivery service or confirmed facsimile, or forty-eight (48) hours after being deposited in the regular mail, as certified or registered mail (airmail if sent internationally), with postage prepaid, addressed (a) if to the Registered Holder, to the address of the Registered Holder most recently furnished in writing to the Company and (b) if to the Company, to the address set forth below or subsequently modified by written notice to the Registered Holder.

12. **No Rights as Stockholder.** Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company.

13. **No Fractional Shares.** No fractional shares of Preferred Stock will be issued in connection with any exercise hereunder. In lieu of any fractional shares which would otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the fair market value of one share of Preferred Stock on the date of exercise, as determined in good faith by the Company's Board of Directors.

14. **Amendment or Waiver.** Any term of this Warrant may be amended or waived only by an instrument in writing signed by the party against which enforcement of the amendment or waiver is sought.

15. **Headings.** The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

16. **Governing Law.** This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of Washington, without giving effect to principles of conflicts of law.

17. **Investor Rights Agreement.** The Warrant Stock and any Common Stock issued upon conversion of the Warrant Stock shall be deemed "Registrable Securities" under the Amended and Restated Investor Rights Agreement dated as of May 25, 2000, as amended, between the Company, the Investors identified therein to the fullest extent possible, and the Registered Holder shall be deemed, and become to the fullest extent possible by virtue of the issuance of this Warrant, a "Holder" under said Agreement, entitled to all of the registration and

other rights, benefits and privileges accorded “Holders” thereunder to the fullest extent possible, and subject to all obligations, duties and conditions imposed on “Holders” thereunder to the fullest extent possible. The Registered Holder, the Warrant, the Warrant Stock and any common stock issued upon conversion of the Warrant Stock shall be subject to the “market standoff” obligations pursuant to Section 1.14 of said Agreement. The Company’s Board of Directors acting pursuant to Section 1.13(ii) of said Agreement shall grant to Registered Holder to the fullest extent possible all registration rights accorded Holders thereunder.

XCYTE THERAPIES, INC.

By _____

Address: 1124 Columbia Street
Suite 130
Seattle, WA 98104
Fax Number: (206) 262-0900

**SIGNATURE PAGE TO XCYTE THERAPIES
WARRANT TO PURCHASE SERIES D
TO HIBBS/WOODINVILLE ASSOCIATES LLC**

EXHIBIT A

PURCHASE/EXERCISE FORM

To: **Xcyte Therapies, Inc.** Dated:

The undersigned, pursuant to the provisions set forth in the attached Warrant No. PD-1, hereby irrevocably elects to (a) purchase shares of the Preferred Stock covered by such Warrant and herewith makes payment of $, representing the full purchase price for such shares at the price per share provided for in such Warrant, or (b) exercise such Warrant for shares purchasable under the Warrant pursuant to the Net Issue Exercise provisions of Section 1(c) of such Warrant.

The undersigned further acknowledges that it has reviewed the representations and warranties of the Registered Holder contained in Section 4 of the Warrant and the covenants of the Registered Holder contained in Section 17 of the Warrant, and by its signature below the undersigned hereby makes such representations, warranties and covenants to the Company as of the date hereof.

Signature: _____ _____ _____
Name (print): _____ _____ _____
Title (if applic.) _____ _____ _____
Company (if applic.): _____ _____ _____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of Series D Preferred Stock covered thereby set forth below, unto:

Name of Assignee	**Address/Fax Number**	**No. of Shares**

Dated: Signature: _____

Witness: _____

Exhibit 10.8

NEITHER THIS WARRANT NOR THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. NO SALE OR DISPOSITION MAY BE EFFECTED EXCEPT IN COMPLIANCE WITH RULE 144 UNDER SAID ACT OR WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL FOR THE HOLDER, SATISFACTORY TO THE COMPANY, THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE ACT OR RECEIPT OF A NO-ACTION LETTER FROM THE SECURITIES AND EXCHANGE COMMISSION.

WARRANT TO PURCHASE 23,741 SHARES OF SERIES F PREFERRED STOCK

_____ , 2002

THIS CERTIFIES THAT, for value received, **General Electric Capital Corporation** ("Holder") is entitled to subscribe for and purchase twenty-three thousand seven hundred forty-one (23,741) shares of the fully paid and nonassessable Series F Preferred Stock (the "Shares" or the "Preferred Stock") of Xcyte Therapies, Inc., a Delaware corporation (the "Company"), at the Warrant Price (as hereinafter defined), subject to the provisions and upon the terms and conditions hereinafter set forth. As used herein, the term "Series F Preferred Stock" shall mean the Company's presently authorized Series F Preferred Stock and any stock into which such Series F Preferred Stock may hereafter be converted or exchanged.

1. Warrant Price. The Warrant Price shall initially be Two and 78/100 dollars ($2.78) per share, subject to adjustment as provided in Section 7 below.

2. Conditions to Exercise. The purchase right represented by this Warrant may be exercised at any time, or from time to time, in whole or in part during the term commencing on the date hereof and ending at 5:00 P.M. Pacific time on the seventh anniversary of the date of this Warrant.

3. Method of Exercise; Payment; Issuance of Shares; Issuance of New Warrant.

(a) Cash Exercise. Subject to Section 2 hereof, the purchase right represented by this Warrant may be exercised by the Holder hereof, in whole or in part, by the surrender of this Warrant (with a duly executed Notice of Exercise in the form attached hereto) at the principal office of the Company (as set forth in Section 17 below) and by payment to the Company, by check, of an amount equal to the then applicable Warrant Price per share multiplied by the number of shares then being purchased. In the event of any exercise of the rights represented by this Warrant, certificates for the shares of stock so purchased shall be in the name of, and delivered to, the Holder hereof, or as such Holder may direct (subject to the terms of transfer contained herein and upon payment by such Holder hereof of any applicable transfer taxes). Such delivery shall be made within 30 days after exercise of the Warrant and at the Company's expense and, unless this Warrant has been fully exercised or expired, a new Warrant having terms and conditions substantially identical to this Warrant and representing the portion of the Shares, if any, with respect to which this Warrant shall not have been exercised, shall also be issued to the Holder hereof within 30 days after exercise of the Warrant.

(b) Net Issue Exercise. In lieu of exercising this Warrant pursuant to Section 3(a), Holder may elect to receive shares equal to the value of this Warrant (or of any portion thereof remaining unexercised) by surrender of this Warrant at the principal office of the Company together with notice of such election, in which event the Company shall issue to Holder the number of shares of the Company's Preferred Stock computed using the following formula:

$$X = \frac{Y\ (A-B)}{A}$$

Where X = the number of shares of Preferred Stock to be issued to Holder.

Y = the number of shares of Preferred Stock purchasable under this Warrant (at the date of such calculation).

A = the Fair Market Value of one share of the Company's Preferred Stock (at the date of such calculation).

B = Warrant Price (as adjusted to the date of such calculation).

(c) Fair Market Value. For purposes of this Section 3, Fair Market Value of one share of the Company's Preferred Stock shall mean:

(i) In the event of an exercise in connection with an Initial Public Offering, the per share Fair Market Value for the Preferred Stock shall be the Offering Price at which the underwriters initially sell Common Stock to the public multiplied by the number of shares of Common Stock into which each share of Preferred Stock is then convertible; or

(ii) The average of the closing bid and asked prices of Common Stock quoted in the Over-The-Counter Market Summary, the last reported sale price quoted on the Nasdaq National Market ("NNM") or on any exchange on which the Common Stock is listed, whichever is applicable, as published in the Western Edition of the Wall Street Journal for the ten (10) trading days prior to the date of determination of Fair Market Value, multiplied by the number of shares of Common Stock into which each share of Preferred Stock is then convertible; or

(iii) In the event of an exercise in connection with a merger, acquisition or other consolidation in which the Company is not the surviving entity, the per share Fair Market Value for the Preferred Stock shall be the value to be received per share of Preferred Stock by all holders of the Preferred Stock in such transaction as determined by the Board of Directors; or

(iv) In any other instance, the per share Fair Market Value for the Preferred Stock shall be as determined in good faith by the Company's Board of Directors.

In the event of 3(c)(iii) or 3(c)(iv), above, the Company's Board of Directors shall prepare a certificate, to be signed by an authorized officer of the Company, setting forth in reasonable detail the basis for and method of determination of the per share Fair Market Value of the Preferred Stock. The Board will also certify to the Holder that this

per share Fair Market Value will be applicable to all holders of the Company's Preferred Stock. Such certification must be made to Holder at least thirty (30) business days prior to the proposed effective date of the merger, consolidation, sale, or other triggering event as defined in 3(c)(iii) or 3(c)(iv).

(d) Automatic Exercise. To the extent this Warrant is not previously exercised, it shall be automatically exercised in accordance with Sections 3(b) and 3(c) hereof (even if not surrendered) immediately before its expiration.

4. Representations and Warranties of Holder and Restrictions on Transfer Imposed by the Securities Act of 1933.

(a) Representations and Warranties by Holder. The Holder represents and warrants to the Company with respect to this purchase as follows:

(i) The Holder has substantial experience in evaluating and investing in private placement transactions of securities of companies similar to the Company so that the Holder is capable of evaluating the merits and risks of its investment in the Company and has the capacity to protect its interests.

(ii) The Holder is acquiring the Warrant and the Shares of Preferred Stock issuable upon exercise of the Warrant (collectively the "Securities") for investment for its own account and not with a view to, or for resale in connection with, any distribution thereof. The Holder understands that the Securities have not been registered under the Securities Act of 1933, as amended (the "Act") by reason of a specific exemption from the registration provisions of the Act which depends upon, among other things, the bona fide nature of the investment intent as expressed herein. In this connection, the Holder understands that, in the view of the Securities and Exchange Commission (the "SEC"), the statutory basis for such exemption may be unavailable if this representation was predicated solely upon a present intention to hold the Securities for the minimum capital gains period specified under tax statutes, for a deferred sale, for or until an increase or decrease in the market price of the Securities or for a period of one year or any other fixed period in the future.

(iii) The Holder acknowledges that the Securities must be held indefinitely unless subsequently registered under the Act or an exemption from such registration is available. The Holder is aware of the provisions of Rule 144 promulgated under the Act ("Rule 144") which permits limited resale of securities purchased in a private placement subject to the satisfaction of certain conditions, including, in case the securities have been held for more than one but less than two years, the existence of a public market for the shares, the availability of certain public information about the Company, the resale occurring not less than one year after a party has purchased and paid for the security to be sold, the sale being through a "broker's transaction" or in a transaction directly with a "market maker" (as provided by Rule 144(f)) and the number of shares or other securities being sold during any three-month period not exceeding specified limitations.

(iv) The Holder further understands that at the time the Holder wishes to sell the Securities there may be no public market upon which such a sale may be effected, and that even if such a public market exists, the Company may not be satisfying the current public information requirements of Rule 144, and that in such event, the Holder may be precluded from selling the Securities under Rule 144 unless (a) a one-year minimum holding period has been satisfied and (b) the Holder was not at the time of the sale nor at any time during the three-month period prior to such sale an affiliate of the Company.

(v) The Holder has had an opportunity to discuss the Company's business, management and financial affairs with its management and an opportunity to review the Company's facilities. The Holder understands that such discussions, as well as the written information issued by the Company, were intended to describe the aspects of the Company's business and prospects which it believes to be material but were not necessarily a thorough or exhaustive description.

(b) Legends. Each certificate representing the Securities shall be endorsed with the following legend:

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AND MAY NOT BE TRANSFERRED UNLESS COVERED BY AN EFFECTIVE REGISTRATION STATEMENT UNDER SAID ACT, A "NO ACTION" LETTER FROM THE SECURITIES AND EXCHANGE COMMISSION WITH RESPECT TO SUCH TRANSFER, A TRANSFER MEETING THE REQUIREMENTS OF RULE 144 OF THE SECURITIES AND EXCHANGE COMMISSION, OR (IF REASONABLY REQUIRED BY THE COMPANY) AN OPINION OF COUNSEL SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY SUCH TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

The Company need not enter into its stock records a transfer of Securities unless the conditions specified in the foregoing legend are satisfied. The Company may also instruct its transfer agent not to allow the transfer of any of the Shares unless the conditions specified in the foregoing legend are satisfied.

(c) Removal of Legend and Transfer Restrictions. The legend relating to the Act endorsed on a certificate pursuant to paragraph 4(b) of this Warrant shall be removed and the Company shall issue a certificate without such legend to the Holder of the Securities if (i) the Securities are registered under the Act and a prospectus meeting the requirements of Section 10 of the Act is available or (ii) the Holder provides to the Company an opinion of counsel for the Holder reasonably satisfactory to the Company, a no-action letter or interpretive opinion of the staff of the SEC reasonably satisfactory to the Company, or other evidence reasonably satisfactory to the Company, to the effect that public sale, transfer or assignment of the Securities may be made without registration and without compliance with any restriction such as Rule 144.

5. Condition of Transfer or Exercise of Warrant. It shall be a condition to any transfer or exercise of this Warrant that at the time of such transfer or exercise, the Holder shall provide the Company with a representation in writing that the Holder or transferee is acquiring this Warrant

and the shares of Preferred Stock to be issued upon exercise for investment purposes only and not with a view to any sale or distribution, or will provide the Company with a statement of pertinent facts covering any proposed distribution. As a further condition to any transfer of this Warrant or any or all of the shares of Preferred Stock issuable upon exercise of this Warrant, other than a transfer registered under the Act, the Company may request a legal opinion, in form and substance satisfactory to the Company and its counsel, reciting the pertinent circumstances surrounding the proposed transfer and stating that such transfer is exempt from the registration and prospectus delivery requirements of the Act. Each certificate evidencing the shares issued upon exercise of the Warrant or upon any transfer of the shares (other than a transfer registered under the Act or any subsequent transfer of shares so registered) shall, at the Company's option, if the Shares are not freely saleable under Rule 144(k) under the Act, contain a legend in form and substance satisfactory to the Company and its counsel, restricting the transfer of the shares to sales or other dispositions exempt from the requirements of the Act.

As further condition to each transfer, at the request of the Company, the Holder shall surrender this Warrant to the Company and the transferee shall receive and accept a Warrant, of like tenor and date, executed by the Company.

6. Stock Fully Paid; Reservation of Shares. All Shares which may be issued upon the exercise of the rights represented by this Warrant will, upon issuance, be fully paid and nonassessable, and free from all taxes, liens, and charges with respect to the issue thereof. During the period within which the rights represented by this Warrant may be exercised, the Company will at all times have authorized, and reserved for issuance upon exercise of the purchase rights evidenced by this Warrant, a sufficient number of shares of its Preferred Stock to provide for the exercise of the rights represented by this Warrant.

7. Adjustment for Certain Events. The number and kind of securities purchasable upon the exercise of this Warrant and the Warrant Price shall be subject to adjustment from time to time upon the occurrence of certain events, as follows:

(a) Reclassification or Merger. In case of any reclassification or change of securities of the class issuable upon exercise of this Warrant (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 in case of any merger of the Company with or into another corporation (other than a merger with another corporation in which the Company is the acquiring and the surviving corporation and which does not result in any reclassification or change of outstanding securities issuable upon exercise of this Warrant), or in case of any sale of all or substantially all of the assets of the Company, the Company, or such successor or purchasing corporation, as the case may be, shall duly execute and deliver to the Holder a new Warrant (in form and substance satisfactory to the Holder of this Warrant), or the Company shall make appropriate provision without the issuance of a new Warrant, so that the Holder shall have the right to receive, at a total purchase price not to exceed that payable upon the exercise of the unexercised portion of this Warrant, and in lieu of the shares of Preferred Stock theretofore issuable upon exercise of this Warrant, the kind and amount of shares of stock, other securities, money and property receivable upon such reclassification, change, merger or sale by a Holder of the number of shares of Preferred Stock then purchasable under this Warrant, or in the case of such a merger or sale in which the consideration paid consists all or in part of assets other than securities of the successor

or purchasing corporation, at the option of the Holder, the securities of the successor or purchasing corporation having a value at the time of the transaction equivalent to the value of the Preferred Stock purchasable upon exercise of this Warrant at the time of the transaction. Any new Warrant shall provide for adjustments that shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 7. The provisions of this subparagraph (a) shall similarly apply to successive reclassifications, changes, mergers and transfers.

(b) Subdivision or Combination of Shares. If the Company at any time while this Warrant remains outstanding and unexpired shall subdivide or combine its outstanding shares of Preferred Stock, the Warrant Price shall be proportionately decreased and the number of Shares issuable hereunder shall be proportionately increased in the case of a subdivision and the Warrant Price shall be proportionately increased and the number of Shares issuable hereunder shall be proportionately decreased in the case of a combination.

(c) Stock Dividends and Other Distributions. If the Company at any time while this Warrant is outstanding and unexpired shall (i) pay a dividend with respect to Preferred Stock payable in Preferred Stock, then the Warrant Price shall be adjusted, from and after the date of determination of shareholders entitled to receive such dividend or distribution, to that price determined by multiplying the Warrant Price in effect immediately prior to such date of determination by a fraction (A) the numerator of which shall be the total number of shares of Preferred Stock outstanding immediately prior to such dividend or distribution, and (B) the denominator of which shall be the total number of shares of Preferred Stock outstanding immediately after such dividend or distribution; or (ii) make any other distribution with respect to Preferred Stock (except any distribution specifically provided for in Sections 7(a) and 7(b)), then, in each such case, provision shall be made by the Company such that the Holder of this Warrant shall receive upon exercise of this Warrant a proportionate share of any such dividend or distribution as though it were the Holder of the Preferred Stock (or Common Stock issuable upon conversion thereof) as of the record date fixed for the determination of the shareholders of the Company entitled to receive such dividend or distribution.

(d) Adjustment of Number of Shares. Upon each adjustment in the Warrant Price, the number of Shares purchasable hereunder shall be adjusted, to the nearest whole share, to the product obtained by multiplying the number of Shares purchasable immediately prior to such adjustment in the Warrant Price by a fraction, the numerator of which shall be the Warrant Price immediately prior to such adjustment and the denominator of which shall be the Warrant Price immediately thereafter.

8. Notice of Adjustments. Whenever any Warrant Price or the kind or number of securities issuable under this Warrant shall be adjusted pursuant to Section 7 hereof, the Company shall prepare a certificate signed by an officer of the Company setting forth, in reasonable detail, the event requiring the adjustment, the amount of the adjustment, the method by which such adjustment was calculated, and the Warrant Price and number or kind of shares issuable upon exercise of the Warrant after giving effect to such adjustment, and shall cause copies of such certificate to be mailed (by certified or registered mail, return receipt required, postage prepaid) within thirty (30) days of such adjustment to the Holder of this Warrant as set forth in Section 17 hereof.

9. Transferability of Warrant. This Warrant is transferable on the books of the Company at its principal office by the registered Holder hereof upon surrender of this Warrant properly endorsed, subject to compliance with Section 5 and applicable federal and state securities laws. The Company shall issue and deliver to the transferee a new Warrant representing the Warrant so transferred. Upon any partial transfer, the Company will issue and deliver to Holder a new Warrant with respect to the Warrant not so transferred. Holder shall not have any right to transfer any portion of this Warrant to any direct competitor of the Company.

10. No Fractional Shares. No fractional share of Preferred Stock will be issued in connection with any exercise hereunder, but in lieu of such fractional share the Company shall make a cash payment therefor upon the basis of the Warrant Price then in effect.

11. Charges, Taxes and Expenses. Issuance of certificates for shares of Preferred Stock upon the exercise of this Warrant shall be made without charge to the Holder for any United States or state of the United States documentary stamp tax or other incidental expense with respect to the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder.

12. No Shareholder Rights Until Exercise. This Warrant does not entitle the Holder hereof to any voting rights or other rights as a shareholder of the Company prior to the exercise hereof.

13. Registry of Warrant. The Company shall maintain a registry showing the name and address of the registered Holder of this Warrant. This Warrant may be surrendered for exchange or exercise, in accordance with its terms, at such office or agency of the Company, and the Company and Holder shall be entitled to rely in all respects, prior to written notice to the contrary, upon such registry.

14. Loss, Theft, Destruction or Mutilation of Warrant. Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant, and, in the case of loss, theft, or destruction, of indemnity reasonably satisfactory to it, and, if mutilated, upon surrender and cancellation of this Warrant, the Company will execute and deliver a new Warrant, having terms and conditions substantially identical to this Warrant, in lieu hereof.

15. Miscellaneous.

(a) Issue Date. The provisions of this Warrant shall be construed and shall be given effect in all respect as if it had been issued and delivered by the Company on the date hereof.

(b) Successors. This Warrant shall be binding upon any successors or assigns of the Company.

(c) Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California.

(d) Headings. The headings used in this Warrant are used for convenience only and are not to be considered in construing or interpreting this Warrant.

(e) Saturdays, Sundays, Holidays. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall be a Saturday or a Sunday or shall be a legal holiday in the State of California, then such action may be taken or such right may be exercised on the next succeeding day not a legal holiday.

16. No Impairment. The Company will not, by amendment of its Certificate of Incorporation or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will 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 in order to protect the rights of the Holder hereof against impairment.

17. Addresses. Any notice required or permitted hereunder shall be in writing and shall be mailed by overnight courier, registered or certified mail, return receipt required, and postage prepaid, or otherwise delivered by hand or by messenger, addressed as set forth below, or at such other address as the Company or the Holder hereof shall have furnished to the other party.

If to the Company: **Xcyte Therapies, Inc.**
1124 Columbia Street, Suite 130
Seattle, WA 98104
Attn: Vice President, Finance

If to the Holder: **General Electric Capital Corporation**
5150 El Camino Real
Suite B-21
Los Altos, CA 94022
Attn: Barbara B. Kaiser, EVP/GM

18. "Market Stand-Off" Agreement. Holder hereby agrees that for a period of up to 180 days following the effective date of the first registration statement of the Company covering common stock (or other securities) to be sold on behalf of the Company in an underwritten public offering, it will not, to the extent requested by the Company and any underwriter, sell or otherwise transfer or dispose of (other than to donees or transferees who agree to be similarly bound) any of the Shares at any time during such period except common stock included in such registration; provided, however, that all officers and directors of the Company who hold securities of the Company or options to acquire securities of the Company and all other persons with registration rights enter into similar agreements.

[Signature Page Follows]

IN WITNESS WHEREOF, **Xcyte Therapies, Inc.** has caused this Warrant to be executed by its officers thereunto duly authorized.

Dated as of _____ ____, 2002.

By: _____

Name: _____

Title: _____

NOTICE OF EXERCISE

TO:

1. The undersigned Warrantholder ("Holder") elects to acquire shares of the Series ____ Preferred Stock (the "Preferred Stock") of _____ _____, (the "Company"), pursuant to the terms of the Stock Purchase Warrant dated _____, 2001, (the "Warrant").

2. The Holder exercises its rights under the Warrant as set forth below:

   ( ) The Holder elects to purchase _____ shares of Preferred Stock as provided in Section 3(a) and tenders herewith a check in the amount of $_____ as payment of the purchase price.

   ( ) The Holder elects to convert the purchase rights into shares of Preferred Stock as provided in Section 3(b) of the Warrant.

3. The Holder surrenders the Warrant with this Notice of Exercise.

4. The Holder represents that it is acquiring the aforesaid shares of Preferred Stock for investment and not with a view to or for resale in connection with distribution and that the Holder has no present intention of distributing or reselling the shares.

5. Please issue a certificate representing the shares of the Preferred Stock in the name of the Holder or in such other name as is specified below:

   Name:
   Address:

   Taxpayer I.D.:

_____

(Holder)

By: _____

Title: _____

Date: _____

Exhibit 10.9

THE SECURITIES REPRESENTED BY THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") OR APPLICABLE SECURITIES LAWS. THESE SECURITIES MAY NOT BE SOLD, MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED OTHER THAN IN COMPLIANCE WITH REGULATION S OF THE ACT OR WITHOUT AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS, OR THE AVAILABILITY OF AN EXEMPTION FROM THE REGISTRATION PROVISIONS OF THE ACT AND APPLICABLE STATE SECURITIES LAWS.

THE SECURITIES REPRESENTED BY THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

Warrant No. PEW-1
Date of Issuance: November 30, 2001

Number of Shares: 10,000
(subject to adjustment)

XCYTE THERAPIES, INC.

Series E Preferred Stock Purchase Warrant

Xcyte Therapies, Inc. (the "Company"), for value received, hereby certifies that Chun-Te Liao, or the registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before the Expiration Date (as defined in Section 7 below), up to ten thousand (10,000) shares of Series E Preferred Stock of the Company ("Preferred Stock"), at a purchase price of $2.78 per share. The shares purchasable upon exercise of this Warrant and the purchase price per share, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock" and the "Purchase Price," respectively.

1. **Exercise**.

(a) **Manner of Exercise.** This Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of the Company, or at such other office or agency as the Company may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check, wire transfer or by the surrender of promissory notes or other instruments representing indebtedness of the Company to the Registered Holder.

(b) **Effective Time of Exercise.** Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant shall have been surrendered to the Company as provided in Section 1(a) above. At such time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 1(c) below shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(c) **Delivery to Registered Holder.** As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within ten (10) days thereafter, the Company at its expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Section 1(a) above.

2. **Adjustments**.

(a) **Redemption or Conversion of Preferred Stock.** If all of the Preferred Stock is redeemed or converted into shares of Common Stock, then this Warrant shall automatically become exercisable for that number of shares of Common Stock equal to the number of shares of Common Stock that would have been received if this Warrant had been exercised in full and the shares of Preferred Stock received thereupon had been simultaneously converted into shares of Common Stock immediately prior to such event, and the Exercise Price shall be automatically adjusted to equal the number obtained by dividing (i) the aggregate Purchase Price of the shares of Preferred Stock for which this Warrant was exercisable immediately prior to such redemption or conversion, by (ii) the number of shares of Common Stock for which this Warrant is exercisable immediately after such redemption or conversion.

(b) **Stock Splits and Dividends.** If outstanding shares of the Company's Preferred Stock shall be subdivided into a greater number of shares or a dividend in Preferred Stock shall be paid in respect of Preferred Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Preferred Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (i) an amount equal to the number of shares issuable upon the exercise of

this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(c) **Reclassification, Etc.** In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar corporate reorganization on or after the date hereof**,** then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Registered Holder would have been entitled upon such consummation if such Registered Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 2.

(d) **Adjustment Certificate.** When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 2, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(e) **Acknowledgement.** In order to avoid doubt, it is acknowledged that the holder of this Warrant shall be entitled to the benefit of all adjustments in the number of shares of Common Stock of the Company issuable upon conversion of the Preferred Stock of the Company which occur prior to the exercise of this Warrant, including without limitation, any increase in the number of shares of Common Stock issuable upon conversion as a result of a dilutive issuance of capital stock.

3. **Transfers**.

(a) **Unregistered Security.** Each holder of this Warrant acknowledges that this Warrant, the Warrant Stock and the Common Stock of the Company have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), and agrees not to sell, pledge, distribute, offer for sale, transfer or otherwise dispose of this Warrant, any Warrant Stock issued upon its exercise or any Common Stock issued upon conversion of the Warrant Stock in the absence of (i) an effective registration statement under the Securities Act as to this Warrant, such Warrant Stock or such Common Stock and registration or qualification of this Warrant, such Warrant Stock or such Common Stock under any applicable U.S. federal or state securities law then in effect, or (ii) an opinion of counsel, satisfactory to the Company, that such registration and qualification are not required. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect.

(b) **Transferability.** Subject to the provisions of Sections 3(a) and 6 hereof, this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of the

Warrant with a properly executed assignment (in the form of Exhibit B hereto) at the principal office of the Company; provided, however, that this Warrant may not be transferred in whole or in part without the prior written consent of the Company.

(c) **Warrant Register.** The Company will maintain a register containing the names and addresses of the Registered Holders of this Warrant. Until any transfer of this Warrant is made in the warrant register, the Company may treat the Registered Holder of this Warrant as the absolute owner hereof for all purposes; provided, however, that if this Warrant is properly assigned in blank, the Company may (but shall not be required to) treat the bearer hereof as the absolute owner hereof for all purposes, notwithstanding any notice to the contrary. Any Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Company requesting such change.

4. **No Impairment.** The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 15 below) 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 in order to protect the rights of the holder of this Warrant against impairment.

5. **Representations and Warranties of the Registered Holder.** The Registered Holder hereby represents and warrants to the Company that:

5.1 **Authorization.** The Registered Holder has full power and authority to enter into this Warrant. The Warrant, when executed and delivered by the Registered Holder, will constitute a valid and legally binding obligation of the Registered Holder, enforceable in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and any other laws of general application affecting enforcement of creditors' rights generally, and as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies.

5.2 **Purchase Entirely for Own Account.** This Warrant is issued to the Registered Holder in reliance upon the Registered Holder's representation to the Company, which by the Registered Holder's acceptance of this Warrant, the Registered Holder hereby confirms, that the Warrant to be acquired by the Registered Holder, the Warrant Stock and the Common Stock to be issued upon the conversion of the Warrant Stock (collectively, the "Securities") will be acquired for investment for the Registered Holder's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that the Registered Holder has no present intention of selling, granting any participation in, or otherwise distributing the same. By accepting this Warrant, the Registered Holder further represents that the Registered Holder does not presently have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to any of the Securities. The Registered Holder has not been formed for the specific purpose of acquiring the Securities.

5.3 **Disclosure of Information.** The Registered Holder has had an opportunity to discuss the Company's business, management, financial affairs and the terms and conditions of the offering of the Securities with the Company's management and has had an opportunity to review the Company's facilities. The Registered Holder understands that such discussions, as well as any written information delivered by the Company to the Registered Holder, were intended to describe the aspects of the Company's business which it believes to be material.

5.4 **Restricted Securities.** The Registered Holder understands that the Securities have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Registered Holder's representations as expressed herein. The Registered Holder understands that the Securities are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, the Registered Holder must hold the Securities indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available. The Registered Holder acknowledges that the Company has no obligation to register or qualify the Securities for resale. The Registered Holder further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Securities, and on requirements relating to the Company which are outside of the Registered Holder's control, and which the Company is under no obligation and may not be able to satisfy.

5.5 **No Public Market.** The Registered Holder understands that no public market now exists for any of the securities issued by the Company, and that the Company has made no assurances that a public market will ever exist for the Securities.

5.6 **Legends**. It is understood that the certificates evidencing the Series E Preferred Stock (or the Conversion Shares) may bear one or all of the following legends:

(a) "THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF A REGISTRATION STATEMENT IN EFFECT WITH RESPECT TO THE SECURITIES UNDER SUCH ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED OR UNLESS SOLD PURSUANT TO RULE 144 OF SUCH ACT. THESE SECURITIES ARE SUBJECT TO A CERTAIN VOTING PROVISION ENTERED INTO BY AND AMONG THE INVESTORS."

(b) "THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") OR APPLICABLE SECURITIES LAWS. THESE SECURITIES MAY NOT BE SOLD, MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED OTHER THAN IN COMPLIANCE WITH REGULATION S OF THE ACT OR WITHOUT AN EFFECTIVE REGISTRATION STATEMENT FOR SUCH SECURITIES UNDER THE ACT AND

APPLICABLE STATE SECURITIES LAWS, OR THE AVAILABILITY OF AN EXEMPTION FROM THE REGISTRATION PROVISIONS OF THE ACT AND APPLICABLE STATE SECURITIES LAWS."

(c) Any other legends required by the laws of the State of Delaware or any other applicable blue sky or state securities laws.

5.7 **Regulation S**. The Holder hereby makes the additional representations and warranties set forth in Exhibit C.

6. **Lock-up Agreement.**

(a) **Lock-up Period; Agreement.** In connection with the initial public offering of the Company's securities and upon request of the Company or the underwriters managing such offering of the Company's securities, the Registered Holder agrees 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, for such period of time (not to exceed 180 days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the Company's initial public offering.

(b) **Stop-Transfer Instructions.** In order to enforce the foregoing covenants, the Company may impose stop-transfer instructions with respect to the securities of the Registered Holder (and the securities of every other person subject to the restrictions in Section 6(a)).

(c) **Transferees Bound.** The Registered Holder agrees that prior to the Company's initial public offering it will not transfer securities of the Company unless each transferee agrees in writing to be bound by all of the provisions of this Section 6.

7. **Termination.** This Warrant (and the right to purchase securities upon exercise hereof) shall terminate upon the earliest to occur of the following (the "Expiration Date"): (a) August 8, 2005, (b) the sale, conveyance or disposal of all or substantially all of the Company's property or business or the Company's merger with or into or consolidation with any other corporation (other than a wholly-owned subsidiary of the Company) or any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Company is disposed of, provided that this Section 7 shall not apply to a merger effected exclusively for the purpose of changing the domicile of the Company or to an equity financing in which the Company is the surviving corporation, or (c) the closing of a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act.

8. **Notices of Certain Transactions.** In case:

(a) the Company shall take a record of the holders of its Preferred Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company, or

(d) of any redemption of the Preferred Stock or mandatory conversion of the Preferred Stock into Common Stock of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion is to take place, and the time, if any is to be fixed, as of which the holders of record of Preferred Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

9. **Reservation of Stock.** The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

10. **Exchange of Warrants.** Upon the surrender by the Registered Holder of any Warrant or Warrants, properly endorsed, to the Company at the principal office of the Company, the Company will, subject to the provisions of Section 3 hereof, issue and deliver to or upon the order of such Registered Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Preferred Stock called for on the face or faces of the Warrant or Warrants so surrendered.

11. **Replacement of Warrants.** Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Company, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Company will issue, in lieu thereof, a new Warrant of like tenor.

12. **No Rights as Stockholder.** Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company.

13. **No Fractional Shares.** No fractional shares of Preferred Stock will be issued in connection with any exercise hereunder. In lieu of any fractional shares which would otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the fair market value of one share of Preferred Stock on the date of exercise, as determined in good faith by the Company's Board of Directors.

14. **Amendment or Waiver.** Any term of this Warrant may be amended or waived only by an instrument in writing signed by the party against which enforcement of the amendment or waiver is sought.

15. **Headings.** The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

16. **Governing Law.** This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of Washington, without giving effect to principles of conflicts of law.

17. **Survival of Representations.** Unless otherwise set forth in this Warrant, the warranties, representations and covenants of the Company and the Purchasers contained in or made pursuant to this Warrant shall survive the execution and delivery of this Warrant.

18. **Transfer; Successors and Assigns.** The terms and conditions of this Warrant shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Warrant, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Warrant, except as expressly provided in this Warrant.

19. **Counterparts.** This Warrant may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

20. **Attorney's Fees.** If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of any of this Warrant, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

21. **Severability.** If one or more provisions of this Warrant are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Warrant, (b) the balance of this Warrant shall be interpreted as if such provision were so excluded and (c) the balance of this Warrant shall be enforceable in accordance with its terms.

22. **Delays or Omissions.** No delay or omission to exercise any right, power or remedy accruing to any party under this Warrant, upon any breach or default of any other party under this Warrant, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Warrant, or any waiver on the part of any party of any provisions or conditions of this Warrant, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Warrant or by law or otherwise afforded to any party, shall be cumulative and not alternative.

23. **Notices.** Any notice required or permitted by this Warrant shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by overnight courier or sent by fax, or 48 hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, addressed to the party to be notified at such party's address as set forth on the signature page, or as subsequently modified by written notice.

24. **Entire Agreement.** This Warrant, and the documents referred to herein constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements relating to the subject matter hereof existing between the parties hereto are expressly canceled.

[*Signature Page Follows*]

Xcyte Therapies, Inc.

By: _____

Ronald J. Berenson M.D.
President

Address: Xcyte Therapies, Inc.
1124 Columbia Street
Suite 130
Seattle, WA 98104

Fax Number: (206) 262-0900

Accepted and Agreed:

REGISTERED HOLDER

_____

Chun-Te Liao

Address: 3F, No. 38, 9 ally
22 Ave, Wen-De Road
Nei-Hu, Taipei
Taiwan ROC

EXHIBIT A

PURCHASE/EXERCISE FORM

To: Xcyte Therapies, Inc. Dated:_____

The undersigned, pursuant to the provisions set forth in the attached Warrant No. PEW-1, hereby irrevocably elects to purchase _____ shares of the Series E Preferred Stock covered by such Warrant and herewith makes payment of $_____, representing the full purchase price for such shares at the price per share provided for in such Warrant.

The undersigned acknowledges that it has reviewed the representations and warranties contained in Section 5 of the Warrant and by the signature below hereby makes such representations and warranties to the Company as of the date hereof.

Signature:_____

Name (print):_____

Title (if applic.):_____

Company (if applic.):_____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of Series E Preferred Stock covered thereby set forth below, unto:

Name of Assignee	**Address/Fax Number**	**No. of Shares**

Dated: _____

Signature: _____

_____

Witness: _____

EXHIBIT C

ADDITIONAL REPRESENTATIONS AND WARRANTIES

OF FOREIGN INVESTOR

Chun-Te Liao (a "Foreign Investor"), in addition to the other representations and warranties it has made in this Warrant, further represents and warrants to the Company that:

It is familiar with Regulation S under the Securities Act and is not a "U.S. Person" as that term is defined in Regulation S and is not acquiring the Shares for the account or benefit of a U.S. Person, and it agrees not to make any disposition of all or any portion of the Shares unless and until (A) such disposition is in accordance with Regulation S, and (B) (1) there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement, or (2) the Foreign Investor shall have notified the Company of the proposed disposition and shall have furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition, and if requested by the Company, the Foreign Investor shall have furnished the Company with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration under the Securities Act.

The acquisition by the Foreign Investor of the Shares shall constitute a confirmation of the representations and warranties made by the Foreign Investor as of the Closing. The Foreign Investor further represents that it understands and agrees that, until registered under the Securities Act or properly transferred pursuant to the provisions of Rule 144 as promulgated by the SEC, all certificates evidencing any of the Shares, whether upon initial issuance or upon any transfer thereof, shall bear a legend (in addition to any legend required pursuant to the Investors' Rights Agreement), prominently stamped or printed thereon, reading substantially as stated in Section 5.6(b).

Exhibit 10.10

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

Warrant No. CW-57
Date of Issuance: April 1, 2003

Number of Shares: 35,000
(subject to adjustment)

XCYTE THERAPIES, INC.

Common Stock Purchase Warrant

Xcyte Therapies, Inc., a Delaware corporation (the "Company"), for value received, hereby certifies that Inkeun Lee, or its registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before the Expiration Date (as defined in Section 5 below), up to 35,000 shares of Common Stock of the Company, at a purchase price of $1.00 per share. The shares purchasable upon exercise of this Warrant and the purchase price per share, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock" and the "Purchase Price," respectively.

This Warrant is issued pursuant to, and is subject to the terms and conditions of, the Consulting Agreement dated April 1, 2003 among the Company and Ike Lee (the "Purchase Agreement").

1. **Exercise.**

(a) **Manner of Exercise.** This Warrant shall vest and become exercisable as follows: 1/7th of the total number of shares shall vest on April 1,2003, and 1/7th of the total number of shares shall vest monthly thereafter (total vesting in 7 months). The vested shares under this Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of the Company, or at such other office or agency as the Company may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check, wire transfer or by the surrender of promissory notes or other instruments representing indebtedness of the Company to the Registered Holder.

(b) **Effective Time of Exercise.** Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this

Warrant shall have been surrendered to the Company as provided in Section 1(a) above. At such time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 1(d) below shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(c) **Net Issue Exercise.**

(i) In lieu of exercising this Warrant in the manner provided above in Section 1(a), the Registered Holder may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election on the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or such Registered Holder's duly authorized attorney, in which event the Company shall issue to such Holder a number of shares of Warrant Stock computed using the following formula:

$$X = \frac{Y\ (A—B)}{A}$$

Where X = The number of shares of Warrant Stock to be issued to the Registered Holder.

Y = The number of shares of Warrant Stock purchasable under this Warrant (at the date of such calculation).

A = The fair market value of one share of Warrant Stock (at the date of such calculation).

B = The Purchase Price (as adjusted to the date of such calculation).

(ii) For purposes of this Section 1(c), the fair market value of Warrant Stock on the date of calculation shall mean with respect to each share of Warrant Stock:

(A) if the exercise is in connection with an initial public offering of the Company's Common Stock, and if the Company's Registration Statement relating to such public offering has been declared effective by the Securities and Exchange Commission, then the fair market value per share shall be the product of (x) the initial "Price to Public" specified in the final prospectus with respect to the offering and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the date of calculation;

(B) if (A) is not applicable, the fair market value of Warrant Stock shall be at the highest price per share which the Company could obtain on the date of calculation from a willing buyer (not a current employee or director) for shares of Warrant Stock sold by the Company, from authorized but unissued shares, as determined in good faith by the Board of Directors, unless the Company is at such time subject to an acquisition as described in Section 5(b) below, in which case the fair market value of Warrant Stock shall be deemed to be the value received by the holders of such stock pursuant to such acquisition.

(d) **Delivery to Holder.** As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within ten (10) days thereafter, the Company at its

expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Holder (upon payment by such Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Section 1(a) or 1(c) above.

2. **Adjustments.**

(a) **Stock Splits and Dividends.** If outstanding shares of the Company's Common Stock shall be subdivided into a greater number of shares or a dividend in Common Stock shall be paid in respect of Common Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Common Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (i) an amount equal to the number of shares issuable upon the exercise of this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(b) **Reclassification, Etc.** In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar corporate reorganization on or after the date hereof**,** then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Holder would have been entitled upon such consummation if such Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 2.

(c) **Adjustment Certificate.** When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 2, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(d) **Acknowledgement.** In order to avoid doubt, it is acknowledged that the holder of this Warrant shall be entitled to the benefit of all adjustments in the number of shares of Common Stock of the Company.

3. **Transfers.**

(a) **Unregistered Security.** Each holder of this Warrant acknowledges that this Warrant, the Warrant Stock and the Common Stock of the Company have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), and agrees not to sell, pledge, distribute, offer for sale, transfer or otherwise dispose of this Warrant, any Warrant Stock issued upon its exercise in the absence of (i) an effective registration statement under the Act as to this Warrant or such Warrant Stock and registration or qualification of this Warrant or such Warrant Stock under any applicable U.S. federal or state securities law then in effect, or (ii) an opinion of counsel, satisfactory to the Company, that such registration and qualification are not required. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect.

(b) **Transferability.** Subject to the provisions of Section 3(a) hereof, this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of the Warrant with a properly executed assignment (in the form of Exhibit B hereto) at the principal office of the Company.

(c) **Warrant Register.** The Company will maintain a register containing the names and addresses of the Registered Holders of this Warrant. Until any transfer of this Warrant is made in the warrant register, the Company may treat the Registered Holder of this Warrant as the absolute owner hereof for all purposes; provided, however, that if this Warrant is properly assigned in blank, the Company may (but shall not be required to) treat the bearer hereof as the absolute owner hereof for all purposes, notwithstanding any notice to the contrary. Any Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Company requesting such change.

4. **No Impairment.** The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 13 below) 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 in order to protect the rights of the holder of this Warrant against impairment.

5. **Termination.** This Warrant (and the right to purchase securities upon exercise hereof) shall terminate upon the earliest to occur of the following (the "Expiration Date"): (a) April 1, 2008, (b) immediately prior to the sale, conveyance or disposal of all or substantially all of the Company's property or business or the Company's merger into or consolidation with any other corporation (other than a wholly-owned subsidiary of the Company) or any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Company is disposed of, provided that this Section 5(b) shall not apply to a merger effected exclusively for the purpose of changing the domicile of the Company, or (c) immediately prior to the closing of a firm commitment underwritten public offering pursuant

to a registration statement on Form S-1 under the Securities Act, the public offering price of which is not less than $4.00 per share (appropriately adjusted for any stock split, dividend, combination or other recapitalization) and which results in aggregate cash proceeds to the Company of $20,000,000 (net of underwriting discounts and commissions).

6. **Notices of Certain Transactions.** In case:

(a) the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up or redemption is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up or redemption) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

7. **Reservation of Stock.** The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

8. **Exchange of Warrants.** Upon the surrender by the Registered Holder of any Warrant or Warrants, properly endorsed, to the Company at the principal office of the Company, the Company will, subject to the provisions of Section 3 hereof, issue and deliver to or upon the order of such Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Common Stock called for on the face or faces of the Warrant or Warrants so surrendered.

9. **Replacement of Warrant.** Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Company, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Company will issue, in lieu thereof, a new Warrant of like tenor.

10. **Mailing of Notices.** Any notice required or permitted pursuant to this Warrant shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or sent by courier, overnight delivery service or confirmed facsimile, or forty-eight (48) hours after being deposited in the regular mail, as certified or registered mail (airmail if sent internationally), with postage prepaid, addressed (a) if to the Registered Holder, to the address of the Registered Holder most recently furnished in writing to the Company and (b) if to the Company, to the address set forth below or subsequently modified by written notice to the Registered Holder.

11. **No Rights as Stockholder.** Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company.

12. **No Fractional Shares.** No fractional shares of Common Stock will be issued in connection with any exercise hereunder. In lieu of any fractional shares which would otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the fair market value of one share of Common Stock on the date of exercise, as determined in good faith by the Company's Board of Directors.

13. **Amendment or Waiver.** Any term of this Warrant may be amended or waived upon written consent of the Company and the holder of this warrant.

14. **Headings.** The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

15. **Governing Law.** This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of Washington, without giving effect to principles of conflicts of law.

16. **Market Standoff Agreement.** The Registered Holder agrees in connection with any registration of the Company's securities (other than a registration of debt securities, securities in a Rule 145 transaction or with respect to an employee benefit plan), upon notice by the Company or the underwriters managing any underwritten public offering of the Company's securities, not to sell, make any short sale of, loan pledge (or otherwise encumber or hypothecate), grant any option for the purchase of, or otherwise directly or indirectly dispose of this Warrant or any Warrant Stock without the prior written consent of the Company and such managing underwriters for such period of time as the Board of Directors establishes pursuant to its good faith negotiations with such managing underwriters, which period shall not exceed 180 days. The Registered Holder hereby consents to the placement of stop transfer orders with the Company's transfer agent in order to enforce the foregoing provision.

17. **Restrictive Legend**. Each certificate representing (i) the Warrant Stock, and (ii) any other securities issued in respect of the Warrant Stock upon any stock split, stock dividend, recapitalization, merger, consolation or similar event, shall be stamped or otherwise imprinted with legends in 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 HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "SECURITIES ACT"). SUCH SHARES MAY NOT BE SOLD, TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL (WHICH MAY BE STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE SECURITIES ACT."

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A MARKET STAND-OFF AGREEMENT IN THE EVENT OF A PUBLIC OFFERING, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY."

XCYTE THERAPIES, INC.

By: _____

Ronald J. Berenson, President

Address: 1124 Columbia Street
Suite 130
Seattle, Washington 98104

Fax Number: (206) 262-0900

EXHIBIT A

PURCHASE/EXERCISE FORM

To: **Xcyte Therapies, Inc.** Dated:_____

The undersigned, pursuant to the provisions set forth in the attached Warrant No. CW-57, hereby irrevocably elects to (a) purchase _____ shares of the Common Stock covered by such Warrant and herewith makes payment of $_____, representing the full purchase price for such shares at the price per share provided for in such Warrant, or (b) exercise such Warrant for _____ shares purchasable under the Warrant pursuant to the Net Issue Exercise provisions of Section 1(c) of such Warrant.

The undersigned acknowledges that it has reviewed the representations and warranties contained in Section 3(a) of the Warrant and by its signature below hereby makes such representations and warranties to the Company.

The undersigned further acknowledges that it has reviewed the market standoff provisions set forth in Section 16 of the Warrant and agrees to be bound by such provisions.

Signature:_____

Name (print):_____

Title (if applic.)_____

Company (if applic.):_____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of Common Stock covered thereby set forth below, unto:

Name of Assignee	**Address/Fax Number**	**No. of Shares**

Dated: _____

Signature: _____

_____

Witness: _____

Exhibit 10.11

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

Warrant No. CW-58
Date of Issuance: April 1, 2003

Number of Shares: 40,000
(subject to adjustment)

XCYTE THERAPIES, INC.

Common Stock Purchase Warrant

Xcyte Therapies, Inc., a Delaware corporation (the "Company"), for value received, hereby certifies that Inkeun Lee, or its registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before the Expiration Date (as defined in Section 5 below), up to 40,000 shares of Common Stock of the Company, at a purchase price of $1.00 per share. The shares purchasable upon exercise of this Warrant and the purchase price per share, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock" and the "Purchase Price," respectively.

This Warrant is issued pursuant to, and is subject to the terms and conditions of, the Consulting Agreement dated April 1, 2003 among the Company and Ike Lee (the "Purchase Agreement").

1. **Exercise.**

(a) **Manner of Exercise**. This Warrant shall vest and become exercisable as follows: 50% of the total number of shares shall vest upon the Company's execution of a letter of intent to enter into an Alliance Agreement (as defined in the Consulting Agreement) with a Potential Partner (as defined in the Consulting Agreement) and the remaining shares shall vest upon the Company's execution of an Alliance Agreement with a Potential Partner. The vested shares under this Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of the Company, or at such other office or agency as the Company may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check, wire transfer or by the surrender of promissory notes or other instruments representing indebtedness of the Company to the Registered Holder.

(b) **Effective Time of Exercise**. Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant shall have been surrendered to the Company as provided in Section 1(a) above. At such time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 1(d) below shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(c) **Net Issue Exercise**.

(i) In lieu of exercising this Warrant in the manner provided above in Section 1(a), the Registered Holder may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election on the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or such Registered Holder's duly authorized attorney, in which event the Company shall issue to such Holder a number of shares of Warrant Stock computed using the following formula:

$$X = \frac{Y\,(A - B)}{A}$$

Where X = The number of shares of Warrant Stock to be issued to the Registered Holder.

Y = The number of shares of Warrant Stock purchasable under this Warrant (at the date of such calculation).

A = The fair market value of one share of Warrant Stock (at the date of such calculation).

B = The Purchase Price (as adjusted to the date of such calculation).

(ii) For purposes of this Section 1(c), the fair market value of Warrant Stock on the date of calculation shall mean with respect to each share of Warrant Stock:

(A) if the exercise is in connection with an initial public offering of the Company's Common Stock, and if the Company's Registration Statement relating to such public offering has been declared effective by the Securities and Exchange Commission, then the fair market value per share shall be the product of (x) the initial "Price to Public" specified in the final prospectus with respect to the offering and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the date of calculation;

(B) if (A) is not applicable, the fair market value of Warrant Stock shall be at the highest price per share which the Company could obtain on the date of calculation from a willing buyer (not a current employee or director) for shares of Warrant Stock sold by the Company, from authorized but unissued shares, as determined in good faith by the Board of Directors, unless the Company is at such time subject to an acquisition as described in Section 5(b) below, in which case the fair market value of Warrant Stock shall be deemed to be the value received by the holders of such stock pursuant to such acquisition.

(d) **Delivery to Holder**. As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within ten (10) days thereafter, the Company at its expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Holder (upon payment by such Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Section 1(a) or 1(c) above.

2. **Adjustments**.

(a) **Stock Splits and Dividends**. If outstanding shares of the Company's Common Stock shall be subdivided into a greater number of shares or a dividend in Common Stock shall be paid in respect of Common Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Common Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (i) an amount equal to the number of shares issuable upon the exercise of this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(b) **Reclassification, Etc**. In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar corporate reorganization on or after the date hereof**,** then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Holder would have been entitled upon such consummation if such Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 2.

(c) **Adjustment Certificate**. When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 2, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of

stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(d) **Acknowledgement**. In order to avoid doubt, it is acknowledged that the holder of this Warrant shall be entitled to the benefit of all adjustments in the number of shares of Common Stock of the Company.

3. **Transfers**.

(a) **Unregistered Security**. Each holder of this Warrant acknowledges that this Warrant, the Warrant Stock and the Common Stock of the Company have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), and agrees not to sell, pledge, distribute, offer for sale, transfer or otherwise dispose of this Warrant, any Warrant Stock issued upon its exercise in the absence of (i) an effective registration statement under the Act as to this Warrant or such Warrant Stock and registration or qualification of this Warrant or such Warrant Stock under any applicable U.S. federal or state securities law then in effect, or (ii) an opinion of counsel, satisfactory to the Company, that such registration and qualification are not required. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect.

(b) **Transferability**. Subject to the provisions of Section 3(a), this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of the Warrant with a properly executed assignment (in the form of Exhibit B hereto) at the principal office of the Company.

(c) **Warrant Register**. The Company will maintain a register containing the names and addresses of the Registered Holders of this Warrant. Until any transfer of this Warrant is made in the warrant register, the Company may treat the Registered Holder of this Warrant as the absolute owner hereof for all purposes; provided, however, that if this Warrant is properly assigned in blank, the Company may (but shall not be required to) treat the bearer hereof as the absolute owner hereof for all purposes, notwithstanding any notice to the contrary. Any Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Company requesting such change.

4. **No Impairment**. The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 13 below) 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 in order to protect the rights of the holder of this Warrant against impairment.

5. **Termination**. This Warrant (and the right to purchase securities upon exercise hereof) shall terminate upon the earliest to occur of the following (the "Expiration Date"): (a) April 1, 2008, (b) immediately prior to the sale, conveyance or disposal of all or substantially all of the Company's property or business or the Company's merger into or consolidation with any other corporation (other than a wholly-owned subsidiary of the Company) or any other transaction or series of related transactions in which more than fifty percent (50%) of the voting

power of the Company is disposed of, provided that this Section 5(b) shall not apply to a merger effected exclusively for the purpose of changing the domicile of the Company, or (c) immediately prior to the closing of a firm commitment underwritten public offering pursuant to a registration statement on Form S-1 under the Securities Act, the public offering price of which is not less than $4.00 per share (appropriately adjusted for any stock split, dividend, combination or other recapitalization) and which results in aggregate cash proceeds to the Company of $20,000,000 (net of underwriting discounts and commissions).

6. **Notices of Certain Transactions**. In case:

(a) the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up or redemption is to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up or redemption) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

7. **Reservation of Stock**. The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

8. **Exchange of Warrants**. Upon the surrender by the Registered Holder of any Warrant or Warrants, properly endorsed, to the Company at the principal office of the Company, the Company will, subject to the provisions of Section 3 hereof, issue and deliver to or upon the order of such Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered

Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Common Stock called for on the face or faces of the Warrant or Warrants so surrendered.

9. **Replacement of Warrants**. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Company, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Company will issue, in lieu thereof, a new Warrant of like tenor.

10. **Mailing of Notices**. Any notice required or permitted pursuant to this Warrant shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or sent by courier, overnight delivery service or confirmed facsimile, or forty-eight (48) hours after being deposited in the regular mail, as certified or registered mail (airmail if sent internationally), with postage prepaid, addressed (a) if to the Registered Holder, to the address of the Registered Holder most recently furnished in writing to the Company and (b) if to the Company, to the address set forth below or subsequently modified by written notice to the Registered Holder.

11. **No Rights as Stockholder**. Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company.

12. **No Fractional Shares**. No fractional shares of Common Stock will be issued in connection with any exercise hereunder. In lieu of any fractional shares which would otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the fair market value of one share of Common Stock on the date of exercise, as determined in good faith by the Company's Board of Directors.

13. **Amendment or Waiver**. Any term of this Warrant may be amended or waived upon written consent of the Company and the holder of this warrant.

14. **Headings**. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

15. **Governing Law**. This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of Washington, without giving effect to principles of conflicts of law.

16. **Market Standoff Agreement**. The Registered Holder agrees in connection with any registration of the Company's securities (other than a registration of debt securities, securities in a Rule 145 transaction or with respect to an employee benefit plan), upon notice by the Company or the underwriters managing any underwritten public offering of the Company's securities, not to sell, make any short sale of, loan pledge (or otherwise encumber or hypothecate), grant any option for the purchase of, or otherwise directly or indirectly dispose of this Warrant or any Warrant Stock without the prior written consent of the Company and such managing underwriters for such period of time as the Board of Directors establishes pursuant to

its good faith negotiations with such managing underwriters, which period shall not exceed 180 days. The Registered Holder hereby consents to the placement of stop transfer orders with the Company's transfer agent in order to enforce the foregoing provision.

17. **Restrictive Legend**. Each certificate representing (i) the Warrant Stock, and (ii) any other securities issued in respect of the Warrant Stock upon any stock split, stock dividend, recapitalization, merger, consolation or similar event, shall be stamped or otherwise imprinted with legends in 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 HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT FO 1933 (THE "SECURITIES ACT"). SUCH SHARES MAY NOT BE SOLD, TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE COMPANY RECIEVES AN OPINION OF COUNSEL (WHICH MAY BE STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE SECURITIES ACT."

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A MARKET STAND-OFF AGREEMENT IN THE EVENT OF A PUBLIC OFFERING, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY."

XCYTE THERAPIES, INC.

By: _____

Ronald J. Berenson, President

Address: 1124 Columbia Street
Suite 130
Seattle, Washington 98104

Fax Number: (206) 262-0900

EXHIBIT A

PURCHASE/EXERCISE FORM

To: **Xcyte Therapies, Inc.**

Dated: _____

The undersigned, pursuant to the provisions set forth in the attached Warrant No. CW-58, hereby irrevocably elects to (a) purchase _____ shares of the Common Stock covered by such Warrant and herewith makes payment of $_____, representing the full purchase price for such shares at the price per share provided for in such Warrant, or (b) exercise such Warrant for _____ shares purchasable under the Warrant pursuant to the Net Issue Exercise provisions of Section 1(c) of such Warrant.

The undersigned acknowledges that it has reviewed the representations and warranties contained in Section 3(a) of the Warrant and by its signature below hereby makes such representations and warranties to the Company.

The undersigned further acknowledges that it has reviewed the market standoff provisions set forth in Section 16 of Warrant and agrees to be bound by such provisions.

Signature: _____

Name (print): _____

Title (if applic.) _____

Company (if applic.): _____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of Common Stock covered thereby set forth below, unto:

Name of Assignee	**Address/Fax Number**	**No. of Shares**

Dated: _____

Signature: _____

_____

Witness: _____

MASTER SECURITY AGREEMENT
No. 3081030
Dated as of **July 1, 2003** ("Agreement")

THIS AGREEMENT is between **Oxford Finance Corporation** (together with its successors and assigns, if any, **"Secured Party"**) and **Xcyte Therapies, Inc.** (**"Debtor"**). Secured Party has an office at 133 N. Fairfax Street, Alexandria, VA 22314. Debtor is a corporation organized and existing under the laws of the state of Delaware. Debtor's mailing address and chief place of business is 1124 Columbia Street, Suite 130, Seattle, WA 98104.

1. CREATION OF SECURITY INTEREST.

Debtor grants to Secured Party, its successors and assigns, a security interest in and against all property listed on any collateral schedule now or in the future annexed to or made a part of this Agreement (**"Collateral Schedule"**), and in and against all additions, attachments, accessories and accessions to such property, all substitutions, replacements or exchanges therefor, and all insurance and/or other proceeds thereof (all such property is individually and collectively called the **"Collateral"**). This security interest is given to secure the payment and performance of all debts, obligations and liabilities of any kind whatsoever of Debtor to Secured Party, now existing or arising in the future, including but not limited to the payment and performance of certain Promissory Notes from time to time identified on any Collateral Schedule (collectively **"Notes"** and each a **"Note"**), and any renewals, extensions and modifications of such debts, obligations and liabilities (such Notes, debts, obligations and liabilities are called the "Indebtedness"). Unless otherwise provided by applicable law, notwithstanding anything to the contrary contained in this Agreement, to the extent that Secured Party asserts a purchase money security Interest in any items of Collateral (**"PMSI Collateral"**): (i) the PMSI Collateral shall secure only that portion of the Indebtedness which has been advanced by Secured Party to enable Debtor to purchase, or acquire rights in or the use of such PMSI Collateral (the "PMSI Indebtedness"), and (ii) no other Collateral shall secure the PMSI Indebtedness.

2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEBTOR.

Debtor represents, warrants and covenants as of the date of this Agreement and as of the date of each Collateral Schedule that:

(a) Debtor's exact legal name is as set forth in the preamble of this Agreement and Debtor is, and will remain, duly organized, existing and in good standing under the laws of the State set forth in the preamble of this Agreement, has its chief executive offices at the location specified in the preamble, and is, and will remain, duly qualified and licensed in every jurisdiction wherever necessary to carry on its business and operations:

(b) Debtor has adequate power and capacity to enter into, and to perform its obligations under this Agreement, each Note and any other documents evidencing, or given in connection with, any of the Indebtedness (all of the foregoing are called the "**Debt Documents**");

(c) This Agreement and the other Debt Documents have been duly authorized, executed and delivered by Debtor and constitute legal, valid and binding agreements enforceable in accordance with their terms, except to the extent that the enforcement of remedies may be limited under applicable bankruptcy and insolvency laws:

(d) No approval, consent or withholding of objections is required from any governmental authority or instrumentality with respect to the entry into, or performance by Debtor of any of the Debt Documents, except any already obtained;

(e) The entry into, and performance by, Debtor of the Debt Documents will not (i) violate any of the organizational documents of Debtor or any judgment, order, law or regulation applicable to Debtor, or (ii) result in any breach of or constitute a default under any contract to which Debtor is a party, or result in the creation of any lien, claim or encumbrance on any of Debtor's property (except for liens in favor of Secured Party) pursuant to any indenture, mortgage, deed of trust, bank loan, credit agreement, or other agreement or instrument to which Debtor is a party;

(f) There are no suits or proceedings pending in court or before any commission, board or other administrative agency against or affecting Debtor which could, in the aggregate, have a material adverse effect on Debtor, its business or operations, or its ability to perform its obligations under the Debt Documents, nor does Debtor have reason to believe that any such suits or proceedings are threatened;

(g) All financial statements delivered to Secured Party in connection with the Indebtedness have been prepared in accordance with generally accepted accounting principles, and since the date of the most recent financial statement, there has been no material adverse change in Debtors financial condition;

(h) The Collateral is not, and will not be, used by Debtor for personal, family or household purposes;

(i) The Collateral is, and will remain, in good condition and repair and Debtor will not be negligent in its care and use;

(j) All of the tangible Collateral is located at the locations set forth on each Collateral Schedule. Debtor shall give the Secured Party 30 days prior written notice of any relocation of any Collateral;

(k) Debtor is, and will remain, the sole and lawful owner, and in possession of the Collateral, and has the sole right and lawful authority to grant the security interest described in this Agreement;

(l) The Collateral is, and will remain, free and clear of all liens, claims and encumbrances of any kind whatsoever, except for (i) liens in favor of Secured

Party, (ii) liens for taxes not yet due or for taxes being contested in good faith and which do not involve, in the judgment of Secured Party, any risk of the sale, forfeiture or loss of any of the Collateral, and (iii) inchoate material men's, mechanic's, repairmen's and similar liens arising by operation of law in the normal course of business for amounts which are not delinquent (all of such liens are called "Permitted Liens");

(m) All federal, state and local tax returns required to be filed by Debtor have been filed with the appropriate governmental agencies and all taxes due and payable by Debtor have been timely paid. Debtor will pay when due all taxes, assessments and other liabilities except as contested in good faith and by appropriate proceedings and for which adequate reserves have been established;

(n) No event or condition exists under any material agreement, instrument or document to which Debtor is a party or may be subject, or by which Debtor or any of its properties are bound, which constitutes a default or an event of default thereunder, or will, with the giving of notice, passage of time, or both, would constitute a default or event of default thereunder;

(o) All reports, certificates, schedules, notices and financial information submitted by Debtor to the Secured Party pursuant to this Agreement shall he certified as true and correct by the president or chief financial officer of Debtor;

(p) Debtor shall give the Secured Party prompt written notice of any event, occurrence or other matter which has resulted or may result in a material adverse change in its financial condition, business operations, prospects, product development, technology, or business or contractual relations with third parties of Debtor which would impair the ability of Debtor to perform its obligations hereunder or under any of the other financing agreements to which it is a party or of Secured Party to enforce the Indebtedness or realize upon the Collateral;

3. COLLATERAL.

(a) Until the declaration of any default, Debtor shall remain in possession of the Collateral; except that Secured Party shall have the right to possess (i) any chattel paper or instrument that constitutes a part of the Collateral, and (ii) any other Collateral in which Secured Party's security interest may be perfected only by possession. Secured Party may inspect any of the Collateral during normal business hours after giving Debtor reasonable prior notice.

(b) Debtor shall (i) use the Collateral only in its trade or business, (ii) maintain all of the Collateral in good operating order and repair, normal wear and tear excepted, (iii) use and maintain the Collateral only in compliance with manufacturers recommendations and all applicable laws, and (iv) keep all of the Collateral free and clear of all liens, claims and encumbrances (except for Permitted Liens).

(c) Secured Party does not authorize and Debtor agrees it shall not (i) part with possession of any of the Collateral (except to Secured Party or for maintenance and repair), (ii) remove any of the Collateral from the continental United States, or (iii) sell, rent, lease, mortgage, license, grant a security interest in or otherwise transfer or encumber (except for Permitted Liens) any of the Collateral.

(d) Debtor shall pay promptly when due all taxes, license fees, assessments and public and private charges levied or assessed on any of the Collateral, on its use, or on this Agreement or any of the other Debt Documents. At its option, Secured Party may discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Collateral and may pay for the maintenance, insurance and preservation of the Collateral and effect compliance with the terms of this Agreement or any of the other Debt Documents. Debtor agrees to reimburse Secured Party, on demand, all costs and expenses incurred by Secured Party in connection with such payment or performance and agrees that such reimbursement obligation shall constitute Indebtedness.

(e) Debtor shall, at all times, keep accurate and complete records of the Collateral, and Secured Party shall have the right to inspect and make copies of all of Debtor's books and records relating to the Collateral during normal business hours, after giving Debtor reasonable prior notice.

(f) Debtor agrees and acknowledges that any third person who may at any time possess all or any portion of the Collateral shall be deemed to hold, and shall hold, the Collateral as the agent of, and as pledge holder for, Secured Party. Secured Party may at any time give notice to any third person described in the preceding sentence that such third person is holding the Collateral as the agent of, and as pledge holder for, the Secured Party.

4. INSURANCE.

(a) Debtor shall at all times bear the entire risk of any loss, theft, damage to, or destruction of, any of the Collateral from any cause whatsoever.

(b) Debtor agrees to keep the Collateral insured against loss or damage by fire and extended coverage perils, theft, burglary, and for any or all Collateral, which are vehicles, for risk of loss by collision, and if requested by Secured Party, against such other risks as Secured Party may reasonably require. The insurance coverage shall be in an amount no less than the full replacement value of the Collateral, and deductible amounts, insurers and policies shall be acceptable to Secured Party. Debtor shall deliver to Secured Party policies or certificates of insurance evidencing such coverage. Each policy shall name Secured Party as a loss payee, shall provide for coverage to Secured Party regardless of the breach by Debtor of any warranty or representation made therein, shall not be subject to co-insurance, and shall provide that coverage may not be canceled or altered by the insurer except upon thirty (30) days prior written notice to Secured Party. Debtor appoints

Secured Party as its attorney-in-fact to make proof of loss, claim for insurance and adjustments with insurers, and to receive payment of and execute or endorse all documents, checks or drafts in connection with insurance payments. Secured Party shall not act as Debtor's attorney-in-fact unless Debtor is in default. Proceeds of insurance shall be applied, at the option of Secured Party, to repair or replace the Collateral or to reduce any of the Indebtedness.

5. REPORTS.

(a) Debtor shall promptly notify Secured Party of (i) any change in the name of Debtor, (ii) any change in the state of its incorporation or registration, (iii) any relocation of its chief executive offices, (iv) any of the Collateral being lost, stolen, missing, destroyed, materially damaged or worn out, or (v) any lien, claim or encumbrance other than Permitted Liens attaching to or being made against any of the Collateral.

(b) Debtor will deliver to Secured Party by June 30th following each fiscal year of Debtor. Debtor's complete financial statements including a balance sheet, income statement, statement of shareholders' equity and statement of cash flows, each prepared in accordance with generally accepted accounting principles consistently applied, certified by a recognized firm of certified public accountants satisfactory to Secured Party. Debtor will deliver to Secured Party copies of Debtor's quarterly financial statements including a balance sheet, income statement and statement of cash flows, each prepared by Debtor in accordance with generally accepted accounting principles consistently applied by Debtor. Debtor will deliver to Secured Party copies of all Forms 10-K and l0-Q, if any, within 30 days after the dates on which they are filed with the Securities and Exchange Commission. Debtor will deliver to Secured Party copies of Debtor's monthly financial statements including a balance sheet and income statement, each prepared by Debtor in accordance with generally accepted accounting principles consistently applied by Debtor and certified by Debtor's chief financial officer, within sixty (60) days after the close of each month. Debtor will deliver to Secured Party promptly upon request of Secured Party, in form satisfactory to Secured Party, such other and additional information as Secured Party may reasonably request from time to time.

6. FURTHER ASSURANCES.

(a) Debtor shall, upon request of Secured Party, furnish to Secured Party such further information, execute and deliver to Secured Party such documents and instruments (including, without limitation, Uniform Commercial Code financing statements) and shall do such other acts and things as Secured Party may at any time reasonably request relating to the perfection or protection of the security interest created by this Agreement or for the purpose of carrying out the intent of this Agreement. Without limiting the foregoing, Debtor shall cooperate and do all acts deemed necessary or advisable by Secured Party to continue in Secured Party

a perfected first security interest in the Collateral, and shall obtain and furnish to Secured Party any subordinations, releases, landlord waivers, lessor waivers, mortgagee waivers, or control agreements, and similar documents as may be from time to time requested by, and in form and substance satisfactory to, Secured Party.

(b) Debtor shall perform any and all acts requested by the Secured Party to establish, maintain and continue the Secured Party's security interest and liens in the Collateral, including but not limited to, executing or authenticating financing statements and such other instruments and documents when and as reasonably requested by the Secured Party. Debtor hereby authorizes Secured Party through any of Secured Party's employees, agents or attorneys to file any and all financing statements, including, without limitation, any original filings, continuations, transfers or amendments thereof required to perfect Secured Party's security interest and liens in the Collateral under the UCC without authentication or execution by Debtor. Debtor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any filing office in any Uniform Commercial Code jurisdiction any initial financing statement(s) and amendments thereto that (a) indicate the Collateral (i) as all assets of the Debtor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the State or such jurisdiction, or (ii) as being of an equal or lesser scope or with greater detail, and (b) provide any other information required by part 5 of Article 9 of the Uniform Commercial Code of the State or such other jurisdiction for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether the Debtor is an organization, the type of organization and any organization identification number issued to the Debtor, and (ii) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Collateral relates. The Debtor agrees to furnish any such information to the Secured Party promptly upon the Secured Party's request.

(c) Debtor shall indemnify and defend the Secured Party, its successors and assigns, and their respective directors, officers and employees, from and against all claims, actions and suits (including, without limitation, related attorneys' fees) of any kind whatsoever arising, directly or indirectly, in connection with any of the Collateral, except to the extent arising, directly or indirectly, from Secured Party's negligence or willful misconduct.

7. DEFAULT AND REMEDIES.

(a) Debtor shall be in default under this Agreement and each of the other Debt Documents if:

(i) Debtor breaches its obligation to pay when due any installment or other amount due or coming due under any of the Debt Documents;

(ii) Debtor, without the prior written consent of Secured Party, attempts to or does sell, rent, lease, license, mortgage, grant a security interest in, or otherwise transfer or encumber (except for Permitted Liens) any of the Collateral;

(iii) Debtor breaches any of its insurance obligations under Section 4;

(iv) Debtor breaches any of its other non-payment obligations under any of the Debt Documents and fails to cure that breach within thirty (30) days after written notice from Secured Party;

(v) Any warranty, representation or statement made by Debtor in any of the Debt Documents or otherwise in connection with any of the Indebtedness shall be false or misleading in any material respect;

(vi) Any of the Collateral is subjected to attachment, execution, levy, seizure or confiscation in any legal proceeding or otherwise, or if any legal or administrative proceeding is commenced against Debtor or any of the Collateral, which in the good faith judgment of Secured Party subjects any of the Collateral to a material risk of attachment, execution, levy, seizure or confiscation and no bond is posted or protective order obtained to negate such risk;

(vii) Debtor or any guarantor or other obligor for any of the Indebtedness (collectively "Guarantor") dissolves, terminates its existence, becomes insolvent or ceases to do business as a going concern;

(viii) Debtor or any Guarantor is a natural person, Debtor or any such Guarantor dies or becomes incompetent;

(ix) A receiver is appointed for all or of any part of the property of Debtor or any Guarantor, or Debtor or any Guarantor makes any assignment for the benefit of creditors;

(x) Debtor or any Guarantor files a petition under any bankruptcy, insolvency or similar law, or any such petition is filed against Debtor or any Guarantor and is not dismissed within forty-five (45) days;

(xi) Debtor's improper filing of an amendment or termination statement relating to a filed financing statement describing the Collateral, without the prior written consent of the Secured Party;

(xii) Debtor shall merge with or consolidate into any other entity or sell all or substantially all of its assets or in any manner terminate its existence;

(xiii) Debtor is a privately held corporation, more than 50% of Debtor's voting capital stock, or effective control of Debtor's voting capital stock, issued

and outstanding from time to time, is not retained by the holders of such stock on the date the Agreement is executed;

(xiv) Debtor is a publicly held corporation, there shall be a change in the ownership of Debtor's stock such that Debtor is no longer subject to the reporting requirements of the Securities Exchange Act of 1934 or no longer has a class of equity securities registered under Section 12 of the Securities Act of 1933;

(xv) Debtor defaults under any other financing arrangement between Debtor and a third party, other than an arrangement totaling less than $100,000 or other than a default that Debtor cures within fifteen (15) days; and

(xvi) Secured Party shall have determined in its sole, reasonable and good faith judgment that there has been a material adverse change in the financial condition from the date hereof, or a change or event shall have occurred which would impair the ability of Debtor to perform its obligations hereunder or under any of the other financing agreements to which it is a party or of Secured Party to enforce the Indebtedness or realize upon the Collateral;

(b) If Debtor is in default, the Secured Party, at its option, may declare any or all of the Indebtedness to be immediately due and payable, without demand or notice to Debtor or any Guarantor. The accelerated obligations and liabilities shall bear interest (both before and after any judgment) until paid in full at the lower of fifteen percent (15%) per annum or the maximum rate not prohibited by applicable law.

(c) Secured Party shall have all of the rights and remedies of a Secured Party under the Uniform Commercial Code, and under any other applicable law. Without limiting the foregoing, Secured Party shall have the right to (i) notify any account debtor of Debtor or any obligor on any instrument which constitutes part of the Collateral to make payment to the Secured Party, (ii) with or without legal process, enter any premises where the Collateral may be and take possession of and remove the Collateral from the premises or store it on the premises, (iii) sell the Collateral at public or private sale, in whole or in part, and have the right to bid and purchase at said sale, or (iv) lease or otherwise dispose of all or part of the Collateral, applying proceeds from such disposition to the obligations then in default. If requested by Secured Party, Debtor shall promptly assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party, which is reasonably convenient to both parties. Secured Party may also render any or all of the Collateral unusable at the Debtor's premises and may dispose of such Collateral on such premises without liability for rent or costs. Any notice that Secured Party is required to give to Debtor under the Uniform Commercial Code of the time and place of any public sale or the time after which any private sale or other intended disposition of the Collateral is to be made shall

be deemed to constitute reasonable notice if such notice is given to the last known address of Debtor at least five (5) days prior to such action. Upon the occurrence and during the continuation of an Event of Default. Debtor hereby appoints Secured Party as Debtor's attorney-in-fact, with full authority in Debtor's place and stead and in Debtor's name or otherwise, from time to time in Secured Party's sole and arbitrary discretion, to take any action and to execute any instrument which Secured Party may deem necessary or advisable to accomplish the purpose of this Agreement.

(d) Proceeds from any sale or lease or other disposition shall be applied: first, to all costs of repossession, storage, and disposition including without limitation attorneys', appraisers', and auctioneers' fees; second, to discharge the obligations then in default; third, to discharge any other Indebtedness of Debtor to Secured Party, whether as obligor, endorser, guarantor, surety or indemnitor; fourth, to expenses incurred in paying or settling liens and claims against the Collateral; and lastly, to Debtor, if there exists any surplus. Debtor shall remain fully liable for any deficiency.

(e) Debtor agrees to pay all reasonable attorneys' fees and other costs incurred by Secured Party in connection with the enforcement, assertion, defense or preservation of Secured Party's rights and remedies under this Agreement, or if prohibited by law, such lesser sum as may be permitted. Debtor further agrees that such fees and costs shall constitute Indebtedness.

(f) Secured Party's rights and remedies under this Agreement or otherwise arising are cumulative and may he exercised singularly or concurrently. Neither the failure nor any delay on the part of the Secured Party to exercise any right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise of that or any other right, power or privilege. SECURED PARTY SHALL NOT BE DEEMED TO HAVE WAIVED ANY OF ITS RIGHTS UNDER THIS AGREEMENT OR UNDER ANY OTHER AGREEMENT, INSTRUMENT OR PAPER SIGNED BY DEBTOR UNLESS SUCH WAIVER IS EXPRESSED IN WRITING AND SIGNED BY SECURED PARTY. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion.

(g) DEBTOR AND SECURED PARTY UNCONDITIONALLY WAIVE THEIR RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE OTHER DEBT DOCUMENTS, ANY OF THE INDEBTEDNESS SECURED HEREBY, ANY DEALINGS BETWEEN DEBTOR AND SECURED PARTY RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN DEBTOR AND SECURED PARTY. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF

ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT. THIS WAIVER IS IRREVOCABLE. THIS WAIVER MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING. THE WAIVER ALSO SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, ANY OTHER DEBT DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

8. MISCELLANEOUS.

(a) This Agreement any Note and/or any of the other Debt Documents may be assigned, in whole or in part, by Secured Party without notice to Debtor, and Debtor agrees not to assert against any such assignee, or assignee's assigns, any defense, set-off, recoupment claim or counterclaim which Debtor has or may at any time have against Secured Party for any reason whatsoever. Debtor agrees that if Debtor receives written notice of an assignment from Secured Party, Debtor will pay all amounts payable under any assigned Debt Documents to such assignee or as instructed by Secured Party. Debtor also agrees to confirm in writing receipt of the notice of assignment as may be reasonably requested by Secured Party or assignee.

(b) All notices to be given in connection with this Agreement shall be in writing, shall be addressed to the parties at their respective addresses, set forth in this Agreement (unless and until a different address may be specified in a written notice to the other party), and shall be deemed given (i) on the date of receipt if delivered in hand or by facsimile transmission, (ii) on the next business day after being sent by express mail, and (iii) on the fourth business day after being sent by regular, registered or certified mail. As used herein, the term "business day" shall mean and include any day other than Saturdays, Sundays, or other days on which commercial banks in New York, New York are required or authorized to be closed.

(c) Secured Party may correct patent errors and fill in all blanks in this Agreement or in any Collateral Schedule consistent with the agreement of the parties.

(d) Time is of the essence of this Agreement. This Agreement shall be binding, jointly and severally, upon all parties described as the "Debtor" and their respective heirs, executors, representatives, successors and assigns, and shall inure to the benefit of Secured Party, its successors and assigns.

(e) This Agreement and its Collateral Schedules constitute the entire agreement between the parties with respect to the subject matter of this Agreement and supersede all prior understandings (whether written, verbal or implied) with respect to such subject matter. THIS AGREEMENT AND ITS COLLATERAL SCHEDULES SHALL NOT BE CHANGED OR TERMINATED ORALLY OR BY COURSE OF CONDUCT, BUT ONLY BY A WRITING SIGNED BY BOTH PARTIES. Section headings contained in this Agreement have been included for convenience only, and shall not affect the construction or interpretation of this Agreement.

(f) This Agreement shall continue in full force and effect until all of the Indebtedness has been indefeasibly paid in full to Secured Party or its assignee. The surrender, upon payment or otherwise, of any Note or any of the other documents evidencing any of the Indebtedness shall not affect the right of Secured Party to retain the Collateral for such other Indebtedness as may then exist or as it may be reasonably contemplated will exist in the future. This Agreement shall automatically be reinstated if Secured Party is ever required to return or restore the payment of all or any portion of the Indebtedness (all as though such payment had never been made).

(g) DEBTOR AGREES THAT SECURED PARTY AND/OR ITS SUCCESSORS AND ASSIGNS SHALL HAVE THE OPTION BY WHICH STATE LAWS THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED: (A) THE LAWS OF THE COMMONWEALTH OF VIRGINIA; OR (B) IF COLLATERAL HAS BEEN PLEDGED TO SECURE THE LIABILITIES, THEN BY THE LAWS OF THE STATE OR STATES WHERE THE COLLATERAL IS LOCATED. AT SECURED PARTY'S OPTION, THIS CHOICE OF STATE LAWS IS EXCLUSIVE TO THE SECURED PARTY. DEBTOR SHALL NOT HAVE ANY OPTION TO CHOOSE THE LAWS BY WHICH THIS AGREEMENT SHALL BE GOVERNED. DEBTOR ACKNOWLEDGES THAT THIS AGREEMENT IS BEING SIGNED BY THE SECURED PARTY IN PARTIAL CONSIDERATION OF SECURED PARTY'S RIGHT TO ENFORCE IN THE JURISDICTION STATED ABOVE. DEBTOR CONSENTS TO JURISDICTION IN THE COMMONWEALTH OF VIRGINIA OR THE STATE IN WHICH ANY COLLATERAL IS LOCATED AND VENUE IN ANY FEDERAL OR STATE COURT IN THE COMMONWEALTH OF VIRGINIA OR THE STATE IN WHICH COLLATERAL IS LOCATED FOR SUCH PURPOSES AND WAIVES ANY AND ALL RIGHTS TO CONTEST SAID JURISDICTION AND VENUE AND ANY OBJECTION THAT SAID COUNTY IS NOT CONVENIENT. DEBTOR WAIVES ANY RIGHTS TO COMMENCE ANY ACTION AGAINST SECURED PARTY IN

ANY JURISDICTION EXCEPT VIRGINIA, OR IF SECURED PARTY CHOOSES TO LITIGATE IN A STATE WHERE COLLATERAL IS LOCATED THEN IN SUCH COUNTY AND STATE. SECURED PARTY AND DEBTOR HEREBY EACH EXPRESSLY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY WITH RESPECT TO ANY MATTER WHATSOEVER RELATING TO, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE LOAN, THE DOCUMENTS AND/OR THE TRANSACTIONS WHICH ARE THE SUBJECT OF THE DOCUMENTS.

IN WITNESS WHEREOF, Debtor and Secured Party, intending to be legally bound hereby, have duly executed this Agreement in one or more counterparts, each of which shall be deemed to be an original, as of the day and year first aforesaid.

SECURED PARTY:

Oxford Finance Corporation

By: /s/ Michael J. Altenburger

Name: Michael J. Altenburger

Title: Chief Financial Officer

DEBTOR:

Xcyte Therapies, Inc.

By: /s/ Kathi Cordova

Name: Kathi Cordova

Title: V.P. Finance

THE SECURITIES REPRESENTED BY THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

Warrant No. WPF-2
Date of Issuance: July 17, 2003

Number of Shares: 464
(subject to adjustment)

XCYTE THERAPIES, INC.

Series F Preferred Stock Purchase Warrant

Xcyte Therapies, Inc., a Delaware corporation (the "Company"), for value received, hereby certifies that Oxford Finance Corporation, or its registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before the Expiration Date (as defined in Section 7 below), up to 464 shares of Series F Preferred Stock of the Company ("Preferred Stock"), at a purchase price of $2.78 per share. The shares purchasable upon exercise of this Warrant and the purchase price per share, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock" and the "Purchase Price," respectively.

1. **Exercise**.

(a) **Manner of Exercise**. This Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of the Company, or at such other office or agency as the Company may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check, wire transfer or by the surrender of promissory notes or other instruments representing indebtedness of the Company to the Registered Holder.

(b) **Effective Time of Exercise**. Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant shall have been surrendered to the Company as provided in Section 1(a) above. At such time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 1(d) below shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(c) **Net Issue Exercise**.

(i) In lieu of exercising this Warrant in the manner provided above in Section 1(a), the Registered Holder may elect to receive shares equal to the value of this Warrant (or the portion thereof being canceled) by surrender of this Warrant at the principal office of the

Company together with notice of such election on the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or such Registered Holder's duly authorized attorney, in which event the Company shall issue to such Registered Holder a number of shares of Warrant Stock computed using the following formula:

$$X = \frac{Y\,(A - B)}{A}$$

Where X = The number of shares of Warrant Stock to be issued to the Registered Holder.

Y = The number of shares of Warrant Stock purchasable under this Warrant (at the date of such calculation).

A = The fair market value of one share of Warrant Stock (at the date of such calculation).

B = The Purchase Price (as adjusted to the date of such calculation).

(ii) For purposes of this Section 1(c), the fair market value of Warrant Stock on the date of calculation shall mean with respect to each share of Warrant Stock:

(A) if the exercise is in connection with an initial public offering of the Common Stock of the Company (the "Common Stock"), and if the Company's Registration Statement relating to such public offering has been declared effective by the Securities and Exchange Commission, then the fair market value shall be the product of (x) the initial "Price to Public" per share specified in the final prospectus with respect to the offering and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the date of calculation;

(B) if this Warrant is exercised after, and not in connection with, the Company's initial public offering, and the Company's Common Stock is traded on a securities exchange or The Nasdaq Stock Market or actively traded over the counter:

(1) if the Company's Common Stock is traded on a securities exchange or The Nasdaq Stock Market, the fair market value shall be deemed to be the product of (x) the average of the closing prices over a 30-day period ending three days before the date of calculation and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible on such date; or

(2) if the Company's Common Stock is actively traded over the counter, the fair market value shall be deemed to be the product of(x) the average of the closing bid or sales price (whichever is applicable) over the 30-day period ending three days before the date of calculation and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible on such date; or

(C) if neither (A) nor (B) is applicable, the fair market value of Warrant Stock shall be at the highest price per share which the Company could obtain on the date of calculation from a willing buyer (not a current employee or director) for shares of

Warrant Stock sold by the Company, from authorized but unissued shares, as determined in good faith by the Board of Directors, unless the Company is at such time subject to an acquisition as described in Section 7(b) below, in which case the fair market value of Warrant Stock shall be deemed to be the value received by the holders of such stock pursuant to such acquisition.

(d) **Delivery to Registered Holder**. As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within ten (10) days thereafter, the Company at its expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Section 1(a) or 1(c) above.

2. **Adjustments**.

(a) **Redemption or Conversion of Preferred Stock**. If all of the Preferred Stock is redeemed or converted into shares of Common Stock, then this Warrant shall automatically become exercisable for that number of shares of Common Stock equal to the number of shares of Common Stock that would have been received if this Warrant had been exercised in full and the shares of Preferred Stock received thereupon bad been simultaneously converted into shares of Common Stock immediately prior to such event, and the Exercise Price shall be automatically adjusted to equal the number obtained by dividing (i) the aggregate Purchase Price of the shares of Preferred Stock for which this Warrant was exercisable immediately prior to such redemption or conversion, by (ii) the number of shares of Common Stock for which this Warrant is exercisable immediately after such redemption or conversion.

(b) **Stock Splits and Dividends**. If outstanding shares of the Company's Preferred Stock shall be subdivided into a greater number of shares or a dividend in Preferred Stock shall be paid in respect of Preferred Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Preferred Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (1) an amount equal to the number of shares issuable upon the exercise of this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect

immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(c) **Reclassification, Etc.** In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar corporate reorganization on or after the date hereof, then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Registered Holder would have been entitled upon such consummation if such Registered Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 2.

(d) **Adjustment Certificate**. When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 2, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(e) **Acknowledgement**. In order to avoid doubt, it is acknowledged that the holder of this Warrant shall be entitled to the benefit of all adjustments in the number of shares of Common Stock of the Company issuable upon conversion of the Preferred Stock of the Company which occur prior to the exercise of this Warrant, including without limitation, any increase in the number of shares of Common Stock issuable upon conversion as a result of a dilutive issuance of capital stock.

3. **Transfers**.

(a) **Unregistered Security**. Each holder of this Warrant acknowledges that this Warrant, the Warrant Stock and the Common Stock of the Company have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), and agrees not to sell, pledge, distribute, offer for sale, transfer or otherwise dispose of this Warrant, any Warrant Stock issued upon its exercise or any Common Stock issued upon conversion of the Warrant Stock in the absence of (i) an effective registration statement under the Securities Act as to this Warrant, such Warrant Stock or such Common Stock and registration or qualification of this Warrant, such Warrant Stock or such Common Stock under any applicable U.S. federal or state securities law then in effect, or (ii) an exemption from registration or qualification under the Securities Act. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect.

(b) **Transferability**. Subject to the provisions of Sections 3(a) and 6 hereof, this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of the Warrant with a properly executed assignment (in the form of Exhibit B hereto) at the principal office of the Company; provided, however, that this Warrant may not be transferred in whole or in part without the prior written consent of the Company.

(c) **Warrant Register**. The Company will maintain a register containing the names and addresses of the Registered Holders of this Warrant. Until any transfer of this Warrant is made in the warrant register, the Company may treat the Registered Holder of this Warrant as the absolute owner hereof for all purposes; provided, however, that if this Warrant is properly assigned in blank, the Company may (but shall not be required to) treat the bearer hereof as the absolute owner hereof for all purposes, notwithstanding any notice to the contrary. Any Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Company requesting such change.

4. **No Impairment**. The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 15 below) 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 in order to protect the rights of the holder of this Warrant against impairment.

5. **Representations and Warranties of the Registered Holder**. The Registered Holder hereby represents and warrants to the Company that:

(a) **Authorization**. The Registered Holder has full power and authority to enter into this Warrant. The Warrant, when executed and delivered by the Registered Holder, will constitute a valid and legally binding obligation of the Registered Holder, enforceable in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and any other laws of general application affecting enforcement of creditors' rights generally, and as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies.

(b) **Purchase Entirely for Own Account**. This Warrant is issued to the Registered Holder in reliance upon the Registered Holder's representation to the Company, which by the Registered Holder's acceptance of this Warrant, the Registered Holder hereby confirms, that the Warrant to be acquired by the Registered Holder, the Warrant Stock and the Common Stock to be issued upon the conversion of the Warrant Stock (collectively, the "Securities") will be acquired for investment for the Registered Holder's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that the Registered Holder has no present intention of selling, granting any participation in, or otherwise distributing the same. By accepting this Warrant, the Registered Holder further represents that the Registered Holder does not presently have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to any of the Securities. The Registered Holder has not been formed for the specific purpose of acquiring the Securities.

(c) **Disclosure of Information**. The Registered Holder has had an opportunity to discuss the Company's business, management, financial affairs and the terms and conditions of the offering of the Securities with the Company's management and has had an opportunity to review the Company's facilities. The Registered Holder understands that such discussions, as well as any written information delivered by the Company to the Registered Holder, were intended to describe the aspects of the Company's business which it believes to be material.

(d) **Restricted Securities**. The Registered Holder understands that the Securities have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Registered Holder's representations as expressed herein. The Registered Holder understands that the Securities are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, the Registered Holder must hold the Securities indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available. The Registered Holder acknowledges that the Company has no obligation to register or qualify the Securities for resale, The Registered Holder further acknowledges that if an exemption front registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Securities, and on requirements relating to the Company which are outside of the Registered Holder's control, and which the Company is under no obligation and may not be able to satisfy.

(e) **No Public Market**. The Registered Holder understands that no public market now exists for any of the securities issued by the Company, and that the Company has made no assurances that a public market will ever exist for the Securities.

(f) **Accredited or Sophisticated Investor**. The Registered Holder is an accredited investor as defined in Rule 501(a) of Regulation D promulgated under the Securities Act

6. **Lock-up Agreement**.

(a) **Lock-up Period; Agreement**. In connection with the initial public offering of the Company's securities and upon request of the Company or the underwriters managing such offering of the Company's securities, the Registered Holder agrees 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, for such period of time (not to exceed 180 days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the Company's initial public offering.

(b) **Stop-Transfer Instructions**. In order to enforce the foregoing covenants, the Company may impose stop-transfer instructions with respect to the securities of the Registered Holder (and the securities of every other person subject to the restrictions in Section 6(a)).

(c) **Transferees Bound**. The Registered Holder agrees that prior to the Company's initial public offering it will not transfer securities of the Company unless each transferee agrees in writing to be bound by all of the provisions of this Section 6.

7. **Termination**. This Warrant (and the right to purchase securities upon exercise hereof) shall terminate upon the earliest to occur of the following (the "Expiration Date"): (a)

July 17, 2010, (b) the sale, conveyance or disposal of all or substantially all of the Company's property or business or the Company's merger with or into or consolidation with any other corporation (other than a wholly-owned subsidiary of the Company) or any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Company is disposed of, provided that this Section 7 shall not apply to a merger effected exclusively for the purpose of changing the domicile of the Company or to an equity financing in which the Company is the surviving corporation, or (c) the closing of a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act

8. **Notices of Certain Transactions**. In case:

(a) the Company shall take a record of the holders of its Preferred Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company, or

(d) of any redemption of the Preferred Stock or mandatory conversion of the Preferred Stock into Common Stock of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion is to take place, and the time, if any is to be fixed, as of which the holders of record of Preferred Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

9. **Reservation of Stock**. The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

10. **Exchange of Warrants**. Upon the surrender by the Registered Holder of any Warrantor Warrants, properly endorsed, to the Company at the principal office of the Company, the Company will, subject to the provisions of Section 3 hereof, issue and deliver to or upon the

order of such Registered Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Preferred Stock called for on the face or faces of the Warrant or Warrants so surrendered.

11. **Replacement of Warrants**. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Company, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Company will issue, in lieu thereof, a new Warrant of like tenor.

12. **No Rights as Stockholder**. Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company.

13. **No Fractional Shares**. No fractional shares of Preferred Stock will be issued in connection with any exercise hereunder. In lieu of any fractional shares which would otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the fair market value of one share of Preferred Stock on the date of exercise, as determined in good faith by the Company's Board of Directors.

14. **Amendment or Waiver**. Any term of this Warrant may be amended or waived only by an instrument in writing signed by the party against which enforcement of the amendment or waiver is sought.

15. **Headings**. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant

16. **Governing Law**. This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of Washington, without giving effect to principles of conflicts of law.

17. **Survival of Representations**. Unless otherwise set forth in this Warrant, the warranties, representations and covenants of the Company and the Purchasers contained in or made pursuant to this Warrant shall survive the execution and delivery of this Warrant.

18. **Transfer: Successors and Assigns**. The terms and conditions of this Warrant shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Warrant, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Warrant, except as expressly provided in this Warrant.

19. **Counterparts**. This Warrant may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

20. **Attorney's Fees**. If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of any of this Warrant, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

21. **Severability**. If one or more provisions of this Warrant are held to he unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Warrant, (b) the balance of this Warrant shall be interpreted as if such provision were so excluded and (c) the balance of this Warrant shall be enforceable in accordance with its terms.

22. **Delays or Omissions**. No delay or omission to exercise any right, power or remedy accruing to any party under this Warrant, upon any breach or default of any other party under this Warrant, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Warrant, or any waiver on the part of any party of any provisions or conditions of this Warrant, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Warrant or by law or otherwise afforded to any party, shall be cumulative and not alternative.

23. **Notices**. Any notice required or permitted by this Warrant shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by overnight courier or sent by fax, or 48 hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, addressed to the party to be notified at such party's address as set forth on the signature page, or as subsequently modified by written notice.

24. **Entire Agreement**. This Warrant, and the documents referred to herein constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements relating to the subject matter hereof existing between the parties hereto are expressly canceled.

XCYTE THERAPIES, INC.

By: /s/ Ronald J. Berenson

Ronald J. Berenson, M.D., President

Address: 1124 Columbia Street
Suite 130
Seattle, WA 98104

Fax Number: (206) 262-0900

Accepted and Agreed:

REGISTERED HOLDER

/s/ Michael J. Altenburger

Oxford Finance Corporation

Address: 133 N. Fairfax Street
Alexandria, VA 22314

Fax Number: 703-519-5225

EXHIBIT A

PURCHASE/EXERCISE FORM

To: Xcyte Therapies, Inc. Dated:

The undersigned, pursuant to the provisions act forth in the attached Warrant No. WPF-2, hereby irrevocably elects to (a) purchase _____ shares of the Preferred Stock covered by such Warrant and herewith makes payment of $_____, representing the full purchase price for such shares at the price per share provided for in such Warrant, or (b) exercise such Warrant for _____ shares purchasable under the Warrant pursuant to the Net Issue Exercise provisions of Section 1(c) of the Warrant,

The undersigned acknowledges that it has reviewed the representations and warranties contained in Section 5 of the Warrant and by its signature below hereby makes such representations and warranties to the Company as of the date hereof

Signature: _____

Name (print): _____

Title (if applic.): _____

Company.(if applic.): _____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of Series F Preferred Stock covered thereby set forth below, unto:

Name of Assignee	Address/Fax Number	No. of Shares

Dated: _____

Signature: _____

_____

Witness: _____

Exhibit 10.14

THE SECURITIES REPRESENTED BY THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933

Warrant No. WPF-3
Date of Issuance: September 5, 2003

Number of Shares: 770
(subject to adjustment)

XCYTE THERAPIES, INC.

Series F Preferred Stock Purchase Warrant

Xcyte Therapies, Inc., a Delaware corporation (the "Company"), for value received, hereby certifies that Oxford Finance Corporation, or its registered assigns (the "Registered Holder"), is entitled, subject to the terms set forth below, to purchase from the Company, at any time after the date hereof and on or before the Expiration Date (as defined in Section 7 below), up to 770 shares of Series F Preferred Stock of the Company ("Preferred Stock"), at a purchase price of $2.78 per share. The shares purchasable upon exercise of this Warrant and the purchase price per share, as adjusted from time to time pursuant to the provisions of this Warrant, are hereinafter referred to as the "Warrant Stock" and the 'Purchase Price," respectively.

1. Exercise.

(a) **Manner of Exercise.** This Warrant may be exercised by the Registered Holder, in whole or in part, by surrendering this Warrant, with the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or by such Registered Holder's duly authorized attorney, at the principal office of the Company, or at such other office or agency as the Company may designate, accompanied by payment in full of the Purchase Price payable in respect of the number of shares of Warrant Stock purchased upon such exercise. The Purchase Price may be paid by cash, check, wire transfer or by the surrender of promissory notes or other instruments representing indebtedness of the Company to the Registered Holder.

(b) **Effective Time of Exercise.** Each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant shall have been surrendered to the Company as provided in Section 1(a) above. At such time, the person or persons in whose name or names any certificates for Warrant Stock shall be issuable upon such exercise as provided in Section 1(d) below shall be deemed to have become the holder or holders of record of the Warrant Stock represented by such certificates.

(c) **Net Issue Exercise.**

(i) In lieu of exercising this Warrant in the manner provided above in Section 1(a), the Registered Holder may elect to receive shares equal to the value of this Warrant

(or the portion thereof being canceled) by surrender of this Warrant at the principal office of the Company together with notice of such election on the purchase/exercise form appended hereto as Exhibit A duly executed by such Registered Holder or such Registered Holder's duly authorized attorney, in which event the Company shall issue to such Registered Holder a number of shares of Warrant Stock computed using the following formula:

$$X = \frac{Y(AB)}{A}$$

Where X = The number of shares of Warrant Stock to be issued to the Registered Holder.

Y = The number of shares of Warrant Stock purchasable under this Warrant (at the date of such calculation).

A = The fair market value of one share of Warrant Stock (at the date of such calculation).

B = The Purchase Price (as adjusted to the date of such calculation).

(ii) For purposes of this Section 1(c), the fair market value of Warrant Stock on the date of calculation shall mean with respect to each share of Warrant Stock:

(A) if the exercise is in connection with an initial public offering of the Common Stock of the Company (the "Common Stock"), and if the Company's Registration Statement relating to such public offering has been declared effective by the Securities and Exchange Commission, then the fair market value shall be the product of (x) the initial "Price to Public" per share specified in the final prospectus with respect to the offering and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the date of calculation;

(B) if this Warrant is exercised after, and not in connection with, the Company's initial public offering, and the Company's Common Stock is traded on a securities exchange or The Nasdaq Stock Market or actively traded over the counter:

(1) if the Company's Common Stock is traded on a securities exchange or The Nasdaq Stock Market, the fair market value shall be decreed to be the product of (x) the average of the closing prices over a 30-day period ending three days before the date of calculation and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible on such date; or

(2) if the Company's Common Stock is actively traded over the counter, the fair market value shall be deemed to be the product of (x) the avenge of the closing bid or sales price (whichever is applicable) over the 30-day period ending three days before the date of calculation and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible on such date; or

(C) if neither (A) nor (B) is applicable, the fair market value of Warrant Stock shall be at the highest price per share which the Company could obtain on the date of calculation from a willing buyer (not a current employee or director) for shares of Warrant Stock sold by the Company, from authorized but unissued shares, as determined in good faith by the Board of Directors, unless the Company is at such time subject to an acquisition as described in Section 7(b) below, in which case the fair market value of Warrant Stock shall be deemed to be the value received by the holders of such stock pursuant to such acquisition.

(d) **Delivery to Registered Holder.** As soon as practicable after the exercise of this Warrant in whole or in part, and in any event within ten (10) days thereafter, the Company at its expense will cause to be issued in the name of, and delivered to, the Registered Holder, or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct:

(i) a certificate or certificates for the number of shares of Warrant Stock to which such Registered Holder shall be entitled, and

(ii) in case such exercise is in part only, a new warrant or warrants (dated the date hereof) of like tenor, calling in the aggregate on the face or faces thereof for the number of shares of Warrant Stock equal (without giving effect to any adjustment therein) to the number of such shares called for on the face of this Warrant minus the number of such shares purchased by the Registered Holder upon such exercise as provided in Section 1(a) or 1(c) above.

2. **Adjustments.**

(a) **Redemption or Conversion of Preferred Stock.** If all of the Preferred Stock is redeemed or converted into shares of Common Stock, then this Warrant shall automatically become exercisable for that number of shares of Common Stock equal to the number of shares of Common Stock that would have been received if this Warrant had been exorcised in full and the shares of Preferred Stock received thereupon had been simultaneously converted into shares of Common Stock immediately prior to such event, and the Exercise Price shall be automatically adjusted to equal the number obtained by dividing (i) the aggregate Purchase Price of the shares of Preferred Stock for which this Warrant was exercisable immediately prior to such redemption or conversion, by (ii) the number of shares of Common Stock for which this Warrant is exercisable immediately after such redemption or conversion.

(b) **Stock Splits and Dividends.** If outstanding shares of the Company's Preferred Stock shall be subdivided into a greater number of shares or a dividend in Preferred Stock shall be paid in respect of Preferred Stock, the Purchase Price in effect immediately prior to such subdivision or at the record date of such dividend shall simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend be proportionately reduced. If outstanding shares of Preferred Stock shall be combined into a smaller number of shares, the Purchase Price in effect immediately prior to such combination shall, simultaneously with the effectiveness of such combination, be proportionately increased. When any adjustment is required to be made in the Purchase Price, the number of shares of Warrant Stock purchasable upon the exercise of this Warrant shall be changed to the number determined by dividing (i) an amount equal to the number of shares issuable upon the exercise of this Warrant immediately prior to such adjustment, multiplied by the Purchase Price in effect immediately prior to such adjustment, by (ii) the Purchase Price in effect immediately after such adjustment.

(c) **Reclassification, Etc.** In case there occurs any reclassification or change of the outstanding securities of the Company or of any reorganization of the Company (or any other corporation the stock or securities of which are at the time receivable upon the exercise of this Warrant) or any similar corporate reorganization on or after the date hereof, then and in each such case the Registered Holder, upon the exercise hereof at any time after the consummation of such reclassification, change, or reorganization shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise hereof prior to such consummation, the stock or other securities or property to which such Registered Holder would have been entitled upon such consummation if such Registered Holder had exercised this Warrant immediately prior thereto, all subject to further adjustment pursuant to the provisions of this Section 2.

(d) **Adjustment Certificate.** When any adjustment is required to be made in the Warrant Stock or the Purchase Price pursuant to this Section 2, the Company shall promptly mail to the Registered Holder a certificate setting forth (i) a brief statement of the facts requiring such adjustment, (ii) the Purchase Price after such adjustment and (iii) the kind and amount of stock or other securities or property into which this Warrant shall be exercisable after such adjustment.

(e) **Acknowledgment.** In order to avoid doubt, it is acknowledged that the holder of this Warrant shall be entitled to the benefit of all adjustments in the number of shares of Common Stock of the Company issuable upon conversion of the Preferred Stock of the Company which occur prior to the exercise of this Warrant, including without limitation, any increase in the number of shares of Common Stock issuable upon conversion as a result of a dilutive issuance of capital stock.

3. Transfers.

(a) **Unregistered Security.** Each holder of this Warrant acknowledges that this Warrant, the Warrant Stock and the Common Stock of the Company have not been registered under the Securities Act of 1933, as amended (the "Securities Act", and agrees not to sell, pledge. distribute, offer for sale, transfer or otherwise dispose of this Warrant, any Warrant Stock issued upon its exercise or any Common Stock issued upon conversion of the Warrant Stock in the absence of (i) an effective registration statement under the Securities Act as to this Warrant, such Warrant Stock or such Common Stock and registration or qualification of this Warrant, such Warrant Stock or such Common Stock under any applicable U.S. federal or state securities law then in effect, or (ii) an exemption from registration or qualification under the Securities Act. Each certificate or other instrument for Warrant Stock issued upon the exercise of this Warrant shall bear a legend substantially to the foregoing effect.

(b) **Transferability.** Subject to the provisions of Sections 3(a) and 6 hereof, this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of the Warrant with a properly executed assignment (in the form of Exhibit B hereto) at the principal office of the Company; provided, however, that this Warrant may not be transferred in whole or in part without the prior written consent of the Company.

(c) **Warrant Register.** The Company will maintain a register containing the names and addresses of the Registered Holders of this Warrant. Until any transfer of this Warrant is made in the warrant register, the Company may treat the Registered Holder of this Warrant as the absolute owner hereof for all purposes; provided, however, that if this Warrant is properly assigned in blank, the Company may (but shall not be required to) treat the bearer hereof as the absolute owner hereof for all purposes, notwithstanding any notice to the contrary. My

Registered Holder may change such Registered Holder's address as shown on the warrant register by written notice to the Company requesting such change.

4. **No Impairment.** The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 15 below) 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 in order to protect the rights of the holder of this Warrant against impairment.

5. **Representations and Warranties of the Registered Holder.** The Registered Holder hereby represents and warrants to the Company that:

(a) **Authorization.** The Registered Holder has full power and authority to enter into this Warrant. The Warrant, when executed and delivered by the Registered Holder, will constitute a valid and legally binding obligation of the Registered Holder, enforceable in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and any other laws of general application affecting enforcement of creditors' rights generally, and as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies.

(b) **Purchase Entirely for Own Account**. This Warrant is issued to the Registered Holder in reliance upon the Registered Holder's representation to the Company, which by the Registered Holder's acceptance of this Warrant, the Registered Holder hereby confirms, that the Warrant to be acquired by the Registered Holder, the Warrant Stock and the Common Stock to be issued upon the conversion of the Warrant Stock (collectively, the "Securities") will be acquired for investment for the Registered Holder's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that the Registered Holder has no present intention of selling, granting any participation in, or otherwise distributing the same. By accepting this Warrant, the Registered Holder further represents that the Registered Holder does not presently have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to any of the Securities. The Registered Holder has not been formed for the specific purpose of acquiring the Securities.

(c) **Disclosure of Information.** The Registered Holder has had an opportunity to discuss the Company's business, management, financial affairs and the terms and conditions of the offering of the Securities with the Company's management and has had an opportunity to review the Company's facilities. The Registered Holder understands that such discussions, as well as any written information delivered by the Company to the Registered Holder, were intended to describe the aspects of the Company's business which it believes to be Material.

(d) **Restricted Securities.** The Registered Holder understands that the Securities have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona ride nature of the investment intent and the accuracy of the Registered Holder's representations ~ expressed herein. The Registered Holder understands that the Securities are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, the Registered Holder must hold the Securities indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available.

The Registered Holder acknowledges that the Company has no obligation to register or qualify the Securities for resale. The Registered Holder further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Securities, and on requirements relating to the Company which are outside of the Registered Holder's control, and which the Company is under no obligation and may not be able to satisfy.

(e) **No Public Market.** The Registered Holder understands that no public market now exists for any of the securities issued by the Company, and that the Company has made no assurances that a public market will ever exist for the Securities.

(f) **Accredited or Sophisticated Investor.** The Registered Holder is an accredited investor as defined in Rule 501(a) of Regulation D promulgated under the Securities Act.

6. **Lock-up Agreement.**

(a) **Lock-up Period: Agreement.** In connection with the initial public offering of the Company's securities and upon request of the Company or the underwriters managing such offering of the Company's securities, the Registered Holder agrees 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, for such period of time (not to exceed 180 days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the Company's initial public offering.

(b) **Stop-Transfer Instructions.** In order to enforce the foregoing covenants, the Company may impose stop-transfer instructions with respect to the securities of the Registered Holder (and the securities of every other person subject to the restrictions in Section 6(a)).

(c) **Transferees Bound.** The Registered Holder agrees that prior to the Company's initial public offering it will not transfer securities of the Company unless each transferee agrees in writing to be bound by all of the provisions of this Section 6.

7. **Termination.** This Warrant (and the right to purchase securities upon exercise hereof) shall terminate upon the earliest to occur of the following (the "Expiration Date"): (a) 7 years from the issuance date, (b) the sale, conveyance or disposal of all or substantially all of the Company's property or business or the Company's merger with or into or consolidation with any other corporation (other than a wholly-owned subsidiary of the Company) or any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Company is disposed of, provided that this Section 7 shall not apply to a merger effected exclusively for the purpose of changing the domicile of the Company or to an equity financing in which the Company is the surviving corporation, or (c) the closing of a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act.

8. **Notices of Certain Transactions.** In case:

(a) the Company shall take a record of the holders of Its Preferred Stock (or other stock or securities at the time deliverable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of stock of any class or any other securities, or to receive any other right, or

(b) of any capital reorganization of the Company, any reclassification of the capital stock of the Company, any consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving entity), or any transfer of all or substantially all of the assets of the Company, or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company, or

(d) of any redemption of the Preferred Stock or mandatory conversion of the Preferred Stock into Common Stock of the Company,

then, and in each such case, the Company will mail or cause to be mailed to the Registered Holder of this Warrant a notice specifying, as the case may be, (1) the date on which a record is to be taken for the purpose of such dividend, distribution or right, and stating the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion is to take place, and the time, if any is to be fixed, as of which the holders of record of Preferred Stock (or such other stock or securities at the time deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation, winding-up, redemption or conversion) are to be determined. Such notice shall be mailed at least ten (10) days prior to the record date or effective date for the event specified in such notice.

9. **Reservation of Stock.** The Company will at all times reserve and keep available, solely for the issuance and delivery upon the exercise of this Warrant, such shares of Warrant Stock and other stock, securities and property, as from time to time shall be issuable upon the exercise of this Warrant.

10. **Exchange of Warrants.** Upon the surrender by the Registered Holder of any Warrant or Warrants, properly endorsed, to the Company at the principal office of the Company, the Company will, subject to the provisions of Section 3 hereof, issue and deliver to or upon the order of such Registered Holder, at the Company's expense, a new Warrant or Warrants of like tenor, in the name of such Registered Holder or as such Registered Holder (upon payment by such Registered Holder of any applicable transfer taxes) may direct, calling in the aggregate on the face or faces thereof for the number of shares of Preferred Stock called for on the face or faces of the Warrant or Warrants so surrendered.

11. **Replacement of Warrants.** Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) upon delivery of an indemnity agreement (with surety if reasonably required) in an amount reasonably satisfactory to the Company, or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Company will issue, in lieu thereof, a new Warrant of like tenor.

12. **No Right as Stockholder.** Until the exercise of this Warrant, the Registered Holder of this Warrant shall not have or exercise any rights by virtue hereof as a stockholder of the Company.

13. **No Fractional Shares.** No fractional shares of Preferred Stock will be issued in connection with any exercise hereunder. In lieu of any fractional shares which would otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the fair market value of one share of Preferred Stock on the date of exercise, as determined in good faith by the Company's Board of Directors.

14. **Amendment or Waiver.** Any term of this Warrant may be amended or waived only by an instrument in writing signed by the party against which enforcement of the amendment or waiver is sought.

15. **Headings.** The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

16. **Governing Law.** This Warrant shall be governed, construed and interpreted in accordance with the laws of the State of Washington, without giving effect to principles of conflicts of law.

17. **Survival Representations.** Unless otherwise set forth in this Warrant, the warranties, representations and covenants of die Company and the Purchasers contained in or made pursuant to this Warrant shall survive the execution arid delivery of this Warrant.

18. **Transfer; Successors and Assigns.** The terms and conditions of this Warrant shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Warrant, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Warrant, except as expressly provided in this Warrant.

19. **Counterparts.** This Warrant may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

20. **Attorney's Fees.** If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of any of this Warrant, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

21. **Severability.** If one or more provisions of this Warrant are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Warrant, (b) the balance of this Warrant shall be interpreted as if such provision were so excluded and (c) the balance of this Warrant shall be enforceable in accordance with its terms.

22. **Delays or Omissions.** No delay or omission to exercise any right, power or remedy accruing to any party under this Warrant, upon any breach or default of any other party under this Warrant, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring: nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Warrant, or any waiver on the part of any party of any provisions or conditions of this Warrant, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Warrant or by law or otherwise afforded to any party, shall be cumulative and not alternative.

23. **Notices.** Any notice required or permitted by this Warrant shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by overnight courier or sent by fax, or 48 hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, addressed to the party to be notified at such party's address as set forth on the signature page, or as subsequently modified by written notice.

24. **Entire Agreement.** This Warrant, and the documents referred to herein constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements relating to the subject matter hereof existing between the parties hereto are expressly canceled.

XCYTE THERAPIES, INC.

By: /s/ Ronald J. Berenson

Ronald J. Berenson. M.D., President

Address: 1124 Columbia Street
Suite 130
Seattle, WA 98104

Fax Number: (206) 262-0900

Accepted and Agreed:

REGISTERED HOLDER

/s/ Michael J. Altenburger

Oxford Finance Corporation

Address: l33 North Fairfax Street
Alexandria, VA 22314

Fax Number (703) 519-5225

EXHIBIT A

PURCHASE/EXERCISE FORM

To: Xcyte Therapies, Inc. Dated:

The undersigned, pursuant to the provisions set forth in the attached Warrant No. WPF-3, hereby irrevocably elects to (a) purchase _____ shares of the Preferred Stock covered by such Warrant and herewith makes payment of $_____, representing the full purchase price for such shares at the price per share provided for in such Warrant, or (b) exercise such Warrant for _____ shares purchasable under the Warrant pursuant to the Net Issue Exercise provisions of Section 1(c) of the Warrant.

The undersigned acknowledges that it has reviewed the representations and warranties contained in Section 5 of the Warrant and by its signature below hereby makes such representations and warranties to the Company as of the date hereof.

Signature: _____

Name (print): _____

Title (if applic.): _____

Company (if applic.): _____

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers all of the rights of the undersigned under the attached Warrant with respect to the number of shares of Series F Preferred Stock covered thereby set forth below, unto:

Name of Assignee	Address/Fax Number	No. of Shares

Dated: _____ Signature: _____

_____

Witness: _____

Exhibit 10.15

SENIOR LOAN AND SECURITY AGREEMENT NO. 6261

THIS SENIOR LOAN AND SECURITY AGREEMENT NO. 6261 (this "Security Agreement") is dated as of July 1, 1999 between XCYTE THERAPIES, NC., a Delaware corporation ("Borrower") and PHOENIX LEASING INCORPORATED, a California corporation ("Lender").

RECITALS

A. Borrower desires to borrow from Lender in one or more borrowings the Commitment amount as defined in Section 3(a)(ii) below, and Lender desires to loan, subject to the terms and conditions herein set forth, such amount to Borrower (each, a "Loan" and collectively, the "Loans"). Such borrowings shall be evidenced by one or more Senior Secured Promissory Notes (each, a "Note" and collectively, the "Notes"), in the form attached hereto.

B. As security for Borrower's obligations to Lender under this Security Agreement, the Notes and any other agreement between Borrower and Lender, Borrower will grant to Lender hereunder a first priority security interest in certain of its equipment, machinery, fixtures, other items and intangibles, and also certain custom use equipment, installation and delivery costs, purchase tax, toolings, software and other items generally considered fungible or expendable ("Soft Costs") whether now owned by Borrower or hereafter acquired, and all substitutions and replacements of and additions, improvements, accessions and accumulations to said equipment, machinery and fixtures and other items, together with all rents, issues, income, profits and proceeds therefrom which is described on the Note attached hereto or any subsequently-executed Note entered into by Lender and Borrower and which incorporates this Security Agreement by reference (collectively, the "Collateral").

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. TERM OF AGREEMENT. The term of this Security Agreement begins on the date set forth above and shall continue thereafter and be in effect so long as and at any time any Note entered into pursuant to this Security Agreement is in effect. The Term and monthly payment amount payable with respect to each item of Collateral shall be as set forth in and as stated in the respective Note(s). The terms of each Note hereto are subject to all conditions and provisions of this Security Agreement as it may at any time be amended. Each Note shall constitute a separate and independent Loan and contractual obligation of Borrower and shall incorporate the terms and conditions of this Security Agreement and any additional provisions contained in such Note. In the event of a conflict between the terms and conditions of this Security Agreement and any provisions of such Note, the provisions of such Note shall prevail with respect to such Note only.

SECTION 2. NON-CANCELABLE LOAN. This Security Agreement and each Note cannot be canceled or terminated except as expressly provided herein. Borrower agrees that its obligations to pay all monthly payment amounts and other sums payable hereunder (and under any Note) and the rights of Lender and any assignee in and to such monthly payment amounts and other sums, are absolute and unconditional and are not subject to any abatement, reduction, setoff, defense, counterclaim or recoupment due or alleged to be due to, or by reason of, any past, present or future claims which Borrower may have against Lender, any assignee, the manufacturer or seller of the Collateral, or against any person for any reason whatsoever.

SECTION 3. LENDER COMMITMENT. (a) General Terms. Subject to the terms and conditions of this Security Agreement, Lender hereby agrees to make one or more senior secured Loans to Borrower, subject to the following conditions: (i) each Loan shall be evidenced by a Note; (ii) the total principal amount of the Loans shall not exceed $1,000,000 in the aggregate (the "Commitment") provided that no more than 20% of the amount of the utilized Commitment may be used to finance Soft Costs; (iii) the amount of each Loan shall be at least $25,000 except for a final Loan which may be less than $25,000; (iv) Lender shall not be obligated to make any Loan after August 31, 2000; (v) at the time of each Loan, no Event of Default or event which with the giving of notice or passage of time, or both, could become an Event of Default shall have occurred, as reasonably determined by Lender, and certified by Borrower; (vi) at the time of each Loan, Borrower has reimbursed Lender for all UCC filing and search costs, inspection and labeling costs, and appraisal fees, if any; (vii) for each Loan, Borrower shall present to Lender a list of proposed Collateral for approval by Lender in its sole discretion; (viii) for each Loan, Borrower shall have provided Lender with each of the closing documents described in Exhibit A hereto (which documents shall be in form and substance reasonably acceptable to Lender); (ix) Borrower is performing substantially in accordance with its business plan referred to as "Xcyte Therapies Cash Position" labeled Budget 99 to 00 Revised .xls and "Xctye Therapies Cash Flow Statement" labeled Revised for 3.16.99 Board Meeting" (the "Business Plan") (all quarterly figures will be prorated to monthly), as may be amended from time to time in form and substance acceptable to Lender; (x) there shall be no material adverse change in Borrower's condition, financial or otherwise, that would materially impair the ability of Borrower to meet its payment and other obligations under this Loan (a "Material Adverse Effect") as reasonably determined by Lender, and Borrower so certifies, from (yy) the date of the most recent financial statements delivered by Borrower to Lender to (zz) the date of the proposed Loan; (xi) prior to payment in full of all Notes, Borrower shall not offer any loan secured by any equipment, furniture or fixtures to any other person or entity other than Lender, unless Lender declines to finance such transaction or Borrower and Lender are unable to agree on the terms of such financing; (xii) Borrower shall use the proceeds of all Loans hereunder to purchase or reimburse the purchase of Collateral; (xiii) all Collateral has been marked and labeled by Lender or Lender's agent; and (xiv) Lender has received in form and substance acceptable to Lender: (a) Borrower's interim financial statements signed by a financial officer of Borrower; and (b) complete copies of the Borrower's audit reports for its most recent fiscal year when completed, which shall include at least Borrower's balance sheet as of the close of such year, and Borrower's statement of income and retained earnings and of changes in financial position for such year, prepared on a consolidated basis and certified by independent public accountants. Such certificate shall not be qualified or limited because of restricted or limited examination by such

accountant of any material portion of the company's records. Such reports shall be prepared in accordance with generally accepted accounting principles and practices consistently applied.

(b) The Notes. Each Loan shall be evidenced by a Note which may not be prepaid in whole or in part. Each Note shall bear interest and be payable at the times and in the manner provided therein. Following payment of the Indebtedness related to each Note, Lender shall promptly return such Note, marked "canceled," to Borrower.

SECTION 4. SECURITY INTERESTS. (a) Borrower hereby grants to Lender a first security interest in all Collateral; (b) This Security Agreement secures (i) the payment of the principal of and interest on the Notes and all other sums due thereunder and under this Security Agreement (the "Indebtedness") and (ii) the performance by Borrower of all of its other covenants now or hereafter existing under the Notes, this Security Agreement and any other obligation owed by Borrower to Lender (the "Obligations").

SECTION 5. BORROWER'S REPRESENTATIONS AND WARRANTIES. Borrower represents and warrants that (a) it is in good standing under the laws of the state of its formation, duly qualified to do business and will remain duly qualified during the term of each Loan in each state where necessary to carry on its present business and operations, including the jurisdiction(s) where the Collateral will be located as specified on each Exhibit A to each Note, except where failure to be so qualified would not have a Material Adverse Effect; (b) it has full authority to execute and deliver this Security Agreement and the Notes and perform the terms hereof and thereof, and this Security Agreement and the Notes have been duly authorized, executed and delivered and constitute valid and binding obligations of Borrower enforceable in accordance with their terms; (c) the execution and delivery of this Security Agreement and the Notes will not contravene any law, regulation or judgment affecting Borrower or result in any breach of any material agreement or other instrument binding on Borrower; (d) no consent of Borrower's shareholders or holder of any indebtedness, or filing with, or approval of, any governmental agency or commission, which has not already been obtained or performed, as appropriate, is a condition to the performance of the terms of this Security Agreement or the Notes; (e) there is no action or proceeding pending or threatened against Borrower before any court or administrative agency which might have a Material Adverse Effect on the business, financial condition or operations of Borrower; (f) at the time any Loan is made hereunder, Borrower owns and will keep all of the Collateral free and clear of all liens, claims and encumbrances, and, except for this Security Agreement, there is no deed of trust, mortgage, security agreement or other third party interest against any of the Collateral other than Permitted Liens (as defined below); (g) at the time any Loan is made hereunder, Borrower has good and marketable title to the Collateral; (h) at the time any Loan is made hereunder, all Collateral has been received, installed and is ready for use and is satisfactory in all respects for the purposes of this Security Agreement; (i) the Collateral is, and will remain at all times under applicable law, removable personal property, which is free and clear of any lien or encumbrance except in favor of Lender other than Permitted Liens (as defined below), notwithstanding the manner in which the Collateral may be attached to any real property; (j) all credit and financial information submitted to Lender herewith or at any other time is and will at the time given be true and correct in all material respects; and (k) the security interest granted to Lender hereunder is a first priority security interest, and (I) on or before January 1, 2000, Borrower's computer system shall be Year

2000 performance compliant and will thus be able to accurately process date data from, into and between the twentieth and twenty-first centuries including leap year calculations. “Permitted Liens” shall mean and include: (i) liens for taxes or other governmental charges not at the time delinquent or thereafter payable without penalty or being contested in good faith; and (ii) liens of carriers, warehousemen, mechanics, materialmen, vendors, landlords and other liens arising by operation of law incurred in the ordinary course of business.

SECTION 6. METHOD AND PLACE OF PAYMENT. Borrower shall pay to Lender, at such address as Lender specifies in writing, all amounts payable to it under this Security Agreement and the Notes.

SECTION 7. LOCATION; INSPECTION; LABELS. All of the Collateral shall be located at the address (the “Collateral Location”) shown on Exhibit A to each Note and shall not be moved unless Borrower has provided Lender with written notice of the change in location and Lender has acknowledged receipt of the notice. All of the records regarding the Collateral shall be located at 2203 Airport Way South, Suite 300, Seattle, WA 98134, or such other location of which Borrower has given notice to Lender in accordance with this Security Agreement. Lender shall have the right to inspect Collateral, including records relating thereto, and Borrower’s books and records at any time (upon reasonable notification) during regular business hours, such books and records to be maintained in accordance with generally accepted accounting principles. Borrower shall be responsible for all labor, material and freight charges incurred in connection with any removal or relocation of Collateral which is requested by Borrower and consented to by Lender, as well as for any charges due to the installation or moving of the Collateral. Payments under the Notes and under this Security Agreement shall continue during any period in which the Collateral is in transit during a relocation. During Borrower’s regular business hours and upon at least two days’ notice to Borrower, Lender or its agent shall mark and label Collateral, which labels (to be provided by Lender) shall state that such Collateral is subject to a security interest of Lender, and Borrower shall keep such labels on the Collateral as so labeled.

SECTION 8. COLLATERAL MAINTENANCE. (a) General. Upon reasonable notice, Borrower will permit Lender to inspect each item of Collateral and its maintenance records during Borrower’s regular business hours. Borrower will at its sole expense comply with all applicable laws, rules, regulations, requirements and orders with respect to the use, maintenance, repair, condition, storage and operation of each item of Collateral. Any addition or improvement that is so required or cannot be so removed will immediately become Collateral of Lender. (b) Service and Repair. Borrower will at its sole expense maintain and service and repair any damage to each item of Collateral in a manner consistent with prudent industry practice and Borrower’s own practice so that such item of Collateral is at all times (i) in the same condition as when delivered to Borrower, except for ordinary wear and tear, and (ii) in good operating order for the function intended by its manufacturer’s warranties and recommendations.

SECTION 9. LOSS OR DAMAGE. Borrower assumes the entire risk of loss to the Collateral through use, operation or otherwise. Borrower hereby indemnifies and holds harmless Lender from and against all claims, loss of Loan payments, costs, damages, and expenses relating to or resulting from any loss, damage or destruction of the Collateral, any such occurrence being hereinafter called a “Casualty Occurrence.” Notwithstanding any Casualty Occurrence, the Loan

to which such casualtied item of Collateral is subject shall continue in full force and effect without any abatement in the monthly payment due. Borrower shall, at its election, (a) no later than thirty (30) days after such Casualty Occurrence repair the Collateral returning it to good operating condition, (b) no later than thirty (30) days after such Casualty Occurrence replace the Collateral with Collateral acceptable to Lender in its reasonable discretion, in good condition and repair taking all steps required by Lender to perfect Lender's first priority security interest therein, which replacement Collateral shall be subject to the terms of this Security Agreement, or (c) on the next regular monthly payment date which falls after such thirty (30) days, or if there is no such payment date, thirty (30) days after such Casualty Occurrence pay to Lender an amount equal to the Balance Due (as defined below) for each lost or damaged item of Collateral. The Balance Due for each such item is the sum of: (i) all amounts for each item which may be then due or accrued to the payment date, plus (ii) as of such payment date, an amount equal to the product of the fraction specified below times the sum of all remaining payments under the respective Note, including the amount of any mandatory or optional payment required or permitted to be paid by Borrower to Lender at the maturity of the Note discounting to present value the amounts in (ii) at a rate of 6% per annum compounded monthly on the basis of a 360 day year ("Discount Rate"). The numerator of the fraction shall be the collateral value (as set forth on the applicable Note) of the item and the denominator shall be the aggregate collateral value of all items under the Note. Upon the making of such payments, Lender shall release such item of Collateral from its lien hereunder.

SECTION 10. INSURANCE. Borrower at its expense shall keep the Collateral insured against all risks of physical loss for at least the replacement value of the Collateral and in no event for less than the amount payable following a Casualty Occurrence (as provided in Section 9). Such insurance shall provide for a loss payable endorsement to Lender and/or any assignee of Lender. If there is no event of default by Borrower, any insurance proceeds received by Lender shall be released by Lender for application to the costs incurred by Borrower to repair the Collateral. Borrower shall maintain commercial general liability insurance, including products liability and completed operations coverage, with respect to loss or damage for personal injury, death or property damage in an amount not less than $2,000,000 in the aggregate, naming Lender and/or Lender's assignee as additional insured. Such insurance shall contain insurer's agreement to give thirty (30) days' advance written notice to Lender before cancellation or material change of any policy of insurance. Borrower will provide Lender and any assignee of Lender with a certificate of insurance from the insurer evidencing Lender's or such assignee's interest in the policy of insurance. Such insurance shall cover any Casualty Occurrence to any unit of Collateral. Notwithstanding anything in Section 9 or this Section 10 to the contrary, this Security Agreement and Borrower's obligations hereunder shall remain in full force and effect with respect to any unit of Collateral which is not subject to a Casualty Occurrence. If Borrower fails to provide or maintain insurance as required herein, Lender shall have the right, but shall not be obligated, to obtain such insurance. In that event, Borrower shall pay to Lender the cost thereof.

SECTION 11. MISCELLANEOUS AFFIRMATIVE COVENANTS. So long as any portion of the Indebtedness is unpaid and as long as any of the Obligations are outstanding Borrower will: (a) duly pay all governmental taxes and assessments at the time they become due and payable; provided, however, Borrower may contest the same in good faith so long as no payment default by Borrower has occurred and is continuing; (b) comply with all applicable

material governmental laws, rules and regulations relating to its business and the Collateral where a failure to comply would have a Material Adverse Effect; (c) take no action to adversely affect Lender's security interest in the Collateral as a first and prior perfected security interest; (d) furnish Lender with its annual audited financial statements within ninety (90) days following the end of Borrower's fiscal year, unaudited quarterly financial statements within forty-five (45) days after the end of each fiscal quarter, and within thirty (30) days of the end of each month a financial statement for that month prepared by Borrower, and including an income statement and balance sheet, all of which shall be certified by an officer of Borrower as true and correct and shall be prepared in accordance with generally accepted accounting principles consistently applied, and such other information as Lender may reasonably request; and (e) promptly (but in no event more than five (5) days after the occurrence of such event) notify Lender of any change in Borrower's condition during the commitment period which constitutes a Material Adverse Effect, and of the occurrence of any Event of Default.

SECTION 12. INDEMNITIES. Borrower will protect, indemnify and save harmless Lender and any assignees from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including reasonable attorneys' fees and expenses), imposed upon or incurred by or asserted against Lender or any assignee of Lender by Borrower or any third party by reason of the occurrence or existence (or alleged occurrence or existence) of any act or event relating to or caused by any portion of the Collateral, or its purchase, acceptance, possession, use, maintenance or transportation, including without limitation, consequential or special damages of any kind, any failure on the part of Borrower to perform or comply with any of the terms of this Security Agreement or any Note, claims for latent or other defects, claims for patent, trademark or copyright infringement and claims for personal injury, death or property damage, including those based on Lender's negligence or strict liability in tort and excluding only those based on Lender's gross negligence or willful misconduct. In the event that any action, suit or proceeding is brought against Lender by reason of any such occurrence, Borrower, upon Lender's request, will, at Borrower's expense, resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated and approved by Lender. Borrower's obligations under this Section 12 shall survive the payment in full of all the Indebtedness and the performance of all Obligations with respect to acts or events occurring or alleged to have occurred prior to the payment in full of all the Indebtedness and the performance of all Obligations.

SECTION 13. TAXES. Borrower does not indemnify Lender for any loss of Lender's anticipated tax benefits unless the loss arises from an act or omission by the Borrower or from any misrepresentation under the Security Agreement by the Borrower. Borrower agrees to reimburse Lender (or pay directly if instructed by Lender) and any assignee of Lender for, and to indemnify and hold Lender and any assignee harmless from, all fees (including, but not limited to, license, documentation, recording and registration fees), and all sales, use, gross receipts, personal property, occupational, value added or other taxes, levies, imposts, duties, assessments, charges, or withholdings of any nature whatsoever, together with any penalties, fines, additions to tax, or interest thereon (the foregoing collectively "Impositions"), except same as may be attributable to Lender's income, arising at any time prior to or during the term of any Notes or of this Security Agreement, or upon termination or early termination of this Security Agreement and levied or imposed upon Lender directly or otherwise by any Federal, state or local government in

the United States or by any foreign country or foreign or international taxing authority upon or with respect to (a) the Collateral, (b) the exportation, importation, registration, purchase, ownership, delivery, leasing, financing, possession, use, operation, storage, maintenance, repair, return, sale, transfer of title, or other disposition thereof, (c) the rentals, receipts, or earnings arising from the Collateral, or any disposition of the rights to such rentals, receipts, or earnings, (d) any payment pursuant to this Security Agreement or the Notes, or (e) this Security Agreement, the Notes or any transaction or any part hereof or thereof.

SECTION 14. RELEASE OF LIENS. Upon payment of all of the Indebtedness and performance of all of the Obligations, Lender shall execute UCC termination statements and such other documents as Borrower shall reasonably request to evidence the release of Lender's lien relating to the Collateral.

SECTION 15. ASSIGNMENT. WITHOUT LENDER'S PRIOR WRITTEN CONSENT WHICH CONSENT WILL NOT BE UNREASONABLY WITHHELD OR DELAYED, BORROWER SHALL NOT (a) ASSIGN, TRANSFER, PLEDGE, HYPOTHECATE OR OTHERWISE DISPOSE OF THIS SECURITY AGREEMENT, ANY NOTE, ANY COLLATERAL, OR ANY INTEREST THEREIN, (I,) LEASE OR LEND COLLATERAL OR PERMIT IT TO BE USED BY ANYONE OTHER THAN BORROWER OR BORROWER'S EMPLOYEES, CONTRACTORS AND AGENTS OR (c) MERGE INTO, CONSOLIDATE WITH OR CONVEY OR TRANSFER ITS PROPERTIES SUBSTANTIALLY AS AN ENTIRETY TO ANY OTHER PERSON OR ENTITY. LENDER MAY ASSIGN ANY OF THE NOTES, THIS SECURITY AGREEMENT OR ITS SECURITY INTEREST IN ANY OR ALL COLLATERAL, OR ANY OR ALL OF THE ABOVE, IN WHOLE OR IN PART TO ONE OR MORE ASSIGNEES OR SECURED PARTIES WITHOUT NOTICE TO BORROWER. If Borrower is given notice of such assignment it agrees to acknowledge receipt thereof in writing and Borrower shall execute such additional documentation as Lender's assignee and/or secured party shall reasonably require at Lender's expense. Each such assignee and/or secured party shall have all of the rights, but (except as provided in this Section 15) none of the obligations, of Lender under this Security Agreement, unless such assignee or secured party expressly agrees to assume such obligations in writing. Borrower shall not assert against any assignee and/or secured party any defense, counterclaim or offset that Borrower may have against Lender. Notwithstanding any such assignment, and providing no Event of Default has occurred and is continuing, Lender, or its assignees, secured parties, or their agents or assigns, shall not interfere with Borrower's right to quietly enjoy use of Collateral subject to the terms and conditions of this Security Agreement. Subject to the foregoing, the Notes and this Security Agreement shall inure to the benefit of, and are binding upon, the successors and assignees of the parties hereto. Borrower acknowledges that any such assignment by Lender will not change Borrower's duties or obligations under this Security Agreement and the Notes or increase any burden or risk on Borrower.

SECTION 16. DEFAULT. (a) Events of Default. Any of the following events or conditions shall constitute an "Event of Default" hereunder: (i) Borrower's failure to pay any monies due to Lender hereunder or under any Note beyond the tenth (10th) day after the same is due; (ii) Borrower's failure to comply with its obligations under Section 10 or Section 15; (iii) any representation or warranty of Borrower made in this Security Agreement or the Notes or in

any other agreement, statement or certificate furnished to Lender in connection with this Security Agreement or the Notes shall prove to have been incorrect in any material respect when made or given; (iv) Borrower's failure to comply with or perform any material term, covenant or condition of this Security Agreement or any Note or under any lease or mortgage of real property covering the location of the Collateral if such failure to comply or perform is not cured by Borrower within thirty (30) days after Borrower knows of the noncompliance or nonperformance or notice from Lender or such longer period that Borrower is diligently attempting to effect such cure; (v) seizure of any of the Collateral under legal process; (vi) the filing by or against Borrower or any guarantor under any guaranty executed in connection with this Security Agreement ("Guarantor") of a petition for reorganization or liquidation under the Bankruptcy Code or any amendment thereto or under any other insolvency law providing for the relief of debtors; (vii) the voluntary or involuntary making of an assignment of a substantial portion of its assets by Borrower or by any Guarantor for the benefit of its creditors, the appointment of a receiver or trustee for Borrower or any Guarantor or for any of Borrower's or Guarantor's assets, the institution by or against Borrower or any Guarantor of any formal or informal proceeding for dissolution, liquidation, settlement of claims against or winding up of the affairs of Borrower or any Guarantor provided that in the case of all such involuntary proceedings, same are not dismissed within sixty (60) days after commencement; (viii) the making by Borrower or by any Guarantor of a transfer of all or a material portion of Borrower's or Guarantor's assets or inventory not in the ordinary course of business; or (ix) any default or breach by any Guarantor of any of the terms of its guaranty to Lender in connection with this Security Agreement.

(b) Remedies. If any Event of Default has occurred, Lender may in its sole discretion exercise one or more of the following remedies with respect to any or all of the Collateral: (i) declare due any or all of the aggregate sum of all remaining payments under the Notes, including the amount of any mandatory or optional payment required or permitted to be paid by Borrower to Lender at the maturity of the Notes ("Remaining Payments"); (ii) proceed by appropriate court action or actions either at law or in equity to enforce Borrower's performance of the applicable covenants of the Notes and this Security Agreement or to recover all reasonable damages and expenses incurred by Lender by reason of an Event of Default; (iii) except as provided by law, without court order or prior demand, enter upon the premises where the Collateral is located and take immediate possession of and remove it without liability of Lender to Borrower or any other person or entity; (iv) terminate this Security Agreement and sell the Collateral at public or private sale, or otherwise dispose of, hold, use or lease any or all of the Collateral in a commercially reasonable manner; or (v) exercise any other right or remedy available to it under applicable law. If Lender has declared due any or all of the Remaining Payments, Borrower will pay immediately to Lender, without duplication, (A) the Remaining Payments discounted to present value at the Discount Rate, (B) all amounts which may be then due or accrued, and (C) all other amounts due under this Security Agreement and under the Notes (Lender's Return, as referred to below, means the amounts described in clauses (A), (B) and (C) above). The net proceeds of any sale or lease of such Collateral will be credited against Lender's Return. The net proceeds of a sale of the Collateral pursuant to this Section 16(b) is defined as the sales price of the Collateral less selling expenses, including, without limitation, costs of remarketing the Collateral and all refurbishing costs and commissions paid with respect to such remarketing. The net proceeds of a lease of the Collateral pursuant to this Section 16(b) is defined as the amount equal to the

monthly payments due under such lease (discounted to present value at the Discount Rate) plus the residual value of the Collateral at the end of the basic term of such lease, as reasonably determined by Lender, and discounted at the Discount Rate.

At Lender's request, Borrower shall assemble the Collateral and make it available to Lender at such time and location as Lender may reasonably designate. Borrower waives any right it may have to redeem the Collateral.

Declaration that any or all amounts under this Security Agreement and/or the Notes are immediately due and payable and Lender's taking possession of any or all Equipment shall not terminate this Security Agreement or any of the Notes unless Lender so notifies Borrower in writing. None of the above remedies is intended to be exclusive but each is cumulative and may be enforced separately or concurrently.

(c) Application of Proceeds. The proceeds of any sale of all or any part of the Collateral and the proceeds of any remedy afforded to Lender by this Security Agreement shall be paid to and applied as follows:

First, to the payment of reasonable costs and expenses of suit or foreclosure, if any, and of the sale, if any, including, without limitation, refurbishing costs, costs of remarketing and commissions related to remarketing, all Remedy Expenses, all expenses, liabilities and advances incurred or made pursuant to this Security Agreement or any Note by Lender in connection with foreclosure, suit, sale or enforcement of this Security Agreement or the Notes, and taxes, assessments or liens superior to Lender's security interest granted by this Security Agreement;

Second, to the payment of all other amounts not described in item Third below due under this Security Agreement and all Notes;

Third, to pay Lender an amount equal to Lender's Return, to the extent not previously paid by Borrower; and

Fourth, to the payment of any surplus to Borrower or to whomever may lawfully be entitled to receive it.

(d) Effect of Delay: Waiver: Foreclosure on Collateral. No delay or omission of Lender, in exercising any right or power arising from any Event of Default shall prevent Lender from exercising that right or power if the Event of Default continues. No waiver of an Event of Default, whether full or partial, by Lender or such holder shall be taken to extend to any subsequent Event of Default, or to impair the rights of Lender in respect of any damages suffered as a result of the Event of Default. The giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment or discharge of the Indebtedness and performance of the Obligations shall in no way operate to prejudice, waive or affect the security interest created by this Security Agreement or any rights, powers or remedies exercised hereunder or thereunder. Lender shall not be required first to foreclose on the Collateral prior to bringing an action against Borrower for sums owed to Lender under this Security Agreement or under any Note.

SECTION 17. LATE PAYMENTS. Borrower shall pay Lender a late charge of 10% of any payment owed Lender by Borrower which is not paid when due (taking into account applicable grace periods), for every month such payment is not paid when due. If such amounts have not been received by Lender at Lender's place of business or by Lender's designated agent by the date such amounts are due under this Security Agreement or the Notes, Lender shall bill Borrower for such charges. Borrower acknowledges that invoices for amounts due hereunder or under the Notes are sent by Lender for Borrower's convenience only. Borrower's non-receipt of an invoice will not relieve Borrower of its obligation to make payments hereunder or under the Notes.

SECTION 18. PAYMENTS BY LENDER. If Borrower shall fail to make any payment or perform any act required hereunder (including, but not limited to, maintenance of any insurance required by Section 10), then Lender may, but shall not be required to, after such notice to Borrower as is reasonable under the circumstances, make such payment or perform such act with the same effect as if made or performed by Borrower. Borrower will upon demand reimburse Lender for all sums paid and all reasonable costs and expenses incurred in connection with the performance of any such act.

SECTION 19. FINANCING STATEMENTS. Borrower hereby appoints Lender (and each of Lender's officers, employees or agents designated by Lender) with full power of substitution by Lender, as Borrower's attorney, with power to execute and deliver on Borrower's behalf, financing statements and other documents necessary to perfect and/or give notice of Lender's security interest in any of the Collateral. Notwithstanding the above, Borrower will, upon Lender's request, execute all financing statements pursuant to the Uniform Commercial Code and all such other documents reasonably requested by Lender to perfect Lender's security interests hereunder. Borrower authorizes Lender to file financing statements signed only by Lender (where such authorization is permitted by law) at all places where Lender deems necessary.

SECTION 20. NATURE OF TRANSACTION. Lender makes no representation whatsoever, express or implied, concerning the legal character of the transaction evidenced hereby, for tax or any other purpose.

SECTION 21. SUSPENSION OF LENDER'S OBLIGATIONS. The obligations of Lender hereunder will be suspended to the extent that Lender is hindered or prevented from complying therewith because of labor disturbances, including but not limited to strikes and lockouts, acts of God, fires, floods, storms, accidents, industrial unrest, acts of war, insurrection, riot or civil disorder, any order, decree, law or governmental regulations or interference, failure of the manufacturer to deliver any item of Collateral or any cause whatsoever not within the sole and exclusive control of Lender.

SECTION 22. LENDER'S EXPENSE. Borrower shall pay Lender all reasonable costs and expenses including reasonable attorney's fees, litigation expenses and the fees of collection agencies, incurred by Lender (a) in enforcing any of the terms, conditions or provisions hereof and related to the exercise of its remedies ("Remedy Expenses"), and (b) in connection with any

bankruptcy or post-judgment proceeding, whether or not suit is filed and, in each and every action, suit or proceeding, including any and all appeals and petitions therefrom.

SECTION 23. ALTERATIONS; ATTACHMENTS. No alterations or attachments shall be made to the Collateral without Lender's prior written consent, which shall not be given for changes that will adversely affect the reliability and utility of the Collateral or which cannot be removed without damage to the Collateral, or which in any way decrease the value of the Collateral for purposes of resale or lease. All attachments and improvements to the Collateral shall be deemed to be "Collateral" for purposes of the Security Agreement, and a first priority security interest therein shall immediately vest in Lender.

SECTION 24. CHATTEL PAPER. (a) One executed copy of the Security Agreement will be marked "Original" and all other counterparts will be duplicates. To the extent, if any, that this Security Agreement constitutes chattel paper (as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction) no security interest in the Security Agreement may be created in any documents other than the "Original." (b)There shall be only one original of each Note and it shall be marked "Original," and all other counterparts will be duplicates. To the extent, if any, that any Notes to this Security Agreement constitutes chattel paper (or as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction) no security interest in any Note(s) may be created in any documents other than the "Original."

SECTION 25. STOCK WARRANT. Borrower agrees that it will issue to Lender upon execution of this Security Agreement a Warrant in the form of the Warrant Agreement attached hereto as Exhibit B. Borrower and Lender agree that the value of the Warrant hereunder is ten dollars ($10.00).

SECTION 26. COMMITMENT FEE. Borrower has paid to Lender a commitment fee ("Fee") of $10,000. The Fee shall be applied by Lender first to reimburse Lender for all out-of-pocket UCC and other search costs, inspections and labeling costs and appraisal fees, if any, incurred by Lender, and then proportionally to the first monthly payment for each Note hereunder in the proportion that the Collateral value for such Note bears to Lender's entire commitment. However, the portion of the Fee which is not applied to such monthly payments shall be non-refundable except if Lender defaults in its obligation to fund Loans pursuant to Section 3.

SECTION 27. NOTICES. All notices hereunder shall be in writing, by registered mail, or reliable messenger or delivery service (including overnight service) and shall be directed, as the case may be, to Lender at 2401 Kerner Boulevard, San Rafael, California 94901, Attention: Asset Management and to Borrower at 2203 Airport Way South, Suite 300, Seattle, WA 98134, Attention: Kathi Cordova, Director Finance, or at such other address as the parties may notify one another of in writing from time to time.

SECTION 28. MISCELLANEOUS. (a) Borrower shall provide Lender with such corporate resolutions, financial statements and other documents as Lender shall reasonably request from time to time. (b) Borrower represents that the Collateral hereunder is used solely for business purposes. (c) Time is of the essence with respect to this Security Agreement. (d)

Borrower acknowledges that Borrower has read this Security Agreement and the Notes, understands them and agrees to be bound by their terms and further agrees that this Security Agreement and the Notes constitute the entire agreement between Lender and Borrower with respect to the subject matter hereof and supersede all previous agreements, promises, or representations. (e) This Security Agreement and the Notes may not be changed, altered or modified except by an instrument signed by an officer or authorized representative of Lender and Borrower. (f) Any failure of Lender to require strict performance by Borrower or any waiver by Lender of any provision herein or in a Note shall not be construed as a consent or waiver of any other breach of the same or any other provision. (g) If any provision of this Security Agreement or any Note is held invalid, such invalidity shall not affect any other provisions hereof or thereof. (h) The obligations of Borrower to pay the Indebtedness and perform the Obligations shall survive the expiration or earlier termination of this Security Agreement and each Note until all Obligations of Borrower to Lender have been met and all liabilities of Borrower to Lender and any assignee have been paid in full. (i) Borrower will notify Lender at least 30 days before changing its name, principal place of business or chief executive office. (j) Borrower will, at its expense, promptly execute and deliver to Lender such documents and assurances (including financing statements) and take such further action as Lender may reasonably request in order to carry out the intent of this Security Agreement and Lender's rights and remedies.

SECTION 29. JURISDICTION AND WAIVER OF JURY TRIAL. This Security Agreement and each Note shall be deemed to have been made under and shall be governed by the laws of the State of California in all respects, including matters of construction, validity and performance. At Lender's sole discretion, option and election, jurisdiction and venue for any legal action between the parties arising out of or relating to this Security Agreement or any Note shall be in the Superior Court of Mann County, California, or, in cases where federal diversity jurisdiction is available, in the United States District Court for the Northern District of California located in San Francisco, California. BORROWER, TO THE EXTENT IT MAY LAWFULLY DO SO, HEREBY WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION BROUGHT ON OR WITH RESPECT TO THIS SECURITY AGREEMENT, ANY NOTE, ANY SECURITY DOCUMENTS, OR ANY OTHER AGREEMENTS EXECUTED IN CONNECTION HEREWITH.

SECTION 30. END OF LOAN POSITION. (a) General. Borrower shall be required to choose a final payment or Note extension election ("End of Loan Position") at the expiration of the first Note's term. Borrower shall provide written notice of its election to Lender at least 90 days prior to the end of the term of the first Note. That choice shall be an election of Borrower's End of Loan Position election for all, but not less than all, of the Collateral under all Notes under the Security Agreement.

In the event Borrower does not provide 90 days' prior written notice of its election, Borrower shall be deemed to have elected Election No. 2.

(b) End of Loan Position Elections. As its End of Loan Position, Borrower shall be required to:

Election No. 1: Make a final payment equal to 12% of the Note's original principal amount.

Election No. 2: Extend the Note's term for an additional 12 months ("Extended Term") for a monthly rate of 1.44% of the Note's original principal amount.

IN WITNESS WHEREOF, Borrower and Lender have caused this Security Agreement to be executed as of the date and year first above written.

PHOENIX LEASING INCORPORATED		XCYTE THERAPIES, INC.	
By:	_____	By:	/s/ Ronald Jay Berenson
Name:	_____	Name (Print):	Ronald Jay Berenson
Title:	_____	Title:	President & CEO

HEADQUARTERS LOCATION:
2203 Airport Way South, Suite 300
Seattle, WA 98134
County of King

EXHIBITS AND SCHEDULES:
Exhibit A—Closing Memorandum
Exhibit B—Stock Warrant

EXHIBIT A TO
SENIOR LOAN AND SECURITY AGREEMENT NO. 6261
DATED JULY 1, 1999

CLOSING MEMORANDUM

1.* Duly executed Senior Loan and Security Agreement.

2. Duly executed Senior Security Promissory Note with Exhibit A Collateral description attached.

3. Insurance certificates reflecting coverage required under Section 10 of the Senior Loan and Security Agreement.

4.* Resolutions of Borrower's board of directors.

5. Real Property Waiver.**

6. UCC-1 Financing Statements with respect to the Collateral.

7. * Stock warrant.

8. UCC search (Lender will obtain).

9. Certificate of Chief Financial Officer stating that (i) there are no liens, charges, security interests or other encumbrances that may affect Lender's right, title and interest in the Collateral and there are no UCC-1 financing statements filed or in the process of being filed against any of the Collateral, (ii) Borrower is performing according to Borrower's business plan, (iii) no change which is a Material Adverse Effect has occurred in the financial condition of Borrower, (iv) no default has occurred, and (v) the representations and warranties in Section 5 of the Senior Loan and Security Agreement are true and correct as if made on the date of the Loan.

10.* Certificate from the Secretary of State of Borrower's state of incorporation, and from the state in which Borrower's chief executive office is located, if different, stating the Borrower is in good standing or is authorized to transact business, as the case may be, dated not more than thirty days prior to the first Loan (Lender will obtain).

11.* Borrower's Business Plan.

12. Borrower's most recent financial statements.

13. List of proposed Collateral.

14. Purchase documentation verifying Borrower's ownership of equipment.

15. See Section 3 of the Senior Loan and Security Agreement for additional conditions to closing.

16. Intercreditor Agreement, if applicable.

* First Loan only.

** Required if any Equipment is a fixture, i.e., attached to real property, or located in certain states.

FORM OF STOCK WARRANT

CORPORATE RESOLUTION TO BORROW

RESOLVED: That this corporation, XCYTE THERAPIES, INC., borrow funds from PHOENIX LEASING INCORPORATED, a California corporation, ("Lender") and grant as collateral for such borrowings such items of personal property and fixtures, and upon such terms and conditions, as the officer or officers hereinafter authorized, in their discretion, may deem necessary or advisable; and that the aggregate principal amount of borrowings hereunder shall be the sum of $1,000,000 which amount may be exceeded in the future.

RESOLVED FURTHER: That:

Ronald Jay Berenson	President & CEO	Ronald Jay Berenson
or		
(Print or type name)	(Title of Corporate Officer	(specimen signature)

of this corporation (this officer or officers authorized to act pursuant hereto being hereinafter designated as "authorized officers"), are individually authorized, directed and empowered, in the name of this corporation, to execute and deliver to Lender, and Lender is requested to accept, any notes, security agreements, and other documents or agreements that may be required by Lender in connection with such borrowings.

RESOLVED FURTHER: That the authorized officers are individually authorized, directed and empowered, in the name of this corporation, to do or cause to be done all such further acts and things as they shall deem necessary, advisable, convenient, or proper in connection with the execution and delivery of any such notes, security agreements, and other documents or agreements and in connection with or incidental to the carrying of the same into effect, including without limitation, the execution. acknowledgment, and delivery of all instruments and documents which may reasonably Lender under or in connection with any such borrowing.

RESOLVED FURTHER: That Lender is authorized to act upon these resolutions until **[photocopy cut off]** their revocation is delivered to Lender, and that the authority hereby granted shall apply and effect to the successors in office of the officers herein named.

I, _____, Officer of XCYTE THERAPIES, INC., a corporation in **[photocopy cut off]** the laws of the State of Delaware, do hereby certify that the foregoing is a full, true and **[photocopy cut off]** resolutions of the Board of Directors of the said corporation, duly and regularly passed **[photocopy cut off]** Board of Directors of said corporation as required by law and by the by-laws of the said **[photocopy cut off]** the _____ day of _____, 19_____.

I further certify that said resolutions are still in full force and effect and have not been **[photocopy cut off]** revoked and that the specimen signatures appearing above are the signatures of the office **[photocopy cut off]** sign for this corporation by virtue of the said resolutions.

IN WITNESS WHEREOF, I have hereunto set my hand as such Secretary, and affixed the corporate seal of the said corporation, this _____ day of _____, 19_____.

AFFIX CORPORATE
SEAL HERE

_____

OFFICER OF XCYTE THERAPIES, INC.

[PERSON WHO SIGNS HERE MUST BE DIFFERENT FROM PERSON(S) WHO SIGNED ABOVE.]

Exhibit 10.16

MASTER SECURITY AGREEMENT

dated as of **January 15,2000 ("Agreement")**

THIS AGREEMENT is between **General Electric Capital Corporation** (together with its successors and assigns, if any, **"Secured Party"**), and **Xcyte Therapies, Inc.** (**"Debtor"**). Secured Party has an office at 5150 El Camino Real, Suite B-21, Los Altos, CA 94022. Debtor's mailing address and chief place of business is **1124 Columbia Street, Suite 130, Seattle, WA 98104.**

1. CREATION OF SECURITY INTEREST.

Debtor grants to Secured Party, its successors and assigns, a security interest in and against all property listed on any collateral schedule now or in the future annexed to or made a part of this Agreement (**"Collateral Schedule"**), and in and against all additions, attachments, accessories and accessions to such property, all substitutions, replacements or exchanges therefor, and all insurance and/or other proceeds thereof (all such property is individually and collectively called the **"Collateral"**). This security interest is given to secure the payment and performance of all debts, obligations and liabilities of any kind whatsoever of Debtor to Secured Party, now existing or arising in the future, including but not limited to the payment and performance of certain Promissory Notes from time to time identified on any Collateral Schedule (collectively **"Notes"** and each a **"Note"**), and any renewals, extensions and modifications of such debts, obligations and liabilities (such Notes, debts, obligations and liabilities are called the **"Indebtedness"**). Notwithstanding anything to the contrary contained in this Agreement, to the extent that Secured Party asserts a purchase money security interest in any items of Collateral (**"PMSI Collateral"**): (i) the PMSI Collateral shall secure only that portion of the Indebtedness which has been advanced by Secured Party to enable Debtor to purchase, or acquire rights in or the use of such PMSI Collateral (the **"PMSI Indebtedness"**), and (ii) no other Collateral shall secure the PMSI Indebtedness.

2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEBTOR.

Debtor represents, warrants and covenants as of the date of this Agreement and as of the date of each Collateral Schedule that:

(a) Debtor is, and will remain, duly organized, existing and in good standing under the laws of the State set forth in the preamble of this Agreement, has its chief executive offices at the location specified in the preamble, and is, and will remain, duly qualified and licensed in every jurisdiction wherever necessary to carry on its business and operations;

(b) Debtor has adequate power and capacity to enter into, and to perform its obligations under this Agreement, each Note and any other documents evidencing, or given in connection with, any of the Indebtedness (all of the foregoing are called the **"Debt Documents"**);

(c) This Agreement and the other Debt Documents have been duly authorized, executed and delivered by Debtor and constitute legal, valid and binding agreements enforceable in accordance with their terms, except to the extent that the enforcement of remedies may be limited under applicable bankruptcy and insolvency laws;

(d) No approval, consent or withholding of objections is required from any governmental authority or instrumentality with respect to the entry into, or performance by Debtor of any of the Debt Documents, except any already obtained;

(e) The entry into, and performance by, Debtor of the Debt Documents will not (i) violate any of the organizational documents of Debtor or any judgment, order, law or regulation applicable to Debtor, or (ii) result in any breach of or constitute a default under any contract to which Debtor is a party, or result in the creation of any lien, claim or encumbrance on any of Debtoi~s property (except for liens in favor of Secured Party) pursuant to any indenture, mortgage, deed of trust, bank loan, credit agreement, or other agreement or instrument to which Debtor is a party;

(f) There are no suits or proceedings pending in court or before any commission, board or other administrative agency against or affecting Debtor which could, in the aggregate, have a material adverse effect on Debtor, its business or operations, or its ability to perform its obligations under the Debt Documents, nor does Debtor have reason to believe that any such suits or proceedings are threatened;

(g) All financial statements delivered to Secured Party in connection with the Indebtedness have been prepared in accordance with generally accepted accounting principles, and since the date of the most recent financial statement, there has been no material adverse change in Debtors financial condition;

(h) The Collateral is not, and will not be, used by Debtor for personal, family or household purposes;

(i) The Collateral is, and will remain, in good condition and repair and Debtor will not be negligent in its care and use;

(j) Debtor is, and will remain, the sole and lawful owner, and in possession of, the Collateral, and has the sole right and lawful authority to grant the security interest described in this Agreement; and

(k) The Collateral is, and will remain, free and clear of all liens, claims and encumbrances of any kind whatsoever, except for (i) liens in favor of Secured Party, (ii) liens for taxes not yet due or for taxes being contested in good faith and which do not involve, in the judgment of Secured Party, any risk of the sale, forfeiture or loss of any of the Collateral, and (iii) inchoate materialmen's, mechanics, repairmen's and similar liens arising by operation of law in the normal course of business for amounts which are not delinquent (all of such liens are called **"Permitted Liens"**).

3. COLLATERAL.

(a) Until the declaration of any default, Debtor shall remain in possession of the Collateral; except that Secured Party shall have the right to possess (i) any chattel paper or instrument that constitutes a part of the Collateral, and (ii) any other Collateral in which Secured Party's security interest may be perfected only by possession. Secured Party may inspect any of the Collateral during normal business hours after giving Debtor reasonable prior notice. If Secured Party asks, Debtor will promptly notify Secured Party in writing of the location of any Collateral.

(b) Debtor shall (i) use the Collateral only in its trade or business, (ii) maintain all of the Collateral in good operating order and repair, normal wear and tear excepted, (iii) use and maintain the Collateral only in compliance with manufacturers recommendations and all applicable laws, and (iv) keep all of the Collateral free and clear of all liens, claims and encumbrances (except for Permitted Liens).

(c) Debtor shall not, without the prior written consent of Secured Party, (I) part with possession of any of the Collateral (except to Secured Party or for maintenance and repair), (ii) remove any of the Collateral from the continental United States, or (iii) sell, rent, lease, mortgage, grant a security interest in or otherwise transfer or encumber (except for Permitted Liens) any of the Collateral.

(d) Debtor shall pay promptly when due all taxes, license fees, assessments and public and private charges levied or assessed on any of the Collateral, on its use, or on this Agreement or any of the other Debt Documents. At its option, Secured Party may discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Collateral and may pay for the maintenance, insurance and preservation of the Collateral and effect compliance with the terms of this Agreement or any of the other Debt Documents. Debtor agrees to reimburse Secured Party, on demand, all costs and expenses incurred by Secured Party in connection with such payment or performance and agrees that such reimbursement obligation shall constitute Indebtedness.

(e) Debtor shall, at all times, keep accurate and complete records of the Collateral, and Secured Party shall have the right to inspect and make copies of all of Debtor's books and records relating to the Collateral during normal business hours, after giving Debtor reasonable prior notice.

(f) Debtor agrees and acknowledges that any third person who may at any time possess all or any portion of the Collateral shall be deemed to hold, and shall hold, the Collateral as the agent of, and as pledge holder for, Secured Party. Secured Party may at any time give notice to any third person described in the preceding sentence that such third person is holding the Collateral as the agent of, and as pledge holder for, the Secured Party.

4. INSURANCE.

(a) Debtor shall at all times bear the entire risk of any loss, theft, damage to, or destruction of, any of the Collateral from any cause whatsoever.

(b) Debtor agrees to keep the Collateral insured against loss or damage by fire and extended coverage perils, theft, burglary, and for any or all Collateral which are vehicles, for risk of loss by collision, and if requested by Secured Party, against such other risks as Secured Party may reasonably require. The insurance coverage shall be in an amount no less than the full replacement value of the Collateral, and deductible amounts, insurers and policies shall be acceptable to Secured Party. Debtor shall deliver to Secured Party policies or certificates of insurance evidencing such coverage. Each policy shall name Secured Party as a loss payee, shall provide for coverage to Secured Party regardless of the breach by Debtor of any warranty or representation made therein, shall not be subject to co-insurance, and shall provide that coverage may not be canceled or altered by the insurer except upon thirty (30) days prior written notice to Secured Party. Debtor appoints Secured Party as its attorney-in-fact to make proof of loss, claim for insurance and adjustments with insurers, and to receive payment of and execute or endorse all document-, checks or drafts in connection with insurance payments. Secured Party shall not act as Debtors attorney-in-fact unless Debtor is in default. Proceeds of insurance shall be applied, at the option of Secured Party, to repair or replace the Collateral or to reduce any of the Indebtedness.

5. REPORTS.

(a) Debtor shall promptly notify Secured Party of (i) any change in the name of Debtor, (ii) any relocation of its chief executive offices, (iii) any relocation of any of the Collateral, (iv) any of the Collateral being lost, stolen, missing, destroyed, materially damaged or worn out, or (v) any lien, claim or encumbrance other than Permitted Liens attaching to or being made against any of the Collateral.

(b) Debtor will deliver to Secured Party Debtors complete financial statements, certified by a recognized firm of certified public accountants, within ninety (90) days of the close of each fiscal year of Debtor. If Secured Party requests, Debtor will deliver to Secured Party copies of Debtors quarterly financial reports certified by Debtors chief financial officer, within ninety (90) days after the close of each of Debtors fiscal quarter. Debtor will deliver to Secured Party copies of all Forms lO.K and lO-Q, if any, within 30 days after the dates on which they are filed with the Securities and Exchange Commission.

6. FURTHER ASSURANCES.

(a) Debtor shall, upon request of Secured Party, furnish to Secured Party such further information, execute and deliver to Secured Party such documents and instruments (including, without limitation, Uniform Commercial Code financing statements) and shall do such other acts and things as Secured Party may at any time reasonably request relating to the perfection or protection of the security interest created by this Agreement or for the purpose of carrying out the intent of this Agreement. Without limiting the foregoing, Debtor shall cooperate and do all acts deemed necessary or advisable by Secured Party to continue in Secured Party a perfected first security interest in the Collateral, and shall obtain and furnish to Secured Party any subordinations, releases, landlord, lessor, or mortgagee waivers, and similar documents as may be from time to time requested by, and in form and substance satisfactory to, Secured Party.

(b) Debtor irrevocably grants to Secured Party the power to sign Debtor's name and generally to act on behalf of Debtor to execute and file applications for title, transfers of title, financing statements, notices of lien and other documents pertaining to any or all of the Collateral; this power is coupled with Secured Party's interest in the Collateral. Debtor shall, if any certificate of title be required or permitted by law for any of the Collateral, obtain and promptly deliver to Secured Party such certificate showing the lien of this Agreement with respect to the Collateral.

(c) Debtor shall indemnify and defend the Secured Party, its successors and assigns, and their respective directors, officers and employees, from and against all claims, actions and suits (including, without limitation, related attorneys' fees) of any kind whatsoever arising, directly or indirectly, in connection with any of the Collateral.

7. DEFAULT AND REMEDIES.

(a) Debtor shall be in default under this Agreement and each of the other Debt Documents if:

(i) Debtor breaches its obligation to pay when due any installment or other amount due or coming due under any of the Debt Documents;

(ii) Debtor, without the prior written consent of Secured Party, attempts to or does sell, rent, lease, mortgage, grant a security interest in, or otherwise transfer or encumber (except for Permitted Liens) any of the Collateral;

(iii) Debtor breaches any of its insurance obligations under Section 4;

(iv) Debtor breaches any of its other obligations under any of the Debt Documents and fails to cure that breach within thirty (30) days after written notice from Secured Party;

(v) Any warranty, representation or statement made by Debtor in any of the Debt Documents or otherwise in connection with any of the Indebtedness shall be false or misleading in any material respect;

(vi) Any of the Collateral is subjected to attachment, execution, levy, seizure or confiscation in any legal proceeding or otherwise, or if any legal or administrative proceeding is commenced against Debtor or any of the Collateral, which in the good faith judgment of Secured Party subjects any of the Collateral to a material risk of attachment, execution, levy, seizure or confiscation and no bond is posted or protective order obtained to negate such risk;

(viii) Debtor or any guarantor or other obligor for any of the Indebtedness (collectively **"Guarantor"**) dissolves, terminates its existence, becomes insolvent or ceases to do business as a going concern;

(ix) If Debtor or any Guarantor is a natural person, Debtor or any such Guarantor dies or becomes incompetent;

(x) A receiver is appointed for all or of any part of the property of Debtor or any Guarantor, or Debtor or any Guarantor makes any assignment for the benefit of creditors; or

(xi) Debtor or any Guarantor files a petition under any bankruptcy, insolvency or similar law, or any such petition is filed against Debtor or any Guarantor and is not dismissed within forty-five (45) days.

(b) If Debtor is in default, the Secured Party, at its option, may declare any or all of the Indebtedness to be immediately due and payable, without demand or notice to Debtor or any Guarantor. The accelerated obligations and liabilities shall bear interest (both before and after any judgment) until paid in full at the lower of eighteen percent (18%) per annum or the maximum rate not prohibited by applicable law.

(c) After default, Secured Party shall have all of the rights and remedies of a Secured Party under the Uniform Commercial Code, and under any other applicable law. Without limiting the foregoing, Secured Party shall have the right to (i) notify any account debtor of Debtor or any obligor on any instrument which constitutes part of the Collateral to make payment to the Secured Party, (ii) with or without legal process, enter any premises where the Collateral may be and take possession of and remove the Collateral from the premises or store it on the premises, (iii) sell the Collateral at public or private sale, in whole or in part, and have the right to bid and purchase at said sale, or (iv) lease or otherwise dispose of all or part of the Collateral, applying proceeds from such disposition to the obligations then in default. If requested by Secured Party, Debtor shall promptly assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party which is reasonably convenient to both parties. Secured Party may also render any or all of the Collateral unusable at the Debtor's premises and may dispose of such Collateral on such premises without liability for rent or costs. Any notice that Secured Party is required to give to Debtor under the Uniform Commercial Code of the time and place of any public sale or the time after which any private sale or other intended disposition of the Collateral is to be made shall be deemed to constitute reasonable notice if such notice is given to the last known address of Debtor at least five (5) days prior to such action.

(d) Proceeds from any sale or lease or other disposition shall be applied: first, to all costs of repossession, storage, and disposition including without limitation attorneys', appraisers', and auctioneers' fees; second, to discharge the obligations then in default; third, to discharge any other Indebtedness of Debtor to Secured Party, whether as obligor, endorser, guarantor, surety or indemnitor; fourth, to expenses incurred in paying or settling liens and claims against the Collateral; and lastly, to Debtor, if there exists any surplus. Debtor shall remain fully liable for any deficiency.

(e) Debtor agrees to pay all reasonable attorneys' fees and other costs incurred by Secured Party in connection with the enforcement, assertion, defense or preservation of Secured Party's rights and remedies under this Agreement, or if prohibited by law, such lesser sum as may be permitted. Debtor further agrees that such fees and costs shall constitute Indebtedness.

(f) Secured Party's rights and remedies under this Agreement or otherwise arising are cumulative and may be exercised singularly or concurrently. Neither the failure nor any delay on the part of the Secured Party to exercise any right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise of that or any other right, power or privilege. SECURED PARTY SHALL NOT BE DEEMED TO HAVE WAIVED ANY OF ITS RIGHTS UNDER THIS AGREEMENT OR UNDER ANY OTHER AGREEMENT, INSTRUMENT OR PAPER SIGNED BY DEBTOR UNLESS SUCH WAIVER IS EXPRESSED IN WRITING AND SIGNED BY SECURED PARTY. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion.

(g) DEBTOR AND SECURED PARTY UNCONDITIONALLY WAIVE THEIR RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE OTHER DEBT DOCUMENTS, ANY OF THE INDEBTEDNESS SECURED HEREBY, ANY DEALINGS BETWEEN DEBTOR AND SECURED PARTY RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN DEBTOR AND SECURED PARTY. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT. THIS WAIVER IS IRREVOCABLE. THIS WAIVER MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING. THE WAIVER ALSO SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, ANY OTHER DEBT DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

8. MISCELLANEOUS.

(a) This Agreement, any Note and/or any of the other Debt Documents may be assigned, in whole or in part, by Secured Party without notice to Debtor, and Debtor agrees not to assert against any such assignee, or assignee's assigns, any defense, set-off, recoupment claim or counterclaim which Debtor has or may at any time have against Secured Party for any reason whatsoever. Debtor agrees that if Debtor receives written notice of an assignment from Secured Party, Debtor will pay all amounts payable under any assigned Debt Documents to such assignee or as instructed by Secured Party. Debtor also agrees to confirm in writing receipt of the notice of assignment as may be reasonably requested by assignee.

(b) All notices to be given in connection with this Agreement shall be in writing, shall be addressed to the parties at their respective addresses set forth in this Agreement (unless and until a different address may be specified in a written notice to the other party), and shall be deemed

given (I) on the date of receipt if delivered in hand or by facsimile transmission, (ii) on the next business day after being sent by express mail, and (iii) on the fourth business day after being sent by regular, registered or certified mail. As used herein, the term "business day" shall mean and include any day other than Saturdays, Sundays, or other days on which commercial banks in New York, New York are required or authorized to be closed.

(c) Secured Party may correct patent errors and fill in all blanks in this Agreement or in any Collateral Schedule consistent with the agreement of the parties.

(d) Time is of the essence of this Agreement. This Agreement shall be binding, jointly and severally, upon all parties described as the "Debtor" and their respective heirs, executors, representatives, successors and assigns, and shall inure to the benefit of Secured Party, its successors and assigns.

(e) This Agreement and its Collateral Schedules constitute the entire agreement between the parties with respect to the subject matter of this Agreement and supersede all prior understandings (whether written, verbal or implied) with respect to such subject matter. THIS AGREEMENT AND ITS COLLATERAL SCHEDULES SHALL NOT BE CHANGED OR TERMINATED ORALLY OR BY COURSE OF CONDUCT, BUT ONLY BY A WRITING SIGNED BY BOTH PARTIES. Section headings contained in this Agreement have been included for convenience only, and shall not affect the construction or interpretation of this Agreement.

(f) This Agreement shall continue in full force and effect until all of the Indebtedness has been indefeasibly paid in full to Secured Party. The surrender, upon payment or otherwise, of any Note or any of the other documents evidencing any of the Indebtedness shall not affect the right of Secured Party to retain the Collateral for such other Indebtedness as may then exist or as it may be reasonably contemplated will exist in the future. This Agreement shall automatically be reinstated if Secured Party is ever required to return or restore the payment of all or any portion of the Indebtedness (all as though such payment had never been made).

(g) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CONNECTICUT (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES OF SUCH STATE), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, REGARDLESS OF THE LOCATION OF THE EQUIPMENT.

IN WITNESS WHEREOF, Debtor and Secured Party, intending to be legally bound hereby, have duly executed this Agreement in one or more counterparts, each of which shall be deemed to be an original, as of the day and year first aforesaid.

SECURED PARTY:	DEBTOR:
General Electric Capital Corporation	**Xcyte Therapies, Inc.**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

Exhibit 10.17

LEASE AGREEMENT

THIS LEASE AGREEMENT is made this 21st day of June, 1999, between **ALEXANDRIA REAL ESTATE EQUITIES, INC.,** a Maryland corporation (**"Landlord"**), and **XCYTE THERAPIES, INC.,** a Delaware corporation (**"Tenant"**).

Address: 1124 Columbia Street, Seattle, Washington

Premises: That portion of the Project, containing approximately 20,659 rentable square feet, as determined by Landlord, as shown on Exhibit A.

Project: The real property on which the building in which the Premises are located (the **"Building"**), together with all improvements thereon and appurtenances thereto as described on **Exhibit B**.

Base Rent: $39,840.79 per month

Rentable Area of Premises: 20,659 sq. ft.

Security Deposit: $119,522.38

Target Commencement Date: September 1, 1999

Rent Adjustment Percentage: 3.0%

Tenant's Share of Net Operating Expenses: 8.61%

Term: 84 months from the first day of the month following the month in which the Commencement Date occurs

Permitted Use: Research and development laboratory, general office and other related uses

Address for Rent Payment:
135 N. Los Robles Avenue, Suite 250
Pasadena, CA 91101
Attention: Accounts Receivable

Landlord's Notice Address:
135 N. Los Robles Avenue, Suite 250
Pasadena, CA 91101
Attention: General Counsel

Tenant's Notice Address:
2203 Airport Way South, Suite 300
Seattle, Washington 98134

The following Exhibits and Addenda are attached hereto and incorporated herein by this reference:

☐ EXHIBIT A - DESCRIPTION OF PREMISES
☐ EXHIBIT B - - DESCRIPTION OF PROJECT
☐ EXHIBIT C - WORK LEUER
☐ EXHIBIT D - - COMMENCEMENT DATE
☐ EXHIBIT E - RULES AND REGULATIONS
☐ EXHIBIT F - TENANTS PERSONAL PROPERTY
☐ EXHIBIT G - ESTOPPEL CERTIFICATE
☐ EXHIBIT H - NONDISTURBANCE AGREEMENT
☐ EXHIBIT I - PARKING LOCATION

1. **Lease of Premises.** Upon and subject to all of the terms and conditions hereof, Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord. The portions of the Project which are for the non-exclusive use of tenants of the Project are collectively referred to herein as the **"Common Areas."** Landlord reserves the right to modify Common Areas, provided that such modifications do not materially adversely affect Tenant's use of the Premises for the Permitted Use. Tenant shall have the right to use the loading area in the annex level of the Project leased by Corixa Corporation, a Delaware corporation ("Corixa") under that certain Columbia Building Lease dated October 28, 1994, and as amended (the "Corixa Lease") and the portion of the bio-hazards waste cage facility assigned to Tenant and located on the basement level of the Building.

2. **Delivery; Acceptance of Premises; Commencement Date.** Landlord shall deliver the Premises to Tenant for Tenant's Work under the Work Letter within 5 days of full execution of this Lease and Tenant's delivery of evidence of the insurance required hereby and by the Work Letter (**"Delivery"** or

"Deliver"). If Landlord fails to timely Deliver the Premises, Landlord shall not be liable to Tenant for any loss or damage resulting therefrom, and this Lease shall not be void or voidable except as provided herein. If Landlord does not Deliver the Premises within 15 days after full execution of this Lease and the delivery of Tenant's insurance certificates to Landlord for any reason, this Lease shall be voidable by Tenant by written notice to Landlord. If Landlord is unable despite the exercise of reasonable efforts to Deliver the Premises within 60 days after full execution of this Lease and the delivery of Tenant's insurance certificates to Landlord, this Lease shall be voidable by Landlord by written notice to Tenant. If this Lease is so voided by either: (a) so long as Tenant is not in default hereunder, the Security Deposit shall be returned to Tenant, and (b) neither Landlord nor Tenant shall have any further rights, duties or obligations under this Lease, except with respect to provisions which expressly survive termination of this Lease. If neither Landlord nor Tenant voids this Lease as described above, this Lease shall remain in full force and effect. If neither party elects to void this Lease within 5 business days of the lapse of the applicable time period, such right to void this Lease shall be waived.

The **"Commencement Date"** shall be earlier of: (i) September 1, 1999; and (ii) the date Tenant conducts any business in the Premises or any part thereof. Upon request of Landlord, Tenant shall execute and deliver a written acknowledgment of the Term Commencement Date and the expiration date of the Term when such are established and shall attach the acknowledgment to this Lease as part of **Exhibit D**; provided, however, Tenant's failure to execute and deliver such acknowledgment shall not affect Landlord's rights hereunder.

Except as set forth in the Work Letter, if applicable: (i) Tenant shall accept the Premises in their condition. as of the Commencement Date, subject to all applicable laws, ordinances, regulations, covenants and restrictions; (ii) Landlord shall have no obligation for any defects in the Premises; and (ii) Tenant's taking possession of the Premises shall be conclusive evidence that Tenant accepts the Premises and that the Premises were in good condition at the time possession was taken. Any occupancy of the Premises by Tenant before the Commencement Date other than for the construction of Tenant's Work pursuant to the Work Letter shall be subject to all of the terms and conditions of this Lease, including the obligation to pay Rent.

Tenant agrees and acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of any or all of the Premises (other than Landlord's Work, if any) or the Project, and/or the suitability of the Premises or the Project for the conduct of Tenant's business, and Tenant waives any implied warranty that the Premises or the Project are suitable for Tenant's intended purposes. This Lease constitutes the complete agreement of Landlord and Tenant with respect to the subject matter hereof and supersedes any and all prior representations, inducements, promises, agreements, understandings and negotiations which are not contained herein. Landlord in executing this Lease does so in reliance upon Tenant's representations, warranties, acknowledgments and agreements contained herein.

3. **Rent.**

(a) **Base Rent.** The initial Base Rent for the first floor Premises (comprising 8,029 rentable square feet of the Premises) shall be $15.50 per rentable square foot and the initial Base Rent for the seventh floor Premises (the balance of the Premises) shall be $28.00 per rentable square foot. The first month's Base Rent and the Security Deposit shall be due and payable on delivery of an executed copy of this Lease to Landlord. Tenant shall pay to Landlord in advance, without demand, abatement, deduction or set-off, monthly installments of Base Rent on or before the first day of each calendar month during the Term hereof, in lawful money of the United States of America, at the office of Landlord for payment of Rent set forth above, or to such other person or at such other place as Landlord may from time designate in writing. Payments of Base Rent for any fractional calendar month shall be prorated and paid on the basis of a thirty (30) day month. The obligation of Tenant to pay Base Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations. Tenant shall have no right at any time to abate, reduce, or set-off any Rent due hereunder except for any abatement as may be expressly provided in this Lease.

(b) **Additional Rent.** In addition to Base Rent, Tenant agrees to pay to Landlord as additional rent (**"Additional Rent"**): (i) Tenant's Share of Net Building Expenses, as defined below, (ii) Tenant's First Floor Operating Expenses, as defined below, (iii) the rent and expenses for the parking described in Section 10 hereof, and (iv) any and all other amounts Tenant assumes or agrees to pay under the provisions of this Lease, including, without limitation, any and all other sums that may become due by reason of any default of Tenant or failure to comply with the agreements, terms, covenants and conditions of this Lease to be performed by Tenant, after any applicable notice and cure period.

4. **Base Rent Adjustments.** Base Rent shall be increased on each annual anniversary of the first day of the first full month during the Term of this Lease by multiplying the Base Rent payable immediately before such adjustment by the Rent Adjustment Percentage and adding the resulting amount to the Base Rent payable immediately before such adjustment. Base Rent, as so adjusted, shall thereafter be due as provided herein. Base Rent adjustments for any fractional calendar month shall be prorated.

5. **Operating Expense Payments.** Landlord shall deliver to Tenant a written estimate of Net Building Expenses for each calendar year during the Term (the **"Annual Estimate"**), which may be revised by Landlord from time to time during such calendar year. During each month of the Term, on the same date that Base Rent is due, Tenant shall pay Landlord an amount equal to 1/12 of the annual cost, as reasonably estimated by Landlord from time to time, of Tenant's Share of Net Building Expenses together with 1/12 of Tenant's First Floor Operating Expenses, as defined below. Payments for any fractional calendar month shall be prorated.

"Net Building Expenses" for any period shall mean the Operating Expenses for the Project for such period less the First Floor Operating Expenses for such period. **"First Floor Operating Expenses"** means an amount equal to the First Floor Operating Expense Rate, as defined below, multiplied by 16,894, the total rentable square feet on the first floor of the Project. **"First Floor Operating Expense Rate"** shall mean an initial rate of $8.00 per rentable square foot per year, which shall be increased by 3% each calendar year commencing on January 1, 2000, including, without limitation, throughout the Extension Term(s). **"Tenant's First Floor Operating Expenses"** shall equal 8,029 rentable square feet multiplied by the First Floor Operating Expense Rate.

The term **"Operating Expenses"** means all costs and expenses of any kind or description whatsoever incurred or accrued by Landlord with respect to the Project (including the cost of capital repairs and improvements, amortized over the lesser of 7 years or the useful life of such capital item, the costs of Landlord's or a third party's management services not to exceed 5.0% of Base Rent), excluding only:

(a) the original construction costs of the Project and renovation prior to the date of the Lease, the costs of correcting defects in such original construction or renovation, costs of any structural repairs to the Building and costs of correcting any releases of Hazardous Materials in the Building or migrating to the Project from adjoining property;

(b) completing, fixturing, improving, renovating, painting, redecorating or other work, which Landlord pays for or performs for specific tenants within their premises and costs of correcting defects in such work;

(c) capital expenditures for expansion of the Project;

(d) interest, financing costs and amortization of funds borrowed by Landlord, whether secured or unsecured;

(e) depreciation of the Project (except for the amortization of capital improvements which are includable in Operating Expenses);

(f) advertising, legal and space planning expenses, leasing commissions and other costs and expenses incurred in procuring tenants for the Project, including any leasing office maintained in the Project;

(g) salaries, wages, benefits and other compensation paid to officers and employees of Landlord who are not assigned in whole or in part to the operation, management, maintenance or repair of the Project;

(h) costs of utilities outside normal business hours sold to tenants of the Project;

(i) any expenses otherwise includable within Operating Expenses to the extent actually reimbursed by persons other than tenants of the Project under leases for space in the Project;

(j) legal and other expenses incurred in the negotiation or enforcement of leases;

(k) costs relating to maintaining Landlord's existence, either as a corporation, partnership, or other entity;

(l) costs (including attorneys' fees and costs of settlement, judgments and payments in lieu thereof) arising from claims, disputes or potential disputes pertaining to Landlord and/or the Project or from Landlord's failure to make any payment required to be made by Landlord hereunder before delinquency;

(m) costs incurred by Landlord due to the violation by Landlord, its employees, agent or contractors or any tenant of the terms and conditions of any lease of space in the Project or any Legal Requirement;

(n) tax penalties incurred as a result of Landlord's negligence, inability or unwillingness to make payment and/or to file any tax or informational returns when due;

(o) overhead and profit increment paid to the Landlord or to subsidiaries or affiliates of Landlord for goods and/or services in or to the Project to the extent the same exceeds the costs of such goods and/or services rendered by unaffiliated third parties on a competitive basis;

(p) costs arising from Landlord's charitable or political contributions or fine art maintained at the Project;

(q) costs to be reimbursed by Other tenants of the Project, whether or not actually paid;

(r) costs in connection with services (including electricity), items or other benefits of a type which are not standard for the Project and which are not available to Tenant without specific charges therefor, but which are provided to another tenant or occupant of the Project, whether or not such other tenant or occupant is specifically charged therefor by Landlord;

(s) costs to maintain the parking lots, which shall be allocated to tenants who park in such lots based on the number of cars such tenant may park in such lot over the total number of parking stalls located in said lot ("Allocated Parking Expenses");

(t) costs incurred in the sale or refinancing of the Project;

(u) net income, franchise, capital stock, estate or inheritance taxes; and

(v) insurance deductibles and other costs of casualty to the extent Tenant's Share thereof exceeds (I) with respect to earthquake insurance, $30,000, and (II) with respect to all other insurance, $15,000.

Within 90 days after the end of each calendar year (or such longer period as may be reasonably required), Landlord shall furnish to Tenant a statement (an **"Annual Statement"**) showing in reasonable detail: (a) the total and Tenant's Share of actual Operating Expenses for the previous calendar year, and (b) the total of Tenant's payments in respect of Operating Expenses for such year. If Tenant's Share of actual Operating Expenses for such year exceeds Tenant's payments of Operating Expenses for such year, the excess shall be due and payable by Tenant as Rent within 30 days after demand therefor. If Tenant's payments of Operating Expenses for such year exceed Tenant's Share of actual Operating Expenses for such year Landlord shall pay the excess to Tenant within 30 days after delivery of such Annual Statement, except that after expiration of, or termination of the Term, Landlord shall pay the excess to Tenant after deducting all other amounts due Landlord.

The Annual Statement shall be final and binding upon Tenant unless Tenant, within 30 days after Tenant's receipt thereof, shall contest any item therein by giving written notice to Landlord, specifying each item contested and the reason therefor. If, during such 60 day period, Tenant reasonably and in good faith questions or contests the correctness of Landlord's statement of Tenant's Share of Operating Expenses, Landlord will provide Tenant with access to Landlord's books and records and such information as Landlord reasonably determines to be responsive to Tenant's questions. If after Tenant's review of such information, Landlord and Tenant cannot agree upon the amount of Tenant's Share of Operating Expenses, then Tenant shall have the right to have an independent public accounting firm selected from among the 6 largest in the United States, hired by Tenant (at Tenant's sole cost and expense) and approved by Landlord (which approval shall not be unreasonably withheld or delayed), audit and/or review such Landlord's books and records for the year in question (the **"Independent Review"**). The results of any such Independent Review shall be binding on Landlord and Tenant. If the Independent Review shows that Tenant's pro rata share of the Operating Expenses actually paid by Tenant for the calendar year in question exceeded Tenant's obligations for such calendar year, Landlord shall at Landlord's option either (i) credit the excess amount to the next succeeding installments of estimated Operating Expenses or (ii) pay the excess to Tenant within 30 days after delivery of such statement, except that after expiration of, or termination of the Term, Landlord shall pay the excess to Tenant after deducting all other amounts due Landlord. If the Independent Review shows that Tenant's payments of Tenant's Share of Operating Expenses for such calendar year were less than Tenant's obligation for the calendar year, Tenant shall pay the deficiency to the Landlord within 30 days after delivery of such statement. If the Independent Review shows that Tenant has overpaid Tenant's pro rata share of Operating Expenses by more than 5% then Landlord shall reimburse Tenant for all costs incurred by Tenant for the Independent Review. Operating Expenses for the calendar years in which Tenant's obligation to share therein begins and ends shall be prorated. Notwithstanding anything set forth herein to the contrary, if the Project is not at least 95% occupied on average during any year of the Term, Tenant's Share of Operating Expenses for such year shall be computed as though the Project had been 95% occupied on average during such year.

"Tenant's Share" shall be the percentage set forth on the first page of this Lease as Tenant's Share as reasonably adjusted by Landlord for changes in the physical size of the Premises or the Project occurring thereafter. Landlord may equitably increase Tenant's Share for any item of expense or cost reimbursable by Tenant that relates to a repair, replacement, or service that benefits only the Premises or only a portion of the Project that includes the Premises or that varies with occupancy or use. Base Rent, Tenant's Share of Operating Expenses and all other amounts payable by Tenant to Landlord hereunder are collectively referred to herein as **"Rent."**

6. **Security Deposit.** The Security Deposit shall be held by Landlord as security for the performance of Tenant's obligations under this Lease. The Security Deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's Default. Upon each occurrence of a Default, Landlord may use all or part of the Security Deposit to pay delinquent payments due under this Lease, and the cost of any damage, injury, expense or liability caused by such Default, without prejudice to any other remedy provided herein or provided by law. Upon any. such use of all or any portion of the

Security Deposit, Tenant shall pay Landlord on demand the amount that will restore the Security Deposit to its original amount. Upon bankruptcy or other debtor-creditor proceedings against Tenant, the Security Deposit shall be deemed to be applied first to the payment of Rent and other charges due Landlord for periods prior to the filing of such proceedings. Landlord's obligation respecting the Security Deposit is that of a debtor, not a trustee; no interest shall accrue thereon. The Security Deposit shall be the property of Landlord, but shall be paid to Tenant when Tenant's obligations under this Lease have been completely fulfilled. Landlord shall be released from any obligation with respect to the Security Deposit upon transfer of this Lease and the Premises to a person or entity assuming Landlord's obligations under this Section 6. Tenant hereby waives the provisions of any law, now or hereafter in force, which provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of Rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Tenant or any officer, employee, agent or invitee of Tenant. If Tenant shall fully perform every provision of this Lease to be performed by Tenant, the Security Deposit, or any balance thereof, shall be returned to Tenant (or, at Landlord's option, to the last assignee of Tenant's interest hereunder) within 90 days after the expiration or earlier termination of this Lease.

7. **Use.** The Premises shall be used solely for the Permitted Use set forth in the Basic Lease Provisions and for lawful purposes incidental thereto, all in compliance with all laws, orders, judgments, ordinances, regulations, codes, directives, permits, licenses, covenants and restrictions now or hereafter applicable to the Premises, and the use and occupancy thereof (collectively, **"Legal Requirements"**). Tenant shall, upon 5 days' written notice from Landlord, discontinue any use of the Premises which is declared by any governmental authority having jurisdiction to be a violation of any Legal Requirement. Tenant will not use or permit the Premises to be used for any purpose or in any manner that would void Tenant's or Landlord's insurance, increase the insurance risk, or cause the disallowance of any sprinkler or other credits. Tenant shall reimburse Landlord promptly upon demand for any additional premium charged for any such insurance policy by reason of Tenant's failure to comply with the provisions of this Section or otherwise caused by Tenant's use and/or occupancy of the Premises. Tenant will use the Premises in a careful, safe and proper manner and will not commit waste, overload the floor or structure of the Premises, subject the Premises to use that would damage the Premises or obstruct or interfere with the rights of Landlord or other tenants or occupants of the Project, including conducting or giving notice of any auction, liquidation, or going out of business sale on the Premises, or using or allowing the Premises to be used for any unlawful purpose. Tenant shall cause any equipment or machinery to be installed in the Premises so as to reasonably prevent sounds or vibrations therefrom from extending into Common Areas, or other space in the Project. Tenant shall not place any machinery or equipment weighing 500 pounds or more in or upon the Premises or transport or move such items through the Common Areas of the Project or in the Project elevators without the prior written consent of Landlord. Except as may be provided under the Work Letter, Tenant shall not, without the prior written consent of Landlord, use the Premises in any manner which will require ventilation, air exchange, heating, gas, steam, electricity or water beyond the existing capacity of the Project as proportionately allocated to the Premises based upon Tenant's Share as usually furnished for the Permitted Use.

Landlord shall be responsible for all the compliance of the common areas of the Project with the Americans With Disabilities Act, 42 U.S.C. § 12101, et seq. (together with regulations promulgated pursuant thereto, **"ADA"**) as of the Commencement Date. Tenant, at its sole expense, shall make any alterations or modifications, to the interior or the exterior of the Premises or the Project, that are required by Legal Requirements (including, without limitation, compliance of the Premises with the ADA) related to Tenant's use or occupancy of the Premises; provided, however, if any such alterations or modifications are required as a result of any Legal Requirement of general applicability, requiring alterations or modifications throughout the Building, Landlord shall construct any such required alteration or modification and charge the cost thereof back to Tenant, either as an Operating Expense or by direct charge to Tenant of Tenant's proportional share of such costs, provided further that to the extent any portions of such required alterations or modifications are properly treated as a capital items, the costs applicable to such capital items shall be amortized over the lesser of 7 years or the useful life of such capital items. Notwithstanding any other provision herein to the contrary, Tenant shall be responsible for any and all

demands, claims, liabilities, losses, costs, expenses, actions, causes of action, damages or judgments, and all reasonable expenses incurred in investigating or resisting the same (including, without limitation, reasonable attorneys' fees, charges and disbursements and costs of suit) (collectively, "Claims") arising out of or in connection with Legal Requirements and Tenant shall indemnify, defend, hold and save Landlord harmless from and against any and all Claims arising out of or in connection with any failure of the Premises to comply with any Legal Requirement.

8. **Holding Over.** If, with Landlord's express written consent, Tenant retains possession of the Premises after the termination of the Term, unless otherwise agreed in writing, such possession shall be subject to immediate termination by Landlord at any time, and all of the other terms and provisions of this Lease (including, without limitation, the adjustment of Base Rent pursuant to Section 4 hereof) shall remain in full force and effect (excluding any expansion or renewal option or other similar right or option) during such holdover period, and in such case Tenant shall continue to pay Base Rent in the amount payable upon the date of the expiration or earlier termination of this Lease or such other amount as Landlord may indicate, in Landlord's sole and absolute discretion, in such written consent. All other payments shall continue under the terms of this Lease. If Tenant remains in possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Landlord, Tenant shall become a tenant at sufferance upon the terms of this Lease except that the monthly rental shall be equal to 150% of the Rent in effect during the last 30 days of the Term. In addition, Tenant shall be responsible for all damages suffered by Landlord resulting from or occasioned by Tenant's holding over. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided, and this Section 8 shall not be construed as consent for Tenant to retain possession of the Premises. Acceptance by Landlord of Rent after the Term Expiration Date or earlier termination of this Lease shall not result in a renewal or reinstatement of this Lease.

9. **Taxes.** Landlord shall pay, as part of Operating Expenses, all taxes, levies, assessments and governmental charges of any kind (collectively referred to as **"Taxes"**) imposed by any federal, state, regional, municipal, local or other governmental authority or agency, including, without limitation, quasi-public agencies (collectively, **"Governmental Authority"**) during the Term, including, without limitation all Taxes: (i) imposed on or measured by or based, in whole or in part, on rent payable to Landlord under this Lease and/or from the rental by Landlord of the Project or any portion thereof, or (ii) based on the square footage, assessed value or other measure or evaluation of any kind of the Premises or the Project, or (iii) assessed or imposed by or on the operation or maintenance of any portion of the Premises or the Project, including parking, or (iv) assessed or imposed by, or at the direction of, or resulting from statutes or regulations, or interpretations thereof, promulgated by, any Governmental Authority, or (v) imposed as a license or other fee on Landlord's business of leasing space in the Project. Landlord may contest by appropriate legal proceedings the amount, validity, or application of any Taxes or liens securing Taxes. Taxes shall not include any net income taxes imposed on Landlord unless such net income taxes are in substitution for any Taxes payable hereunder. If any such Tax is levied or assessed directly against Tenant, then Tenant shall be responsible for and shall pay the same at such times and in such manner as the taxing authority shall require. Tenant shall pay, prior to delinquency, any and all Taxes levied or assessed against any personal property or trade fixtures placed by Tenant in the Premises, whether levied or assessed against Landlord or Tenant. If any Taxes on Tenant's personal property or trade fixtures are levied against Landlord or Landlord's property, or if the assessed valuation of the Project is increased by a value attributable to improvements in or alterations to the Premises, whether owned by Landlord or Tenant and whether or not affixed to the real property so as to become a part thereof, higher than the base valuation on which Landlord from time-to-time allocates Taxes to all tenants in the Project, Landlord shall have the right, but not the obligation, to pay such Taxes. Landlord's determination of any excess assessed valuation shall be binding and conclusive, absent manifest error. The amount of any such payment by Landlord shall constitute Additional Rent due from Tenant to Landlord immediately upon demand.

10. **Parking.**

(a) Tenant shall have the non-exclusive right, in common with others, to use the Building Common Areas, subject to the rules and regulations attached hereto as Exhibit E together with such other

reasonable and nondiscriminatory rules and regulations as are hereafter promulgated by Landlord in its discretion.

(b) Tenant shall be assigned 20 parking stalls to be designated by Landlord and reserved for Tenant's use, which parking stalls shall be located as set forth on **Exhibit I**. Landlord reserves the right from time-to-time to provide other parking for Tenant, which shall be no farther from the Building than the farther of Landlord's two present lots, except for an interim period not exceeding 18 months in connection with a redevelopment of either such lot, in which case such replacement parking shall be no more than 5 blocks from the Building. Tenant shall pay as triple net Additional Rent the sum of $70.00 per month, per stall, which sum may be increased Landlord annually, but which increase shall in no event exceed 3% per annum. In addition, Tenant shall pay its Allocated Parking Expenses on a monthly basis with Base Rent Allocated Parking Expenses shall be subject to the operating expense exclusions set forth in Article 5. Landlord shall not oversubscribe parking.

(c) Tenant agrees not to overburden the guest parking facilities and agrees to cooperate with Landlord and other tenants in the use of such guest parking. Landlord reserves the right to determine that guest parking is becoming overcrowded and to limit Tenant's use thereof. Upon such determination, Landlord may reasonably allocate guest parking spaces among Tenant and other tenants. If, after such allocation, Landlord determines that Tenant's customers, clients, or invitees are using more than the number of guest parking spaces that would otherwise be attributable to a reasonable number of guest parking spaces for Tenant's use, Landlord may require Tenant to obtain guest parking outside of the Building and the parking lot to the extent of such unreasonable excess uses. However, nothing in this Section 10(c) is intended to create an affirmative duty on Landlord to monitor parking.

11. **Utilities, Services.**

Landlord shall provide, subject to the terms of this Section 11, potable water (within 60 days after full execution of this Lease), electricity, heat, ventilation, air conditioning, light, power, telephone, sewer, and other utilities (including gas and fire sprinklers to the extent the Project is plumbed for such services), refuse and trash collection and janitorial services (collectively, **"Utilities"**). Any use by Tenant of Utilities shall be allocated to and paid by Tenant on such basis as Landlord shall determine for the Project. Tenant shall be entitled to use its pro rata share of Utilities. Landlord shall pay, as Operating Expenses or subject to Tenant's reimbursement obligation, for all Utilities used on the Premises, all maintenance charges for Utilities, and any storm sewer charges or other similar charges for Utilities imposed by any governmental entity or Utility provider, and any taxes, penalties, surcharges or similar charges thereon. Landlord may cause, at Tenant's expense, any Utilities to be separately metered or charged directly to Tenant by the provider. Tenant shall pay directly to the Utility provider, prior to delinquency, any separately metered Utilities and services which may be furnished to Tenant or the Premises during the Term. Tenant shall pay, as part of Operating Expenses, its share of all charges for jointly metered Utilities based upon consumption, as reasonably determined by Landlord and shall pay the cost of any after hours Utilities allocated to it by Landlord. No interruption or failure of Utilities, from any cause whatsoever other than Landlord's willful misconduct, shall result in eviction or constructive eviction of Tenant, termination of this Lease or the abatement of Rent. Tenant agrees to limit use of water and sewer with respect to Common Areas to normal restroom use. If there is any interruption, failure, stoppage or interference of the utilities, services or access to the Premises or the Premises cannot be used due to the presence of any Hazardous Materials on or about the Building or the Project (except to the extent released or emitted in violation of Section 30 hereof), and such interruption continues for seven (7) consecutive calendar days, then Tenant shall be entitled to an equitable abatement of Rent to the extent of the interference with Tenant' s use of the Premises occasioned thereby. Landlord's sole obligation for either providing emergency generators or providing emergency backup power to Tenant shall be: (i) to provide emergency generators with not less than the capacity of the emergency generators located in the Building as of the Commencement Date, and (ii) to contract with a third party to maintain the emergency generators as per the manufacturer's standard maintenance guidelines. Landlord shall have no obligation to provide Tenant with operational emergency generators or back-up power or to supervise, oversee or confirm that the third party maintaining the emergency generators is maintaining the generators as per the manufacturer's standard guidelines or otherwise. During any period of replacement, repair or maintenance of the

emergency generators when the emergency generators are not operational, including any delays thereto due to the inability to obtain parts or replacement equipment, Landlord shall have no obligation to provide Tenant with an alternative back-up generator or generators or alternative sources of back-up power.

12. **Alterations and Tenant's Property.** Any alterations, additions, or improvements made to the Premises by or on behalf of Tenant, including additional locks or bolts of any kind or nature upon any doors or windows in the Premises, but excluding installation, removal or realignment of furniture systems (other than removal of furniture systems owned or paid for by Landlord) not involving any modifications to the structure or connections (other then by ordinary plugs or jacks) to building systems (as hereinafter defined) (**"Alterations"**) shall be subject to Landlord's prior written consent, which shall not be unreasonably withheld. Tenant may construct nonstructural Alterations in the Premises without Landlord's prior approval if the aggregate cost of all such work in any 12 month period does not exceed $20,000. If Landlord approves any Alterations, Landlord may impose such conditions on Tenant in connection with the commencement, performance and completion of such Alterations as Landlord may deem appropriate in Landlord's sole and absolute discretion. Any request for approval shall be in writing, delivered not less than 15 business days in advance of any proposed construction, and accompanied by plans, specifications, bid proposals, work contracts and such other information concerning the nature and cost of the alterations as may be reasonably requested by Landlord, including the identities and mailing addresses of all persons performing work or supplying materials. Landlord's right to review plans and specifications and to monitor construction shall be solely for its own benefit, and Landlord shall have no duty to see that such plans and specifications or construction comply with applicable Legal Requirements. Tenant shall cause, at its expense, all Alterations to comply with insurance requirements and with Legal Requirements and shall implement at its sole cost and expense any alteration or modification required by Legal Requirements as a result of any Alterations. Tenant shall pay to Landlord, as Additional Rent, on demand an amount equal to 2.5% of all charges incurred by Tenant or its contractors or agents in connection with any Alteration to cover Landlord's overhead and expenses for plan review, coordination, scheduling and supervision. Before beginning any Alteration, Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable law. Tenant shall reimburse Landlord for, and indemnify and hold Landlord harmless from, any extra expense incurred by Landlord by reason of faulty work done by Tenant or its contractors, delays caused by such work, or inadequate cleanup.

If any such Alteration project, or series of related Alteration projects, costs more than $100,000 and Tenant cannot make a showing of financial capacity to pay for such Alterations reasonably acceptable to Landlord, Tenant shall furnish security or make other arrangements satisfactory to Landlord to assure payment for the completion of all work free and clear of liens, and shall provide certificates of insurance for worker's compensation and other coverage in amounts and from an insurance company reasonably satisfactory to Landlord protecting Landlord against liability for personal injury or property damage during construction. Upon completion of any Alterations, Tenant shall deliver to Landlord: (i) sworn statements setting forth the names of all contractors and subcontractors who did the work and final lien waivers from all such contractors and subcontractors; and (ii) as built plans for any such Alteration.

Other than (i) the items, if any, listed on **Exhibit F** attached hereto, (ii) any items agreed by Landlord in writing to be included on **Exhibit F** in the future, and (iii) any trade fixtures, machinery, equipment and other personal property (A) not paid for out of the TI Fund, as defined in the Work Letter, or (B) financed by third parties, which may in either case be removed without material damage to the Premises, which damage to remove the same shall be repaired (including capping or terminating utility hookups behind walls) by Tenant during the Term (collectively, **"Tenant's Property"**), all property of any kind paid for with the **TI Fund**, all Alterations, real property fixtures, built-in machinery and equipment, built-in casework and cabinets and other similar additions and improvements built into the Premises so as to become an integral part of the Premises, such as fume hoods which penetrate the roof or plenum area, built-in cold rooms, built-in warm rooms, walk-in cold rooms, walk-in warm rooms, deionized water system, glass washing equipment, autoclaves, chillers, built-in plumbing, electrical and mechanical equipment and systems, and any power generator and transfer switch (collectively, **"Installations"**) shall be and shall remain the property of Landlord during the Term and following the expiration or earlier termination of the Term, shall not be removed by Tenant at any time during the Term and shall remain upon and be surrendered with the Premises as a part thereof following the expiration or earlier termination of this

Lease; provided, however, that Landlord shall, at the time its approval of such Installation is requested notify Tenant if it has elected to cause Tenant to remove such Installation upon the expiration or earlier termination of this Lease. If Landlord so elects, Tenant shall remove such Installation upon the expiration or earlier termination of this Lease and restore any darnage caused by or occasioned as a result of such removal. During any such restoration period, Tenant shall pay Rent to Landlord as provided herein as if said space were otherwise occupied by Tenant. In no event, however, shall Tenant be required to remove Tenant's Work, as defined in the Work Letter.

13. **Landlord's Repairs.** Landlord, as an Operating Expense, shall maintain all of the structural (including, without limitation, the roof), exterior, parking and other Common Areas of the Project, including HVAC, plumbing, fire sprinklers, elevators, deionized water, $C0_2$, gas, vacuum, and all other building systems serving the Premises and other portions of the Project (**"Building Systems"**), in good repair, reasonable wear and tear and uninsured damage or destruction caused by Tenant, its agents, servants, employees, invitees and contractors excluded. Damage and destruction caused by Tenant, its - -agents, servants, employees, invitees and contractors shall be repaired by Landlord, to the extent not covered by insurance, at Tenant's sole cost and expense. Landlord reserves the right to stop Building System services when necessary (i) by reason of accident or emergency, or (ii) for planned repairs, alterations or improvements, which are, in the reasonable judgment of Landlord, desirable or necessary to be made, until said repairs, alterations or improvements shall have been completed. Landlord shall have no responsibility or liability for failure to supply Building System services during any such period of interruption; provided, however, that Landlord shall give Tenant 48 hours advance notice of any planned stoppage of Building System services for routine maintenance, repairs, alterations or improvements. Tenant shall promptly give Landlord written notice of any repair required by Landlord pursuant to this Section, after which Landlord shall have a reasonable opportunity to effect such repair. Landlord shall not be liable for any failure to make any repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after Tenant's written notice of the need for such repairs or maintenance. Tenant waives it rights under any state or local law to terminate this Lease or to make such repairs at Landlord's expense and agrees that the parties' respective rights with respect to such matters shall be solely as set forth herein. Repairs required as the result of fire, earthquake, flood, vandalism, war, or similar cause of damage or destruction shall be controlled by Section 18.

14. **Tenant's Repairs.** Subject to Section 13 hereof, Tenant, at its expense, shall repair, replace and maintain in good condition, reasonable wear and tear and casualty which Tenant is not obligated to restore excepted, all portions of the Premises, including, without limitation, entries, doors, ceilings, interior windows, interior walls, and the interior side of demising walls. Such repair and replacements may include capital expenditures and repairs whose benefit may extend beyond the Term. Should Tenant fail to make any such repair or replacement or fail to maintain the Premises beyond any applicable notice and cure period, Landlord may perform such work and shall be reimbursed by Tenant within 10 days after demand therefor. Subject to Sections 17 and 18, Tenant shall bear the full uninsured cost of any repair or replacement to any part of the Project that results from damage caused by Tenant, its agents, contractors, or invitees and any repair that benefits only the Premises.

15. **Mechanic's Liens.** Tenant shall discharge, by bond or otherwise, any mechanic's lien filed against the Premises or against the Project for work claimed to have been done for, or materials claimed to have been furnished to, Tenant within 10 days after the filing thereof, at Tenant's sole cost and shall otherwise keep the Premises and the Project free from any liens arising out of work performed, materials furnished or obligations incurred by Tenant. Should Tenant fail to discharge any lien described herein, Landlord shall have the right, but not the obligation, to pay such claim or post a bond or otherwise provide security to eliminate the lien as a claim against title to the Project and the cost thereof shall be immediately due from Tenant as Additional Rent. If Tenant shall lease or finance the acquisition of office equipment, furnishings, or other personal property of a removable nature utilized by Tenant in the operation of Tenant's business, Tenant warrants that any Uniform Commercial Code Financing Statement executed by Tenant will upon its face or by exhibit thereto indicate that such Financing Statement is applicable only to removable personal property of Tenant located within the Premises. In no event shall the address of the Project be furnished on the statement without qualifying language as to applicability of the lien only to removable personal property, located in an identified suite held by Tenant. Landlord hereby

waives any statutory lien rights Landlord may have in and to Tenant's Property, and agrees to execute any confirmation of such waiver required by any lender secured by a lien on, or any lessor of, any personal property included within Tenant's Property, provided (i) such waiver is reasonably acceptable in form and substance to Landlord and (ii) nothing in this Section 15 shall in any way affect or limit Landlord's rights pursuant to Section 12 hereof.

16. **Indemnification.** Tenant hereby indemnifies and agrees to defend, save and hold Landlord harmless from and against any and all Claims for injury or death to persons or damage to property occurring within or about the Premises, arising directly or indirectly out of use or occupancy of the Premises or a breach or default by Tenant in the performance of any of its obligations hereunder, except to the extent caused by the willful misconduct or gross negligence of Landlord or Landlord's Related Parties. Landlord shall not be liable to Tenant for, and Tenant assumes all risk of damage to, personal property (including, without limitation, loss of records kept within the Premises). Tenant further waives any and all Claims for injury to Tenants business or loss of income relating to any such damage or destruction of personal property (including, without limitation, any loss of records). Landlord shall not be liable for any damages arising from any act, omission or neglect of any tenant in the Project or of any other third party. Subject to the limitations set forth in Section 36 hereof, Landlord shall indemnify Tenant for any Claims to the extent the same arise as a result of the gross negligence or willful misconduct of Landlord and its Related Parties.

17. **Insurance.** Landlord, shall maintain all insurance against any peril generally included within the classification "Fire and Extended Coverage," sprinkler damage (if applicable), vandalism and malicious mischief covering the full replacement cost of the Project. Landlord shall further carry commercial general liability insurance with a single loss limit of not less than $2,000,000 for death or bodily injury, or property damage with respect to the Project. Landlord may, but is not obligated to, maintain such other insurance and additional coverages as it may deem necessary, including, but not limited to, flood, environmental hazard and earthquake, loss or failure of building equipment, errors and omissions, rental loss during the period of repair or rebuilding, workmen's compensation insurance and fidelity bonds for employees employed to perform services and insurance for any improvements installed by Tenant or which are in addition to the standard improvements customarily furnished by Landlord without regard to whether or not such are made a part of the Project. All such insurance shall be included as part of the Operating Expenses. The Project may be included in a blanket policy (in-which case the cost of such insurance allocable to the Project will be determined by Landlord based upon the insurer's cost calculations).

Tenant, at its expense, shall maintain during the Term: all risk property insurance covering the full replacement cost of all property and improvements installed or placed in the Premises by Tenant at Tenant's expense; worker's compensation insurance with no less than the minimum limits required by law; employer's liability insurance with such limits as required by law; and commercial general liability insurance, with a minimum limit of not less than $2,000,000 per occurrence for death or bodily injury and not less than $1,000,000 for property damage with respect to the Premises. Tenant may aggregate the coverages under any insurance policies maintained solely for the Premises with coverages under umbrella insurance policies carried by Tenant, provided that any and all such policies shall comply with the following sentence. The commercial general liability insurance policies (whether maintained solely for the Premises or an umbrella policy) shall name Landlord, its officers, directors, employees, managers, agents, invitees and contractors (collectively, **"Related Parties"**), as additional insureds; insure on an occurrence and not a claims-made basis; be issued by insurance companies which have a rating of not less than policyholder rating of A and financial category rating of at least Class XII in "Best's Insurance Guide"; shall not be cancelable unless 30 days prior written notice shall have been given to Landlord from the insuror; contain a hostile fire endorsement and a contractual liability endorsement; and provide primary coverage to Landlord (any policy issued to Landlord providing duplicate or similar coverage shall be deemed excess over Tenant's policies). Such policies or certificates thereof shall be delivered to Landlord by Tenant upon commencement of the Term and upon each renewal of said insurance. Tenant's policy may be a "blanket policy" which specifically provides that the amount of insurance shall not be prejudiced by other losses covered by the policy. Tenant shall, at least 20 days prior to the expiration of such policies, furnish Landlord with renewals or binders. Tenant agrees that if Tenant does not take out and maintain such

insurance, Landlord may (but shall not be required to) procure said insurance on Tenant's behalf and at its cost to be paid as Additional Rent.

In each instance where insurance is to name Landlord as additional insured, Tenant shall upon written request of Landlord also designate and furnish certificates so evidencing Landlord as additional insured to: (i) any lender of Landlord holding a security interest in the Project or any portion thereof, (ii) the landlord under any lease wherein Landlord is tenant of the real property on which the Project is located, if the interest of Landlord is or shall become that of a tenant under a ground lease rather than that of a fee owner, and/or (iii) any management company retained by Landlord to manage the Project.

The property insurance obtained by Landlord and Tenant shall include a waiver of subrogation by the insurers and all rights based upon an assignment from its insured, against Landlord or Tenant, and their respective Related Parties, in connection with any loss or damage thereby insured against. Notwithstanding anything to the contrary herein, neither party nor its respective Related Parties shall be liable to the other for loss or damage caused by any risk insured against under property insurance required to be maintained hereunder, and each party waives any claims against the other party, and its respective Related Parties for such loss or damage. The failure of a party to insure its property shall not void this waiver. Landlord and its respective Related Parties shall not be liable for, and Tenant hereby waives all claims against such parties for, business interruption, loss of profits and losses occasioned thereby sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Premises or the Project from any cause whatsoever, including without limitation, damage caused in whole or in part, directly or indirectly, by the negligence of Landlord or its respective Related Parties. If the foregoing waivers shall contravene any law with respect to exculpatory agreements, the liability of Landlord or Tenant shall be deemed not released but shall be secondary to the other's insurer.

Landlord may require insurance policy limits to be raised to conform with requirements of Landlord's lender and/or to bring coverage limits to commercially reasonable levels then being generally required of new tenants within the Project.

18. **Restoration.** If at any time during the Term the Project or the Premises are damaged by a fire or other insured casualty, Landlord shall notify Tenant within 60 days after discovery of such damage as to the amount of time Landlord reasonably estimates it will take to restore the Project or the Premises, as applicable. If the restoration time is estimated to exceed 9 months, Landlord may, in such notice, or Tenant may, by written notice to Landlord within 15 days of Tenant's receipt of Landlord's notice, elect to terminate this Lease as of the date that is 75 days after the date of discovery of such damage or destruction. Unless Landlord or Tenant elects to terminate this Lease, Landlord shall, subject to receipt of sufficient insurance proceeds (with any deductible to be treated as a current Operating Expense), promptly restore the Premises (excluding the improvements installed by Tenant or by Landlord and paid for by Tenant), subject to delays arising from the collection of insurance proceeds, from Force Majeure events or as needed to obtain any license, clearance or other authorization of any kind required to enter into and restore the Premises issued by any governmental or quasi-governmental agency having jurisdiction over the use, storage, release or removal of Hazardous Materials brought into the Premises or the Building by Tenant or any of Tenant's Related Parties (collectively referred to herein as **"Hazardous Materials Clearances"**); provided, however, that if repair or restoration of the Premises is not Substantially Complete as of the end of 12 months from the date of damage or destruction, Landlord or Tenant may, in its sole and absolute discretion, elect not to proceed with such repair and restoration, in which event Landlord shall be relieved of its obligation to make such repairs or restoration and this Lease shall terminate as of the date that is 75 days after the later of: (i) discovery of such damage or destruction, or (ii) the date all required Hazardous Materials Clearances are obtained. Notwithstanding the foregoing, if insurance proceeds are not available for restoration of the Premises or the Building solely by reason of Landlord's failure to maintain the insurance required to be maintained by Landlord under Section 17 hereof, Landlord shall be responsible for the costs of restoration to the extent of the insurance proceeds that would have been available had Landlord performed its obligations pursuant to Section 17 hereof.

Subject to receipt of sufficient insurance proceeds and delays arising from the collection of such insurance proceeds, from Force Majeure events or to obtain Hazardous Material Clearances, Tenant, at its expense, shall promptly perform all repairs or restoration not required to be done by Landlord required for Tenant's use of the Premises, in Tenant's reasonable judgment, and shall promptly re-enter the Premises and commence doing business in accordance with this Lease. Notwithstanding the foregoing, if insurance proceeds are not available for Tenant's restoration solely by reason of Tenant's failure to maintain the insurance required to be maintained by Tenant under Section 17 hereof, Tenant shall be responsible for the costs of restoration to the extent of the insurance proceeds that would have been available had Tenant performed its obligations pursuant to Section 17 hereof.

Notwithstanding anything set forth above, Landlord may terminate this Lease if (i) the Premises are damaged during the last year of the Term, Landlord reasonably estimates that it will take more than 2 months to repair such damage, and Tenant does not exercise an Extension Right, if any then remain hereunder, or (ii) subject to the last sentence in the first paragraph of this Section 18, insurance proceeds are not available for such restoration. Rent shall be abated from the date all required Hazardous Material Clearances are obtained until the Premises are repaired and restored, in the proportion which the area of the Premises, if any, which is not usable by Tenant bears to the total area of the Premises. Such abatement shall be the sole remedy of Tenant, and except as provided herein, Tenant waives any right to terminate the Lease by reason of damage or casualty loss.

The provisions of this Lease, including this Section 18, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises, or any other portion of the Project, and any statute or regulation which is now or may hereafter be in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Premises or any other portion of the Project, the parties hereto expressly agreeing this Section 18 sets forth their entire understanding and agreement with respect to such matters.

19. **Condemnation.** If any part of the Premises or the Project is taken for any public or quasi-public use under governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof (a **"Taking"** or **"Taken"**), and the Taking would in Landlord's judgment either prevent or materially interfere with Tenant's use of the Premises or materially interfere with or impair Landlord's ownership or operation of the Project, then upon written notice by Landlord this Lease shall terminate and Rent shall be apportioned as of said date. If part of the Premises shall be Taken, and this Lease is not terminated as provided above, Landlord shall promptly restore the Premises and the Project as nearly as is commercially reasonable under the circumstances to their condition prior to such partial taking and the Rent payable hereunder during the unexpired Term shall be reduced to such extent as may be fair and reasonable under the circumstances. Upon any such Taking, Landlord shall be entitled to receive the entire price or award from any such Taking without any payment to Tenant, and Tenant hereby assigns to Landlord Tenant's interest, if any, in such award. Tenant shall have the right, to the extent that same shall not diminish Landlord's award, to make a separate claim against the condemning authority (but not Landlord) for such compensation as may be separately awarded or recoverable by Tenant for moving expenses and damage to Tenant's Trade Fixtures, if a separate award for such items is made to Tenant. Tenant hereby waives any and all rights it might otherwise have pursuant to any provision of state law to terminate this Lease upon a partial Taking of the Premises or the Project.

20. **Events of Default.** Each of the following events shall be a default (**"Default"**) by Tenant under this Lease:

(a) **Payment Defaults.** Tenant shall fail to pay any installment of Rent or any other payment hereunder when due; provided, however, that Landlord, not more than twice in any 12 month period, will give Tenant notice of such default in the payment of Rent and Tenant shall have 5 days in which to make such payment after which period Tenant shall be in Default hereunder. Tenant agrees that such notice shall be in lieu of and not in addition to any notice required by law.

(b) **Insurance.** Any insurance required to be maintained by Tenant pursuant to this Lease shall be canceled or terminated or shall expire or shall be reduced or materially changed, or Landlord shall

receive a notice of nonrenewal of any such insurance and Tenant shall fail to obtain replacement insurance at least 20 days before the expiration of the current coverage.

(c) **Abandonment.** Tenant shall abandon the Premises.

(d) **Improper Transfer.** Tenant shall assign, sublease or otherwise transfer or attempt to transfer all or any portion of Tenant's interest in this Lease or the Premises except as expressly permitted herein, or Tenant's interest in this Lease shall be attached, executed upon, or otherwise judicially seized and such action is not released within 90 days of the action.

(e) **Liens.** Tenant shall fail to discharge or otherwise obtain the release of any lien placed upon the Premises in violation of this Lease within 10 days after any such lien is filed against the Premises.

(f) **Insolvency Events.** Tenant or any guarantor or surety of Tenant's obligations hereunder shall: (A) make a general assignment for the benefit of creditors; (B) commence any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property (collectively a **"Proceeding for Relief"**); (C) become the subject of any Proceeding for Relief which is not dismissed within 90 days of its filing or entry; or (D) die or suffer a legal disability (if Tenant, guarantor, or surety is an individual) or be dissolved or otherwise fail to maintain its legal existence (if Tenant, guarantor or surety is a corporation, partnership or other entity).

(g) **Estoppel Certificate or Subordination Agreement.** Tenant fails to execute any document required from Tenant under Sections 23 or 27 within 5 days after a written notice of Tenant's failure to provide the documents described in Sections 23 and/or 27 hereof within the time periods set forth therein.

(h) **Other Defaults.** Tenant shall fail to comply with any provision of this Lease other than those specifically referred to in this Section 20, and except as otherwise expressly provided herein, such failure shall continue for a period of 30 days after written notice thereof from Landlord to Tenant.

Any notice given under Section 20(h) hereof, shall: (i) specify the alleged default, (ii) demand that Tenant cure such default, (iii) be in lieu of, and not in addition to, or shall be deemed to be any notice required under any provision of applicable law, and (iv) not be deemed a forfeiture or a termination of this Lease unless Landlord elects otherwise in such notice; provided that if the nature of Tenant's default pursuant to Section 20(h) is such that it cannot be cured by the payment of money and reasonably requires more than 30 days to cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said 30 day period and thereafter diligently prosecutes the same to completion; provided, however, that such cure shall be completed no later than 90 days from the date of Landlord's notice.

21. **Landlord's Remedies.**

(a) **Payment By Landlord; Interest.** Upon a Default by Tenant hereunder, Landlord may, without waiving or releasing any obligation of Tenant hereunder, make such payment or perform such act. All sums so paid or incurred by Landlord, together with interest thereon, from the date such sums were paid or incurred, at the annual rate equal to 12% per annum or the highest rate permitted by law (the **"Default Rate"**), whichever is less, shall be payable to Landlord on demand as Additional Rent. Nothing herein shall be construed to create or impose a duty on Landlord to mitigate any damages resulting from Tenant's Default hereunder.

(b) **Late Payment Rent.** Late payment by Tenant to Landlord of Rent and other sums due will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be

extremely difficult and impracticable to ‘ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord under any Mortgage covering the Premises. Therefore, if any installment of Rent due from Tenant is not received by Landlord within 5 days after the date such payment is due, Tenant shall pay to Landlord an additional sum of 6% of the overdue Rent as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. In addition to the late charge, Rent not paid when due shall bear interest at the Default Rate from the 5th day after the date due until paid. Notwithstanding the foregoing, no late charge nor interest shall be due on the second such failure to pay Rent in any 12 month period until 5 days after Landlord has given Tenant notice and an opportunity to cure any such failure to pay Rent and Tenant has failed so to pay Rent. Any such notice shall be in lieu of and not in addition to any notice required by law;

(c) **Remedies.** Upon the occurrence of a Default, Landlord, at its option, without further notice or demand to Tenant, shall have in addition to all other rights and remedies provided in this Lease, at law or in equity, the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever.

(i) Terminate this Lease, or at Landlord’s option, Tenant’s right to possession only, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim or damages therefor;

(ii) Upon any termination of this Lease, whether pursuant to the foregoing Section 21 (c)(i) or otherwise, Landlord may recover from Tenant the following:

(A) The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus

(B) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(C) The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(D) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant’s failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including but not limited to, brokerage commissions and advertising expenses incurred, expenses of remodeling the Premises or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant; and

(E) At Landlord’s election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term “**rent**” as used in this Section 21 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Sections 21 (c)(ii) (A) and (B), above, the **“worth at the time of award”** shall be computed by allowing interest at the Default Rate. As used in Section 21(c)(ii)(C) above, the **“worth at the time of award”** shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1%.

(iii) Landlord may continue this Lease in effect after Tenant's Default and recover rent as it becomes due. Accordingly, if Landlord does not elect to terminate this Lease following a Default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies hereunder, including the right to recover all Rent as it becomes due.

(iv) If Landlord elects to terminate this Lease following a Default by Tenant, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. Upon Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

(d) **Effect of Exercise.** Exercise by Landlord of any remedies hereunder or otherwise available shall not be deemed to be an acceptance of surrender of the Premises and/or a termination of this Lease by Landlord, it being understood that such surrender and/or termination can be effected only by the express written agreement of Landlord and Tenant. Any law, usage, or custom to the contrary notwithstanding, Landlord shall have the right at all times to enforce the provisions of this Lease in strict accordance with the terms hereof; and the failure of Landlord at any time to enforce its rights under this Lease strictly in accordance with same shall not be construed as having created a custom in any way or manner contrary to the specific terms, provisions, and covenants of this Lease or as having modified the same and shall not be deemed a waiver of Landlord's right to enforce one or more of its rights in connection with any subsequent default. A receipt by Landlord of Rent or other payment with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision of this Lease shall be deemed to have been made unless expressed in writing and signed by Landlord. To the greatest extent permitted by law, Tenant waives the service of notice of Landlord's intention to re-enter, re-take or otherwise obtain possession of the Premises as provided in any statute, or to institute legal proceedings to that end, and also waives all right of redemption in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge. Any reletting of the Premises or any portion thereof shall be on such terms and conditions as Landlord in its sole discretion may determine. Landlord shall not be liable, nor shall Tenant's obligations hereunder be diminished because of, Landlord's failure to relet the Premises or collect rent due in respect of such reletting or otherwise to mitigate any damages arising by reason of Tenant' Default.

22. **Assignment and Subletting.**

(a) **General Prohibition.** Without Landlord's prior written consent subject to and on the conditions described in this Section 22, Tenant shall not, directly or indirectly, voluntarily or by operation of law, assign this Lease or sublease the Premises or any part thereof or mortgage, pledge, or hypothecate its leasehold interest or grant any concession or license within the Premises and any attempt to do any of the foregoing shall be void and of no effect. For purposes of this Section, a transfer of ownership interests controlling Tenant shall be deemed an assignment of this Lease unless such ownership interests are publicly traded or unless such ownership interest are issued by Tenant in an equity financing.

(b) **Permitted Transfers.** If Tenant desires to assign, sublease, hypothecate or otherwise transfer this Lease or sublet the Premises other than pursuant to a Permitted Assignment (as defined below), then at least 15 business days, but not more than 45 business days, before the date Tenant desires the assignment or sublease to be effective (the **"Assignment Date"**), Tenant shall give Landlord a notice (the **"Assignment Notice"**) containing such information about the proposed assignee or sublessee, including the proposed use of the Premises and any Hazardous Materials proposed to be used or stored in the Premises, the Assignment Date, any relationship between Tenant and the proposed assignee or sublessee, and all material terms and conditions of the proposed assignment or sublease, including a copy of any proposed sublease in its final form, and such other information as Landlord may deem reasonably necessary or appropriate to its consideration whether to grant its consent. Landlord may, by giving written notice to Tenant within 15 business days after receipt of the Assignment Notice: (i) grant

or refuse such consent, in its sole discretion with respect to a proposed assignment, hypothecation or other transfer (other than a subletting), or grant or refuse such consent, in its reasonable discretion with respect to a proposed subletting (provided that Landlord shall further have the right to review and approve or disapprove the proposed form of sublease prior to the effective date of any such subletting), or (ii) terminate this Lease with respect to the space described in the Assignment Notice, as of the Assignment Date (an **"Assignment Termination"**). If Landlord elects an Assignment Termination, Tenant shall have the right to withdraw such Assignment Notice by written notice to Landlord of such election within 5 days after Landlord's notice electing to exercise the Assignment Termination. If Tenant withdraws such Assignment Notice, this Lease shall continue in full force and effect. If Tenant does not withdraw such Assignment Notice, this Lease, and the term and estate herein granted, shall terminate as of the Assignment Date with respect to the space described in such Assignment Notice. No failure of Landlord to exercise any such option to terminate this Lease shall be deemed to be Landlord's consent to the proposed assignment, sublease or other transfer. Tenant shall reimburse Landlord for all of Landlord's reasonable out-of-pocket expenses in connection with its consideration of any Assignment Notice, not to exceed $2,000 for each Assignment Notice. Notwithstanding the foregoing, Landlord's consent to an assignment of this Lease or a subletting of any portion of the Premises to any entity controlling, controlled by or under common control with Tenant, or acquiring substantially all of the issued and outstanding capital stock of Tenant or succeeding to all or substantially all of Tenant's assets (a **"Permitted Assignment"**) shall not be required, provided that Landlord shall have the right to approve the form of any such sublease or assignment.

(c) **Additional Conditions.** As a condition to any such assignment or subletting, whether or not Landlord's consent is required, Landlord may require:

(i) that any assignee or subtenant agree, in writing at the time of such assignment or subletting, that if Landlord gives such party notice Tenant is in default under this Lease, such party shall thereafter make all payments otherwise due Tenant directly to Landlord, which payments will be received by Landlord without any liability except to credit such payment against those due under the Lease, and any such third party shall agree to attorn to Landlord or its successors and assigns should this Lease be terminated for any reason; provided, however, in no event shall Landlord or its successors or assigns be obligated to accept such attornment; and

(ii) A list of Hazardous Materials, certified by the proposed assignee or sublessee to be true and correct, which the proposed assignee or sublessee intends to use or store in the Premises together with copies of all documents relating to the handling, storage, disposal and emission of Hazardous Materials by the proposed assignee or subtenant in the Premises or on the Project, prior to the proposed assignment or subletting, including, without limitation: permits; approvals; reports and correspondence; storage and management plans; plans relating to the installation of any storage tanks to be installed in or under the Project (provided, said installation of tanks shall only be permitted after Landlord has given its written consent to do so, which consent may be withheld in Landlord's sole and absolute discretion); and all closure plans or any other documents required by any and all federal, state and local governmental agencies and authorities for any storage tanks installed in, on or under the Project for the closure of any such tanks. Neither Tenant nor any such proposed assignee or subtenant is required, however, to provide Landlord with any portion(s) of the such documents containing information of a proprietary nature which, in and of themselves, do not contain a reference to any Hazardous Materials or hazardous activities.

(d) **No Release of Tenant.** Notwithstanding any assignment or subletting, Tenant and any guarantor or surety of Tenant's obligations under this Lease shall at all times remain fully and primarily responsible and liable for the payment of Rent and for compliance with all of Tenant's other obligations under this Lease, If the Rent due and payable by a sublessee or assignee (or a combination of the rental payable under such sublease or assignment plus any bonus or other consideration therefor or incident thereto), exceeds the rental payable under this Lease (excluding however, any Rent payable under this Section together with actual and reasonable brokerage fees, legal costs and any design or construction fees directly related to and required pursuant to the terms of any such sublease), then Tenant shall be

bound and obligated to pay Landlord as Additional Rent hereunder 50% of such excess rental and other excess consideration within 10 days following receipt thereof by Tenant. If Tenant shall sublet the Premises or any part thereof, Tenant hereby immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any such subletting and Landlord as assignee and as attorney-in-fact for Tenant, or a receiver for Tenant appointed on Landlord's application, may collect such rent and apply it toward Tenant's obligations under this Lease; except that, until the occurrence of a Default, Tenant shall have the right to collect such rent

(e) **No Waiver.** The consent by Landlord to an assignment or subletting shall not relieve Tenant or any assignees of this Lease or any sublessees of the Premises from obtaining the consent of Landlord to any further assignment or subletting nor shall it release Tenant or any assignee or sublessee of Tenant from full and primary liability under the Lease. The acceptance of Rent hereunder, or the acceptance of performance of any other term, covenant, or condition thereof, from any other person or entity shall not be deemed to be a waiver of any of the provisions of this Lease or a consent to any subletting, assignment or other transfer of the Premises.

(f) **Use of Hazardous Materials.** Notwithstanding any other provision of this Section 22, if either (i) the proposed assignee or sublessee of Tenant has been required by any prior landlord, lender or governmental authority to take remedial action in connection with Hazardous Materials contaminating a property if the contamination resulted from such party's action or use of the property in question, or (ii) the proposed assignee or sublessee is subject to an enforcement order issued by any governmental authority in connection with the use, disposal or storage of a Hazardous Materials, Landlord shall have the absolute right to refuse to consent to any assignment or subletting to any such party.

23. **Estoppel Certificate.** Tenant' shall within 10 business days of written notice from Landlord, execute, acknowledge and deliver a statement in writing substantially in the form attached to this Lease as **Exhibit G** with the blanks filled in, and on any other form reasonably requested by a proposed lender or purchaser, (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect) and the dates to which the rental and other charges are paid in advance, if any, (ii) acknowledging that there are not any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed, and (iii) setting forth such further information with respect to the status of this Lease or the Premises as may be requested thereon. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the real property of which the Premises are a part. Tenant's failure to deliver such statement within such time shall be conclusive upon Tenant that the Lease is in full force and effect and without modification except as may be represented by Landlord in any certificate prepared by Landlord and delivered to Tenant for execution.

24. **Quiet Enjoyment.** If Tenant shall perform all of the covenants and agreements herein required to be performed by Tenant, Tenant shall, subject to the terms of this Lease, at all times during the Term, have peaceful and quiet enjoyment of the Premises against any person claiming by, through or under Landlord.

25. **Prorations.** All prorations required or permitted to be made hereunder shall be made on the basis of a 360 day year and 30 day months.

26. **Rules and Regulations.** Tenant shall, at all times during the Term and any extension thereof, comply with all reasonable rules and regulations at any time or from time to time established by Landlord covering use of the Premises and the Project. The current rules and regulations are attached hereto as Exhibit E. If there is any conflict between said rules and regulations and other provisions of this Lease, the terms and provisions of this Lease shall control. Landlord shall not have any liability or obligation for the breach of any rules or regulations by other tenants in the Project.

27. **Subordination.** This Lease and Tenant's interest and rights hereunder are and shall be subject and subordinate at all times to the lien of any Mortgage, now existing or hereafter created on or against the Project or the Premises, and all amendments, restatements, renewals, modifications,

consolidations, refinancing, assignments and extensions thereof, without the necessity of any further instrument or act on the part of Tenant; provided, however that so long as there is no Default hereunder, Tenant's right to possession of the Premises shall not be disturbed by the Holder of any such Mortgage. Tenant agrees, at the election of the Holder of any such Mortgage, to attorn to any such Holder. Tenant agrees upon demand to execute, acknowledge and deliver a Subordination, Non-disturbance and Attornment Agreement in the form attached hereto as Exhibit H, or such other instruments, confirming such subordination and such instruments of attornment as shall be reasonably requested by any such Holder, provided any such instruments contain appropriate non-disturbance provisions assuring Tenant's quiet enjoyment of the Premises as set forth in Section 24 hereof. Notwithstanding the foregoing, any such Holder may at any time subordinate its Mortgage to this Lease, without Tenant's consent, by notice in writing to Tenant, and thereupon this Lease shall be deemed prior to such Mortgage without regard to their respective dates of execution, delivery or recording and in that event such Holder shall have the same rights with respect to this Lease as though this Lease had been executed prior to the execution, delivery and recording of such Mortgage and had been assigned to such Holder. The term **"Mortgage"** whenever used in this Lease shall be deemed to include deeds of trust, security assignments and any other encumbrances, and any reference to the **"Holder"** of a mortgage shall be deemed to include the beneficiary under a deed of trust. Landlord shall obtain a Subordination, Non-disturbance and Attornment Agreement, substantially in the form of **Exhibit H**, from Landlord's existing lender within 90 days of the Commencement Date.

28. **Surrender.** Upon expiration of the Term or earlier termination of Tenant's right of possession, Tenant may, subject to the exercise of any remedies by Landlord (to the extent not waived with respect to any of Tenant's personal property which is leased or financed), remove Tenant's Property and shall surrender the Premises to Landlord in the same condition as received, broom clean, ordinary wear and tear and casualty loss and condemnation covered by Sections 18 and 19 excepted and shall return to Landlord all keys to offices and restrooms furnished to, or otherwise procured by, Tenant. If any, such key is lost, Tenant shall pay to Landlord, at Landlord's election, either the cost of replacing such lost key or the cost of changing the lock or locks opened by such lost key. Any Tenant Property, Alterations and property not so removed by Tenant as permitted or required herein shall be deemed abandoned and may be stored, removed, and disposed of by Landlord at Tenant's expense, and Tenant waives all claims against Landlord for any damages resulting from Landlord's retention and/or disposition of such property. All obligations of Tenant hereunder not fully performed as of the termination of the Term shall survive the termination of the Term, including without limitation, indemnity obligations, payment obligations with respect to Rent and obligations concerning the condition and repair of the Premises, including the obligation to obtain all required Hazardous Materials Clearances.

29. **Waiver of Jury Trial.** TENANT AND LANDLORD WAIVE ANY RIGHT TO TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, BETWEEN LANDLORD AND TENANT ARISING OUT OF THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO.

30. **Environmental Requirements.**

(a) **Prohibition/Compliance/Indemnity.** Tenant shall not cause or permit any Hazardous Materials (as hereinafter defined) to be brought upon, kept or used in or about the Premises or the Project in violation of applicable law by Tenant, its agents, employees, contractors or invitees. If Tenant breaches the obligation stated in the preceding sentence, or if contamination of the Premises, the Project or any adjacent property by Hazardous Materials brought into the Premises or released by anyone other than Landlord and Landlord's employees, agents and contractors otherwise occurs, in either case during the term of this Lease or any extension or renewal hereof or holding over hereunder, except contamination from Hazardous Materials which Tenant can prove migrated into the Premises from adjacent space in the Building, Tenant hereby indemnifies and shall defend and hold Landlord, its officers, directors, employees, agents and contractors harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Premises or any portion of the Project, damages for the loss or restriction on use of rentable or usable space or of any amenity of the

Premises or the Project, damages arising from any adverse impact on marketing of space in the Premises or the Project, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Lease term as a result of such breach. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state or local governmental agency or political subdivision because of such breach present in the air, soil or ground water above, on, or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Materials on the Premises, the Project or any adjacent property, caused or permitted by Tenant results in any contamination of the Premises, the Project or any adjacent property, Tenant shall promptly take all actions at its sole expense and in accordance with applicable law as are necessary to return the Premises, the Project or any adjacent property, to the condition existing prior to the time of such contamination, provided that Landlord's approval of such action shall first be obtained, which approval shall not unreasonably be withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises or the Project.

(b) **Business.** Landlord acknowledges that it is not the intent of this Article 30 to prohibit Tenant from using the Premises for the Permitted Use. Tenant may operate its business according to the custom of the industry so long as the use or presence of Hazardous Materials is strictly and properly monitored according to all applicable governmental requirements. As a material inducement to Landlord to allow Tenant to use Hazardous Materials in connection with its business, Tenant agrees to deliver to Landlord prior to the Term Commencement Date a list identifying each type of Hazardous Materials to be present on the Premises and setting forth any and all governmental approvals or permits required in connection with the presence of such Hazardous Materials on the Premises (**"Hazardous Materials List"**). Tenant shall deliver to Landlord an updated Hazardous Materials List at least once a year and shall also deliver an updated list before any new Hazardous Material(s) is brought onto the Premises. Tenant shall deliver to Landlord true and correct copies of the following documents (the **"Haz Mat Documents"**) relating to the handling, use, storage, disposal and emission of Hazardous Materials prior to the Term Commencement Date, or if unavailable at that time, concurrent with the receipt from or submission to a governmental agency: permits; approvals; reports and correspondence; storage and management plans, notice of violations of any laws; plans relating to the installation of any storage tanks to be installed in or under the Project (provided, said installation of tanks shall only be permitted after Landlord has given Tenant its written consent to do so, which consent may be withheld in Landlord's sole and absolute discretion); and all closure plans or any other documents required by any and all federal, state and local governmental agencies and authorities for any storage tanks installed in, on or under the Project for the closure of any such tanks. Tenant is not required, however, to provide Landlord with any portion(s) of the Haz Mat Documents containing information of a proprietary nature which, in and of themselves, do not contain a reference to any Hazardous Materials or hazardous activities. It is not the intent of this Section to provide Landlord with information which could be detrimental to Tenant's business should such information become possessed by Tenant's competitors.

(c) **Tenant Representation and Warranty.** Tenant hereby represents and warrants to Landlord that (i) neither Tenant nor any of its legal predecessors has been required by any prior landlord, lender or governmental authority at any time to take remedial action in connection with Hazardous Materials contaminating a property which contamination resulted from Tenant's or such predecessor's action or use of the property in question, and (ii) Tenant is not subject to any enforcement order issued by any governmental authority in connection with the use, disposal or storage of a Hazardous Materials. If Landlord determines that this representation and warranty was not true as of the date of this lease, Landlord shall have the right to terminate this Lease in Landlord's sole and absolute discretion.

(d) **Testing.** Landlord shall have the right to conduct annual tests of the Premises to determine whether any contamination has occurred as a result of Tenant's use. Tenant shall be required to pay the cost of such annual test of the Premises, not to exceed $2,500 per year; provided, however, that if Tenant conducts its own tests of the Premises using third party contractors and test procedures reasonably acceptable to Landlord which tests are certified to Landlord, Landlord shall accept such tests in lieu of the annual tests to be paid for by Tenant. In addition, at any time, and from time to time, prior to the expiration or earlier termination of the Term, Landlord shall have the right to conduct appropriate tests

of the Premises and the Project to determine if contamination has occurred as a result of Tenant's use of the Premises. If contamination has occurred for which Tenant is liable under this Section 30, Tenant shall pay all costs to conduct such tests. If no such contamination is found, Landlord shall pay the costs of such tests (which shall not constitute an Operating Expense). Landlord shall provide Tenant with a copy of all third party, non-confidential reports and tests of the Premises made by or on behalf of Landlord. Tenant shall be solely responsible for and shall defend, indemnify and hold Landlord, its agents and contractors harmless from and against any and all claims, costs and liabilities including actual attorneys' fees, charges and disbursements, arising out of or in connection with any removal, clean up, restoration and materials required hereunder to return the Premises and any other property of whatever nature to their condition existing prior to the time of any such contamination. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights that Landlord holds against Tenant.

(e) **Underground Tanks.** If underground or other storage tanks storing Hazardous Materials are hereafter placed on the Premises by Tenant, Tenant shall monitor the storage tanks, maintain appropriate records, implement reporting procedures, properly close any underground storage tanks, and take or cause to be taken all other actions necessary or required under applicable state and federal law, as such now exists or may hereafter be adopted or amended.

(f) **Tenant's Obligations.** Tenant's obligations under this Article 30 shall survive the expiration or earlier termination of the Lease. During any period of time after the expiration or earlier termination of this Lease required by Tenant or Landlord to obtain all required Hazardous Materials Clearances, Tenant shall continue to pay the full Rent in accordance with this Lease, which Rent shall be prorated daily.

(g) **Definition of "Hazardous Materials."** As used herein, the term **"Hazardous Materials"** means and includes any substance, material, waste, pollutant, or contaminant listed or defined as hazardous or toxic, or regulated by reason of its impact or potential impact on humans, animals and/or the environment under any Environmental Requirements, asbestos and petroleum, including crude oil or any fraction thereof, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). As defined in Environmental Requirements, Tenant is and shall be deemed to be the "operator" of Tenant's "facility" and the "owner" of all Hazardous Materials brought on the Premises by Tenant, its agents, employees, contractors or invitees, and the wastes, by-products, or residues generated, resulting, or produced therefrom.

31. **Tenant's Remedies/Limitation of Liability.** Landlord shall not be in default hereunder unless Landlord fails to perform any of its obligations hereunder within 30 days after written notice from Tenant specifying such failure (unless such performance will, due to the nature of the obligation, require a period of time in excess of 30 days, then after such period of time as is reasonably necessary). Upon any default by Landlord, Tenant shall give notice by registered or certified mail to any beneficiary of a deed of trust or Mortgagee of a Mortgage covering the Premises and to any landlord of any lease of property in or on which the Premises are located and Tenant shall offer such beneficiary, Mortgagee and/or landlord a reasonable opportunity to cure the default, including time to obtain possession or control of the Project by a receivership if such should prove necessary to effect a cure; provided Landlord shall have furnished to Tenant in writing the names and addresses of all such persons who are to receive such notices. All obligations of Landlord hereunder shall be construed as covenants, not conditions; and, except as may be otherwise expressly provided in this Lease, Tenant may not terminate this Lease for breach of Landlord's obligations hereunder.

Notwithstanding the foregoing, if any claimed Landlord default hereunder will immediately, materially and adversely affect Tenant's ability to conduct its business in the Premises (a **"Material Landlord Default"**), Tenant shall, as soon as reasonably possible, but in any event within 2 business days of obtaining knowledge of such claimed Material Landlord Default, give Landlord written notice of such claim and telephonic notice to Tenant's principal contact with Landlord. Landlord shall then have 2 business days to commence cure of such claimed Material Landlord Default and shall diligently prosecute such cure to completion. If such claimed Material Landlord Default is not a default by Landlord hereunder, or if Tenant failed to give Landlord the notice required hereunder within 2 business days of learning of the

conditions giving rise the claimed Material Landlord Default, Landlord shall be entitled to recover from Tenant, as Additional Rent, any costs incurred by Landlord in connection with such cure in excess of the costs, if any, that Landlord' would otherwise have been liable to pay hereunder. If Landlord fails to commence, cure of any claimed Material Landlord Default as provided above, Tenant may commence and prosecute such cure to completion, and shall be entitled to recover the costs of such cure (but not any consequential of other damages) from Landlord, to the extent of Landlord's obligation to cure such claimed Material Landlord Default hereunder, subject to the limitations set forth in the immediately preceding sentence of this paragraph and the other provisions of this Lease.

All obligations of Landlord under this Lease will be binding upon Landlord only during the period of its ownership of the Premises and not thereafter. The term **"Landlord"** in this Lease shall mean only the owner, for the time being of the Premises, and upon the transfer by such owner of its interest in the Premises, such owner shall thereupon be released and discharged from all obligations of Landlord thereafter accruing, but such obligations shall be binding during the Term upon each new owner for the duration of such owner's ownership.

32. **Inspection and Access.** Landlord and its agents, representatives, and contractors may enter the Premises at any reasonable time to inspect the Premises and to make such repairs as may be required or permitted pursuant to this Lease and for any other business purpose. Landlord and Landlord's representatives may enter the Premises during business hours on not less than 48 hours advance written notice (except in the case of emergencies in which case no such notice shall be required and such entry may be at any time) for the purpose of effecting any such repairs, inspecting the Premises, showing the Premises to prospective purchasers and, during the last six months of the Term, to prospective tenants or for any other business purpose. Landlord may erect during the last six months of the Term a suitable sign on the Premises stating the Premises are available to let or that the Project is available for sale. Landlord may grant easements, make public dedications, designate common areas and create restrictions on or about the Premises, provided that no such easement, dedication, designation or restriction materially, adversely affects Tenant's use or occupancy of the Premises for the Permitted use. At Landlord's request, Tenant shall execute such instruments as may be necessary for such easements, dedications or restrictions. Tenant shall at all times, except in the case of emergencies, have the right to escort Landlord or its agents, representatives, contractors or guests while the same are in the Premises, provided such escort does not materially and adversely affect Landlord's access rights hereunder.

33. **Security.** Tenant acknowledges and agrees that security devices and services, if any, while intended to deter crime may not in given instances prevent theft or other criminal acts and that Landlord is not providing any security services with respect to the Premises. Tenant agrees that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with any unauthorized entry into the Premises or any other breach of security with respect to the Premises. Tenant shall be solely responsible for the personal safety of Tenant's officers, employees, agents, contractors, guests and invitees while any such person is in, on or about the Premises and/or the Project. Tenant shall at Tenant's cost obtain insurance coverage to the extent Tenant desires protection against such criminal acts.

34. **Force Majeure.** Landlord shall not be held responsible for delays in the performance of its obligations hereunder when caused by strikes, lockouts, labor disputes, weather, natural disasters, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, delay in issuance of permits, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of Landlord (**"Force Majeure"**).

35. **Brokers, Entire Agreement, Amendment.** Landlord and Tenant each represent and warrant that it has not dealt with any broker, agent or other person (collectively **"Broker"**) in connection with this transaction and that no Broker brought about this transaction, other than Kidder, Matthews & Segner Inc. and Alexander Commercial Real Estate. Landlord and Tenant each hereby agree to indemnify and hold the other harmless from and against any claims by any other Broker claiming a commission or other form of compensation by virtue of having dealt with Tenant or Landlord, as applicable, with regard to

this leasing transaction. This Lease may not be amended except by an instrument in writing signed by both parties hereto.

36. **Limitation on Landlord's Liability.** NOTWITHSTANDING ANYTHING SET FORTH HEREIN OR IN ANY OTHER AGREEMENT BETWEEN LANDLORD AND TENANT TO THE CONTRARY: (A) LANDLORD SHALL NOT BE LIABLE TO, TENANT OR ANY OTHER PERSON FOR (AND TENANT AND EACH SUCH OTHER PERSON ASSUME ALL RISK OF) LOSS, DAMAGE OR INJURY, WHETHER ACTUAL OR CONSEQUENTIAL TO: TENANT'S PERSONAL PROPERTY OF EVERY KIND AND DESCRIPTION, INCLUDING, WITHOUT LIMITATION TRADE FIXTURES, EQUIPMENT, INVENTORY, SCIENTIFIC RESEARCH, SCIENTIFIC EXPERIMENTS, LABORATORY ANIMALS, PRODUCT, SPECIMENS, SAMPLES, AND/OR SCIENTIFIC, BUSINESS, ACCOUNTING AND OTHER RECORDS OF EVERY KIND AND DESCRIPTION KEPT AT THE PREMISES AND ANY AND ALL INCOME DERIVED OR DERIVABLE THEREFROM; (B) THERE SHALL BE NO PERSONAL RECOURSE TO LANDLORD FOR ANY ACT OR OCCURRENCE IN, ON OR ABOUT THE PREMISES OR ARISING IN ANY WAY UNDER THIS LEASE OR ANY OTHER AGREEMENT BETWEEN LANDLORD AND TENANT WITH RESPECT TO THE SUBJECT MATTER HEREOF AND ANY LIABILITY OF LANDLORD HEREUNDER SHALL BE STRICTLY LIMITED SOLELY TO LANDLORD'S INTEREST IN THE PROJECT, AND IN NO EVENT SHALL ANY PERSONAL LIABILITY BE ASSERTED AGAINST LANDLORD IN CONNECTION WITH THIS LEASE NOR SHALL ANY RECOURSE BE HAD TO ANY OTHER PROPERTY OR ASSETS OF LANDLORD OR ANY OF LANDLORD'S OFFICERS, EMPLOYEES, AGENTS OR CONTRACTORS. UNDER NO CIRCUMSTANCES SHALL LANDLORD OR ANY OF LANDLORD'S OFFICERS, EMPLOYEES, AGENTS OR CONTRACTORS BE LIABLE FOR INJURY TO TENANT'S BUSINESS OR FOR ANY LOSS OF INCOME OR PROFIT THEREFROM.

37. **Severability.** If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added, as a part of this Lease, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

38. **Signs; Exterior Appearance.** Tenant shall not, without the prior written consent of Landlord, which may be granted or withheld in Landlord's sole discretion: (i) attach any awnings, exterior lights, decorations, balloons, flags, pennants, banners, painting or other projection to any outside wall of the Project, (ii) use any curtains, blinds, shades or screens other than Landlord's standard window coverings, (iii) coat or otherwise sunscreen the interior or exterior of any windows, (iv) place any bottles, parcels, or other articles on the window sills, (v) place any equipment, furniture or other items of personal property on any exterior balcony, (vi) paint, affix or exhibit on any part of the Premises or the Project any signs, notices, window or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior of the Premises. Interior signs on doors and the directory tablet shall be inscribed, painted or affixed for Tenant by Landlord at the sole cost and expense of Tenant, and shall be of a size, color and type acceptable to Landlord. Nothing may be placed on the exterior of corridor walls or corridor doors other than Landlord's standard lettering. The directory tablet shall be provided exclusively for the display of the name and location of tenants.

39. **Right to Expand**

(a) **Expansion in the Project.** Tenant shall have the right, but not the obligation, to expand the Premises (the **"Expansion Right"**) to include any space available in the Project (the **"Expansion Space"**) upon the terms and conditions in this Section. In the event a vacancy occurs, Landlord shall deliver to Tenant (and to each other tenant in the Project having an expansion right) written notice (the **"Expansion Notice"**) of the availability of such portion of the Expansion Space, together with the terms and conditions on which Landlord is prepared to lease to Tenant such portion of the Expansion Space. All other terms and conditions shall be as set forth in this Lease. Tenant shall have 10 business days following delivery of the Expansion Notice to deliver to Landlord written notification of Tenant's exercise of the Expansion Right. Provided that no prior right to expand is exercised by any of Fred Hutchinson Cancer

Research Center, Corixa or The Hope Heart Institute, Tenant shall be entitled to lease such Expansion Space upon the terms and conditions set forth in the Expansion Notice. In the event Tenant fails to timely deliver such notice, or if Landlord and Tenant are unable to agree upon any of the terms of the lease agreement for such portion of the Expansion Space after negotiating in good faith for a period of 60 days from the date Tenant gives notice, Tenant shall be deemed to have waived any right to lease such portion of the Expansion Space, unless and until such portion of the Expansion Space again becomes vacant following a tenancy.

(b) **Amended Lease.** If: (i) Tenant fails to timely deliver notice accepting the terms of a Expansion Notice, or (ii) after the expiration of the 60 day period described in Section 39.1 no lease agreement for the Expansion Space has been executed, and Landlord tenders to Tenant an amendment to this Lease setting forth the terms for the rental of the Expansion Space consistent with those set forth in the Expansion Notice and otherwise consistent with the terms of this Lease and Tenant fails to execute such Lease amendment within ten business days following such tender, Tenant shall be deemed to have waived its right to lease such Expansion Space.

(c) **Exceptions.** Notwithstanding the above, the Expansion Right shall not be in effect and may not be exercised by Tenant:

(i) during any period of time that Tenant is in Default under any provision of the Lease; or

(ii) if Tenant has been in Default under any provision of the Lease 3 or more times, whether or not the Defaults are cured, during the 12 month period prior to the date on which Tenant seeks to exercise the Expansion Right

(d) **Subordinate.** Tenant's rights in connection with the Expansion Right are and shall be subject to and subordinate to any expansion or extension rights granted in the Project to Corixa, Fred Hutchinson Cancer Research Center and The Hope Heart Institute.

(e) **Termination.** The Expansion Right shall terminate and be of no further force or effect even after Tenant's due and timely exercise of the Expansion Right, if, after such exercise, but prior to the commencement date of the Expansion Space, (i) Tenant fails to timely cure any Default by Tenant under the Lease; or (ii) Tenant has Defaulted 3 or more times during the period. from the date of the exercise of the Expansion Right to the date of the commencement of the Expansion Space, whether or not such Defaults are cured.

(f) **Rights Personal.** Expansion Rights are personal to Tenant and are not assignable except to a Permitted Assignee without Landlord's consent, which may be granted or withheld in Landlord's sole discretion.

(g) **No Extensions.** The period of time within which any Expansion Rights may be exercised shall not be extended or enlarged by reason of the Tenant's inability to exercise the Expansion Rights.

40. **Right to Extend Term.** Tenant shall have the right to extend the Term of the Lease upon the following terms and conditions:

(a) **Extension Rights.** Tenant shall have 2 consecutive rights (each, an **"Extension Right"**) to extend the Term of this Lease for 5 years each (each, an **"Extension Term"**) on the same terms and conditions as this Lease by giving Landlord written notice of its election to exercise each Extension Right at least 6 months prior to the expiration of the initial Term of the Lease or the expiration of any prior Extension Term.

During any Extension Term, Base Rent shall be payable at the Market Rate (as defined below). Base Rent shall be adjusted on each annual anniversary of the commencement of such Extension Term

by the rent Adjustment Percentage. As used herein, "Market Rate" shall mean the then market rental rate as determined by Landlord and agreed to by Tenant, which shall in no event be less than 103% of the Base Rent payable as of the date immediately preceding the commencement of such Extension Term.

If, on or before the date which is 120 days prior to the expiration of the initial Term of this Lease, or the expiration of any Extension Term, Tenant has not agreed with Landlord's determination of the Market Rate after negotiating in good faith, Tenant may by written notice to Landlord elect arbitration as described in Section 41(b) below. If Tenant does not elect such arbitration, Tenant shall be deemed to have waived any right to extend, or further extend, the Term of the Lease and all of the remaining Extension Rights shall terminate.

(b) **Arbitration.**

(i) Within 10 days of Tenant's notice to Landlord of its election to arbitrate Market Rate and escalations, each party shall deliver to the other a proposal containing the Market Rate and escalations that the submitting party believes to be correct (**"Extension Proposal"**). If either party fails to timely submit an Extension Proposal, the other party's submitted proposal shall determine the Base Rent for the Extension Term. If both parties submit Extension Proposals, then Landlord and Tenant shall meet within 7 days after delivery of the last Extension Proposal and make a good faith attempt to mutually appoint a single Arbitrator to determine the Market Rate and escalations. If Landlord and Tenant are unable to agree upon a single Arbitrator, then each shall, by written notice delivered to the other within 10 days after the meeting, select an Arbitrator. If either party fails to timely giver notice of its selection for an Arbitrator, the other party's submitted proposal shall determine the Base Rent for the Extension Term. The 2 Arbitrators so appointed shall, within 5 business days after their appointment, appoint a third Arbitrator. If the 2 Arbitrators so selected cannot agree on the selection of the third Arbitrator within the time above specified, then either party, on behalf of both parties may request such appointment of such third Arbitrator by application to any state court of general jurisdiction in the jurisdiction in which the Premises are located, upon 10 days prior written notice to the other party of such intent.

(ii) The decision of the Arbitrator(s) shall be made within 30 days after the appointment of a single Arbitrator or the third Arbitrator, as applicable. The decision of the single Arbitrator or majority of the 3 Arbitrators shall be final and binding upon the parties. Each party shall pay the fees and expenses of the Arbitrator appointed by or on behalf of such party and the fees and expenses of the third Arbitrator shall be borne equally by both parties. If the Market Rate and escalations are not determined by the first day of the Renewal Term, then Tenant shall pay Landlord Base Rent in an amount equal to the Base Rent in effect immediately prior to the Renewal Term until such determination is made. After the determination of the Market Rate and escalations, the parties shall make any necessary adjustments to such payments made by Tenant. Landlord and Tenant shall then execute an amendment recognizing the Market Rate and escalations for the Renewal Term.

(iii) An **"Arbitrator"** shall be any person appointed by or on behalf of either party or appointed pursuant to the provisions hereof and: (i) shall be (A) a member of the American Institute of Real Estate Appraisers with not less than 10 years of experience in the appraisal of improved office and high tech industrial real estate in the greater Seattle metropolitan area, or (B) a licensed commercial real estate broker with not less than 15 years experience representing landlords and/or tenants in the leasing of high tech or life sciences space in the greater Seattle metropolitan area, (ii) devoting substantially all of their time to professional appraisal or brokerage work, as applicable, at the time of appointment and (iii) be in all respects impartial and disinterested.

(c) **Rights Personal.** Extension Rights are personal to Tenant and are not assignable except to a Permitted Assignee without Landlord's consent, which may be granted or withheld in Landlord's sole discretion.

(d) **Exceptions.** Notwithstanding anything set forth above to the contrary, Extension Rights shall not be in effect and Tenant may not exercise any of the Extension Rights:

(i) during any period of time that Tenant is in Default under any provision of this Lease; or

(ii) if Tenant has been in Default under any provision of this Lease 3 or more times, whether or not the Defaults are cured during the 12 month period immediately prior to the date that Tenant intends to exercise an Extension Right, whether or not the Defaults are cured.

(e) **No Extensions.** The period of time within which any Extension Rights may be exercised shall not be extended or enlarged by reason of the Tenant's inability to exercise the Extension Rights.

(f) **Termination.** The Extension Rights shall terminate and be of no further force or effect even after Tenant's due and timely exercise of an Extension Right, if, after such exercise, but prior to the commencement date of an Extension Term, (i) Tenant fails to timely cure any Default by Tenant under this Lease; or (ii) Tenant has Defaulted 3 or more times during the period from the date of the exercise of an Extension Right to the date of the commencement of the Extension Term, whether or not such Defaults are cured.

41. **Miscellaneous.**

(a) **Notices.** All notices or other communications between the parties shall be in writing and shall be deemed duly given upon receipt or refusal to accept delivery by the addressee thereof if delivered in person, or one business day after being deposited for delivery to the party to whom notice is to be given with a reputable overnight guaranty courier, addressed and sent to the parties at their addresses set forth above. Landlord and Tenant may from time to time by written notice to the other designate another address for receipt of future notices.

(b) **Joint and Several Liability.** If and when included within the term **"Tenant,"** as used in this instrument, there is more than one person or entity, each shall be jointly and severally liable for the obligations of Tenant.

(c) **Financial Information.** Tenant shall furnish Landlord with true and complete copies of (i) Tenant's most recent audited annual financial statements within 30 days of the end of each of Tenant's fiscal years during the Term, (ii) at Landlord's request from time to time, updated business plans, including cash flow projections, and/or pro forma balance sheets and income statements, all of which shall be treated by Landlord as confidential information belonging to Tenant, (iii) corporate brochures and/or profiles prepared by Tenant for prospective investors, and (iv) any other financial information or summaries that Tenant typically provides to its lenders or shareholders.

(d) **Recordation.** Neither this Lease nor a memorandum of lease shall be filed by or on behalf of Tenant in any public record. Landlord may prepare and file, and upon request by Landlord Tenant will execute, a memorandum of lease.

(e) **Interpretation.** The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or any exhibits or amendments hereto. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The captions inserted in this Lease are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Lease, or any provision hereof, or in any way affect the interpretation of this Lease.

(f) **Not Binding Until Executed.** The submission by Landlord to Tenant of this Lease shall have no binding force or effect, shall not constitute an option for the leasing of the Premises, nor confer any right or impose any obligations upon either party until execution of this Lease by both parties.

(g) **Limitations on Interest.** It is expressly the intent of Landlord and Tenant at all times to comply with applicable law governing the maximum rate or amount of any interest payable on or in connection with this Lease. If applicable law is ever judicially interpreted so as to render usurious any interest called for under this Lease, or contracted for, charged, taken, reserved, or received with respect to this Lease, then it is Landlord's and Tenant's express intent that all excess amounts theretofore collected by Landlord be credited on the applicable obligation (or, if the obligation has been or would thereby be paid in full, refunded to Tenant), and the provisions of this Lease immediately shall be deemed reformed and the amounts thereafter collectible hereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder.

(h) **Choice of Law.** Construction and interpretation of this Lease shall be governed by the internal laws of the state in which the Premises are located, excluding any principles of conflicts of laws.

(i) **Time.** Time is of the essence as to the performance of Tenant's obligations under this Lease.

(j) **Incorporation by Reference.** All exhibits and addenda attached hereto are hereby incorporated into this Lease and made a part hereof. If there is any conflict between such exhibits or addenda and the terms of this Lease, such exhibits or addenda shall control.

[signatures begin on the next page]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

TENANT:

XCYTE THERAPIES, INC.,
a Delaware corporation

By: /s/ Ronald Jay Berenson

Its: President & CEO

LANDLORD:

ALEXANDRIA REAL ESTATE EQUITIES, INC.,
a Maryland corporation

By: /s/ Lynn Anne Shapiro

Its: General Counsel

[Notary seal]

[Signature of Notary]

FIRST AMENDMENT TO LEASE

This First Amendment (the "First Amendment") to Lease is made as of October 23, 2001, by and between **ALEXANDRIA REAL ESTATE EQUITIES, INC.**, a Maryland corporation, having an address at 135 North Los Robles Avenue, Suite 250, Pasadena, California 91101 ("**Landlord**"), and **XCYTE THERAPIES, INC.**, a Delaware corporation, having an address at 1124 Columbia Street, Suite 130, Seattle, WA 98104 ("**Tenant**").

RECITALS

A. Landlord and Tenant have entered into that certain Lease (the "**Lease**") dated as of June 21, 1999 by and between Landlord and Tenant (the "**Lease**"), wherein Landlord leased to Tenant certain premises (the "**Premises**") located at 1124 Columbia, Seattle, Washington and more particularly described in the Lease.

B. Tenant desires to expand the Premises demised under the Lease by adding Suite 660 located in the Building, consisting of 841 rentable square feet (the "**Expansion Space**"), and Landlord is willing to lease such portion of the Building to Tenant on the terms herein set forth.

C. Landlord and Tenant desire to amend the Lease to, among other things, add the Expansion Space to the Premises demised under the Lease.

D. Capitalized terms used herein without definition shall have the meanings defined for such terms in the Lease.

AGREEMENT

Now, therefore, the parties hereto agree that the Lease is amended as follows:

1. **Premises**. Effective as of the later of (i) November 1, 2001, (ii) the date this First Amendment is fully executed, and (iii) the date The Hope Heart Institute, a Washington corporation, surrenders the Expansion Space to Landlord (the "**Effective Date**"), the Premises demised under the Lease are hereby expanded to include the Expansion Space, consisting for all purposes of the Lease of 841 rentable square feet, as such Expansion Space is described on **Exhibit A** attached hereto and incorporated herein by this reference. Effective as of the Effective Date, the Base Rent payable under the Lease shall be increased by $2,171.00 per month to $44,438.07 per month. In addition, Tenant's Share of Operating Expenses (as defined in the Lease) shall be increased by 0.58% to 9.19%. Such Lease of the Expansion Space shall be for a term commencing on the Effective Date, and ending as provided in the Lease.

2. **Condition of Expansion Space**. Landlord shall provide the Expansion Space to Tenant on an absolute "as is" basis, and: (i) Tenant shall accept the Expansion Space in the condition as of the Effective Date, subject to all applicable Legal Requirements; (ii) Landlord shall have no obligation for any defects in the Expansion Space; and (iii) Tenant's taking possession of the Expansion Space shall be conclusive evidence that Tenant accepts the Expansion Space and that the Expansion Space was in serviceable condition at the time possession was taken. Tenant agrees and acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of all or any portion of the Expansion Space, and/or the suitability of the Expansion Space for the conduct of Tenant's business, and Tenant waives any implied warranty that the Expansion Space is suitable for the Tenant's use. This First Amendment constitutes the complete agreement of Landlord and Tenant with respect to the subject matter hereof and supersedes any and all prior representations, inducements, promises, agreements, understandings and negotiations which are not contained herein.

3. **Security Deposit**. As a condition of the effectiveness of this First Amendment, the Security Deposit as defined in the Lease shall be increased by the sum of $6,513.00, which amount shall be held by Landlord as part of the Security Deposit subject to the terms of the Lease.

4. **Miscellaneous**.

(a) This First Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This First Amendment may be amended only by an agreement in writing, signed by the parties hereto.

(b) This First Amendment is binding upon and shall inure to the benefit of the parties hereto, their respective agents, employees, representatives, officers, directors, divisions, subsidiaries, affiliates, assigns, heirs, successors in interest and shareholders.

(c) This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this First Amendment attached thereto.

(d) Landlord and Tenant each represent and warrant that it has not dealt with any broker, agent other person (collectively, "**Broker**") in connection with this transaction, and that no Broker brought about this transaction. Landlord and Tenant each hereby agrees to indemnify

and hold the other harmless from and against any claims by any Broker claiming a commission or other form of compensation by virtue of having dealt with Landlord or Tenant, as applicable, with regard to this leasing transaction.

(e) Except as amended and/or modified by this First Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this First Amendment. In the event of any conflict between the provisions of this First Amendment and the provisions of the Lease, the provisions of this First Amendment shall prevail. Whether or not specifically amended by this First Amendment, all of the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

TENANT:

XCYTE THERAPIES, INC.,

a Delaware corporation

By: _____

Its: _____

LANDLORD:

ALEXANDRIA REAL ESTATE EQUITIES, INC.,

a Maryland corporation

By: _____

Its: _____

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE (this "**Second Amendment**") is made as of this 26th day of March, 2003, by and between **ALEXANDRIA REAL ESTATE EQUITIES, INC.**, a Maryland corporation ("**Landlord**"), and **XCYTE THERAPIES, INC.**, a Delaware corporation ("**Tenant**").

RECITALS

A. Landlord and Tenant have entered into that certain Lease Agreement dated as of June 21, 1999 (the "**Original Lease**"), pursuant to which Landlord leases to Tenant certain premises containing approximately 20,659 rentable square feet in the building located at 1124 Columbia Street, Seattle, Washington (the "**Building**"), and more particularly described in the Original Lease (the "**Original Premises**").

B. Pursuant to that certain First Amendment to Lease dated as of October 23, 2001 (the "**First Amendment**"), Landlord and Tenant amended the Original Lease to, among other things, add the Expansion Space to the Original Premises. The Original Lease, as amended by the First Amendment, is hereinafter referred to as the "**Lease**." Capitalized terms used herein without definition shall have the meanings defined for such terms in the Lease.

C. Landlord and Tenant desire, subject to the terms and conditions set forth herein, to amend the Lease to (i) reduce the size of the Premises by terminating the lease with respect to the Expansion Space, and (ii) expand the size of the Premises by adding Suite 70 located on the basement floor of the Building, consisting of approximately 700 rentable square feet, and more particularly shown on Exhibit A attached hereto (the "**Basement Premises**").

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the mutual promises and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **First Amendment**. Effective on April 1, 2003 (the "**Effective Date**"), Section 1 and Section 2 of the First Amendment are deleted in their entirety.

2. **Premises**. Effective on the Effective Date, the defined term Premises on page 1 of the Original Lease is deleted in its entirety and replaced with the following;

Premises: That portion of the Project, containing approximately 20,659 rentable square feet, as determined by Landlord, as shown on Exhibit A to the Original Lease, and that portion of the Project commonly known as Suite 70, containing approximately 700 rentable square feet, as determined by Landlord, as shown on Exhibit A to this Second Amendment.

3. **Base Rent**. Commencing on the Effective Date, in addition to paying Base Rent for the Original Premises as provided for in the Original Lease, Tenant shall be required to pay Base Rent for the Basement Premises in the amount of $1,166.66 per month during the Term. From and after the Effective Date, the defined term Base Rent shall mean Base Rent for the Original Premises and Base Rent for the Basement Premises.

4. **Operating Expenses**. Tenant shall not be required to pay Operating Expenses for the Basement Premises. Nothing contained in this Section 4 is intended to amend any of the provisions of the Original Lease regarding Tenant's obligation to pay Operating Expenses for the Original Premises as provided for in the Original Lease.

5. **Condition and Use of Basement Premises**. The Basement Premises shall only be used for the storage of laboratory materials and for no other purposes. Except for the installation of refrigeration equipment in the Basement Premises, Tenant shall not make any alterations, additions, or improvements to the Basement Premises.

   Landlord shall deliver the Basement Premises to Tenant on the Effective Date on an absolute "as is" basis, and (i) Tenant shall accept the Basement Premises in their condition as of the Effective Date, subject to all applicable Legal Requirements; (ii) Landlord shall have no obligation for any defects in the Basement Premises; and (iii) Tenant's taking possession of the Basement Premises shall be conclusive evidence that Tenant accepts the Basement Premises and that the Basement Premises were in good condition at the time possession was taken. Tenant agrees and acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of any or all of the Basement Premises, and/or the suitability of the Basement Premises for the conduct of Tenant's business, and Tenant waives any implied warranty that the Basement Premises is suitable for Tenant's intended purposes.

6. **Surrender of the Expansion Space**. Tenant agrees voluntarily to surrender the Expansion Space on or before March 31, 2003 ("**Termination Date**"), and in the condition which space is required under the Lease to be surrendered to Landlord at the expiration or earlier termination of the Term. Landlord and Tenant each agree that the other is excused as of the Termination Date from any further obligations under the Lease with respect to the Expansion Space, excepting only such obligations under the Lease which are, by their terms, intended to survive a termination of the Lease, and as otherwise provided herein. In addition, nothing herein shall be deemed to limit or terminate any

common law or statutory rights Landlord may have with respect to Tenant in connection with any Hazardous Materials, or for violations of any Legal Requirements. Nothing herein shall excuse Tenant from its obligations under the Lease with respect to the Expansion Space prior to the Termination Date.

7. **Miscellaneous**.

(a) This Second Amendment is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This Second Amendment may be amended only by an agreement in writing, signed by the parties hereto.

(b) This Second Amendment is binding upon and shall inure to the benefit of the parties hereto, their respective agents, employees, representatives, officers, directors, divisions, subsidiaries, affiliates, assigns, heirs, successors in interest and shareholders.

(c) This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Second Amendment attached thereto.

(d) Landlord and Tenant each represent and warrant that it has not dealt with any broker, agent other person (collectively, "**Broker**") in connection with this transaction, and that no Broker brought about this transaction. Landlord and Tenant each hereby agrees to indemnify and hold the other harmless from and against any claims by any Broker claiming a commission or other form of compensation by virtue of having dealt with Landlord or Tenant, as applicable, with regard to this leasing transaction.

(e) Except as amended and/or modified by this Second Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this Second Amendment. In the event of any conflict between the provisions of this Second Amendment and the provisions of the Lease, the provisions of this Second Amendment shall prevail. Whether or not specifically amended by this Second Amendment, all of the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this Second Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the day and year first above written.

LANDLORD:

ALEXANDRIA REAL ESTATE EQUITIES, INC.,
a Maryland corporation

By: _____

Its: _____

TENANT:

XCYTE THERAPIES, INC.,
a Delaware corporation

By: _____

Its: _____

EXHIBIT A

BASEMENT PREMISES

[Napa Premises]

Exhibit 10.20

LEASE

BETWEEN

HIBBS/WOODINVILLE ASSOCIATES, L.L.C.

LANDLORD,

AND

XCYTE THERAPIES INC.

TENANT

FOR PREMISES

AT

BOTHELL, WASHINGTON

DATED AS OF December 7, 2000

INDEX

SECTION	TITLE	PAGE
1.	DEMISE AND TERM OF DEMISE	3
2.	RENT, TAXES, ASSESSMENTS AND OTHER CHARGES	5
3.	USE OF PREMISES: COMPLIANCE WITH LAWS	14
4.	REPRESENTATIONS BY TENANT AND LANDLORD	15
5.	INSURANCE	16
6.	DAMAGE OR DESTRUCTION	18
7.	CONDEMNATION	19
8.	SUBORDINATION, ATTORNMENT, ESTOPPEL CERTIFICATE	21
9.	REPAIRS, MAINTENANCE, ALTERATIONS, ETC.	23
10.	IMPROVEMENTS/TENANT'S WORK	25
11.	ASSIGNMENT, SUBLETTING AND MORTGAGING	26
12.	INDEMNITY	28
13.	DEFAULT PROVISIONS, LANDLORD'S REMEDIES	30
14.	BANKRUPTCY AND INSOLVENCY	35
15.	ENTRY BY LANDLORD, ETC.	37
16.	COVENANT OF QUIET ENJOYMENT	38
17.	EFFECT OF CONVEYANCE, LIMITS OF LIABILITY OF LANDLORD, DEFINITION OF "LANDLORD"	38
18.	SURRENDER, HOLDING OVER BY TENANT	39
19.	CURING DEFAULTS; FEES AND EXPENSES	40
20.	MECHANICS AND OTHER LIENS	40
21.	SIGNS, ADDRESS	41
22.	WAIVERS AND SURRENDERS TO BE IN WRITING, RIGHT TO TERMINATE	41
23.	COVENANTS BINDING ON SUCCESSORS AND ASSIGNS	42
24.	RESOLUTION OF DISPUTES	42
25.	NOTICES	43
26.	DEFINITIONS; HEADINGS; CONSTRUCTION OF LEASE	44
27.	FORCE MAJEURE	45
28.	BROKERAGE	46
29.	MISCELLANEOUS PROVISIONS	46
30.	COMPLIANCE WITH ENVIRONMENTAL LAWS	47
31.	SECURITY	51
32.	ACCESS	51
33.	NET LEASE	52
34.	RIGHT OF FIRST NEGOTIATION	52
35.	CAFETERIA SPACE	53
36.	SECURITY DEPOSIT.	55

EXHIBITS

EXHIBIT A - THE PROPERTY, BUILDINGS, PARKING LOT AND COMMON AREA

EXHIBIT B - DEMISED PREMISES

EXHIBIT C - RENTAL SCHEDULE

LEASE

THIS lease (the "Lease") is entered into this as of December 7, 2000 between HIBBS/WOODINVILLE ASSOCIATES, LLC, a Washington limited liability company (the "Landlord"), and XCYTE THERAPIES, INC., a Delaware corporation (the "Tenant").

W I T N E S S E T H:

WHEREAS, Landlord is the owner of that certain land located in Bothell, Washington and the improvements and buildings thereon (the "Property"), more particularly described in Exhibit A attached hereto and made a part hereof, and

WHEREAS, various buildings located on the land are known as the Administrative Building consisting of approximately 91,290 square feet, the Production Building consisting of approximately 171,816 square feet, the North Barn consisting of approximately 13,576 square feet and the South Barn consisting of approximately 6,763 square feet (the Administrative Building, the Production Building, the North Barn and the South Barn are sometimes collectively referred to as the "Buildings");

WHEREAS, there is also located on the Property a paved and striped parking area consisting of approximately 774 parking spaces (hereinafter referred to as the "Parking Lot"), and

WHEREAS, the Property, Buildings and the Parking Lot are depicted on Exhibit A attached hereto.

WHEREAS, Tenant is desirous of leasing space on the third floor of the Production Building consisting of approximately 40,500 rentable square feet more particularly described and outlined on the plan designated as Exhibit B attached hereto ("Demised Premises") and Landlord is desirous of leasing the Demised Premises to Tenant on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties hereto, Landlord and Tenant agree as follows:

1. DEMISE AND TERM OF DEMISE

1.1 (a) The commencement date of the Lease shall be earlier of a date 30 days following notice to Tenant by Landlord that the Demised Premises are available for occupancy or December 1, 2000 (the "Commencement Date").

(b) This Lease shall be and become effective as of the Commencement Date. As of the Commencement Date, the terms and provisions of this Lease shall govern and control the respective rights and obligations of Landlord and Tenant with respect to the Demised Premises and the Property.

1.2 (a) Landlord demises and leases unto Tenant, and Tenant hires and takes from Landlord, in consideration of the rents to be paid and the covenants, agreements and conditions to be performed, observed and fulfilled by Tenant, the Demised Premises described on Exhibit B attached hereto and made a part hereof (as same may be modified from time to time in accordance with this Lease).

(b) Within sixty (60) days of the Commencement Date, Landlord shall cause its architect or engineer to measure the rentable area of the Demised Premises, such rentable area measurement to be performed and calculated in accordance with the most recent standards for floor measurement of office buildings adopted by the Building Owners and Managers Association (BOMA). Landlord shall give written notice to Tenant of the rentable area of the Demised Premises which measurement shall be deemed to be the exact rentable area of the Demised Premises for purposes of this Lease. Until the rentable area is measured as aforesaid, rent for the Demised Premises shall be paid by Tenant based on the approximate square footage of the Demised Premises (40,500 square feet) and upon submission by Landlord to Tenant of the actual measured area, the parties agree the rent shall be paid based on the actual measured square footage of rentable area of the Demised Premises.

1.3 The common area of the Property (the "Common Area") shall mean those interior and exterior portions of the Property designated on Exhibit A, including the improvements and facilities used for parking areas, access and perimeter roads, landscaped areas, exterior walks, and washrooms and common hallways located in the Administrative Building, the access areas to the Cafeteria, and the Parking Lot as of the date hereof as shown on Exhibit A. Tenant shall have the non-exclusive right, during the term of this Lease, to use the Common Area, in a reasonable manner, for itself, its employees, invitees, guests, contractors and licensees for parking, ingress, egress and similar uses and Tenant acknowledges that all other tenants or occupants of all or any portion of the Property for themselves, and their employees, invitees, guests, contractors, subtenants (if any) and licensees shall also have similar rights to use the Common Area. Landlord shall have the right, at any time and from time to time (a) to grant to any tenant or tenants which hereafter leases or lease all or any of the Property the same rights which inure to Tenant and other tenants as herein described, and/or (b) to (i) limit Tenant to the use of seventy (70) parking spaces in the Parking Lot and to designate the location thereof and (ii) alter, modify, increase or reduce the Common Area, provided that access to and from the Demised Premises shall not be materially or adversely affected thereby. All Common Areas shall be subject to the exclusive control and management of

Landlord, subject to the rights of Tenant and any other tenants of the Property to use and have access to the Common Area, and subject to such rights as Landlord shall have pursuant to this Lease or otherwise. The freight elevator located on the northside of the Building and specifically noted on Exhibit B shall be considered Common Area to which Tenant has unlimited access. Landlord will provide Tenant with access to the Leased Premises through the loading dock doors on the north side of the Building and adjacent Common Areas for delivery of materials during reasonable business hours; provided, however, that Tenant shall make every effort to insure that the doors are securely closed when not in use.

1.4 The term of the Lease (the "Term") shall commence on the Commencement Date and shall terminate and expire midnight on December 1, 2010 (the "Expiration Date"). Tenant shall, within ten (10) days after request by Landlord, execute, acknowledge and deliver to Landlord an instrument in form and substance reasonably acceptable to Landlord confirming (i) the Commencement Date and the Expiration Date, but no such instrument shall be required to make the provisions of this Section 1.4 effective.

1.5 Tenant shall have the option to renew this Lease for two renewal term of Five (5) years each (herein referred to as the "Renewal Term(s)") which shall commence on the day following the expiration of the initial ten (10) year Term, or the first renewal term, as the case may be, and end on the fifth anniversary of the commencement date of the Renewal Term unless the Renewal Term shall sooner terminate pursuant to the terms of this Lease or otherwise. The Renewal Term shall commence only if (i) Tenant shall have notified Landlord of Tenant's exercise of such renewal option in writing at least nine (9) months prior to the expiration of Term or the first renewal term as the case may be, and (ii) immediately prior to the expiration of the initial ten (10) year Term, or the first renewal term, as the case may be, this Lease shall be in full force and effect and no Event of Default shall have occurred and be continuing. Time is of the essence with respect to the giving of the notice of Tenant's exercise of a renewal option. The Renewal Term shall be upon all of the terms, covenants and conditions hereof binding upon Tenant and Landlord, except that (a) the basic annual rent (as defined in Section 2.1) shall be as provided in Exhibit C and (b) there shall be no further renewal right after the expiration of the Second Renewal Term. Upon the commencement of the Renewal Term, (x) any reference to "this Lease", to the "Term", the "term of this Lease" or any similar expression shall be deemed to include the then current Renewal Term, and (y) the Expiration Date shall become the expiration of the then current Renewal Term.

2. RENT, TAXES, ASSESSMENTS AND OTHER CHARGES

2.1 Commencing as of the Commencement Date, Tenant shall pay to Landlord basic annual rent as Shown on Exhibit C based on the rentable area of the

Demised Premises, as adjusted from time to time in accordance with the terms and conditions of this Lease (the "Basic Annual Rent").

2.2 Such Basic Annual Rent shall be paid by Tenant to Landlord in equal monthly installments, in advance, on the first day of each calendar month during the Term without notice, demand, abatement, deduction, counterclaim or set off of any kind. Tenant shall pay the rent in lawful money of the United States. Any obligation of Tenant for payment of rent which shall have accrued during the Term shall survive the expiration or termination of this Lease.

2.3 The installments of Basic Annual Rent payable under Section 2.1 for the partial calendar months at the beginning and end of the Term shall be pro-rated in the proportion of the number of days in the partial calendar month to the number of days in the year.

2.4 Whenever under the terms of this Lease any sum of money is required to be paid by Tenant in addition to the Basic Annual Rent, and said additional amount so to be paid shall be designated as "Additional Rent," and collectible as such with any installment of rental thereafter falling due hereunder, or, if no such installment thereunder shall fall due, on demand. Rent or rental for purposes of this Lease shall mean Basic Annual Rent plus all Additional Rent, including, but not limited to, Tenant's Proportionate Share of Taxes and Operating Expenses.

2.5 "Tenant's Taxes" shall mean all taxes, assessments, license fees and other governmental charges or impositions levied or assessed against or with respect to Tenant's personal property, furnishings, equipment, movable partitions, business machines and other trade fixtures installed, located or attached to the Property. Tenant shall pay all Tenant's Taxes before delinquency and, at Landlord's request, shall furnish Landlord satisfactory evidence thereof. If any lien shall at any time be filed against the Property or any part thereof with respect to Tenant's Taxes not paid by Tenant when due, or any judgment, attachment or levy is filed or recorded against the Property or any part thereof with respect thereto, Tenant, within thirty (30) days after the attachment thereof, shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien, judgment, attachment or levy to be discharged within the period aforesaid, then, in addition to any other right or remedy, Landlord may, but shall not be obligated to, discharge the same by bonding proceedings, if permitted by law (and if not so permitted, by deposit in court). Any amount so incurred by Landlord, including all costs and expenses paid by Landlord in connection therewith, together with interest thereon at the rate of 15% per annum (or, if lower, the maximum rate permitted by law) from the respective dates of Landlord's so incurring any such amount, cost or expenses, shall constitute additional rent payable by Tenant under this Lease and shall be paid by Tenant to Landlord on demand.

2.6 For purposes of this Lease, the following terms shall be defined as follows:

(a) "Tenant's Proportionate Share" shall mean the ratio, expressed as a percentage, of the number of rentable square feet comprising the Demised Premises from time to time (approximately 40,500 square feet as of the Commencement Date) (which shall hereafter be adjusted upon any increase or reduction based on the measurement of the Demised Premises under Section 1.2(c) or otherwise in accordance with this Lease) to the agreed total number of rentable square feet in the Buildings (283,445), that is to say 14.3% as of the Commencement Date, subject to later adjustment in accordance herewith.

(b) "Fiscal Year" shall mean each fiscal year of Landlord or part thereof during the Term, as such fiscal year may be changed at any time and from time to time in the sole discretion of Landlord. The fiscal year of Landlord as of the date hereof is January 1 through December 31.

(c) "Lease Year" shall mean a period of one (1) year commencing on the Commencement Date and thereafter commencing upon each anniversary thereof.

(d) "Operating Expenses" shall mean and include all amounts, expenses and costs of whatever nature that Landlord incurs because of or in connection with the operation, insuring, maintenance, equipping, securing, policing, protection, repair, or management (the "Operating Expenses"), Operating Expenses shall be determined on an accrual basis in accordance with sound management accounting principles consistently applied and shall include, but shall not be limited to, the following:

(1) Costs and expenses of maintenance, equipping, securing, policing, garbage disposal, and repair of the Property, including Common Areas.

(2) Costs of maintenance and replacement of landscaping.

(3) Costs of providing utilities and services to the Common Area.

(4) Premiums for property (including coverage for earthquake and flood if carried by Landlord), liability, worker's compensation, plate glass, rental income and other insurance and commercially reasonable deductible amounts under such insurance paid in connection with repair or restoration of the Property after any damage or destruction.

(5) Fees and charges for licenses, permits and inspections reasonably necessary for the operation of the Property.

(6) Costs of capital improvements required to meet changed governmental regulations or which are, reasonably and in good faith, intended to reduce Operating Expenses, such costs, together with interest on the unamortized balance at the rate paid by Landlord on funds borrowed for the purpose of constructing such capital improvements (or, if Landlord funds such costs itself in lieu of borrowing such amount, deemed interest equivalent to the interest at a commercially reasonable rate that would have been incurred had such amount been borrowed by Landlord), to be amortized over such reasonable periods as Landlord shall determine, consistent with generally accepted accounting principles.

(7) Costs associated with the construction, repair or maintenance of any on-site Property management offices or related facilities.

(8) Property management fees.

(9) Costs for accounting, legal and other professional services incurred in connection with the management and operation of the Property and the calculation of Operating Expenses and Taxes (as defined below).

(10) A reasonable allowance for depreciation on machinery and equipment used to maintain the Property and on other personal property used by Landlord on the Property in connection with the management and operation of the Property consistent with generally accepted accounting principles.

(11) The reasonable cost of contesting the validity or applicability of any governmental enactments that may affect the Property.

(12) Wages, salaries, fees, related taxes, insurance costs, benefits (including amounts payable under medical, pension and welfare plans and any amounts payable under collective bargaining agreements) and reimbursement of expenses of and relating to all personnel principally engaged in operating, repairing, managing, replacing and maintaining the Property.

(13) All supplies, tools, equipment and materials used in operating, equipping, repairing and maintaining the Property.

(14) Cost of security and security personnel, devices and systems (including, without limitation, any security office on the Property).

Notwithstanding any contrary provision of this Lease, Operating Expenses shall not include: (i) capital improvements other than those specifically enumerated above in clause (6) of the definition of Operating Expenses; (ii) costs of special or additional services rendered to individual tenants (including Tenant) for which a special charge is made; (iii) interest and principal payments on loans or indebtedness secured by the Property or ground rent payments (if any); (iv) costs of improvements for other tenants of the Property; (v) costs of services or other benefits of a type which are not available to Tenant but which are available to other tenants or occupants, and costs for which Landlord is reimbursed by other tenants of the Property other than through payment of tenants' shares of Operating Expenses and Taxes, (vi) leasing commissions, attorneys' fees and other expenses incurred in connection with negotiations of disputes with other tenants, prospective tenants or occupants of the Property, or in connection with the enforcement or violation by Landlord or such tenant or occupant of any lease; (vii) depreciation or amortization, other than as specifically enumerated above in the definition of Operating Expenses, (viii) costs, fines or penalties incurred due to Landlord's violation of any law or governmental regulation, (ix) the excess of the cost of supplies and services provided by subsidiaries and affiliates of Landlord, or Landlord itself, over competitive costs by independent suppliers and contractors of comparable buildings in the vicinity of the Property; and (x) Taxes.

If Landlord does not furnish during any Fiscal Year any particular work or service (the cost of which, if performed by Landlord, would constitute an Operating Expense) to a tenant which has undertaken to perform such work or service in lieu of the performance thereof by Landlord, then Operating Expenses shall be deemed to be increased by an amount equal to the additional expense which would reasonably have been incurred during such Fiscal Year by Landlord if it had, at its cost, furnished such work or service to such tenant; provided, however, Landlord shall not be entitled to be reimbursed for an amount in excess of the actual Operating, Expenses. If during any Fiscal Year less than 95% of the leasable square feet of the Property is leased and occupied by tenants, then the Operating Expenses for such Lease Year shall be increased proportionately to reflect the amount of the Operating Expenses which, in Landlord's reasonable judgment, would have been incurred during such Lease Year if 95% of the leasable square feet of the Property was leased and occupied by tenants.

(e) "Taxes" shall mean and include all real property taxes and general, special or district assessments or other governmental impositions, of whatever kind, nature or origin, imposed on or by reason of the ownership or use of the Property; governmental charges, fees or assessments for transit (including without limitation, area wide traffic improvement assessments and transportation system management fees), housing, police, fire or other governmental service or purported benefits to the Property; personal property taxes assessed on the personal property of Landlord used in or related to the operation of the Property service payments in lieu of taxes and taxes and

assessments of every kind and nature whatsoever levied or assessed in addition to, in lieu of or in substitution for existing or additional real or personal property taxes on the Property or the personal property described above, taxes and assessments on the gross or net rental receipts of Landlord derived from the Property (excluding, however, state and federal personal or corporate income taxes measured by the net income of Landlord from all sources and inheritance, franchise or estate taxes), and the reasonable cost of contesting by appropriate proceedings the amount or validity of any taxes, assessments or charges described above. Taxes shall also include any personal property taxes imposed upon the furniture, fixtures, machinery, equipment, apparatus, systems and appurtenances of Landlord used in connection with the Property for the operation thereof. Taxes shall also include the amount of all fees, costs and expenses (including, without limitation, attorneys' fees and court costs), if any, paid or incurred by Landlord each Fiscal Year in seeking or obtaining any refund or reduction of Taxes or for contesting or protesting any imposition of taxes, whether or not successful and whether or not attributable to Taxes assessed, paid or incurred in such Fiscal Year.

2.7 (a) In addition to the Basic Annual Rent, Tenant shall pay, with respect to each Fiscal Year, Tenant's Proportionate Share of all Operating Expenses and Taxes. Tenant's Proportionate Share of Operating Expenses shall be paid in monthly installments in advance on the first day of each calendar month during such Fiscal Year in the Term in amounts sufficient to satisfy payment of the Operating Expenses for such Fiscal Year as reasonably estimated by Landlord from time to time prior to, or during, any Fiscal Year and communicated to Tenant by written notice (the "Estimated Operating Expense Adjustment"). If Landlord does not deliver such a notice (an "Estimate") prior to the commencement of any Fiscal Year, Tenant shall continue to pay Estimated Operating Expense Adjustment as provided in the most recently received Estimate (or Updated Estimate, as defined below) until the Estimate for such Fiscal Year is delivered to Tenant. If, from time to time during any Fiscal Year, Landlord reasonably determines that Operating Expenses for such Fiscal Year have increased or will increase, Landlord may deliver to Tenant an updated Estimate ("Updated Estimate") for such Fiscal Year, Monthly payments of Estimated Operating Expense Adjustment paid subsequent to Tenant's receipt of the Estimate or Updated Estimate for any Fiscal Year shall be in the amounts provided in such Estimate or Updated Estimate, as the case may be. In addition, Tenant shall pay to Landlord within thirty (30) days after receipt of such Estimate or Updated Estimate, the amount, if any, by which the aggregate of the Estimated Operating Expense Adjustment provided in such Estimate or Updated Estimate, as the case may be, with respect to prior months in such Fiscal Year exceeds the aggregate of the Estimated Operating Expense Adjustment paid by Tenant with respect to such prior months.

After the end of each Fiscal Year, Landlord shall send to Tenant a statement (the "Final Operating Expense Adjustment Statement") showing (i) the calculation of the Operating Expense Adjustment for such Fiscal Year, (ii) the aggregate amount of the Estimated Operating Expense Adjustment previously paid by Tenant for such Fiscal

Year, and (iii) the amount, if any, by which the aggregate amount of the installments of Estimated Operating Expense Adjustment paid by Tenant with respect to such Fiscal Year exceeds or is less than the Expense Adjustment for such Fiscal Year. Tenant shall pay the amount of any deficiency to Landlord within thirty (30) days of the sending of such statement. At Landlord's option, any excess shall either be credited against payments past or next due hereunder or refunded by Landlord, provided Tenant is not then in default hereunder.

On reasonable advance written notice given by Tenant within thirty (30) days following the receipt by Tenant of the Final Operating Expense Adjustment Statement, Landlord shall make available to Tenant Landlord's books and records maintained with respect to the Operating Expenses for such Fiscal Year. If Tenant wishes to contest any item within any Final Operating Expense Adjustment Statement, Tenant shall do so in a written notice (a "Contest Notice") received by Landlord within thirty (30) days following Tenant's inspection of Landlord's books and records, but in any event not later than sixty (60) days after Landlord shall have made its books and records available to Tenant for inspection. The Contest Notice shall specify in detail the item or items being contested and the specific grounds therefor. However, the giving of such Contest Notice shall not relieve Tenant from the obligation to pay any deficiency in such statement or the Landlord from the obligation to pay (by refund or credit) any excess in such statement in accordance with this Section. Notwithstanding anything else in this Section to the contrary, if Tenant fails to give such Contest Notice within said thirty (30) day period or fails to pay any deficiency in such statement in accordance with this Section, whether or not contested, Tenant shall have no further right to contest any item or items in such statement and Tenant shall be deemed to accept such statement.

For thirty (30) days after receipt of Tenant's Contest Notice, Landlord and Tenant shall attempt to resolve such dispute. If such dispute shall not be resolved within such thirty (30) day period (the resolution to be evidenced by a writing signed by Landlord and Tenant), the dispute shall be resolved by arbitration as follows: The party desiring arbitration (the "First Party") shall give notice to that effect to the other party, and shall in such notice appoint a person as arbitrator on its behalf. Within fifteen (15) days after its receipt of such notice, the other party by notice to the First Party shall appoint an arbitrator on its behalf, if the second arbitrator shall not be so appointed within such fifteen (15) days, the First Party may give a second notice to the other party demanding that the other party appoint an arbitrator within ten (10) days of its receipt of such second notice and if the other party shall not do so within such ten (10) day period, then the arbitrator appointed by the First Party shall appoint the second arbitrator. The two arbitrators appointed pursuant to the above shall try to appoint the third arbitrator. If, within twenty (20) days after the appointment of the second arbitrator, they shall not have agreed upon the appointment of the third arbitrator, either of the parties upon notice to the other party may request such appointment by the Office of the American Arbitration Association (the "AAA") closest to the Property, or in its absence, refusal, failure or

inability to act, may apply to the presiding judge of the court of the State of Washington with Jurisdiction over the matters covered by this Lease (the "Court") for the appointment of such third arbitrator and the other party shall not raise any question as to the Court's power and jurisdiction to entertain the application and make the appointment. Each arbitrator shall be a qualified person who shall have at least ten (10) years experience in a calling connected with the matter of the dispute. The arbitration shall be conducted in accordance with the then prevailing, rules of the AAA, under the auspices of the office of the AAA closest to the Property, The arbitrators shall render their decision and award in writing upon concurrence of at least two (2) of their members, within thirty (30) days after the appointment of the third arbitrator. Such decision and award shall be binding and conclusive on the parties, shall constitute an "award" of the arbitrators within the meaning of the AAA rules and applicable law, and counterpart copies thereof shall be delivered to each of the parties. In rendering such decision and award, the arbitrators shall not add to, subtract from, or otherwise modify the provisions of this Lease and shall apply applicable federal and/or state law. Judgment may be had under the decision and award of the arbitrators so rendered 'in any court of competent jurisdiction'. Each party shall pay the fees and expenses of the arbitrator appointed by or for it. The fees and expenses of the third arbitrator, and all other expenses of the arbitration (other than the fees and disbursements of attorneys or witnesses for each party), shall be borne by the parties equally.

(b) Tenant's Proportionate Share of Taxes with respect to each Fiscal Year shall be paid in monthly installments in advance on the first day of each calendar month during such Fiscal Year in the Term in amounts sufficient to satisfy payment of Tenant's Proportionate Share of Taxes For such Fiscal Year as reasonably estimated by Landlord from time to time prior to or during any Fiscal Year and communicated to Tenant by written notice (the "Estimated Tax Payment," and the actual, final amount due from Tenant on account of Taxes, the "Tax Payment")). If Landlord does not deliver such a notice (an "Estimate") prior to the commencement of any Fiscal Year, Tenant shall continue to pay Estimated Tax Payment as provided in the most recently received Estimate (or Updated Estimate, as defined below) until the Estimate for such Fiscal Year is delivered to Tenant. If, from time to time during any Fiscal Year, Landlord reasonably determines that Taxes for such Fiscal Year have increased or will increase, Landlord may deliver to Tenant an updated Estimate ("Updated Estimate") for such Fiscal Year. Monthly payments of Estimated Tax Payment paid subsequent to Tenant's receipt of the Estimate or Updated Estimate for any Fiscal Year shall be in the amounts provided in such Estimate or Updated Estimate, as the case may be. In addition, Tenant shall pay to Landlord within thirty (30) days after receipt of such Estimate or Updated Estimate, the amount, if any, by which the aggregate of the Estimated Tax Payment provided in such Estimate or Updated Estimate, as the case may be, with respect to prior months in such Fiscal Year exceeds the aggregate of the Estimated Tax Payment paid by Tenant with respect to such prior months.

(c) Within sixty (60) days after a final real estate tax bill with respect to the Property is received by Landlord or any other determination of Taxes with respect to a Fiscal Year occurs (whether due to the receipt of a bill, the filing of a return, the settlement or adjudication of disputed Taxes, or otherwise), or as soon thereafter as practicable, Landlord shall send to Tenant a statement (the "Tax Adjustment Statement") showing (i) the calculation (or recalculation) of the Tax Payment for such Fiscal Year, (ii) the aggregate amount of the Estimated Tax Payment previously paid by Tenant for such Fiscal Year, and (iii) the amount, if any, by which the aggregate amount of the installments of Estimated Tax Payment paid by Tenant with respect to such Fiscal Year exceeds or is less than the Tax Payment for such Fiscal Year. Tenant shall pay the amount of any deficiency to Landlord within thirty (30) days after the sending of such statement. At Landlord's option, any excess shall either be credited against payments past or next due hereunder or refunded by Landlord, provided Tenant is not then in default hereunder.

2.8 Tenant shall (i) pay (at the rates charged by the utility providers to Landlord) 100% of all charges for electric current (including, without limitation, for lighting the Demised Premises and supplying HVAC to the Demised Premises), water, gas (if any), telephone, and other utilities consumed relative to the Demised Premises, and (ii) be responsible (at Tenant's expense) of providing, installing, repairing, maintaining and operating all conduits, risers, cables, pipes and other electrical, mechanical and other facilities and installations which are required in connection with the consumption of such utilities at the Demised Premises. Landlord shall be responsible for providing, installing, repairing, maintaining and operating all conduits, risers, cables, pipes and other electrical and mechanical facilities which are required to deliver of such utilities from the property line to the Demised Premises at a capacity of 707.5 kva, except that Tenant shall be solely responsible for any costs associated with increasing the levels of such utilities beyond current capacity of 707.5 kva.

2.9 Landlord shall provide the following services for the Property: (i) city water from regular building outlets for drinking, lavatory and toilet purposes, (ii) janitorial and maintenance service for Common Areas (it being understood that Tenant at its expense shall provide janitorial service to the Demised Premises using contractors reasonably acceptable to Landlord which shall provide insurance coverage reasonably acceptable to Landlord), (iii) all utilities for the Common Area, and (iv) periodic inspections of the drain valves, hydrants and fire pumps on the Property. The cost of the services to be provided by Landlord described in this Section 2.9 shall constitute Operating Expenses.

2.10 If Tenant shall fail to pay, within ten (10) days of the date when the same is due and payable, any rent or other charge pursuant to this Lease (including, without limitation, basic annual rent, or additional rent), Tenant shall upon demand pay Landlord a late charge of five (5%) percent of the amount past due, or, if such late charge

shall exceed the maximum late charge permitted by law, the Tenant shall pay the maximum late charge permitted by law. Additionally, such amounts not paid shall accrue interest at the rate of one and one-half percent (1.5%) (or the highest rate allowable by law if lower) per month until paid. Such interest shall be cumulative.

2.11 If requested by Landlord, Tenant promptly, shall install, at Tenant's expense, such electrical meters and other installations and equipment as shall be required so that the electrical current consumed in the Demised Premises may be separately metered and paid by Tenant. In the event Landlord separately meters the Common Areas, the cost of such current separately metered and consumed in connection with the Common Areas shall be included in the Operating Expenses. In the event the Demised Premises is separately metered, Tenant shall not be obligated to pay any portion of the utilities consumed in any portion of the Buildings which is leased or available for lease (other than the Demised Premises and the Common Areas), but Tenant will in such event pay its proportionate share of utilities consumed in connection with the Common Areas.

3. USE OF PREMISES: COMPLIANCE WITH LAWS

3.1 Subject to Section 3.2, the Demised Premises may be used only for office purposes and pharmaceutical development and related manufacturing, subject to and in accordance with all Legal Requirements (hereafter defined) and for no other purpose. Landlord shall not be deemed to have made any representation, warranty or agreement that any such use by Tenant or all or any of the Property shall be or remain lawful or otherwise permitted under any Legal Requirements.

3.2 Tenant shall not use or occupy or permit anything to be done in or on the Demised Premises or the Property, in whole or in part, in a manner which would in any way violate any certificate of occupancy affecting the Demised Premises or the Property, make void or voidable any insurance then in force with respect thereto, or which may make it more costly or impossible to obtain fire or other insurance thereon, cause or be apt to cause structural or other material injury to the Buildings or any part thereof, constitute a public or private nuisance, or which may violate any present or future, ordinary or extraordinary, foreseen or unforeseen Legal Requirements or Insurance Requirements, (hereinafter defined). In addition, Tenant shall not allow any animals to be kept on the Premises or use or allow the Demised Premises to be used for residential or dwelling purposes.

3.2.1 Landlord acknowledges that Tenant requires a clean environment to operate its business. Accordingly, Landlord agrees to amend the Rules and Regulations for the Property to prohibit all tenants from bringing live animals, dead animals, animal parts or animal refuse and waste into any part of the Production Building, including the Common Areas and leased areas in the Production Building; provided, however, that such prohibition shall not include any food or clothing items whatsoever.

In the event Landlord discovers or learns that any Tenant, or guest of any Tenant, has violated this provision, Landlord shall immediately notify Tenant and take all reasonable steps to eliminate the violation; provided, however, that in no event shall Landlord be liable for any damage caused by any tenant's failure to comply with such Rules and Regulations and in no event shall Landlord be obligated by this Section 3.2.1 to evict any other tenant.

3.3 Tenant shall, at its expense, promptly comply or cause compliance with, and not jeopardize or make more costly Landlord's compliance with (but it being agreed that except as may otherwise be expressly set forth to the contrary in this Lease, compliance with the following shall be the obligation of Tenant at Tenant's expense):

3.3.1 the requirements of every statute, law, ordinance, regulation, rule, requirement, order or directive, including but not limited to the Americans with Disabilities Act of 1990, now or hereafter made by any federal, state, city or county government or any department, political subdivision, bureau, agency, office or officer thereof, or of any other governmental authority having jurisdiction with respect to and applicable to (i) the Demised Premises, (ii) the condition, equipment, maintenance, use or occupation of the Demised Premises, including, without limitation, such of the foregoing applicable to the making of any alteration or addition in or to any structure appurtenant thereto and to pollution and environmental control, and (iii) subtenants of Tenant (all of the foregoing being herein referred to as "Legal Requirements"), and

3.3.2 the rules, regulations, orders and other requirements of the National and any local Board of Fire Underwriters, or other body having the same or similar functions and having jurisdiction of and which are applicable to, the Demised Premises and of any liability, fire or other insurance policy which Tenant or Landlord is required hereunder to maintain (herein referred to as "Insurance Requirements"), whether or not such compliance involves changes in the use of the Demised Premises or any part thereof, or be required on account of any particular use to which the Demised Premises, or any part thereof may be put, and whether or not any such Legal Requirements or Insurance Requirements be of a kind not now within the contemplation of the parties hereto.

4. REPRESENTATIONS BY TENANT AND LANDLORD

4.1 Tenant covenants and agrees that it will accept the Demised Premises in its existing "as is" state or condition as of the Commencement Date and without any representation or warranty, express or implied, in fact or by law, by Landlord or its agents and without recourse to Landlord or its agents, as to the nature, condition, or usability thereof, or the use or occupancy which may be made thereof, except as may be otherwise specifically provided in this Lease.

4.2 Landlord agrees that it will not establish any new air vents within twenty (20) feet of Tenant's air intakes on the roof without prior notice to Tenant.

4.3 Nothing, in this Lease shall limit or restrict the right of the Landlord, from time to time, and in the Landlord's sole discretion, to execute, enter into, amend, modify, terminate and/or cancel any leases or occupancy agreements respecting the Property (or any parts thereof), other than this Lease, nor shall any such acts or actions by Landlord give rise to any right or remedy in favor of Tenant.

5. INSURANCE

5.1 During the Term, Tenant, at Tenant's sole cost and expense, shall carry and maintain:

5.1.1 Commercial general public liability insurance, including property damage liability coverage, protecting and indemnifying Tenant, Landlord (and naming Landlord, its managing agent and the holder of any mortgage encumbering the Property as additional insured thereon) and any designee of Landlord against any and all claims for damages to person or property, or for loss of life or of property occurring in or about the Demised Premises or arising out of the ownership, maintenance, use or occupancy thereof or from any of the matters indicated in Section 12 or elsewhere in this Lease against which Tenant is required to indemnify Landlord. The coverage limits of the policy shall be those amounts reasonably requested by Landlord but at least $1,000,000 Combined Single Limit.

5.1.2 All policies of insurance carried by Tenant pursuant to this Lease shall name as insureds Landlord, and if required, any fee mortgagee or other designee of Landlord, as their respective interests may appear; provided, however, that rent insurance, if any, shall be carried solely in favor of Landlord. To the extent Landlord receives and applies proceeds of rent insurance, if any, Tenant shall receive a credit against fixed rental payable hereunder. Subject to the rights of any fee mortgagee, all losses made under the policy or policies shall be adjusted by Landlord and the proceeds thereof shall be payable to the Landlord. The originals or duplicate originals of such policies or certificates shall be delivered to Landlord except when such originals or duplicate originals are required to be held by any fee mortgagee, in which case certificates of insurance shall be delivered to Landlord. Policies or certificates with respect to renewal policies shall be delivered to Landlord by Tenant (i) initially not later than the Commencement Date and (ii) thereafter not less than 30 days prior to the expiration of the original policies, or succeeding renewals, as the case may be, in each case together with receipts or other evidence that the premiums thereon have been paid for at least six months. In the event the Tenant is not able to deliver the insurance policies or certificates prior to the renewal date as aforesaid, the Tenant may deliver binders in lieu of such policies or certificates to the Landlord; provided, however, that the insurance

policies or certificates shall be delivered within sixty (60) days after the expiration of the original policies or succeeding renewals but in no event later than fifteen (15) days prior to the expiration date of the binder. Premiums on policies shall not be financed in any manner whereby the lender, on default or otherwise, shall have the right or privilege of surrendering or canceling the policies, provided, however, that Tenant may pay premiums in quarter or semi-annual installments so long as such method of payment does not constitute a default under any fee Mortgage. Each policy of insurance required under this program shall have attached thereto an endorsement that such policy shall not be canceled or modified without at least thirty (30) days prior written notice to the Landlord, and, if required, to any fee mortgagee. Each such policy shall contain a provision that no act or omission of Tenant shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained and a provision waiving any right of the insured against the Landlord. All insurance required to be carried by Tenant under this Lease shall be effected under valid and enforceable policies issued by insurers which are licensed to do business in the State of Washington and have been approved in writing by Landlord (which approval Landlord agrees not to unreasonably withhold).

5.1.3 Fire and extended coverage insurance covering Tenant's personal property, improvements and alterations, against loss or damage by fire and other risks now or hereafter embraced by "all risk" coverage, with vandalism and malicious mischief endorsements, to the extent of at least 90% of then full replacement values. The proceeds from any such policy shall be used by Tenant for the replacement of personal property or the restoration of Tenant's improvements or alterations.

5.1.4 Worker's compensation insurance as required by Legal Requirements.

5.2 Landlord and Tenant hereby release each other and each other's officers, directors, shareholders, principals, employees and agents, from liability or responsibility for any loss or damage to property covered by valid and collectible fire insurance with standard extended coverage endorsement, whether such insurance is carried by Tenant or any other tenant or occupant of the Property, or any part thereof. This release shall apply not only to liability and responsibility of the parties to each other, but shall also extend to liability and responsibility for anyone claiming through or under the parties by way of subrogation or otherwise. This release shall apply even if the fire or other casualty shall have been caused by the fault or negligence of a party or anyone for whom a party may be responsible. However, this release shall apply only with respect to loss or damage actually recovered from an insurance company. This release shall not apply to loss or damage of property of a party unless the loss or damage or personal injury occurs during the times the fire or extended coverage insurance policies of a party contain a clause or endorsement to the effect that any release shall not adversely affect or impair the policies or prejudice the right of the party to recover thereunder. Landlord and Tenant each agree that any fire and extended coverage insurance policies covering the

Property or contents shall include this clause or endorsement as long as the same shall be obtainable without extra cost, or if extra cost shall be charged therefor, so long as the other party pays the extra cost. If extra cost shall be chargeable, the party whose policy is subject to the extra cost shall advise the other thereof, and of the amount of the extra cost. Tenant shall also obtain the agreement of its worker's compensation insurance carrier to waive all right of subrogation against Landlord.

5.3 No policy furnished by Tenant pursuant to Section 5.1 shall have a deductible or self-insured retainage amount in excess of $10,000, except that public liability insurance may have a deductible of up to $50,000, fire and extended coverage may have a deductible of up to $50,000, and earthquake coverage may have a deductible of up to $ 100,000.

6. DAMAGE OR DESTRUCTION

6.1 Tenant shall immediately give notice to Landlord of every case of fire, explosion, destruction or damage by the elements or other casualty.

6.2 If at any time during the Term, the Demised Premises shall be damaged in whole or in material part, or wholly or partially destroyed, by fire or other casualty (including any casualty for which insurance coverage was not obtained) of any kind or nature, regardless of whether said damage or destruction resulted from an act of God, the fault of the Tenant, the Landlord, or from any cause whatsoever, then, in that event neither party shall be required to replace, repair or rebuild the damaged or destroyed improvements (except that Tenant shall be required to turn over to Landlord the insurance proceeds payable in connection with such damage or destruction); provided, however, that if the damage or destruction results from the sole or partial fault of Tenant and is not fully covered by insurance or the insurance proceeds received by the Landlord are insufficient therefor, the Tenant shall be required to replace, repair or rebuild the damaged or destroyed improvements to substantially their condition prior to the casualty event.

6.3 Upon thirty (30) days written notice of the casualty event, the Landlord shall have the option, to (i) replace, repair and rebuild any and all damaged or destroyed improvements, or (ii) to terminate this Lease as of a specified date, in which latter event all rent shall be apportioned as of the date of such damage or destruction, and this Lease shall terminate as of the specified date, but all insurance proceeds shall be paid to Landlord as aforesaid, and Tenant shall remain obligated under Section 6.2 in the event the insurance proceeds are insufficient to fully replace, repair or rebuild. In the event Landlord proceeds to replace, repair and rebuild, this Lease shall not terminate, Landlord shall cause the Demised Premises and the Common Areas to be repaired or restored to the extent insurance proceeds are available to the Landlord as speedily as its good faith efforts will allow, and there shall be a proportional abatement of the basic and additional

rent reserved under this Lease during such period as the Demised Premises remain untenantable based on the extent to which the Demised Premises are untenantable. Tenant shall also have the option to terminate this Lease effective as of the date of the damage or destruction, in the event: (a) a portion of the Demised Premises which is material to Tenant's operations have been damaged or destroyed and are untenantable, and Landlord shall not provide to Tenant within 120 days after the date of damage or destruction substitute space of reasonably equivalent size and functionality (either on a temporary or permanent basis), and (b) (x) the damaged or destroyed portion of the Demised Premises cannot reasonably be repaired within 120 days of such date as set forth in an opinion to that effect of an architect or engineer retained by Tenant (at its expense) and reasonably acceptable to Landlord, (y) Landlord shall not give written notice of Landlord's election under clause (i) above within the specified thirty (30) day period, or (z) Landlord, after having elected to repair, shall not restore the Demised Premises substantially to its condition prior to the event causing the damage or destruction. Tenant's options to terminate shall be exercised by written notice to Landlord within 45 days of the casualty event, with respect to clauses (x) and (y) and within 135 days after the date of such damage or destruction with respect to clause (z).

6.4 Tenant agrees that the foregoing provisions are in lieu of any other rights or remedies that Tenant may have against Landlord pursuant to the laws of the State of Washington in the event of any damage or destruction to all or any part of the Demised Premises or any other portion of the Property.

7. CONDEMNATION

7.1 If the whole of the Demised Premises shall be taken under the power of eminent domain by any public or private authority or in the event of sale to such authority in lieu of formal proceedings of eminent domain, then this Lease shall cease and terminate as of the date of such taking or sale, which date is defined, for all purposes of this Section 7, as the date the public or private authority has the right to possession of the property being taken or sold.

7.2 In the event of any taking or sale of all or any part of the Demised Premises, the entire proceeds of the award or sale shall be paid to Landlord, and Tenant shall have no right to any part thereof except to the extent of any tenant improvements which are owned by Tenant and for which Tenant makes a timely claim to the condemning authority, installed in accordance with Section 10.2 as depreciated over the term of the Lease, provided, however, that nothing contained herein shall be construed to prevent Tenant from recovering any allowance for its personal property or for moving expenses which the law permits to be made to tenants, so long as such allowance does not diminish the award paid to Landlord.

7.3 If any public or private authority shall, under the power of eminent domain, make a taking, or should a sale in lieu thereof occur of less than the whole of the Demised Premises, then Landlord may, at its election, terminate this Lease by giving Tenant written notice of the exercise of its election within twenty (20) days after the nature and extent of the taking or sale have been finally determined. In the event of termination by Landlord under the provisions of this Section 7.3, this Lease shall cease and terminate as of the date of such taking or sale. If Landlord does not so terminate this Lease, subject to Section 7.5, this Lease shall continue in full force and effect.

7.4 In the event of a partial taking or sale not resulting in a termination of this Lease pursuant to Section 7.3, Landlord shall, if Landlord's fee mortgagee consents thereto, effectuate all such repairs and restoration as are necessary to restore the Demised Premises for the operation of Tenant's business, to the extent net proceeds of the award or sale are available, but nothing contained herein shall be construed so as to require Landlord to pay any cost of repair in excess of the net proceeds of the award or sale price received from the condemning authority and allocable to the Demised Premises. In such case, as of the date of the taking, the basic and additional rent reserved hereunder shall be reduced, but only until such time as Landlord completes its repair or restoration in accordance herewith, by an amount that is in the same ratio to the rental then in effect as the value of the portion of the Demised Premises taken or sold bears to the total value of the Demised Premises immediately before the date of taking or sale. If the net proceeds of the award or sale are not sufficient to repair or restore the Demised Premises, Tenant may, at its own expense, complete such repairs or restoration, in accordance with the terms of this Lease.

7.5 Tenant shall have the option, to be exercised by written notice to Landlord within fifteen (15) days after such taking or sale, to terminate this Lease in the event (i) more than 20% of the square footage of the Demised Premises is taken in condemnation, or (ii) the Lease continues notwithstanding a partial condemnation of more than 20% of the square footage of the Demised Premises and within 120 days after the condemnation, Landlord does not restore the Demised Premises substantially to their condition prior to the condemnation.

7.6 The taking of the Demised Premises or any part thereof by military or other public authority shall constitute a taking of the Demised Premises under the power of eminent domain only when the use and occupancy by the taking authority has continued for longer than 90 consecutive days. During the 90-day period all the provisions of this Lease shall remain in full force and effect, except that rental reserved (but not the additional rent) shall be abated during such period of taking based on the extent to which the taking interferes with Tenant's use of the Demised Premises. Landlord shall be entitled to whatever award may be paid for the use and occupation of the Demised Premises for the period involved.

8. SUBORDINATION, ATTORNMENT, ESTOPPEL CERTIFICATE

8.1 This Lease is and shall be subject and subordinate in all respects to all bona fide mortgages which may now or hereafter affect the Property, to each and every advance made or hereafter to be made under such mortgages, and to all renewals, modifications, consolidations, replacements, and extensions of such mortgages irrespective of the date of the execution and/or recording thereof (provided, however, that Landlord shall use its good faith efforts to obtain from such mortgagee a non-disturbance agreement as described in the last sentence of this Section 8.1). This Section 8.1 shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant agrees, without payment to Tenant of any consideration therefor, to execute and deliver any instrument that Landlord or the holder of any such mortgage or any of their respective successors in interest may request to evidence such subordination within ten (10) days of request. Tenant hereby irrevocably appoints Landlord its attorney in fact to execute such instrument on behalf of Tenant, should Tenant refuse or fail to do so promptly after request. The mortgages to which this Lease is, at the time referred to, subject and subordinate shall sometimes be collectively called “superior mortgage .” Landlord shall, upon the request of Tenant, use its good faith efforts to obtain a non-disturbance agreement from the holder of any superior mortgage, to the effect that in the event of the foreclosure of the superior mortgage Tenant’s possession of the Demised Premises shall not be disturbed provided that Tenant shall not be in default under this Lease, provided, however, (1) Landlord (i) shall not be required to incur any costs or liabilities in connection therewith, and (ii) shall not have any liability to Tenant if Landlord shall fail to procure such agreement, and (2) this Lease and the obligations of Tenant shall not be affected should Landlord fail to procure such agreement despite such good faith efforts.

8.2 In the event of any act or omission of Landlord which would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right: (i) until it has given written notice of such act or omission to the holder of each superior mortgage whose name and address shall previously have been furnished to Tenant in writing, and (ii) unless such act or omission shall be one which is not capable of being remedied by Landlord or such mortgage holder within thirty (30) days, until a thirty (30) day period for remedying such act or omission shall have elapsed following the giving of such notice, provided such holder shall with due diligence give Tenant written notice of intention to, and commence and continue to, remedy such act or omission.

8.3 If the holder of a superior mortgage shall succeed to the rights of Landlord, then at the request of such party so succeeding to Landlord’s rights (“Successor Landlord”) and upon such Successor Landlord’s written agreement to accept Tenant’s attornment, Tenant shall attorn to and recognize Successor Landlord as Tenant’s landlord under this Lease and shall promptly, without payment to Tenant of any consideration

therefor, execute and deliver any instrument that such Successor Landlord may request to evidence such attornment. Tenant hereby irrevocably appoints Landlord or Successor Landlord the attorney-in-fact of Tenant to execute and deliver such instrument on behalf of Tenant, should Tenant refuse or fail to do so promptly after request. Upon such attornment, this Lease shall continue in full force and effect as, or as if it were, a direct lease between Successor Landlord and Tenant upon all of the terms, conditions, and covenants as are set forth in this Lease and shall be applicable after such attornment, except that Successor Landlord shall not: (i) be obligated to repair, restore, replace, or rebuild the Property, in case of total or substantially total damage or destruction, beyond such repair, restoration or rebuilding as can reasonably be accomplished with the net proceeds of insurance actually received by, or made available to, Successor Landlord; (ii) be liable for any previous act or omission of Landlord; (iii) be subject to any prior defenses or offsets; (iv) be bound by any modification of this Lease not expressly provided for in this Lease or by any previous prepayment of more than one month's rent, unless such modification or prepayment shall have been expressly approved in writing by the holder of the superior mortgage through or by reason of which Successor Landlord shall have succeeded to the rights of Landlord; or (v) be liable for the performance of Landlord's covenants and agreements contained in this Lease to any extent other than to Successor Landlord's ownership in the Property, and no other property of Successor Landlord shall be subject to levy, attachment, execution or other enforcement procedure for the satisfaction of Tenant's remedies.

8.4 In the event that a bona fide institutional lender shall request reasonable modifications to this Lease, then Tenant shall not unreasonably withhold, condition or delay its written consent to such modifications provided that the same do not, in Tenant's reasonable judgment (and Tenant shall not demand the payment to Tenant of any consideration for consent thereto), increase the obligations of Tenant hereunder or materially adversely affect Tenant's operations or leasehold interest hereby.

8.5 Tenant agrees, at any time, (and without payment to Tenant of any consideration therefor), upon not less than ten (10) days' prior notice by Landlord, to execute, acknowledge and deliver to Landlord, (i) a current certified income statement and balance sheet of Tenant and (ii) a statement in writing addressed to Landlord (and/or Landlord's designee) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the dates to which the rent has been paid, stating such other information concerning this Lease and Tenant's tenancy as Landlord reasonably shall request, and stating whether or not there exists any default in the performance by Landlord of any term, covenant or condition contained in this Lease and, if so, specifying each such default, it being intended that any financial reports and such statement delivered pursuant to this Section 8.5 may be relied upon by Landlord and by any mortgagee or prospective mortgagee of any mortgage affecting the Property or any purchaser or prospective purchaser of the Property. When so requested by Landlord, such

statement shall be submitted in writing under oath by a person or persons having knowledge of the statements made therein.

9. REPAIRS, MAINTENANCE, ALTERATIONS, ETC.

9.1.1 Except as otherwise expressly provided in this Lease, Tenant at its cost shall maintain, repair and replace or improve as needed, all portions of the Demised Premises (while Tenant is occupying same as permitted hereunder), and the Landlord shall not be required to furnish any services or facilities or to maintain or make any repairs, replacements, improvements or alterations in or to the Demised Premises. Tenant shall be responsible for and shall pay all costs for adding any additional power supply requirements to the Property in excess of 707.5 kva, the current power supply available to the Property.

9.1.2 Landlord shall (subject to reimbursement by Tenant of Operating Expenses) be responsible for maintenance, repairs or replacement of the roof, HVAC systems (except any HVAC equipment installed by or exclusively for Tenant), and elevator systems, unless the same is occasioned by the acts or omissions of Tenant, its agents, employees, guests, licensee, invitees, guests, subtenants (if any), subtenants, assignees, successors or independent contractors, in which event Tenant shall be responsible for such repairs, maintenance or replacement.

9.2 Landlord shall not be liable for any failure of water supply, gas or electric current or of any utility or for any injury or damage to person or property caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from the street, sewers, gas mains or any sub-surface area or from any part of the Property, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein, or from any other place, or for interference with light or other incorporeal hereditaments by anyone, or caused by operations by or of any public or quasi-public work.

9.3 Tenant shall have the right to make, at its sole cost and expense, additions, alterations and changes (collectively, "Alterations") in or to the Demised Premises, provided Tenant shall not then be in default in the performance of any of the covenants in this Lease, subject to the following conditions:

9.3.1 No Alterations shall be commenced except after fifteen (15) days' prior written notice to Landlord, which shall include reasonably detailed final plans and specifications and working drawings of the proposed Alterations and the name of the contractor.

9.3.2 No Alterations costing in excess of $25,000 (and no Alterations which, when aggregated with all other Alterations, proposed or performed during the Term shall exceed $50,000) and no structural or Building system or exterior Alterations, or Alterations affecting any Common Area, regardless of cost, shall be made without the prior written consent of Landlord, which shall not be unreasonably withheld as to interior, non-structural, non-Building system Alterations.

9.3.3 No Alterations shall be undertaken until Tenant shall have procured and paid for, so far as the same may be required from time to time, all permits and authorizations of all governmental authorities having jurisdiction, and shall have provided to Landlord evidence substantiating to Landlord's reasonable satisfaction that such permits and authorizations have issued.

9.3.4 All Alterations shall be made promptly (unavoidable delays excepted), in a good and workmanlike manner and in compliance with all applicable permits, authorizations and all Legal Requirements and all Insurance Requirements.

9.3.5 Anything in this Lease to the contrary notwithstanding, no Alterations shall be made by Tenant if they reduce the value or serviceability of the Property, increase the risk of casualty or the cost of insurance or increase the risk of environmental pollution.

9.3.6 Before commencing the Alterations and at all times during construction, Tenant's contractor shall maintain builder's risk insurance coverage satisfactory to Landlord.

9.3.7 During the initial build-out, any contract between Tenant and a general contractor for such project shall include a provision that Landlord may enforce the completion guaranties against the contractor if Tenant fails to do so.

9.3.8 If the estimated cost of the Alterations exceeds $100,000, Tenant at its cost shall furnish to Landlord a performance and completion bond issued by an insurance company qualified to do business in Washington and reasonably acceptable to Landlord, in a sum equal to the cost of the Alterations (as determined by the construction contract between Tenant and its contractor) guaranteeing the completion of the Alterations free and clear of all liens and other charges, and in accordance with the plans and specifications. Landlord will waive the requirement of a performance and completion bond upon receipt of performance guarantees satisfactory to lender in its reasonable discretion. Landlord shall waive the requirement of a bond if the Tenant places cash or its equivalent equal to twenty percent (20%) of the estimated costs of the Alterations in escrow. Upon proof of lien releases, the escrowed funds shall be returned to Tenant with interest upon either (a) substantial completion of the Alterations or (b) restoration of the Leased Premises to the condition they were in prior to commencement

of such alterations. The requirements of this Section 9.3.8 shall not apply to the initial build-out described in Section 9.3.7.

9.4 All Alterations, whether temporary or permanent in character, which may be made upon the Demised Premises either by Landlord or Tenant, except furniture, trade fixtures or equipment (other than HVAC equipment) installed at the expense of Tenant, shall be the property of Landlord and shall remain upon and be surrendered with the Demised Premises as a part thereof at the expiration or any termination of this Lease, without compensation to Tenant; provided, however, Landlord may elect within thirty (30) days before the expiration of the Term, or within five (5) days after termination of the Term, to require Tenant, at Tenant's cost, to remove all or any portion of nonbuilding standards or non-approved Alterations that Tenant has made to the Demised Premises at any time before or during the Term. If Landlord so elects, Tenant at its cost shall restore the Demised Premises to the condition designated by Landlord in its election, and repair any damage caused by the removal of Alterations, before the last day of the Term, or within thirty (30) days after notice of election is given, whichever is later. This Section shall survive the expiration or termination of this Lease.

9.5 Notwithstanding Section 9.4, all fixtures and personal property owned and installed by Tenant, except all HVAC equipment, casework (including lab benches and sinks), all walls and items inside the walls, all items above the grid, all plumbing conduit equipment, all electrical conduit equipment and all air handling equipment, shall be and remain the property of Tenant and may be removed by Tenant at the expiration of this Lease.

9.6 If Tenant is not then in default of any provisions of this Lease, Tenant shall have the right to remove from the Demised Premises immediately before the expiration of the Term, or within twenty (20) days after the sooner termination of the Term, any trade equipment and other equipment (not including any building equipment) and furniture, which has been affixed to the Demised Premises by Tenant, as long as Tenant at its cost promptly restores any damage caused by the removal.

10. IMPROVEMENTS/TENANT'S WORK

10.1 Landlord shall have no obligation to perform, or contribute to the payment for any construction, alterations or improvement, fitting or fixturing to the Demised Premises to prepare same for use or occupancy by Tenant or otherwise, except as expressly provided in Section 10.2 below.

10.2 If Tenant desires to do any work ("Tenant's Work") with respect to the Demised Premises, including any repairs, replacements or improvements or alterations, such work shall be undertaken by Tenant, at Tenant's sole cost and expense

and shall include structural reinforcement, enclosure and screening as required by Landlord.

10.3 Subject to review and approval by Landlord as set forth herein, Tenant may install the following:

(a) A security system in the Premises, including a restricted common access on both the passenger and freight elevators to the third floor (Tenant shall work reasonably with Landlord to utilize the existing security in the Buildings

(b) Three (3) 350 kva backup generators at a location adjacent to or on the roof of the Building, mutually agreeable to Landlord and Tenant.

(c) Additional air handling units on the roof above the Demised Premises.

11. ASSIGNMENT, SUBLETTING AND MORTGAGING

11.1 Neither Tenant, nor Tenant's successors or assigns, shall (unless expressly permitted to do so) assign, mortgage, pledge or encumber this Lease, in whole or in part, or sublet the Demised Premises, in whole or in part, or permit the same or any portion thereof to be used or occupied by others, or enter into a management contract or other arrangement whereby the Demised Premises shall be managed and operated by anyone other than the then owner of Tenant's leasehold estate, nor shall this Lease be assigned or transferred by operation of law, without the prior consent in writing of Landlord in each instance. If this Lease be so assigned or transferred, or if all or any part of the Demised Premises be sublet or occupied by anybody other than Tenant, Landlord may collect rent from the assignee, transferee, subtenant or occupant, and apply the net amount collected to the rent reserved herein, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any agreement, term, covenant or condition of this Lease, or the acceptance of the assignee, transferee, subtenant or occupant as tenant, or a release of Tenant from the performance or further performance by Tenant of the terms, covenants and conditions of this Lease, and Tenant shall continue to be liable under this Lease. The consent by Landlord to an assignment, mortgage, pledge, encumbrance, transfer, management contract or subletting shall not be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment, mortgage, pledge, encumbrance, transfer, management contract or subletting. Landlord shall have the right to reasonably withhold its consent to an assignment or subletting (except as provided in Section 11.5), mortgage, pledge or other encumbrance. Notwithstanding anything to the contrary herein contained, an assignment of this Lease shall include, without limitation the following: (a) if Tenant shall be a corporation and fifty percent (50%) or more of its voting stock or all or substantially all its assets shall be sold, mortgaged, assigned, pledged, encumbered or otherwise transferred (other than as

collateral security for a bona fide loan to a bona fide lender or in a public stock offering) (and whether in one (1) single transaction or in more than one (1) successive transaction); or (b) if Tenant shall be a partnership, limited liability company, joint venture, syndicate or other group and all or any portion of the interest of any partner, member or other equity holder shall be sold or otherwise transferred (however this provision shall not, as to a corporation or other entity whose stock or other equity interests are publicly traded on a recognized stock exchange, be applicable to sales of stock or other equity interests on such stock exchange).

11.2 If Tenant shall desire to assign this Lease or sublet all or a portion of the Premises, Tenant shall submit to Landlord a written request for Landlord's consent to such assignment or subletting, which request shall include the following information: (a) the name and address of the proposed assignee or subtenant; (b) in the case of a proposed subletting, a description identifying the space to be sublet and the term of such subletting; (c) the nature and character of the business of the proposed assignee or subtenant; (d) in the case of a proposed assignment, a current financial statement of the proposed subtenant or assignee; and (e) the proposed assignment or sublease.

11.3 Tenant, within twenty (20) days of its receipt of Landlord's request therefor, shall reimburse Landlord for all reasonable out-of-pocket costs incurred by Landlord in considering whether or not to consent, including reasonable attorney's fees and disbursements and the reasonable costs of making investigations regarding the proposed subtenant or assignee. In the event Landlord grants its consent, but before the subtenant or assignee shall take possession, Tenant shall deliver to Landlord a fully-executed counterpart of the sublease or instrument of assignment.

11.4 If Tenant shall sublease any portion of the Premises or assign this Lease, Tenant shall pay to Landlord one hundred percent (100%) of any consideration received by Tenant (net of reasonable costs incurred by Tenant to effect any such assignment or sublet, such as advertising, brokerage, legal and construction expenses and the reasonable agreed then value of Tenant's Improvements to the space amortized over the remaining Term (both initial and renewal) of this Lease) from the subtenant or assignee, as the case may be, to the extent such consideration exceeds the Basic Annual Rent and Additional Rent payable hereunder.

11.5 Notwithstanding the provisions of Section 11.1 to the contrary:

(a) Tenant, with the prior consent of Landlord but subject to all terms and provisions of this Lease (including, without limitation, the permitted use of the Demised Premises under this Lease), may assign this Lease to an Affiliate of Tenant, as hereafter defined, provided such assignee remains an Affiliate of Tenant for the remainder of the term of this Lease, as same may be renewed or extended. The term "Affiliate" shall mean any corporation which controls, is controlled by, or is under

common control with Tenant ("control" means ownership of more than fifty percent (50%) of the beneficial interest thereof.

(b) Any assignment pursuant to the provisions of this Section 11.5 shall be conditioned upon: (i) not later than twenty (20) days prior to the effective date of the assignment the delivery by Tenant to Landlord, of (1) a notice to Landlord of such assignment, setting forth the name and address of such assignee, and the facts which, pursuant to this Section 11.5, allow Tenant to assign this Lease without the consent of Landlord, and (2) a fully executed counterpart of such assignment, which shall provide, among other things, that the assignee fully assumes all liabilities and obligations of Tenant in respect of the Lease from and after the effective date of such assignment (without thereby releasing or relieving Tenant of or from any such liabilities and obligations in any way), and which otherwise must be in form and substance reasonably acceptable to Landlord, and (ii) the delivery by Tenant to Landlord, not later than ten (10) days after request therefor by Landlord, and in any event prior to the effective date of the assignment, of such other documentation respecting the business and identity of the assignee as the Landlord reasonably may request.

(c) Any subletting pursuant to the provisions of this Section 11.5 shall be automatically subject to all of the terms and provisions of this Lease (including, without limitation, the permitted use of the Demised Premises under this Lease) and shall be conditioned upon, inter alia, (i) the delivery by Tenant to Landlord, not later than twenty (20) days prior to the effective date of the sublease, of a notice to Landlord requesting consent to such sublease, setting forth the name and address of the subtenant, and the nature of the business of the subtenant, and (ii) the delivery by Tenant to Landlord, not later than ten (10) days after request therefor by Landlord, and in any event prior to the effective date of the sublease, of such other documentation respecting the business and identity of the subtenant as the Landlord reasonably may request. No such subletting will in any way release or relieve Tenant from any obligations or liabilities under this Lease.

11.6 Notwithstanding any assignment of this Lease or subletting of all or any part of the Demised Premises, whether made with or without Landlord's consent, the Tenant originally named herein, and each successor Tenant, shall be and remain jointly and severally liable for all obligations of Tenant hereunder.

12. INDEMNITY

Notwithstanding that joint or concurrent liability may be imposed upon Landlord by statute, ordinance, rule, regulation, order, or court decision, Tenant shall, notwithstanding any insurance furnished pursuant hereto or otherwise, indemnify, protect, defend and hold harmless Landlord from and against any and all liability, fines, suits, claims, obligations, damages, losses, penalties, demands, actions and judgments,

and costs and reasonable expenses of any kind or nature (including reasonable attorneys' fees), by anyone whomsoever, arising after or relating to or accruing during the period after the date hereof and due to or arising out of:

12.1 any work or thing done in, on or about the Demised Premises or the Common Area or any part thereof by Tenant or anyone claiming through or under Tenant or the respective employees, agents, licensees, contractors, servants or subtenants of Tenant or any such person;

12.2 any use, possession, occupation, operation, maintenance or management of the Demised Premises or any part thereof, or the Common Area or any part thereof by Tenant, including, without limitation, any air, land, water or other pollution caused by Tenant;

12.3 any negligence or wrongful act or omission on the part of Tenant or any person claiming through or under Tenant or the respective employees, agents, licensees, Invitees, guests, subtenants (if any), contractors, servants or subtenants of Tenant or any such person;

12.4 any accident or injury to any person (including death) or damage to property (including loss of property) occurring in or on the Demised Premises or any part thereof or the Common Area or any part thereof and arising from actions or omissions of Tenant or the employees, agents, licensees, invitees, guests, subtenants (if any) contractors, servants or subtenants of Tenant;

12.5 any failure on the part of Tenant to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in this Lease; and

12.6 any failure on the part of Tenant to perform or comply with Legal Requirements or Insurance Requirements.

In case any claim, action or proceeding is raised or brought against Landlord (and/or any of the other indemnified parties above described) by reason of any of the foregoing, Landlord, shall promptly provide notice of such action or proceeding to Tenant. No delay by Landlord in giving such notice to Tenant shall in any way impair, waive or affect the obligations of Tenant to indemnify, defend, and hold harmless Landlord except to the extent of actual prejudice to Tenant arising solely and directly from such delay. Tenant, at Tenant's expense, thereupon shall assume and, through competent counsel, diligently conduct the defense of such claim, action or proceeding. Upon such assumption by Tenant, Landlord, at the expense of Tenant, shall cooperate with Tenant in all reasonable respects in the conduct of such defense. The duty of Landlord to cooperate shall (to the extent reasonable) include, but not be limited to, at the

expense of Tenant, making available then present employees of Landlord and/or its Affiliates to act as witnesses and consult with counsel, and assist in the location and production of documents. Landlord shall, to the extent reasonable, subject to such reasonable confidentiality requirements as Landlord may impose, and at the cost of Tenant (including without limitation reproduction costs), make available to Tenant the books and records of Landlord relevant to the proceedings. The obligations of Tenant shall include but not be limited to, taking all steps necessary or appropriate to the defense or settlement of such claim, action, proceeding or litigation. Provided that Tenant has performed and is performing its obligations pursuant to this Section 12, Landlord may participate, through counsel of Landlord's choice, at Landlord's expense, in the defense of any such claim, action, proceeding or litigation, but Tenant shall direct and control the defense thereof Tenant or its counsel shall keep Landlord apprised at all times of the status of the action or proceeding. The establishment of limits of coverage for the insurance required by Section 5 shall not serve in any way to limit Tenant's obligations pursuant to this Section 12. Anything herein to the contrary notwithstanding, (i) Tenant shall not enter into or consent or agree to the settlement of any claim, litigation, action, or suit respecting which for Tenant is obligated to indemnify, or defend Landlord pursuant hereto, without the express prior written consent of Landlord, in Landlord's sole discretion, unless, in each such case (as demonstrated to the reasonable satisfaction of Landlord): (1) Tenant has and does fully and completely indemnify and hold Landlord harmless from and against all liability, fines, suits, claims, obligations, damages, losses, penalties, demands, actions and judgments, and costs and reasonable expenses of any kind or nature (including reasonable attorneys' fees), by anyone whomsoever, resulting from or arising, out of such settlement: and (2) Landlord is fully released from all liability, fines, suits, claims, obligations, damages, losses, penalties, demands, actions and judgments, and costs and reasonable expenses of any kind or nature respecting such claim, litigation, action, or suit, and (3) such settlement shall not in any manner adversely affect the Property, or the use, development, maintenance, repair or occupancy thereof, and (ii) Tenant shall not issue, disseminate, distribute or publish, or agree to, consent to, or approve, any statement or press release in connection with such settlement, without the prior written consent of Landlord, which shall not be unreasonably withheld. The provisions of this Section 12 shall survive the expiration or termination of this Lease.

13. DEFAULT PROVISIONS, LANDLORD'S REMEDIES

13.1 Any of the following events ("Events of Default") shall constitute a default under this Lease:

13.1.1 Tenant's failure to pay any installment of Basic Annual Rent or any Additional Rent within five (5) days of the date on which the same was due and payable; or

13.1.2 Tenant's doing or permitting anything to be done, whether by action or inaction, contrary to any of Tenant's obligations pursuant to this Lease, or otherwise any breach of this Lease or failure by Tenant to perform any of its obligations under this Lease (except as to the payment of rent, additional rent and the matters set forth in Sections 13.1.3, 13.1.4 and 14), and such situation, breach or failure shall continue and shall not be remedied by Tenant within thirty (30) days after Landlord shall have given to Tenant notice specifying the same; or, if the default cannot with due diligence be cured within a period of thirty (30) days and the continuance of which will not subject Landlord (or any of its directors, officers, shareholders, partners, agents or employees) to the risk of criminal or civil liability or foreclosure of any superior mortgage or any other lien on the Property, Tenant shall not promptly and diligently prosecute to completion all steps necessary to remedy the same, or

13.1.3 The occurrence of any event whereby this Lease, any interest in it, the estate thereby granted or, any portion thereof, or the unexpired balance of the Term would by operation of law or otherwise pass to any entity other than Tenant, except as expressly permitted by Section 11; or

13.1.4 Tenant vacates the Demised Premises (defined as an absence for more than fifteen (15) consecutive days without prior notice to Landlord), or Tenant abandons the Demised Premises (defined as an absence of more than five (5) days or more while Tenant is in breach of some other term of this Lease). The fact that Tenant is not in occupancy from the Commencement Date to Tenant's actual occupancy of the Demised Premises following notice to Tenant by Landlord that the Demised Premises are available for occupancy (but in no event later than 30 days following such notice) shall not be considered vacation or abandonment pursuant to this Section 3.1.4. Tenant's vacation or abandonment of the Demised Premises shall not be subject to any notice or right to cure.

13.1.5 Tenant becomes insolvent, voluntarily or involuntarily bankrupt or a received, assignee or other liquidating officer is appointed for Tenant's business.

13.1.6 Tenant's interest in the Demised Premises, or any part thereof, is taken by execution or other process of law directed against Tenant, or is taken upon or subject to any attachment by any creditor of Tenant, if such attachment is not discharged within fifteen (15) days after being levied.

13.2 Upon the occurrence of any Event of Default, the Landlord may exercise any one or more of the following remedies, in addition to all other remedies provided in this Lease and by law or in equity:

13.2.1 Landlord may recover from Tenant: (i) the worth at the time of award of the unpaid Basic Annual Rent and additional rent which had been earned at the time of termination (including interest at a default rate of eighteen percent (18%) per annum); (ii) the worth at the time of award of the amount by which the unpaid Basic Annual Rent and additional rent which would have been earned after termination until the time of award exceeds the amount of such Basic Annual Rent and additional rent loss that Tenant proves could have been reasonably avoided (including interest at a default rate of eighteen percent (18%) per annum); (iii) the worth at the time of award of the amount by which the unpaid Basic Annual Rent and additional rent for the balance of the Term after the time of award exceeds the amount of such Basic Annual Rent and additional rent loss that Tenant proves could be reasonably avoided discounting such amount by the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%), and (iv) any other amount necessary to compensate Landlord for all the detriment caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

For purposes of computing unpaid Basic Annual Rent and additional rent for the balance of the Term pursuant to clause (iii) above, unpaid Basic Annual Rent and additional rent shall consist of the sum of (A) the total Basic Annual Rent for the balance of the Term plus (B) Tenant's obligation to pay the Operating Expenses and Taxes and such other items of additional rent specified in this Lease to be paid in whole or in part by Tenant for the balance of the Term. For purposes of computing Tenant's obligation to pay the Operating Expenses and Taxes and such other items of additional rent for the Lease Year of the Event of Default and each future Lease Year in the Term such amounts shall be assumed to be equal to the amount of additional rent that was payable by Tenant in respect of Operating Expenses and Taxes and such other items of additional rent for the Lease Year prior to, the Lease Year in which the Event of Default occurs compounded at a rate equal to the mean average rate of inflation for the three (3) Lease Years preceding the Lease Year of the Event of Default, as determined by using the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index (All Urban Consumers, all items, 1982-84 equals 100) (the "CPI") for the metropolitan area or region of which the Property is a part. If such index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index had not been discontinued or revised. if no replacement index exists then Landlord shall select as a replacement index that index which, in Landlord's opinion, is generally recognized as the successor index.

13.2.2 Landlord may sell at public or private sale all or any part of the goods, chattels, fixtures and other personal property belonging to Tenant which are or may be put into the Demised Premises during the Term, except for Tenant's business records whether exempt or not from sale under execution or attachment (it being agreed that said property shall at all times be bound with a lien in favor of Landlord and shall be

chargeable for all rent and for the fulfillment of the other covenants and agreements herein contained) and apply the proceeds of such sale, first, to the payment of costs and expenses of conducting the sale or caring for or storing said property (including all attorney's fees), second, toward the payment of any indebtedness, including (without limitation) indebtedness for rental, which may be or may become due from Tenant to Landlord, and third, to pay Tenant, on demand in writing, any surplus remaining after all indebtedness of Tenant to Landlord has been fully paid.

13.2.3 Landlord may perform, on behalf of Tenant, any obligation of Tenant under this Lease which Tenant has failed to perform, the cost of which performance by Landlord, together with interest thereon at the Default Rate from the date of such expenditure, shall be deemed additional rent and shall be payable by Tenant to Landlord upon demand.

13.2.4 The Landlord may give the Tenant a notice (the "Termination Notice") of its intention to terminate this Lease specifying a day not less than ten (10) days thereafter, and, upon the day specified in the Termination Notice, this Lease and the term and estate hereby granted shall expire and terminate and all rights of the Tenant under this Lease shall expire and terminate, but the Tenant shall remain liable for damages as hereinafter set forth. Notwithstanding the foregoing, the Landlord may institute dispossess proceedings for non-payment of rent, distraint or other proceedings to enforce the payment of rent without giving the Termination Notice. No act by Landlord other than the giving of a Termination Notice shall terminate this Lease.

13.2.5 The Landlord may exercise any and all other legal and/or equitable rights or remedies which it may have.

13.3 Upon any such termination or expiration of this Lease, or other termination of Tenant's possession under this Lease, the Tenant shall peaceably quit and surrender the Demised Premises to the Landlord, and the Landlord or Landlord's agents and employees may without further notice immediately or at any time thereafter enter upon or re-enter the Demised Premises or any part thereof, and possess or repossess itself or themselves thereof either by summary dispossess proceedings, ejectment, any suitable action or proceeding at law, agreement, force or otherwise (without thereby creating any breach of the peace), and may dispossess and remove Tenant and all other persons and property from the Demised Premises without being liable to indictment, prosecution, or damages therefor, and may repossess the same, and may remove any persons therefrom, to the end that Landlord may have, hold and enjoy the Demised Premises again. The words "enter" or "reenter," "possess" or "repossess" as used in this Lease are not restricted to their technical legal meaning.

13.4 In the event of any breach or threatened breach by Tenant of any of the agreements, terms, covenants or conditions contained in this Lease, Landlord shall be

entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law or in equity or provided in this Lease.

13.5 Each right and remedy of the Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

13.6 Suit or suits for the recovery of damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained in this Lease shall be deemed to require Landlord to postpone suit until the date when the term of this Lease would have expired if it had not been so terminated under the provisions of this Section 13 or under any provision of law, or had Landlord not re-entered the Demised Premises. Nothing contained in this Lease shall be construed to limit or preclude recovery by Landlord against Tenant of any sums or damages to which Landlord may lawfully be entitled by reason of any default under this Lease or otherwise on the part of Tenant. Nothing contained in this Lease shall be construed to limit or prejudice the right of Landlord to prove and obtain as liquidated damages by reason of the termination of this Lease or reentry on the Demised Premises for the default of Tenant an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceeding in which, such damages are to be proved.

13.7 Upon the termination or expiration of this Lease, or other termination of Tenant’s possession under this Lease due to Tenant’s default, the Tenant hereby authorizes and empowers the Landlord, at the Landlord’s option (without imposing any duty upon the Landlord to do so), to re-enter the Demised Premises as agent for the Tenant or any successor-occupant of the Demised Premises under the Tenant, or for its own account or otherwise, and to relet the same for any term expiring either prior to the original expiration date hereof, or simultaneously therewith, or beyond such date, and to receive rent and apply same to pay all fees and expenses incurred by the Landlord as a result of such Event of Default, including without limitation any legal fees and expenses arising therefrom, the cost of re-entry and re-letting and to the payment of the rent and other charges due hereunder, and, at the expense of Tenant, make such repairs or alterations and shall necessary or appropriate, in the reasonable judgment of Landlord to facilitate such reletting. No entry, re-entry or reletting by the Landlord, whether by summary proceedings, termination or otherwise, shall discharge the Tenant from its liability to the Landlord as set forth herein. If Landlord does relet the Demised Premises, Landlord may relet the entirety thereof, or any part thereof, alone or together with other premises, for such term(s) (which may be greater or less than the period which

otherwise would have constituted the balance of the Term) and on such terms and conditions (which may include concessions or free rent and alterations of the Demised Premises) as Landlord, in its sole discretion, may determine, but Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished by reason of, any failure by Landlord to relet the Demised Premises or any failure by Landlord to collect any rent due upon such reletting.

13.8 The Tenant shall be liable for all costs, charges and expenses, including reasonable attorney's fees and disbursements, incurred by the Landlord by reason of the occurrence of any Event of Default.

13.9 The Tenant, and on behalf of any and all persons claiming through or under the Tenant, including creditors of all kinds, does hereby waive and surrender all rights and privileges which they or any of them might have under or by reason of any present or future law, to redeem the Demised Premises or to have a continuance of this Lease for the Term after being dispossessed or ejected therefrom by the valid order of a court of competent jurisdiction.

13.10 The provisions of this Section 13 shall survive the expiration or termination of this Lease.

14. BANKRUPTCY AND INSOLVENCY

14.1 Neither Tenant's interest in this Lease, nor any estate hereby created in Tenant nor any interest herein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law.

14.2 In the event the interest or estate created in Tenant hereby shall be taken in execution or by other process of law, or if Tenant is adjudicated insolvent by a court of competent jurisdiction other than the United States Bankruptcy Court, or if a receiver or trustee of the property of Tenant shall be appointed by reason of the insolvency or inability of Tenant to pay its debts, or if Tenant shall file a voluntary petition or proceeding under any federal or state law dealing with bankruptcy, insolvency, reorganization or any other adjustment of its debts, or if any assignment shall be made of the property of Tenant for the benefit of creditors, then and in any such event, this Lease and-all rights of Tenant hereunder shall automatically cease and terminate with the same force and effect as though the date of such event were the date originally set forth herein and fixed for the expiration of the Term, and Tenant shall vacate and surrender the Premises but shall remain liable as herein provided.

14.3 Tenant shall not cause or give cause for the appointment of a trustee or receiver of the assets of Tenant and shall not make any assignment for the benefit of creditors or become or be adjudicated insolvent, or file any voluntary petition or

commence any voluntary proceeding in respect thereto. The allowance of any petition under any insolvency law except under the Bankruptcy Code or the appointment of a trustee or receiver of Tenant or of its assets, shall be conclusive evidence that Tenant caused, or gave cause therefor, unless such allowance of the petition, or the appointment of a trustee or receiver, is vacated within forty-five (45) days after such allowance or appointment. Any act described in this Section 14.3 shall be deemed a material breach of Tenant's obligations hereunder, and this Lease shall thereupon automatically terminate. Landlord does, in addition, reserve any and all other remedies provided in this Lease or by law or in equity.

14.4 In the event Section 14.1 shall be deemed unenforceable by the United States Bankruptcy Court this Section 14.4 shall apply; otherwise this Section 14.4 shall have not force or effect. Upon the filing of a petition by or against Tenant under the United States Bankruptcy Code:

14.4.1 Tenant, as debtor and as debtor in possession, and any trustee who may be appointed agree as follows: (a) to perform each and every obligation of Tenant under this Lease, until such time as this Lease is either rejected or assumed by order of the United States Bankruptcy Court; and (b) to pay monthly in advance on the first day of each month as reasonable compensation for use and occupancy on the Premises an amount equal to all rent, additional rent and other charges otherwise due pursuant to this Lease; and (c) to reject or assume this Lease within sixty (60) days of the filing of such petition under Chapter 7 of the Bankruptcy Code or within 120 days (or such shorter term as Landlord, in its sole discretion, may deem reasonable so long as notice of such period is given) of the filing of a petition under any other Chapter; and (d) to give Landlord at least forty-five (45) days' prior written notice of any proceeding relating to any assumption of this Lease; and (e) to give Landlord at least thirty (30) days' prior written notice of any abandonment of the Premises; any such abandonment to be deemed a rejection of this Lease; and (f) to do all other things of benefit to Landlord otherwise required under the Bankruptcy Code; and (g) to be deemed to have rejected this Lease in the event of the failure to comply with any of the above, and (h) to have consented to the entry of an order by an appropriate United States Bankruptcy Court providing all of the above, waiving notice and hearing of the entry of same.

14.4.2 No Event of Default or default of this Lease by Tenant either prior to or subsequent to the filing of such a petition, shall be deemed to have been waived unless expressly done so in writing by Landlord.

14.4.3 Included within and in addition to any other conditions or obligations imposed upon Tenant or its successor in the event of assumption and/or assignment are the following: (a) the cure of any monetary defaults and the reimbursement of pecuniary loss within not more than thirty (30) days of assumption and/or assignment; and (b) the deposit of an additional sum equal to three months' rent to

be held pursuant to the terms of Section 10 of this Lease; and (c) the use of the Demised Premises as set forth in Section 3 of this Lease, and (d) the prior written consent of any mortgagee to which this Lease has been assigned as collateral security; and (e) the Demised Premises, at all times, remains a single leasehold structure and no physical changes of any kind may be made to the Demised Premises unless in compliance with the applicable provisions of this Lease.

15. ENTRY BY LANDLORD, ETC.

15.1 Except in the case of an emergency and upon 24 hour notice, Tenant shall permit Landlord and its authorized representatives to enter the Demised Premises, or any part thereof, at all reasonable times for the purpose of (a) performing work in the Demised Premises if and to the extent required to be performed by Landlord (including, without limitation, to perform such work as shall be required to be performed by Legal Requirements (to the extent not the obligation of Tenant under this Lease) in the event that portions of the Property (other than the Demised Premises) shall be leased to persons other than Tenant), provided, however, that (except in the event of an emergency) Landlord shall give Tenant reasonable prior notice of such entry and shall conduct such work so as not to unreasonably interfere with the normal conduct of Tenant's business in the Demised Premises, or (b) curing defaults of Tenant in accordance with, and (except in the event of an emergency) after such notice (if any) as may be required by, the provisions of Section 13. In addition, Tenant, after reasonable prior notice, shall permit Landlord and fee mortgagees and their respective authorized representatives, to enter the Demised Premises, or any part thereof, at all reasonable times during usual business hours for the purpose of inspecting the same.

15.2 Landlord shall also have the right, after reasonable prior notice, to enter the Demised Premises, or any part thereof, at all reasonable times during usual business hours for the purpose of showing the same to appraisers, prospective lenders and prospective purchasers or fee mortgagees thereof and, at any time within six months prior to the expiration of this Lease, for the purpose of showing the same to prospective tenants.

15.3 If, at any time during which Landlord or any fee mortgagee shall have the right to enter the Demised Premises, admission to the Demised Premises, for the purposes aforesaid cannot be obtained, they, or their respective agents, servants, employees, contractors and representatives, may (on such notice, if any, as may be reasonable under the circumstances, which notice need not be in writing if an emergency exists in respect of the protection of the Demised Premises) enter the Demised Premises and accomplish such purpose. Any entry on the Demised Premises by Landlord or a fee mortgagee shall be at such times and by such methods (other than in the event of such an emergency) as will cause as little inconvenience, annoyance, disturbance, loss of business or other damage to Tenant as may be reasonably practicable in the circumstances.

16. COVENANT OF QUIET ENJOYMENT

16.1 Landlord covenants that Tenant, on paying the rents and performing and observing all the covenants and conditions contained in this Lease, shall and may peaceably and quietly have, hold and enjoy the Demised Premises during the Term in accordance with the terms of this Lease, subject, however, to the terms of this Lease.

17. EFFECT OF CONVEYANCE, LIMITS OF LIABILITY OF LANDLORD, DEFINITION OF "LANDLORD"

17.1 The term "Landlord" as used in this Lease shall mean and include only the owner or owners (and any mortgagee in possession) at the time in question of the fee estate in the Property, so that in the event of any transfer or transfers (by operation of law or otherwise) of the title to such fee estate, Landlord herein named (and in case of any subsequent transfers or conveyances, the then transferor) shall be and hereby is automatically freed and relieved, from and after the date of such transfer or conveyance, of all liability in respect of the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed, provided that (a) any funds in which Tenant has an interest, in the hands of such Landlord or the then transferor at the time of such transfer, shall then be turned over to the transferee, and (b) any amount then due and payable to Tenant by Landlord or the then transferor under any provision of this Lease shall then be paid to Tenant and (c) the transferee shall be deemed to have assumed and agreed to perform, subject to the limitations of this Section 17 (and without further agreement between or among the parties or their successors in interest, and/or the transferee) and only during and in respect of the transferee's period of ownership, all of the terms, covenants and conditions in this Lease contained on the part of Landlord thereafter to be performed, which terms, covenants and conditions shall be deemed to "run with the land," it being intended hereby that the terms, covenants and conditions contained in this Lease on the part of Landlord shall, subject as aforesaid, be binding on Landlord, its successors and assigns, only during and in respect of their respective successive periods of ownership.

17.2 It is specifically understood and agreed that in the event of a breach by Landlord of any of the terms, covenants or conditions of this Lease to be performed by Landlord, the monetary liability of Landlord in relation to any such breach shall be limited to the equity of Landlord in the Property, including Landlord's interest in this Lease, the Property, moneys held by any trustee for the benefit of Landlord and any sums at the time due or to become due under this Lease. Tenant shall look only to Landlord's equity in the Property for the performance and observance of the terms, covenants and conditions of this Lease to be performed or observed by Landlord and for the satisfaction of Tenant's remedies for the collection of any award, judgment or other judicial process requiring the payment of money by Landlord in the event of a default in the full and

prompt payment and performance of any of Landlord's obligations hereunder. No property or assets of Landlord, other than Landlord's equity in the Property, shall be subject to lien, levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies in any matter whatsoever arising out of or in any way connected with this Lease or any of its provisions, any negotiations in connection therewith, the relationship of Landlord and Tenant hereunder or the use and occupancy of the Property; and in confirmation of the foregoing, if any such lien, levy, execution or other enforcement procedure so arising shall be on or in respect of any property or assets of Landlord, other than Landlord's equity in the Property, Tenant shall promptly release any property or assets of Landlord, other than Landlord's equity in the Property, from such lien, levy, execution or other enforcement procedure by executing and delivering, at Tenant's expense and without charge to Landlord, any instrument or instruments, in recordable form, to that effect prepared by Landlord (but any such 'instrument of release shall not release any such lien, levy, execution or other endorsement procedure on or in respect of Landlord's equity in the Property). Tenant hereby appoints Landlord its attorney-in-fact for the purposes of executing such instrument or instruments of release if Tenant fails or refuses to do so promptly after request.

18. SURRENDER, HOLDING OVER BY TENANT

18.1 On the expiration or termination of this Lease, Tenant shall peaceably and quietly leave, surrender and deliver to Landlord the Demised Premises, together with all Alterations which may have been made upon the Demised Premises (except to the extent that Landlord may require Tenant under Section 9.4 hereof to remove such Alterations and restore the Demised Premises), all of the foregoing to be surrendered in good, substantial and sufficient repair, order and condition, reasonable use, wear and tear excepted and free of occupants. If as a result of or in the course of the removal of Tenant's property any damage occurs to the Demised Premises, Tenant shall pay to Landlord the reasonable cost of repairing such damage. If Tenant fails to quit and surrender the Demised Premises upon the expiration or termination of this Lease, it shall be liable to Landlord for the damages caused to Landlord by reason of such holdover and it is agreed that such damages shall be liquidated in an amount equal to twice the rental rate provided for in this Lease. The acceptance by Landlord of such damages or rental after termination of this Lease shall not be construed as consent to continued occupancy, nor shall such holding over constitute a renewal or extension of this Lease. Landlord may, at its option, construe such holding over as a tenancy from month to month, subject to all the terms, covenants and conditions of this Lease, except as to duration thereof, and in that event the Tenant shall pay rent and additional rent in advance at the rate of 150% of the rate provided in this Lease as effective during the last month thereof. Tenant's obligation to observe or perform this covenant shall survive the expiration or termination of this Lease. Notwithstanding the foregoing, upon the expiration of the Lease for any reason whatsoever, Tenant shall have the right and obligation to remove all of its fixtures,

furniture, machinery, and equipment from the Demised Premises, provided Tenant promptly shall repair any damage caused by such removal.

19. CURING DEFAULTS; FEES AND EXPENSES

19.1 If Tenant shall fail to pay any Imposition or to make any other payment required hereunder or shall otherwise default in the full and prompt performance of any covenant contained herein and to be performed on Tenant's part, Landlord, without being under any obligation to do so and without thereby waiving such default, may, after fifteen (15) days' notice to Tenant, or such notice (which may be oral) as may be reasonable in the circumstances if any emergency exists in respect of the protection of the Demised Premises, make such payment or perform such covenant "for the account and at the expense of Tenant and may enter upon the Demised Premises for any such purpose and take all action thereon as may be necessary therefor in the sole judgment of Landlord.

19.2 All sums so paid by Landlord in connection with the payment or performance by it of any of the obligations of Tenant hereunder and all actual and reasonable costs, expenses and disbursements paid in connection therewith or enforcing or endeavoring to enforce any right under or in connection with this Lease, or pursuant to law, together with interest thereon at the rate of 18% per annum (or, if lower, the maximum rate permitted by law) from the respective dates of the making of each such payment shall constitute additional rent payable by Tenant under this Lease and shall be paid by Tenant to Landlord within fifteen (15) days after demand by Landlord. Landlord shall not be limited, in the proof of any damages which Landlord may claim against Tenant arising out of or by reason of Tenant's failure to provide and keep in force insurance as required by Section 5 hereof, to the amount of the insurance premium or premiums not paid or incurred by Tenant.

19.3 The provisions of this Section 19 shall serve the expiration or termination of this Lease.

20. MECHANICS AND OTHER LIENS

20.1 If any mechanic's, laborer's or materialman's lien shall at any time be filed against the Property or any part thereof with respect to any work done, or labor or materials furnished, or caused to be furnished, by Tenant or anyone claiming through or under Tenant, or any judgment, attachment or levy is filed or recorded against the Property or any part thereof by anyone claiming through or under Tenant, Tenant, within thirty (30) days after notice of the filing thereof, shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien, judgment, attachment or levy to be discharged within the period aforesaid, then, in addition to any other right or remedy, Landlord may, but shall not be obligated to, discharge the same by bonding proceedings, if permitted by

law (and if not so permitted, by deposit in court). Any amount so paid by Landlord, including all costs and expenses paid by Landlord in connection therewith, together with interest thereon at the rate of 18% per annum (or, if lower, the maximum rate permitted by law) from the respective dates of Landlord's so paying any such amount, cost or expense, shall constitute additional rent payable by Tenant under this Lease and shall be paid by Tenant to Landlord on demand.

20.2 Nothing contained in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Demised Premises, or any part thereof, or as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanic's liens against Landlord's interest in the Demised Premises. Notice is hereby given that Landlord shall not be liable for any labor or materials furnished or to be furnished to Tenant upon credit, and that no mechanic's or other lien for any such labor or materials shall attach to or affect the reversion or estate or interest of Landlord in and to the Demised Premises.

21. SIGNS, ADDRESS

21.1 Landlord shall have the right to change the name or street address of the Property, to install, maintain, move, remove and reinstall signs on and off the Property identifying the Property and advertising any or all of the Property, including, the Demised Premises as for sale or for rent. Tenant shall not place any signs (i) on the exterior of the Property, or (ii) in the Common Areas, except that Tenant shall have the right, subject to Landlord's approval rights set forth in this section, to use a portion of the monument signage at the entry to the Property (entry to parking lot) and to place signage/its logo within the Demised Premises and on the wall adjacent to its third floor entrance. Landlord shall identify Tenant on the Administrative Building directory. The size, design, construction and placement of all such signs shall be subject to Landlord's prior written consent, which shall not be unreasonably withheld, and shall be at Tenant's sole cost and expense.

22. WAIVERS AND SURRENDERS TO BE IN WRITING, RIGHT TO TERMINATE

22.1 The receipt, acceptance and/or deposit (including the endorsement of any check) of full or partial rent by Landlord with knowledge of any breach of this Lease by Tenant or of any default on the part of Tenant in the observance or performance of any of the provisions or covenants of this Lease shall not be deemed to be a waiver of any such provision, covenant or breach of this Lease. No waiver or modification by Landlord,

unless in writing and signed by Landlord, shall discharge or invalidate any provision or covenant or affect the right of Landlord to enforce the same in the event of any subsequent breach or default. The failure on the part of Landlord to insist in any one or more instances upon the strict performance of any of the provisions or covenants of this Lease, or to enforce any covenant or provision herein contained consequent upon a breach of any provision of this Lease shall not affect or alter this Lease or be construed as a waiver or relinquishment of such provisions or covenants or of the right to insist upon strict performance or to exercise such right, remedy or election, but the same shall continue and remain in full force and effect with respect to any then existing or subsequent breach, act or omission whether of a similar nature or otherwise. The receipt, acceptance and/or deposit (including the endorsement of any check) by Landlord of any rent or any other sum of money or any other consideration hereunder paid by Tenant after the termination, in any manner, of the Term, or after the giving by Landlord of a termination notice, shall not reinstate, continue or extend the Term, or destroy, or in any manner impair the efficacy of any such termination notice as may have been given hereunder by Landlord to Tenant prior to the receipt, acceptance and/or deposit (including the endorsement of any check) of any such rent, or other sum of money or other consideration, unless so agreed to in writing and signed by Landlord. Neither acceptance of the keys nor any other act or thing done by Landlord or any agent or employee shall be deemed to be an acceptance of a surrender of the Premises, or any part thereof, excepting only an agreement in writing signed by Landlord. No payment by Tenant or receipt, acceptance and/or deposit (including the endorsement of any check) by Landlord of a lesser amount than the correct rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check be deemed to effect or evidence an accord and satisfaction, and Landlord may accept such check or payment Without prejudice to Landlord’s right to recover the balance or pursue any other remedy in this Lease provided.

23. COVENANTS BINDING ON SUCCESSORS AND ASSIGNS

23.1 All of the terms, covenants and conditions of this Lease shall apply to and inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the parties, except as expressly otherwise herein provided. If there shall be more than one Tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein contained. No rights, however, shall inure to the benefit of any assignee or subtenant of Tenant unless the assignment or subletting, as the case may be, has been made in accordance with the provisions set forth in Section 11.

24. RESOLUTION OF DISPUTES

24.1 THE PARTIES HERETO WAIVE A TRIAL BY JURY (TO THE EXTENT PERMITTED BY LAW) ON ANY AND ALL ISSUES ARISING IN ANY

ACTION OR PROCEEDING BETWEEN THEM OR THEIR SUCCESSORS UNDER OR IN ANY WAY CONNECTED WITH THIS LEASE OR ANY OF ITS PROVISIONS, ANY NEGOTIATIONS IN CONNECTION THEREWITH, THE RELATIONSHIP OF LANDLORD AND TENANT, OR TENANT'S USE OR OCCUPATION OF THE PREMISES, INCLUDING ANY CLAIM OF INJURY OR ANY EMERGENCY OR OTHER STATUTORY REMEDY WITH RESPECT THERETO. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LEASE.

25. NOTICES

25.1 Any statement, demand, election, request, notice, approval, consent or other communication, (collectively, "notice") authorized or required by this Lease must be in writing and shall be deemed given when delivered by (a) hand, against receipt, (b) one (1) business day after sending by reputable overnight courier which provides for acknowledgment of receipt, or (c) three (3)) business days after mailing by United States certified mail, return receipt requested, addressed to the intended recipient at the following address as:

If to Landlord:
Hibbs/Woodinville Associates, LLC
999 Third Ave., Suite 3000
Seattle, WA 98104
Attention: Robert E. Hibbs

with a copy to:

Premier Advisors, LLC
Monte Villa Farms
3301 Monte Villa Parkway, Suite 101
Bothell, WA 98021

If to Tenant:
Xcyte Therapies, Inc.
3301 Monte Villa Parkway Suite 300
Bothell, WA 98021
Attention: President and Chief Executive Officer

with copy to:

Sanford Levy
One Union Square
600 University Street, Suite 3300
Seattle, WA 98101

and to:

Sonya F. Erickson
Venture Law Group
4750 Cavillon Point
Kirkland, WA 98033-7355

Payments due to Landlord under this Lease shall be made at the following address:

Hibbs/Woodinville Associates, LLC
999 Third Ave., Suite 3000
Seattle, WA 98104
Attention: Robert E. Hibbs

Any notices by a party signed by counsel to such party shall be deemed a notice signed by such party. Notice shall be deemed given on the date of delivery or the date delivery is refused. Any party may change its address for notices, and Landlord may change its address for payments, by providing to the other party written notice in the manner required by this Section 25.

26. DEFINITIONS; HEADINGS; CONSTRUCTION OF LEASE

26.1 For the purposes of this Lease, unless the context otherwise requires:

26.1.1 The term "Landlord's agents" shall be deemed to include agents, servants, employees and contractors of landlord.

26.1.2 The term "person" shall be deemed to include individuals, corporations, partnerships, firms, associations and any other legal or business entities.

26.1.3 The term "unavoidable delays" shall mean any and all delays beyond the reasonable control of the party otherwise responsible, including delays caused by the other party, governmental restrictions, governmental preemption, strikes, labor disputes, lockouts, shortage of labor or materials, acts of God, enemy action, civil commotion, riot or insurrection, fire, holdover tenancies or other unavoidable casualty or any other cause beyond the responsible party's control, but shall not include delays occasioned by lack of money.

26.1.4 The terms "include," "including" and "such as" shall be construed as if followed by the phrase "without being limited to". The words "herein." "hereto" "hereby," "hereunder" and words of similar import shall be construed to refer to this Lease as a whole and not to any particular Section hereof unless expressly so stated.

26.2 The various terms which are defined in other Sections of this Lease shall have the meanings specified in such other Sections for all purposes of this Lease unless the context otherwise requires.

26.3 The Section headings in this Lease and the Table of Contents prefixed to this Lease are inserted only as a matter of convenience and reference and are not to be given any effect whatsoever in construing this Lease.

26.4 All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons or entity or entities in question may require.

27. FORCE MAJEURE

27.1 Whenever the performance of any obligation of either party hereunder shall be delayed, hindered or prevented due to unavoidable delays, the time for performance of such obligation, unless other provision is expressly made therefor in this Lease, shall be extended, subject to and limited by the following conditions:

27.1.1 The extension shall be for no longer a period than the delay actually so occasioned;

27.1.2 The party delayed shall promptly notify the other party of the cessation of such unavoidable delay and of the extent of the delay which the party delayed claims was occasioned thereby;

27.1.3 No statement of fact contained in any such notice shall be binding on the party receiving such notice; and

27.1.4 In no event shall lack of funds be deemed a matter beyond either party’s control.

27.1.5 Interruptions of any service to be provided by Landlord under this Lease or of any utility or other service to the Demised Premises or the Property, in whole or in part caused by any unavoidable delay, inability of Landlord to obtain electricity, fuel, water, other utilities or supplies, or by the act or default of Tenant or any person other than Landlord, or otherwise by any other cause or causes beyond the reasonable control of Landlord, shall not be deemed an eviction or disturbance of Tenant’s use and possession of the Demised Premises, the Common Area, or any part thereof, or render Landlord liable for damages, or give rise to any offset, set off, abatement, or reduction in any rent, additional rent, or other amount payable by

Tenant under this Lease, or otherwise or relieve Tenant from performance of Tenant's obligations under this Lease.

28. BROKERAGE

28.1 Landlord and Tenant each warrant and represent to the other that no broker or like agent represented the warranting and representing party in connection with the negotiation and execution of this Lease, except Tom Erlandson of Alexander Commercial Real Estate ("Broker ") and such party is not aware of any broker or like agent that could or may be entitled to make a claim for a commission in connection with the negotiation and execution of this Lease, except Broker. Landlord shall pay a commission and fee to Broker pursuant to a separate agreement with Broker. Each party (the "breaching party"' hereto agrees to indemnify, defend and hold the other party (the "nonbreaching party") harmless with respect to any judgments, damages, legal fees, court costs and any and all liabilities of any nature whatsoever incurred by the non-breaching party arising from a breach of the applicable warranty and representation by the breaching party and Landlord shall indemnify Tenant from any claim of Broker for any fee or commission in connection with the execution and negotiation of this Lease. The provisions of the foregoing representation and indemnity shall survive the expiration or termination of this Lease.

29. MISCELLANEOUS PROVISIONS

29.1 This Lease sets forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Premises. There are no oral agreements or understandings between the parties hereto affecting this Lease and this Lease supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties hereto with respect to the subject matters hereof, and none thereof shall be used to interpret or construe this Lease. Except as otherwise herein expressly provided, no subsequent alteration, amendment, change, waiver or addition to or of any provision of this Lease, nor any surrender of the Term, shall be binding upon Landlord or Tenant unless reduced to writing and signed by the party against whom the same is charged or such party's successors in interest.

29.2 This Lease shall not be recorded by either party without the consent of the other.

29.3 This Lease shall be governed in all respects by the laws of the State of Washington.

29.4 This Lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

29.5 All obligations of Tenant which shall not have been performed prior to the end of the Term or which by their nature involve performance, in any particular, after the end of the Term, or which cannot be ascertained to have been fully performed until after the end of the Term, shall survive the expiration or termination of the Term.

29.6 If any term, covenant, condition, or provision of this Lease or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

29.7 Anything in this Lease to the contrary notwithstanding, in the event that (a) any act or omission of Tenant shall require the consent or approval of Landlord pursuant to this Lease, and (b) this Lease provides that Landlord shall not unreasonably withhold such consent or approval, and (c) Tenant shall claim that Landlord has unreasonably withheld such consent or approval, then the sole recourse of Tenant upon the inability of the parties to agree shall be to bring an appropriate action in a court of competent Jurisdiction against Landlord solely to issue a determination of whether the withholding of such consent or approval by Landlord is “reasonable” or “unreasonable”, and Tenant shall not be entitled to any damages or other remedy other than specific performance for the issuance by Landlord of such consent or approval if such court of competent jurisdiction shall determine that such withholding of consent was unreasonable, provided, however, Tenant shall be entitled to pursue all remedies at law or in equity if it shall be determined by a court of competent jurisdiction (beyond all right of appeal) that in withholding its consent Landlord acted maliciously and in bad faith (for which Tenant shall have the burden of proof).

30. COMPLIANCE WITH ENVIRONMENTAL LAWS

30.1 Tenant shall, at its sole cost and expense, comply with the requirements of every federal, state, county, municipal or other governmental law, ordinance, rule, regulation, requirement and/or directive pertaining to the environment (an “Environmental Law” or “Environmental Laws”), including, but not limited to, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.), and the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S. § 9601 et seq.) affecting, binding upon, or respecting the Demised Premises and/or the use and occupancy thereof. In this regard, Tenant shall, at its sole cost and expense, make all submissions to, provide all information to, and comply with all requirements of any governmental authority respecting the Demised Premises, or the use or occupancy thereof. Should any governmental authority determine that action is necessary to clean

up, remove and/or eliminate any spill or discharges by Tenant (or by any of Tenant's agents, servants, employees, invitees, guests, subtenants (if any) licensees, or contractors) of Hazardous Substances (hereinafter defined) in or about the Demised Premises or the Common Area (except to the extent such discharge or spill in the Common Area is caused by the particular act of any third party tenant of any other space at the Property), or any other spill or discharges for which Tenant is responsible pursuant to this Lease, and/or that a cleanup plan must be prepared and submitted, then, in that event, Tenant shall, at its sole cost and expense, take any and all action required and carry out any and all approved plans and complete, at Tenant's sole cost and expense, all cleanup, removal and remediation required. Landlord shall remove, remediate and clean up all Hazardous Substances in the Demised Premises which were present prior to the term of this Lease. As used herein, "Hazardous Substances" means any substance that is toxic, ignitable, reactive, or corrosive, or that is regulated by any local government, the State of Washington or the United States Government, any and all material or substances that are defined as "hazardous waste," "extremely hazardous waste," or a "hazardous substance" pursuant to state, federal or local governmental law, any asbestos, polychlorobiphinyls (PCBs) and petroleum products or by-products. Tenant's obligations pursuant to this Section 30.1 shall arise whenever required by any appropriate governmental agency. At the expiration or earlier termination of this Lease Tenant, at Tenant's expense, immediately shall (i) remove or cause to be removed all Hazardous Substances located at, in, on, under or about the Demised Premises (and/or any other portions of the Property, except to the extent that such Hazardous Substances have been discharged at, in, on, under or about portions of the Property other than the Demised Premises by any other tenant, and (ii) clean up and remediate all areas of the Demised Premises (and/or any other portions of the Property, except to the extent that such Hazardous Substances have been discharged at, in, on, under or about portions of the Property other than the Demised Premises by any other tenant, as required under all Environmental Laws, and (iii) remove, remediate and clean up all Hazardous Substances at, in, on, under or about the Demised Premises (and/or at, in, on, under or about any other portions of the Property, except to the extent that such Hazardous Substances have been discharged at, in, on, under or about portions of the Property other than the Demised Premises by any other tenant.

30.2 For purposes of this provision, the term "Environmental Documents" shall mean all environmental documentation concerning the Demised Premises, the Property or its environs in the possession or under the control of Tenant, Including, without limitation, all drafts and final versions of all sampling plans, cleanup plans, preliminary assessment plans and reports, site investigation plans and reports, remedial investigation plans and reports, remedial action plans and reports or the equivalent, sampling results, sampling reports, data, diagrams, charts, maps, analyses, conclusions, quality assurance/quality control documentation, correspondence to or from the Washington Department of Ecology ("WDOE") or any other municipal, county, state or federal governmental authority, submissions to the WDOE or any municipal, county,

state or federal governmental authority and directives, orders, approvals and disapprovals issued by the WDOE or any other municipal, county, state or federal governmental authority, During the term of the Lease and subsequently promptly upon receipt by Tenant or Tenant's representatives, Tenant shall deliver to Landlord all Environmental Documents concerning the Property, or any portion thereof, including the Demised Premises, or generated by or on behalf of Tenant with respect to the Property or any portion thereof, whether currently or hereafter existing.

30.3 Tenant shall notify Landlord in advance of all meetings scheduled between Tenant or Tenant's representatives and the WDOE or any other authority, and Landlord and Landlord's representatives shall have the right, without the obligation, to attend and participate in all such meetings, at Landlord's sole expense.

30.4 Tenant shall at all times indemnify, defend (with counsel selected by Tenant and reasonably satisfactory to Landlord) and hold harmless Landlord and Landlord's employees, officers, directors, shareholders, affiliates, partners, agents, professionals and consultants (collectively, the "Indemnitees") against and from any and all claims, suits, liabilities, actions, debts, damages, costs, losses, obligations, judgments, charges and expenses, including sums paid in settlement of claims, of any nature whatsoever suffered or incurred by any of the Indemnitees whether based on Tenant's operation of the Demised Premises, Tenant's negligence, Tenant's willful misconduct or on other acts or omissions of Tenant after the Commencement Date, with respect to:

30.4.1 The actual or suspected presence or discharge by Tenant (or by any of Tenant's agents, servants, employees, Invitees, guests, subtenants (if any) licensees, or contractors), on or after the Commencement Date, of Hazardous Substances or the threat, on or after the Commencement Date, of a discharge by Tenant (or by any of Tenant's agents, servants, employees, invitees, guests, subtenants (if any) licensees, or contractors) of any Hazardous Substances in, on, under, about, or affecting the Property, whether or not the same originates or emanates from the Demised Premises;

30.4.2 The cost of removal or remedial action incurred by any governmental authority, any response cost incurred by any other person or damages from injury to, destruction of, or loss of natural resources, including reasonable cost of assessing such injury, destruction or loss, incurred pursuant to Environmental Laws;

30.4.3 Liability for personal injury or property damage arising under any statutory or common law tort theory, including, without limitation, damages assessed with the maintenance of a public or private nuisance or for the carrying on of an abnormally dangerous activity; and/or

30.4.4 Any other environmental matter, occurring on or after the Commencement Date, or otherwise relating to the period commencing with the

Commencement Date, and affecting (i) the Demised Premises or (ii) otherwise affecting the Property (to the extent such environmental matter affecting the Property other than the Demised Premises arises by the act or wrongful omission of Tenant, or any of Tenant's agents, servants, employees, invitees, guests, subtenants (if any) licensees, or contractors) within the jurisdiction of any other federal agency, or any state or local agency or political subdivision or any court, administrative panel or tribunal.

Tenant's obligations under this Section 30 shall arise upon the discovery of, or the threat or suspected presence of, any Hazardous Substance, whether or not any other federal agency or state or local or agency or political subdivision or any court, administrative panel or tribunal has taken or contemplates taking action in connection with the presence of any Hazardous Substances.

30.5 Tenant shall not, directly or indirectly, make any use of the Demised Premises, or the Property which may be prohibited by any Environmental Laws, which may be dangerous to a person or property, or which may constitute or create a nuisance, or which may fail or comply with or violate the provisions or conditions of any permit held by Landlord or Tenant with respect to the Demised Premises or the Property, including, without limitation, any such permit governing the use, contamination, pollution or conservation of air, water or land or the protection of the environment or of the use, storage, treatment or disposal of toxic or hazardous substances ("Environmental Permits"), or which may jeopardize the continuation or renewal of any such Environmental Permit, or which may be deemed extra-hazardous in any respect, or which may jeopardize any insurance coverage or require additional insurance coverage for Landlord or any other tenant of the Property.

30.6 Tenant shall regularly monitor its compliance with all applicable Environmental Laws, Environmental Permits and Environmental Plans; such monitoring shall be in accordance with all applicable Environmental Laws, Environmental Permits and Environmental Plans and with Tenant's established policies for such monitoring. Tenant shall, when requested by Landlord at reasonable intervals, provide to Landlord copies of the reports showing such monitoring and compliance and such other information and documentation respecting such monitoring and compliance as Landlord reasonably may request from time to time.

30.7 Tenant shall promptly provide Landlord, as soon as received by Tenant, with copies of all of Tenant's Environmental Permits and of any official warnings, citations or charges that Tenant, the Demised Premises or the Property has or may have failed to comply with or has or may have violated any Environmental Law or any Environmental Permit. Tenant shall promptly supply Landlord with any notices, correspondence and submissions made by Tenant to WDOE, the United States Environmental Protection Agency, OSHA, or any other local, state or federal authority which requires submission of any information concerning Environmental Laws or

Environmental Permits, or Hazardous Substances or other environmental matters. Tenant shall also promptly supply Landlord with all documentation, notices and correspondence delivered to Tenant by any such authority with respect to Environmental Laws, Environmental Permits, environmental matters or Hazardous Substances or other environmental matters.

30.8 This Section 30 shall survive the expiration or earlier termination of this Lease. Tenant's failure to abide by the terms of this Section 30 shall be restrainable by injunction, and shall constitute an Event of Default under the Lease.

31. SECURITY

31.1 Tenant, at Tenant's cost and expense, shall be obligated to provide adequate and proper security to the Demised Premises, and to properly regulate access to same without thereby adversely affecting the use and enjoyment of the Property by Landlord or by other tenants or occupants.

32. ACCESS

32.1 Tenant agrees that every other tenant or occupant of the Buildings (as same may change from time to time), and their respective employees, invitees, guests, contractors, subtenants (if any) and licensees, at all times shall have reasonable, non-discriminatory access to and use of Common Area, and in, upon, over, across and through the Common Area, in common with Tenant, and to the same extent enjoyed by Tenant, for ingress to and egress from the Buildings, and access to the premises demised by such tenant or occupant and to the Common Area, and for use of the Common Area.

32.2 Tenant agrees that Landlord, from time to time, may promulgate and/or amend reasonable, non-discriminatory rules and regulations for the use of Common Areas, and/or for access as provided in Section 32. 1, and that upon receiving copies of such rules and regulations (from time to time) Tenant shall abide by same and cause its employees, invitees, guests, contractors, subtenants (if any) and licensees to abide by same.

32.3 For so long as the existing cafeteria ("Cafeteria") located in the North Barn is operated (there being no obligation on the part of Landlord or any other person to continue or cause the continued operation of the Cafeteria), Tenant and its employees, invitees, and agents shall have access to and the right to use the Cafeteria. Tenant acknowledges that Landlord and/or the operator of the Cafeteria shall have the right to set or cause to be set all prices for goods at the Cafeteria in its sole discretion and that Landlord or the operator of the Cafeteria shall have the sole discretion to reduce services or terminate operation of the Cafeteria at any time without liability to Tenant. Landlord assumes no responsibility for and Tenant, on behalf of its employees, guests,

invitees or otherwise, waives any claim it may have now or in the future for the action of the operator of the Cafeteria or its agents, employees, invitees, guests or suppliers.

33. NET LEASE

33.1 Landlord and Tenant agree that except as otherwise expressly provided in this Lease, (i) this is a triple net Lease, (ii) Landlord shall not be required to provide any services or take any action in connection with the Demised Premises or the Property, and (iii) if, for any reason whatsoever, Tenant's use or occupancy of enjoyment of the Demised Premises shall be disturbed, prevented or interfered with for any reason whatsoever (other than Landlord's willful and intentional violation of the terms and provisions of this Lease) Tenant shall continue to pay the rent and additional rent without abatement, suspension or reduction.

34. RIGHT OF FIRST NEGOTIATION

34.1 Following Tenant's occupancy of the Initial Premises, and subject to the rights of existing tenants within specific suites, Tenant shall have a right of first opportunity to negotiate for a lease of any space on the first and second floor "East" space of the Production Building, which has previously been leased to another Tenant and becomes available (the "Opportunity Space"), prior to the Opportunity Space being offered to any person or entity other than Tenant. The terms, conditions and rental rate under which the Opportunity Space is to be leased to Tenant, if at all, are subject to the mutual agreement of Landlord and Tenant at such time as the Opportunity Space becomes available and Tenant desires to lease it from Landlord. Space occupied by a tenant that wishes to remain after the expiration of the term of its lease (whether or not it has an extension option) will not be deemed "available."

34.2 Prior to offering any of the Opportunity Space (excluding any Opportunity Space previously offered to Tenant under this Section) to any person or entity other than Tenant, Landlord shall notify Tenant that Landlord expects Opportunity Space to become available to lease, advising Tenant of the date such Opportunity Space is expected to be available. Tenant shall then have ten (10) calendar days in which to notify Landlord in writing exercising Tenant's right to negotiate a lease of the Opportunity Space and twenty (20) days after notification to reach written mutual agreement with Landlord regarding the terms, conditions and rental rate for such lease. If Landlord and Tenant do not execute a lease amendment incorporating all material terms with respect to the Opportunity Space within such 20 day period, Tenant's right with respect to that particular Opportunity Space shall forever terminate.

34.3 The foregoing negotiation right shall apply only with respect to Opportunity Space, as an entire, discrete and identifiable amount of floor space, as the same is now or in the future will be leased to some other tenant, and may not be exercised

with respect to only a portion thereof, unless only a portion shall first become available (in which case, the foregoing negotiation right shall apply to such portions, as the same become available), or unless otherwise agreed in writing by Landlord. If Tenant shall fail to exercise such negotiation right, after the notice by the Landlord of the availability of the Opportunity Space, as provided herein, such right shall be deemed to have lapsed and expired, and shall be of no further force or effect as to that notification by Landlord. Landlord may thereafter freely lease all or a portion of the Opportunity Space to any other party, at any time, on any terms, in Landlord's sole discretion. The foregoing negotiation right shall be subject to the right of existing tenants or occupants of the Opportunity Space to renew their existing leases whether pursuant to options to extend or renew or expand previously granted, and in all events is subject and subordinate to any existing rights of any other persons or entities to lease the Opportunity Space.

34.4 Landlord does not guarantee that the Opportunity Space will be available on the commencement date for the lease thereof, if the then existing occupants of the Opportunity Space shall hold-over or for any other reason the space shall not be available for reasons beyond Landlord's reasonable control. In such event, rent with respect to the Opportunity Space shall be abated until Landlord legally delivers the same to Tenant, as Tenant's sole recourse. Tenant's exercise of such negotiation right shall not operate to cure any default by Tenant of any of the terms or provisions in the Lease, nor to extinguish or impair any rights or remedies of Landlord arising by virtue of such default. The negotiation right shall, at Landlord's election, be null and void, if there is any uncured Event of Default under the Lease on the date Tenant exercises its rights hereunder or at any time thereafter and prior to commencement of the Lease for the Opportunity Space.

35. CAFETERIA SPACE

35.1 Landlord shall make available the Cafeteria Space to Tenant's employees on a nonexclusive basis for cafeteria style eating as provided in this First Amendment.

35.2 Landlord shall have contracted with a food service provider to provide food services for breakfast and lunch between the hours of 7:00 a.m. and 2:00 p.m. on Monday through Friday, excluding holidays.

35.3 The Annual Basic Rental as set forth on Exhibit C of the Lease shall be increased by the "Cafeteria Additional Rent" which is Tenant's Proportionate Share (as defined in Section 2.6(a)) of the "Cost of Cafeteria Space." The "Cost of Cafeteria Space" equals the agreed rentable square footage of the Cafeteria Space (6,774 s.f.) multiplied by the sum of (i) the fair market rent of space in the Administrative Building (currently agreed to be $16.50 psf) (ii) the proportion of Operating Expenses and Taxes equal to the number of square feet compromising the Cafeteria Space divided by the total

number of leasable square feet in the Buildings, (currently estimated to be $6.15 psf) and (iii) any costs and expenses incurred by Landlord in contracting with the food service provider.

Such amounts shall be increased at the beginning of each Fiscal Year during the term of the Lease to reflect any increases in Fair Market Rent, Operating Expenses or costs or expenses incurred by Landlord in dealing with the food service provider.

35.4 The Cost of Cafeteria Space for each Fiscal Year as reasonably estimated by Landlord from time to time prior to or during any Fiscal Year shall be communicated to Tenant by written notice (the "Estimated Cost of Cafeteria Space"). If Landlord does not deliver such a notice (an "Estimate") prior to the commencement of any Fiscal Year, Tenant shall continue to pay Estimated Cost of Cafeteria Space as provided in the most recently received Estimate (or Updated Estimate, as defined below) until the Estimate for such Fiscal Year is delivered to Tenant. If, from time to time during any Fiscal Year, Landlord reasonably determines that Cost of Cafeteria Space for such Fiscal Year have increased or will increase, Landlord may deliver to Tenant an updated Estimate ("Updated Estimate") for such Fiscal Year.

After the end of each Fiscal Year, Landlord shall send to Tenant a statement (the "Final Cost of Cafeteria Space Statement") showing (i) the calculation of the Cost of Cafeteria Space for such Fiscal Year, (ii) the aggregate amount of the Estimated Cost of Cafeteria Space previously paid by Tenant for such Fiscal Year, and (iii) the amount, if any, by which the aggregate amount of the installments of Estimated Cost of Cafeteria Space paid by Tenant with respect to such Fiscal Year exceeds or is less than the Final Cost of Cafeteria Space for such Fiscal Year. Tenant shall pay the amount of any deficiency to Landlord within thirty (30) days of the sending of such statement. At Landlord's option, any excess shall either be credited against payments past or next due hereunder or refunded by Landlord, provided Tenant is not then in default hereunder.

On reasonable advance written notice given by Tenant within thirty (30) days following the receipt by Tenant of the Final Cost of Cafeteria Space Statement, Landlord shall make available to Tenant Landlord's books and records maintained with respect to the Cost of Cafeteria Space for such Fiscal Year. If Tenant wishes to contest any item within any Final Cost of Cafeteria Space Statement, Tenant shall do so in a written notice (a "Contest Notice") received by Landlord within thirty (30) days following Tenant's inspection of Landlord's books and records, but in any event not later than sixty (60) days after Landlord shall have made its books and records available to Tenant for inspection, which Contest Notice shall specify in detail the item or items being contested and the specific grounds therefor. However, the giving of such Contest Notice shall not relieve Tenant from the obligation to pay any deficiency in such statement or the Landlord from the obligation to pay (by refund or credit) any excess in such statement in accordance with this Section. Notwithstanding anything else in this Section to the contrary, if Tenant

fails to give such Contest Notice within said thirty (30) day period or fails to pay any deficiency in such statement in accordance with this Section, whether or not contested, Tenant shall have no further right to contest any item or items in such statement and Tenant shall be deemed to accept such statement.

Resolution of a Tenant's Contest notice shall be handled in the same manner as said notice regarding Operating Expenses in Section 2.9(a) of the Lease.

36. SECURITY DEPOSIT.

Concurrently with execution of this Lease, Tenant will deposit with Landlord $434,500 as a security deposit as security for Tenant's performance of every provision in this Lease. If Tenant defaults under any provision of this Lease, Landlord may apply all or any part of the Security Deposit to the payment of sums due, including damages suffered by Landlord due to such default in addition to any other remedy which Landlord may possess. In such event, Tenant shall, within five days after written demand by Landlord, deposit with Landlord the amount so applied so that Landlord shall have the full Security Deposit on hand at all times during the term of this Lease. Any application of the Security Deposit to cure Defaults shall not be construed as a payment of liquidated damages for the Default. If Tenant fully complies with all of the provisions of this Lease, the Security Deposit will be repaid to Tenant without interest within 30 days after the Expiration Date. Landlord is not required to place these funds in escrow and is entitled to any interest thereon should they be invested. In addition to securing Tenant's performance under the Lease, $232,500 of the Security Deposit shall be retained by Landlord should Tenant fail to execute that first five (5) year option to renew the Lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

ATTEST:

/s/ TOM ERLAUSON

Name: Tom Erlauson

LANDLORD
HIBBS/WOODINVILLE ASSOCIATES, LLC, a Washington limited liability company

By: /s/ ROBERT E. HIBBS

Name: Robert E. Hibbs

Title: Manager

ATTEST:

/s/ TOM ERLAUSON

Name: Tom Erlauson

TENANT
XCYTE THERAPIES, INC.,
A Delaware corporation

By: /s/ RONALD J. BERENSON

Name: Ronald Jay Berenson

STATE OF WASHINGTON)
)ss:
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he/she was authorized to execute this instrument and acknowledged it as the _____ of HIBBS/WOODINVILLE ASSOCIATES, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: _____, 2003.

_____
Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Appointment expires: _____

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON)
)ss:
COUNTY OF)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he/she was authorized to execute this instrument and acknowledged it as the _____ of XCYTE THERAPIES, INC., a Delaware corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: _____, 2003.

_____

Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Appointment expires: _____

(Use this space for notarial stamp/seal)

EXHIBIT A

THE PROPERTY, BUILDINGS, PARKING LOT AND COMMON AREAS

Lots 12, 13, 14, 15 and 16 of Quadrant Monte Villa Center, according to the plat thereof, recorded in Volume 54 of Plats, pages 165 through 169, inclusive, records of Snohomish County, Washington.

Situate in the City of Bothell, County of Snohomish, State of Washington

EXHIBIT B

DEMISED PREMISES

59

EXHIBIT C

BASIC ANNUAL RENT

The Initial Basic Annual Rent shall be $20.00 per rental square foot per year. Basis Annual Rent shall be increased annual during the term by four and five-tenths percent (4.5%) per annum. In the event Tenant occupies the Premises prior to December 1, 2000, Basic Annual Rent through December 1, 2000 shall be charged at the rate of $10.00 per rentable square feet per year.

Basic Annual Rent for both the first and second five year renewal terms shall be equal to the greater of the then existing Basic Annual Rent due under the Lease at the end of the then expiring initial lease term or renewal lease term or market rent for similar space in the Bothell, Washington submarket.

Exhibit 10.21

XCYTE THERAPIES, INC.

AMENDED AND RESTATED 1996 STOCK OPTION PLAN

(as of January 31, 2002)

1. Purposes of the Plan. The purposes of this Stock Option Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to Employees and Consultants of the Company and any Parent or Subsidiary and to promote the success of the Company's business. Options granted under the Plan may be Incentive Stock Options or Nonstatutory Stock Options, as determined by the Administrator at the time of grant of an option and subject to the applicable provisions of Section 422 of the Code and the regulations promulgated thereunder.

2. Definitions. As used herein, the following definitions shall apply:

(a) "Administrator" means the Board or any of its Committees appointed pursuant to Section 4 of the Plan.

(b) "Applicable Laws" means the legal requirements relating to the administration of stock option and restricted stock purchase plans under applicable U.S. state corporate laws, U.S. federal and applicable state securities laws, the Code, any Stock Exchange rules or regulations, any other applicable U.S. federal or U.S. State laws, and the applicable laws of any other country or jurisdiction where Options or Stock Purchase Rights are granted under the Plan, as such laws, rules, regulations and requirements shall be in place from time to time.

(c) "Board" means the Board of Directors of the Company.

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

(e) "Committee" means a Committee appointed by the Board of Directors in accordance with Section 4 of the Plan.

(f) "Common Stock" means the Common Stock of the Company.

(g) "Company" means Xcyte Therapies, Inc., formerly known as CDR Therapeutics, Inc.

(h) "Consultant" means any person who is engaged by the Company or any Parent or Subsidiary to render consulting or advisory services and is compensated for such services, and any director of the Company whether compensated for such services or not. If and in the event the Company registers any class of any equity security pursuant to the Exchange Act, the term Consultant shall thereafter not include directors who are not compensated for their services or are paid only a director's fee by the Company.

(i) "Continuous Status as an Employee or Consultant" means that the employment or consulting relationship with the Company, any Parent or Subsidiary is not

interrupted or terminated. Continuous Status as an Employee or Consultant shall not be considered interrupted in the case of (i) any leave of absence approved by the Company or (ii) transfers between locations of the Company or between the Company, its Parent, any Subsidiary, or any successor. A leave of absence approved by the Company shall include sick leave, military leave, or any other personal leave. For purposes of Incentive Stock Options, no such leave may exceed 90 days, unless reemployment upon expiration of such leave is guaranteed by statute or contract, including Company policies. If reemployment upon expiration of a leave of absence approved by the Company is not so guaranteed, on the 181st day of such leave any Incentive Stock Option held by the Optionee shall cease to be treated as an Incentive Stock Option and shall be treated for tax purposes as a Nonstatutory Stock Option.

(j) "Disability" means total and permanent disability as defined in Section 22(e)(3) of the Code.

(k) "Employee" means any person, including officers and directors, employed by the Company or any Parent or Subsidiary of the Company. The payment of a director's fee by the Company shall not be sufficient to constitute "employment" by the Company.

(l) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(m) "Fair Market Value" means, as of any date, the value of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the Nasdaq National Market or The Nasdaq SmallCap Market of The Nasdaq Stock Market, its Fair Market Value shall be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system for the last market trading day prior to the time of determination, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable;

(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, its Fair Market Value shall be the mean between the high bid and low asked prices for the Common Stock on the last market trading day prior to the day of determination; or

(iii) In the absence of an established market for the Common Stock, the Fair Market Value shall be determined in good faith by the Administrator.

(n) "Incentive Stock Option" means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code.

(o) "Listed Security" means any security of the Company that is listed or approved for listing on a national securities exchange or designated or approved for designation as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc.

(p) "Nonstatutory Stock Option" means an Option not intended to qualify as

an Incentive Stock Option.

(q) "Option" means a stock option granted pursuant to the Plan.

(r) "Optioned Stock" means the Common Stock subject to an Option.

(s) "Optionee" means an Employee or Consultant who receives an Option.

(t) "Parent" means a "parent corporation," whether now or hereafter existing, as defined in Section 424(e) of the Code.

(u) "Plan" means this 1996 Stock Option Plan.

(v) "Section 16(b)" means Section 16(b) of the Securities Exchange Act of 1934, as amended.

(w) "Share" means a share of the Common Stock, as adjusted in accordance with Section 11 below.

(x) "Subsidiary" means a "subsidiary corporation," whether now or hereafter existing, as defined in Section 424(f) of the Code.

(y) "Tax Date" means, with respect to the determination of the number of Shares to be withheld to satisfy minimum statutory federal and state withholding obligations, the date that the amount of tax to be withheld is to be determined under the Applicable Laws.

3. Stock Subject to the Plan. Subject to the provisions of Section 11 of the Plan, the maximum aggregate number of Shares which may be optioned and sold under the Plan is 4,400,000 Shares. The Shares may be authorized, but unissued Common Stock.

If an Option expires or becomes unexercisable without having been exercised in full, or is surrendered pursuant to an option exchange program authorized by the Administrator, the unpurchased Shares which were subject thereto shall become available for future grant or sale under the Plan (unless the Plan has terminated). In addition, any Shares retained by the Company upon exercise of an award in order to satisfy the exercise or purchase price for such award or any withholding taxes due with respect to such exercise or purchase shall be treated as not issued and shall continue to be available under the Plan. Shares issued under the Plan and later repurchased by the Company pursuant to any repurchase right which the Company may have shall not be available for future grant under the Plan.

4. Administration of the Plan.

(a) Initial Plan Procedure. Prior to the date, if any, upon which the Company becomes subject to the Exchange Act, the Plan shall be administered by the Board or a committee appointed by the Board.

(b) Plan Procedure After the Date, If Any, Upon Which Company Shares

Become a Listed Security.

(i) Administration With Respect to Directors and Officers Subject to Section 16(b). With respect to Option grants made to Employees who are also Officers or Directors subject to Section 16(b) of the Exchange Act, the Plan shall be administered by (A) the Board, if the Board may administer the Plan in a manner complying with the rules under Rule 16b-3 relating to the disinterested administration of employee benefit plans under which Section 16(b) exempt discretionary grants and awards of equity securities are to be made, or (B) a committee designated by the Board to administer the Plan, which committee shall be constituted to comply with the rules under Rule 16b-3 relating to the disinterested administration of employee benefit plans under which Section 16(b) exempt discretionary grants and awards of equity securities are to be made. Once appointed, such Committee shall continue to serve in its designated capacity until otherwise directed by the Board. From time to time the Board may increase the size of the Committee and appoint additional members, remove members (with or without cause) and substitute new members, fill vacancies (however caused), and remove all members of the Committee and thereafter directly administer the Plan, all to the extent permitted by the rules under Rule 16b-3 relating to the disinterested administration of employee benefit plans under which Section 16(b) exempt discretionary grants and awards of equity securities are to be made.

(ii) Administration With Respect to Other Persons. With respect to Option grants made to Employees or Consultants who are neither Directors nor Officers of the Company, the Plan shall be administered by (A) the Board or (B) a committee designated by the Board, which committee shall be constituted to satisfy the Applicable Laws. Once appointed, such Committee shall serve in its designated capacity until otherwise directed by the Board. The Board may increase the size of the Committee and appoint additional members, remove members (with or without cause) and substitute new members, fill vacancies (however caused), and remove all members of the Committee and thereafter directly administer the Plan, all to the extent permitted by Applicable Laws.

(c) Powers of the Administrator. Subject to the provisions of the Plan and, in the case of a Committee, the specific duties delegated by the Board to such Committee, and subject to the approval of any relevant authorities, including the approval, if required, of any stock exchange or national market system upon which the Common Stock is then listed, the Administrator shall have the authority, in its discretion:

(i) to determine the Fair Market Value of the Common Stock, in accordance with Section 2(m) of the Plan;

(ii) to select the Consultants and Employees to whom Options may from time to time be granted hereunder;

(iii) to determine whether and to what extent Options are granted hereunder;

(iv) to determine the number of shares of Common Stock to be covered

by each such award granted hereunder;

(v) to approve forms of agreement for use under the Plan;

(vi) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any award granted hereunder. Such terms and conditions may include, but are not limited to, the exercise price, the time or times when Options may be exercised, any vesting acceleration or waiver of forfeiture restrictions, and any restriction or limitation regarding any Option or the Shares relating thereto, based in each case on such factors as the Administrator, in its sole discretion, shall determine;

(vii) to determine whether and under what circumstances an Option may be settled in cash under Section 9(e) instead of Common Stock;

(viii) to reduce the exercise price of any Option to the then current Fair Market Value if the Fair Market Value of the Common Stock covered by such Option has declined since the date the Option was granted;

(ix) to provide for the early exercise of Options for the purchase of unvested Shares, subject to such terms and conditions as the Administrator may determine; and

(x) to construe and interpret the terms of the Plan and awards granted pursuant to the Plan.

(d) Effect of Administrator's Decision. All decisions, determinations and interpretations of the Administrator shall be final and binding on all Optionees and any other holders of any Options.

5. Eligibility.

(a) Nonstatutory Stock Options may be granted to Employees and Consultants. Incentive Stock Options may be granted only to Employees. An Employee or Consultant who has been granted an Option may, if otherwise eligible, be granted additional Options.

(b) Each Option shall be designated in the written option agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. However, notwithstanding such designation, to the extent that the aggregate Fair Market Value of the Shares with respect to which Incentive Stock Options are exercisable for the first time by the Optionee during any calendar year (under all plans of the Company and any Parent or Subsidiary) exceeds $100,000, such Options shall be treated as Nonstatutory Stock Options.

For purposes of this Section 5(b), Incentive Stock Options shall be taken into account in the order in which they were granted, and the Fair Market Value of the Shares shall be determined as of the time the Option with respect to such Shares is granted.

(c) The Plan shall not confer upon any Optionee any right with respect to the

continuation of the Optionee's employment or consulting relationship with the Company, nor shall it interfere in any way with the Optionee's right or the Company's right to terminate the Optionee's employment or consulting relationship at any time, with or without cause.

(d) Subject to adjustment as provided in Section 11 below, effective as of the date the Common Stock becomes a Listed Security, the maximum number of Shares that may be subject to Options granted to any one Employee under this Plan for any fiscal year of the Company shall be 1,000,000.

6. Term of Plan. The Plan shall become effective upon the earlier to occur of its adoption by the Board of Directors or its approval by the shareholders of the Company, as described in Section 17 of the Plan. It shall continue in effect for a term of 10 years unless sooner terminated under Section 13 of the Plan.

7. Term of Option. The term of each Option shall be the term stated in the Option Agreement; provided, however, that the term shall be no more than 10 years from the date of grant thereof. However, in the case of an Incentive Stock Option granted to an Optionee who, at the time the Option is granted, owns stock representing more than 10% of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Option shall be 5 years from the date of grant thereof or such shorter term as may be provided in the Option Agreement.

8. Option Exercise Price and Consideration.

(a) The per share exercise price for the Shares to be issued pursuant to exercise of an Option shall be such price as is determined by the Board, but shall be subject to the following:

(i) In the case of an Incentive Stock Option

(A) granted to an Employee who, at the time of the grant of such Incentive Stock Option, owns stock representing more than 10% of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per Share exercise price shall be no less than 110% of the Fair Market Value per Share on the date of grant.

(B) granted to any Employee other than an Employee described in the preceding paragraph, the per Share exercise price shall be no less than 100% of the Fair Market Value per Share on the date of grant.

(ii) In the case of a Nonstatutory Stock Option, the per share exercise price shall be determined by the Administrator.

(b) The consideration to be paid for the Shares to be issued upon exercise of an Option, including the method of payment, shall be determined by the Administrator (and, in the case of an Incentive Stock Option, shall be determined at the time of grant) and may consist entirely of (1) cash, (2) check, (3) promissory note, (4) other Shares which (x) in the case of Shares acquired upon exercise of an Option have been owned by the Optionee for more than 6

months on the date of surrender and (y) have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which such Option shall be exercised, (5) delivery of a properly executed exercise notice together with such other documentation as the Administrator and the broker, if applicable, shall require to effect an exercise of the Option and delivery to the Company of the sale or loan proceeds required to pay the exercise price, or (6) any combination of the foregoing methods of payment. In making its determination as to the type of consideration to accept, the Administrator shall consider if acceptance of such consideration may be reasonably expected to benefit the Company.

9. Exercise of Option.

(a) Procedure for Exercise: Rights as a Shareholder. Any Option granted hereunder shall be exercisable at such times and under such conditions as determined by the Administrator, including performance criteria with respect to the Company and/or the Optionee, and as shall be permissible under the terms of the Plan. The Administrator shall have the discretion to determine whether and to what extent the vesting of Options shall be tolled during any unpaid leave of absence; provided that in the absence of such determination, vesting of Options shall be tolled during any such leave except to the extent otherwise provided by Applicable Laws.

An Option may not be exercised for a fraction of a Share.

An Option shall be deemed to be exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Option by the person entitled to exercise the Option and full payment for the Shares with respect to which the Option is exercised has been received by the Company. Full payment may, as authorized by the Administrator, consist of any consideration and method of payment allowable under Section 8(b) of the Plan. Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the stock certificate evidencing such Shares, no right to vote or receive dividends or any other rights as a shareholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. The Company shall issue (or cause to be issued) such stock certificate promptly upon exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Section 11 of the Plan.

Exercise of an Option in any manner shall result in a decrease in the number of Shares which thereafter may be available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(b) Termination of Employment or Consulting Relationship. Upon termination of an Optionee's Continuous Status as an Employee or Consultant, other than upon the Optionee's death or Disability, the Optionee may exercise his or her Option, but only within such period of time as is specified in the Notice of Grant, and only to the extent that the Optionee was entitled to exercise it at the date of termination (but in no event later than the expiration of the term of such Option as set forth in the Notice of Grant). In the absence of a specified time in the Notice of Grant, the Option shall remain exercisable for 3 months following the Optionee's

termination. In the case of an Incentive Stock Option, such period of time for exercise shall not exceed 3 months from the date of termination. If, on the date of termination, the Optionee is not entitled to exercise the Optionee's entire Option, the Shares covered by the unexercisable portion of the Option shall revert to the Plan. If, after termination, the Optionee does not exercise his or her Option within the time specified by the Administrator, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

Notwithstanding the above, in the event of an Optionee's change in status from Consultant to Employee or Employee to Consultant, an Optionee's Continuous Status as an Employee or Consultant shall not automatically terminate solely as a result of such change in status. However, in such event, an Incentive Stock Option held by the Optionee shall cease to be treated as an Incentive Stock Option and shall be treated for tax purposes as a Nonstatutory Stock Option 3 months and one day following such change of status.

(c) Disability of Optionee. In the event of termination of an Optionee's Continuous Status as an Employee or Consultant as a result of his or her Disability, the Optionee may, but only within 12 months from the date of such termination (and in no event later than the expiration date of the term of his or her Option as set forth in the Option Agreement), exercise the Option to the extent the Optionee was otherwise entitled to exercise it on the date of such termination. To the extent that the Optionee is not entitled to exercise the Option on the date of termination, or if the Optionee does not exercise the Option to the extent so entitled within the time specified herein, the Option shall terminate, and the Shares covered by the Option shall revert to the Plan.

(d) Death of Optionee. In the event of the death of an Optionee, the Option may be exercised at any time within 12 months following the date of death (but in no event later than the expiration of the term of such Option as set forth in the Notice of Grant), by the Optionee's estate or by a person who has acquired the right to exercise the Option by bequest or inheritance, but only to the extent that the Optionee was entitled to exercise the Option at the date of death. If, at the time of death, the Optionee was not entitled to exercise his or her entire Option, the Shares covered by the unexercisable portion of the Option shall immediately revert to the Plan. If, after death, the Optionee's estate or a person who acquires the right to exercise the Option by bequest or inheritance does not exercise the Option within the time specified herein, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

(e) Buyout Provisions. The Administrator may at any time offer to buy out for a payment in cash or Shares, an Option previously granted, based on such terms and conditions as the Administrator shall establish and communicate to the Optionee at the time that such offer is made.

(f) Rule l6b-3. Options granted to persons subject to Section 16(b) of the Exchange Act must comply with Rule 16b-3 and shall contain such additional conditions or restrictions as may be required thereunder to qualify for the maximum exemption from Section 16 of the Exchange Act with respect to Plan transactions.

10. Non-Transferability of Options. Options may not be sold, pledged, assigned,

hypothecated, transferred, or disposed of in any manner other than by will or by the laws of descent or distribution and may be exercised, during the lifetime of the Optionee, only by the Optionee.

11. Adjustments Upon Changes in Capitalization or Merger.

(a) Changes in Capitalization. Subject to any required action by the shareholders of the Company, the number of shares of Common Stock covered by each outstanding Option, and the number of shares of Common Stock which have been authorized for issuance under the Plan but as to which no Options have yet been granted or which have been returned to the Plan upon cancellation or expiration of an Option, as well as the price per share of Common Stock covered by each such outstanding Option, shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock, or any other increase or decrease in the number of issued shares of Common Stock effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Board, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Stock subject to an Option.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, the Administrator shall notify each Optionee as soon as practicable prior to the effective date of such proposed transaction. The Administrator in its discretion may provide for an Optionee to have the right to exercise his or her Option until 10 days prior to such transaction as to all of the Optioned Stock covered thereby, including Shares as to which the Option would not otherwise be exercisable. In addition, the Administrator may provide that any Company repurchase option applicable to any Shares purchased upon exercise of an Option shall lapse as to all such Shares, provided the proposed dissolution or liquidation takes place at the time and in the manner contemplated. To the extent it has not been previously exercised, an Option will terminate immediately prior to the consummation of such proposed action.

(c) Acquisition, Merger or Change in Control.

(i) In the event of a sale of all or substantially all of the Company's assets, or any merger or consolidation of the Company with or into another corporation other than a merger or consolidation in which the holders of more than 50% of the shares of capital stock of the Company outstanding immediately prior to such transaction continue to hold (either by the voting securities remaining outstanding or by their being converted into voting securities of the Successor Corporation) more than 50% of the total voting power represented by the voting securities of the Company, or such Successor Corporation, outstanding immediately after such transaction (a "Change in Control"), the exercisability of each outstanding Option shall automatically be accelerated completely so that one 100% of the number of shares of Common Stock covered by such Option shall be fully vested immediately prior to the consummation of the

Change in Control; provided, however, that each outstanding Option shall automatically be accelerated by only 25% of the number of shares of Common Stock covered by such Option that are unvested immediately prior to the consummation of the Change in Control if and to the extent: (A) such Option is either to be assumed by the Successor Corporation at the consummation of the Change in Control or be replaced with a comparable option to purchase shares of the capital stock of the Successor Corporation at the consummation of the Change in Control, or (B) such Option is to be replaced by a comparable cash incentive program of the Successor Corporation based on the value of the Option at the time of the consummation of the Change in Control, or (C) the acceleration of such Option is subject to other limitations imposed by the Administrator at the time of grant.

(ii) The Administrator shall have the authority, in the Administrator's sole discretion, to provide for the automatic acceleration of any outstanding Option upon the occurrence of a Change in Control, but only to the extent that such acceleration does not interfere with any "pooling of interests" accounting treatment used in connection with the Change in Control.

(iii) Notwithstanding the foregoing, no Incentive Stock Option shall become exercisable pursuant to this Section 11(c) without the Optionee's consent if the result would be to cause such Option not to be treated as an Incentive Stock Option.

12. Time of Granting Options. The date of grant of an Option shall, for all purposes, be the date on which the Administrator makes the determination granting such Option, or such other date as is determined by the Administrator. Notice of the determination shall be given to each Employee or Consultant to whom an Option is so granted within a reasonable time after the date of such grant.

13. Amendment and Termination of the Plan.

(a) Amendment and Termination. The Board may at any time amend, alter, suspend or discontinue the Plan, but no amendment, alteration, suspension or discontinuation shall be made which would impair the rights of any Optionee under any grant theretofore made, without his or her consent. In addition, to the extent necessary and desirable to comply with Rule 16b-3 under the Exchange Act or with Section 422 of the Code (or any other Applicable Laws), the Company shall obtain shareholder approval of any Plan amendment in such a manner and to such a degree as required.

(b) Effect of Amendment or Termination. Any such amendment or termination of the Plan shall not affect Options already granted, and such Options shall remain in full force and effect as if this Plan had not been amended or terminated, unless mutually agreed otherwise between the Optionee and the Board, which agreement must be in writing and signed by the Optionee and the Company.

14. Conditions Upon Issuance of Shares. Shares shall not be issued pursuant to the exercise of an Option unless the exercise of such Option and the issuance and delivery of such Shares pursuant thereto shall comply with all relevant provisions of law, including, without

limitation, the Securities Act of 1933, as amended, the Exchange Act, the rules and regulations promulgated thereunder, and the requirements of any stock exchange or national market system upon which the Common Stock is then listed or traded, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

As a condition to the exercise of an Option, the Company may require the person exercising such Option to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by any of the aforementioned relevant provisions of law.

15. Reservation of Shares. The Company, during the term of this Plan, shall at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

16. Agreements. Options shall be evidenced by written agreements in such form as the Administrator shall approve from time to time.

17. Shareholder Approval. Continuance of the Plan shall be subject to approval by the shareholders of the Company within 12 months before or after the date the Plan is adopted. Such shareholder approval shall be obtained in the degree and manner required under applicable state and federal law and the rules of any stock exchange or national market system upon which the Common Stock is then listed or traded.

18. Tax Withholding. As a condition of the exercise of an Option granted under the Plan and, if applicable, in connection with the vesting of an award, the Optionee (or in the case of the Optionee's death, the person exercising the Option) shall make such arrangements as the Administrator may require for the satisfaction of any applicable federal, state, local or foreign withholding tax obligations that may arise in connection with the exercise of the Option and the issuance of Shares. The Company shall not be required to issue any Shares under the Plan until such obligations are satisfied. If the Administrator allows the withholding or surrender of Shares to satisfy a Participant's tax withholding obligations, the Administrator shall not allow Shares to be withheld in an amount that exceeds the minimum statutory withholding rates for federal and state tax purposes, including payroll taxes.

19. Awards Granted to California Residents. Prior to the date, if any, upon which the Common Stock becomes a Listed Security, Options granted under the Plan to persons resident in California shall be subject to the provisions set forth in Attachment A hereto. To the extent the provisions of the Plan conflict with the provisions set forth on Attachment A, the provisions on Attachment A shall govern the terms of such Options.

Attachment A
Provisions Applicable to Award Recipients
Resident in California

Until such time as any security of the Company becomes a Listed Security and if required by Applicable Laws, the following additional terms shall apply to Options, and Shares issued upon exercise of such awards, granted under the Plan to persons resident in California as of the grant date of any such award (each such person, a "California Recipient"):

1. In the case of an Option, whether an Incentive Stock Option or a Nonqualified Stock Option, that is granted to a California Recipient who, at the time of the grant of such Option, owns stock representing more than 10% of the total combined voting power of all classes of stock of the Company or any Parent or Subsidiary, the per Share exercise price shall be no less than 110% of the Fair Market Value on the grant date.

2. In the case of a Nonqualified Stock Option that is granted to any other California Optionee, the per Share exercise price shall be no less than 85% of the Fair Market Value per Share on the grant date.

3. With respect to an Option issued to any California Optionee who is not an officer, manager, Director or Consultant, such Option shall become exercisable at the rate of at least 20% of the Shares per year over 5 years from the grant date.

4. The following rules shall apply to an Option issued to any California Optionee in the event of termination of the California Optionee's Continuous Service Status with the Company:

(a) If such termination was for reasons other than death or disability, the California Recipient shall have at least 30 days after the date of such termination (but in no event later than the expiration of the term of such Option established by the Plan Administrator as of the grant date) to exercise such Option.

(b) If such termination was on account of the death or disability of the California Recipient, the holder of the Option may, but only within 6 months from the date of such termination (but in no event later than the expiration date of the term of such Option established by the Plan Administrator as of the grant date), exercise the Option to the extent the California Recipient was otherwise entitled to exercise it at the date of such termination. To the extent that the California Recipient was not entitled to exercise the Option at the date of termination, or if the holder does not exercise such Option to the extent so entitled within 6 months from the date of termination, the Option shall terminate and the Common Stock underlying the unexercised portion of the Option shall revert to the Plan.

5. The Company shall provide financial statements at least annually to each California Recipient during the period such person has one or more Options or Stock Awards outstanding, and in the case of an individual who acquired Shares pursuant to the Plan, during the

period such individual owns such Shares. The Company shall not be required to provide such information if the issuance of awards under the Plan is limited to key employees whose duties in connection with the Company assure their access to equivalent information.

6. Unless defined otherwise in this Attachment, capitalized terms shall have the meanings set forth in the Plan.

XCYTE THERAPIES, INC.

2003 STOCK PLAN

1. **Purposes of the Plan.** The purposes of this 2003 Stock Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to Employees and Consultants and to promote the success of the Company's business. Options granted under the Plan may be Incentive Stock Options or Nonstatutory Stock Options, as determined by the Administrator at the time of grant of an option and subject to the applicable provisions of Section 422 of the Code and the regulations and interpretations promulgated thereunder. Stock purchase rights may also be granted under the Plan.

2. **Definitions.** As used herein, the following definitions shall apply:

(a) **"Administrator"** means the Board or its Committee appointed pursuant to Section 4 of the Plan.

(b) **"Affiliate"** means an entity other than a Subsidiary (as defined below) which, together with the Company, is under common control of a third person or entity.

(c) **"Applicable Laws"** means the legal requirements relating to the administration of stock option and restricted stock purchase plans, including under applicable U.S. state corporate laws, U.S. federal and applicable state securities laws, other U.S. federal and state laws, the Code, any Stock Exchange rules or regulations and the applicable laws, rules and regulations of any other country or jurisdiction where Options or Stock Purchase Rights are granted under the Plan, as such laws, rules, regulations and requirements shall be in place from time to time.

(d) **"Board"** means the Board of Directors of the Company.

(e) **"Cause"** means (i) Participant's material breach of any of the terms of any written agreement between the Participant and the Company; (ii) Participant's conviction of a felony harmful to the reputation of the Company or of a crime involving moral turpitude; (iii) Participant's willful misconduct in the performance of his or her duties and responsibilities to the Company; (iv) Participant's violation of his or her duty of loyalty or his or her obligations with respect to proprietary information or trade secrets of the Company or to any party to whom the Participant owes an obligation of nondisclosure as a result of his or her relationship with the Company; (v) Participant's violation of the Company's nondiscrimination policies or policies prohibiting harassment; or (vi) Participant's commission of any other intentional wrongful act that could cause the Company to be liable to a third party. The determination as to whether a Participant's Continuous Service is terminated for Cause shall be made in good faith by the Company and shall be final and binding on the Participant. The foregoing definition does not in any way limit the Company's ability to terminate a Participant's employment or consulting relationship at any time as provided in Section 5(d) below. For purposes of this definition of Cause, the term "Company" will be interpreted to include any Subsidiary, Parent, Affiliate or successor thereto, as appropriate.

(f) **"Change of Control"** means (i) a sale of all or substantially all of the Company's assets, or (ii) any merger, consolidation or other business combination transaction of the Company with or into another corporation, entity or person, other than a transaction in which the holders of at least a majority of the shares of voting capital stock of the Company outstanding immediately prior to such transaction continue to hold (either by such shares remaining outstanding or by their being converted into shares of voting capital stock of the surviving entity) a majority of the total voting power represented by the shares of voting capital stock of the Company (or the surviving entity) outstanding immediately after such transaction, or (iii) the direct or indirect acquisition (including by way of a tender or exchange offer) by any person, or persons acting as a group, of beneficial ownership or a right to acquire beneficial ownership of shares representing a majority of the voting power of the then outstanding shares of capital stock of the Company.

(g) **"Code"** means the Internal Revenue Code of 1986, as amended.

(h) **"Committee"** means one or more committees or subcommittees of the Board appointed by the Board to administer the Plan in accordance with Section 4 below.

(i) **"Common Stock"** means the Common Stock of the Company.

(j) **"Company"** means Xcyte Therapies, Inc., a Delaware corporation.

(k) **"Consultant"** means any person, including an advisor, who is engaged by the Company or any Parent, Subsidiary or Affiliate to render services and is compensated for such services, and any director of the Company whether compensated for such services or not.

(l) **"Continuous Service Status"** means the absence of any interruption or termination of service as an Employee or Consultant. Continuous Service Status as an Employee or Consultant shall not be considered interrupted in the case of: (i) sick leave; (ii) military leave; (iii) any other leave of absence approved by the Administrator, provided that such leave is for a period of not more than ninety (90) days, unless reemployment upon the expiration of such leave is guaranteed by contract or statute, or unless provided otherwise pursuant to Company policy adopted from time to time; or (iv) in the case of transfers between locations of the Company or between the Company, its Parents, Subsidiaries, Affiliates or their respective successors. A change in status from an Employee to a Consultant or from a Consultant to an Employee will not constitute an interruption of Continuous Service Status.

(m) **"Corporate Transaction"** means a sale of all or substantially all of the Company's assets, or a merger, consolidation or other capital reorganization or transaction of the Company with or into another corporation, entity or person, and includes a Change of Control.

(n) **"Director"** means a member of the Board.

(o) **"Employee"** means any person employed by the Company or any Parent, Subsidiary or Affiliate, with the status of employment determined based upon such factors as are deemed appropriate by the Administrator in its discretion, subject to any requirements of the

Code or the Applicable Laws. The payment by the Company of a director's fee to a Director shall not be sufficient to constitute "employment" of such Director by the Company.

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

(q) **"Fair Market Value"** means, as of any date, the fair market value of the Common Stock, as determined by the Administrator in good faith on such basis as it deems appropriate and applied consistently with respect to Participants. Whenever possible, the determination of Fair Market Value shall be based upon the closing price for the Shares as reported in the Wall Street Journal for the applicable date.

(r) **"Incentive Stock Option"** means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code, as designated in the applicable Option Agreement.

(s) "**Involuntary Termination**" means termination of a Participant's Continuous Service Status under the following circumstances: (i) termination without Cause by the Company or a Subsidiary, Parent, Affiliate or successor thereto, as appropriate, other than on account of the Participant's death or disability; or (ii) voluntary resignation by the Participant within 30 days following (A) a reduction in the Participant's then-current base salary of more than 20%, other than in connection with a similar reduction in the base salaries of similarly situated employees or consultants as part of a general salary level reduction; or (B) relocation by the Company or a Subsidiary, Parent, Affiliate or successor thereto, as appropriate, of the Participant's principal work site to a facility or location by more than 50 miles from the Participant's principal work site immediately prior to such relocation.

(t) "**Listed Security**" means any security of the Company that is listed or approved for listing on a national securities exchange or designated or approved for designation as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc.

(u) **"Named Executive"** means any individual who, on the last day of the Company's fiscal year, is the chief executive officer of the Company (or is acting in such capacity) or among the four most highly compensated officers of the Company (other than the chief executive officer). Such officer status shall be determined pursuant to the executive compensation disclosure rules under the Exchange Act.

(v) **"Nonstatutory Stock Option"** means an Option not intended to qualify as an Incentive Stock Option, as designated in the applicable Option Agreement.

(w) **"Option"** means a stock option granted pursuant to the Plan.

(x) **"Option Agreement"** means a written document, the form(s) of which shall be approved from time to time by the Administrator, reflecting the terms of an Option granted under the Plan and includes any documents attached to or incorporated into such Option

Agreement, including, but not limited to, a notice of stock option grant and a form of exercise notice.

(y) **"Option Exchange Program"** means a program approved by the Administrator whereby outstanding Options are exchanged for Options with a lower exercise price or are amended to decrease the exercise price as a result of a decline in the Fair Market Value of the Common Stock.

(z) **"Optioned Stock"** means the Common Stock subject to an Option.

(aa) **"Optionee"** means an Employee or Consultant who receives an Option.

(bb) **"Parent"** means a "parent corporation," whether now or hereafter existing, as defined in Section 424(e) of the Code, or any successor provision.

(cc) **"Participant"** means any holder of one or more Options or Stock Purchase Rights, or the Shares issuable or issued upon exercise of such awards, under the Plan.

(dd) **"Plan"** means this 2003 Stock Plan.

(ee) **"Reporting Person"** means an officer, Director, or greater than ten percent stockholder of the Company within the meaning of Rule 16a-2 under the Exchange Act, who is required to file reports pursuant to Rule 16a-3 under the Exchange Act.

(ff) **"Restricted Stock"** means Shares of Common Stock acquired pursuant to a grant of a Stock Purchase Right under Section 11 below.

(gg) **"Restricted Stock Purchase Agreement"** means a written document, the form(s) of which shall be approved from time to time by the Administrator, reflecting the terms of a Stock Purchase Right granted under the Plan and includes any documents attached to such agreement.

(hh) **"Rule 16b-3"** means Rule 16b-3 promulgated under the Exchange Act, as amended from time to time, or any successor provision.

(ii) **"Share"** means a share of the Common Stock, as adjusted in accordance with Section 14 of the Plan.

(jj) **"Stock Exchange"** means any stock exchange or consolidated stock price reporting system on which prices for the Common Stock are quoted at any given time.

(kk) **"Stock Purchase Right"** means the right to purchase Common Stock pursuant to Section 11 below.

(ll) **"Subsidiary"** means a "subsidiary corporation," whether now or hereafter existing, as defined in Section 424(f) of the Code, or any successor provision.

(mm) **"Ten Percent Holder"** means a person who owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary.

3. **Stock Subject to the Plan.** Subject to the provisions of Section 14 of the Plan, the maximum aggregate number of Shares that may be sold under the Plan is 3,500,000 Shares of Common Stock, plus an annual increase on the first day of each of the Company's fiscal years beginning in 2005 and ending in 2010 equal to the lesser of (a) 600,000 Shares, (b) 4% of the Shares outstanding on the last day of the immediately preceding fiscal year, or (c) such lesser number of Shares as the Board shall determine. The Shares may be authorized, but unissued, or reacquired Common Stock. If an award should expire or become unexercisable for any reason without having been exercised in full, or is surrendered pursuant to an Option Exchange Program, the unpurchased Shares that were subject thereto shall, unless the Plan shall have been terminated, become available for future grant under the Plan. In addition, any Shares of Common Stock which are retained by the Company upon exercise of an award in order to satisfy the exercise or purchase price for such award or any withholding taxes due with respect to such exercise or purchase shall be treated as not issued and shall continue to be available under the Plan. Shares issued under the Plan and later repurchased by the Company pursuant to any repurchase right which the Company may have shall not be available for future grant under the Plan.

4. **Administration of the Plan**.

(a) **General.** The Plan shall be administered by the Board or a Committee, or a combination thereof, as determined by the Board. The Plan may be administered by different administrative bodies with respect to different classes of Participants and, if permitted by the Applicable Laws, the Board may authorize one or more officers to make awards under the Plan.

(b) **Committee Composition.** If a Committee has been appointed pursuant to this Section 4, such Committee shall continue to serve in its designated capacity until otherwise directed by the Board. From time to time the Board may increase the size of any Committee and appoint additional members thereof, remove members (with or without cause) and appoint new members in substitution therefor, fill vacancies (however caused) and remove all members of a Committee and thereafter directly administer the Plan, all to the extent permitted by the Applicable Laws and, in the case of a Committee administering the Plan in accordance with the requirements of Rule 16b-3 or Section 162(m) of the Code, to the extent permitted or required by such provisions. The Committee shall in all events conform to any requirements of the Applicable Laws.

(c) **Powers of the Administrator.** Subject to the provisions of the Plan and in the case of a Committee, the specific duties delegated by the Board to such Committee, the Administrator shall have the authority, in its discretion:

(i) to determine the Fair Market Value of the Common Stock, in accordance with Section 2(q) of the Plan, provided that such determination shall be applied consistently with respect to Participants under the Plan;

(ii) to select the Employees and Consultants to whom Plan awards may from time to time be granted;

(iii) to determine whether and to what extent Plan awards are granted;

(iv) to determine the number of Shares of Common Stock to be covered by each award granted;

(v) to approve the form(s) of agreement(s) used under the Plan;

(vi) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any award granted hereunder, which terms and conditions include but are not limited to the exercise or purchase price, the time or times when awards may be exercised (which may be based on performance criteria), any vesting acceleration or waiver of forfeiture restrictions, any pro rata adjustment to vesting as a result of a Participant's transitioning from full- to part-time service (or vice versa), and any restriction or limitation regarding any Option, Optioned Stock, Stock Purchase Right or Restricted Stock, based in each case on such factors as the Administrator, in its sole discretion, shall determine;

(vii) to determine whether and under what circumstances an Option may be settled in cash under Section 10(c) instead of Common Stock;

(viii) to implement an Option Exchange Program on such terms and conditions as the Administrator in its discretion deems appropriate, provided that no amendment or adjustment to an Option that would materially and adversely affect the rights of any Optionee shall be made without the prior written consent of the Optionee;

(ix) to adjust the vesting of an Option held by an Employee or Consultant as a result of a change in the terms or conditions under which such person is providing services to the Company;

(x) to construe and interpret the terms of the Plan and awards granted under the Plan, which constructions, interpretations and decisions shall be final and binding on all Participants; and

(xi) in order to fulfill the purposes of the Plan and without amending the Plan, to modify grants of Options or Stock Purchase Rights to Participants who are foreign nationals or employed outside of the United States in order to recognize differences in local law, tax policies or customs.

5. **Eligibility**.

(a) **Recipients of Grants.** Nonstatutory Stock Options and Stock Purchase Rights may be granted to Employees and Consultants. Incentive Stock Options may be granted only to Employees, provided that Employees of Affiliates shall not be eligible to receive Incentive Stock Options.

(b) **Type of Option.** Each Option shall be designated in the Option Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option.

(c) **ISO $100,000 Limitation.** Notwithstanding any designation under Section 5(b), to the extent that the aggregate Fair Market Value of Shares with respect to which Options designated as Incentive Stock Options are exercisable for the first time by any Optionee during any calendar year (under all plans of the Company or any Parent or Subsidiary) exceeds $100,000, such excess Options shall be treated as Nonstatutory Stock Options. For purposes of this Section 5(c), Incentive Stock Options shall be taken into account in the order in which they were granted, and the Fair Market Value of the Shares subject to an Incentive Stock Option shall be determined as of the date of the grant of such Option.

(d) **No Employment Rights.** The Plan shall not confer upon any Participant any right with respect to continuation of an employment or consulting relationship with the Company, nor shall it interfere in any way with such Participant's right or the Company's right to terminate the employment or consulting relationship at any time for any reason.

6. **Term of Plan.** The Plan shall become effective upon its adoption by the Board of Directors. It shall continue in effect for a term of ten (10) years unless sooner terminated under Section 16 of the Plan.

7. **Term of Option.** The term of each Option shall be the term stated in the Option Agreement; provided that the term shall be no more than ten years from the date of grant thereof or such shorter term as may be provided in the Option Agreement and provided further that, in the case of an Incentive Stock Option granted to a person who at the time of such grant is a Ten Percent Holder, the term of the Option shall be five years from the date of grant thereof or such shorter term as may be provided in the Option Agreement.

8. **Limitation on Grants to Employees**. Subject to adjustment as provided in Section 14 below, the maximum number of Shares that may be subject to Options and Stock Purchase Rights granted to any one Employee under this Plan for any fiscal year of the Company shall be 1,000,000, provided that this Section 8 shall apply only after such time, if any, as the Common Stock becomes a Listed Security.

9. **Option Exercise Price and Consideration**.

(a) **Exercise Price.** The per Share exercise price for the Shares to be issued pursuant to exercise of an Option shall be such price as is determined by the Administrator and set forth in the Option Agreement, but shall be subject to the following:

(i) In the case of an Incentive Stock Option

(A) granted to an Employee who at the time of grant is a Ten Percent Holder, the per Share exercise price shall be no less than 110% of the Fair Market Value per Share on the date of grant; or

(B) granted to any other Employee, the per Share exercise price shall be no less than 100% of the Fair Market Value per Share on the date of grant.

(ii) In the case of a Nonstatutory Stock Option, the per share Exercise Price shall be such price as determined by the Administrator provided that if such eligible person is, at the time of the grant of such Option, a Named Executive of the Company, the per share Exercise Price shall be no less than 100% of the Fair Market Value on the date of grant if such Option is intended to qualify as performance-based compensation under Section 162(m) of the Code.

(iii) Notwithstanding the foregoing, Options may be granted with a per Share exercise price other than as required above pursuant to a Corporate Transaction.

(b) **Permissible Consideration.** The consideration to be paid for the Shares to be issued upon exercise of an Option, including the method of payment, shall be determined by the Administrator (and, in the case of an Incentive Stock Option, shall be determined at the time of grant) and may consist entirely of (i) cash; (ii) check; (iii) subject to any requirements of the Applicable Laws (including without limitation Section 153 of the Delaware General Corporation Law), delivery of Optionee's promissory note having such recourse, interest, security and redemption provisions as the Administrator determines to be appropriate after taking into account the potential accounting consequences of permitting an Optionee to deliver a promissory note; (iv) cancellation of indebtedness; (v) other Shares that have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which the Option is exercised, provided that in the case of Shares acquired, directly or indirectly, from the Company, such Shares must have been owned by the Optionee for more than six months on the date of surrender (or such other period as may be required to avoid the Company's incurring an adverse accounting charge); (vi) if, as of the date of exercise of an Option the Company then is permitting employees to engage in a "same-day sale" cashless brokered exercise program involving one or more brokers, through such a program that complies with the Applicable Laws (including without limitation the requirements of Regulation T and other applicable regulations promulgated by the Federal Reserve Board) and that ensures prompt delivery to the Company of the amount required to pay the exercise price and any applicable withholding taxes; or (vii) any combination of the foregoing methods of payment. In making its determination as to the type of consideration to accept, the Administrator shall consider if acceptance of such consideration may

be reasonably expected to benefit the Company and the Administrator may, in its sole discretion, refuse to accept a particular form of consideration at the time of any Option exercise.

10. **Exercise of Option**.

(a) **General.**

(i) **Exercisability.** Any Option granted hereunder shall be exercisable at such times and under such conditions as determined by the Administrator, consistent with the term of the Plan and reflected in the Option Agreement, including vesting requirements and/or performance criteria with respect to the Company and/or the Optionee.

(ii) **Leave of Absence.** In the absence of determination by the Administrator at the time of grant of the Stock Purchase Right, vesting of an Option shall be tolled during any unpaid leave of absence, except to the extent otherwise provided by Applicable Laws. In the event of a military leave, to the extent required by Applicable Laws, vesting shall toll during any unpaid portion of such leave, provided that upon a Participant's return from military leave he or she shall be given vesting credit with respect to awards to the same extent as would have applied had the Participant continued to provide services to the Company throughout the leave on the same terms as he or she was providing services immediately prior to such leave.

(iii) **Minimum Exercise Requirements.** An Option may not be exercised for a fraction of a Share. The Administrator may require that an Option be exercised as to a minimum number of Shares, provided that such requirement shall not prevent an Optionee from exercising the full number of Shares as to which the Option is then exercisable.

(iv) **Procedures for and Results of Exercise.** An Option shall be deemed exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Option by the person entitled to exercise the Option and the Company has received full payment for the Shares with respect to which the Option is exercised. Full payment may, as authorized by the Administrator, consist of any consideration and method of payment allowable under Section 9(b) of the Plan, provided that the Administrator may, in its sole discretion, refuse to accept any form of consideration at the time of any Option exercise.

Exercise of an Option in any manner shall result in a decrease in the number of Shares that thereafter may be available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(v) **Rights as Stockholder.** Until the issuance of the Shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Section 14 of the Plan.

(b) **Termination of Employment or Consulting Relationship.** Except as otherwise set forth in this Section 10(b), the Administrator shall establish and set forth in the

applicable Option Agreement the terms and conditions upon which an Option shall remain exercisable, if at all, following termination of an Optionee's Continuous Service Status, which provisions may be waived or modified by the Administrator at any time. Unless the Administrator otherwise provides in the Option Agreement, to the extent that the Optionee is not vested in Optioned Stock at the date of termination of his or her Continuous Service Status, or if the Optionee (or other person entitled to exercise the Option) does not exercise the Option to the extent so entitled within the time specified in the Option Agreement or below (as applicable), the Option shall terminate and the Optioned Stock underlying the unexercised portion of the Option shall revert to the Plan. In no event may any Option be exercised after the expiration of the Option term as set forth in the Option Agreement (and subject to Section 7).

The following provisions (1) shall apply to the extent an Option Agreement does not specify the terms and conditions upon which an Option shall terminate upon termination of an Optionee's Continuous Service Status, and (2) establish the minimum post-termination exercise periods that may be set forth in an Option Agreement:

(i) **Termination other than Upon Disability or Death or for Cause.** In the event of termination of Optionee's Continuous Service Status other than under the circumstances set forth in subsections (ii) through (iv) below, such Optionee may exercise an Option for 3 months following such termination to the extent the Optionee was vested in the Optioned Stock as of the date of such termination. No termination shall be deemed to occur and this Section 10(b)(i) shall not apply if (A) the Optionee is a Consultant who becomes an Employee, or (B) the Optionee is an Employee who becomes a Consultant.

(ii) **Disability of Optionee.** In the event of termination of an Optionee's Continuous Service Status as a result of his or her disability (including a disability within the meaning of Section 22(e)(3) of the Code), such Optionee may exercise an Option at any time within 12 months following such termination to the extent the Optionee was vested in the Optioned Stock as of the date of such termination.

(iii) **Death of Optionee.** In the event of the death of an Optionee during the period of Continuous Service Status since the date of grant of the Option, or within thirty days following termination of Optionee's Continuous Service Status, the Option may be exercised by Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance at any time within 12 months following the date of death, but only to the extent the Optionee was vested in the Optioned Stock as of the date of death or, if earlier, the date the Optionee's Continuous Service Status terminated.

(iv) **Termination for Cause.** In the event of termination of an Optionee's Continuous Service Status for Cause, any Option (including any exercisable portion thereof) held by such Optionee shall immediately terminate in its entirety upon first notification to the Optionee of termination of the Optionee's Continuous Service Status. If an Optionee's employment or consulting relationship with the Company is suspended pending an investigation of whether the Optionee shall be terminated for Cause, all the Optionee's rights under any Option likewise shall be suspended during the investigation period and the Optionee shall have no right to exercise any Option. Unless prohibited by Applicable Laws, this Section 10(b)(iv) shall apply

with equal effect to vested Shares acquired upon exercise of an Option, in that the Company shall have the right to repurchase such Shares from the Participant at the lesser of Participant's original cost for the Shares or the Fair Market Value of the Share at the time of repurchase. Such repurchase shall be effected pursuant to such terms and conditions, and at such time, as the Administrator shall determine. Nothing in this Section 10(b)(iv) shall in any way limit the Company's right to purchase unvested Shares issued upon exercise of an Option as set forth in the applicable Option Agreement.

(c) **Buyout Provisions.** The Administrator may at any time offer to buy out for a payment in cash or Shares an Option previously granted under the Plan based on such terms and conditions as the Administrator shall establish and communicate to the Optionee at the time that such offer is made.

11. **Stock Purchase Rights**.

(a) **Rights to Purchase.** When the Administrator determines that it will offer Stock Purchase Rights under the Plan, it shall advise the offeree in writing of the terms, conditions and restrictions related to the offer, including the number of Shares that such person shall be entitled to purchase, the price to be paid, and the time within which such person must accept such offer. The offer to purchase Shares subject to Stock Purchase Rights shall be accepted by execution of a Restricted Stock Purchase Agreement in the form determined by the Administrator.

(b) **Repurchase Option**.

(i) **General.** Unless the Administrator determines otherwise, the Restricted Stock Purchase Agreement shall grant the Company a repurchase option exercisable upon the voluntary or involuntary termination of the purchaser's employment with the Company for any reason (including death or disability). The purchase price for Shares repurchased pursuant to the Restricted Stock Purchase Agreement shall be the lesser of the original purchase price paid by the purchaser or the Fair Market Value of the Shares on the date of repurchase, and may be paid by cancellation of any indebtedness of the purchaser to the Company. The repurchase option shall lapse at such rate as the Administrator may determine. In the absence of determination by the Administrator at the time of grant of the Stock Purchase Right, lapse of the repurchase option shall be tolled during any unpaid leave of absence, except to the extent otherwise provided by Applicable Laws. In the event of a military leave, to the extent required by Applicable Laws, lapse of the repurchase option shall toll during any unpaid portion of such leave, provided that upon a Participant's return from military leave the repurchase option shall be deemed to have lapsed to the same extent as would have applied had the Participant continued to provide services to the Company throughout the leave on the same terms as he or she was providing services immediately prior to such leave.

(ii) **Termination of Continuous Service Status for Cause.** Unless prohibited by Applicable Laws, in the event of termination of a Participant's Continuous Service Status for Cause, the Company shall have the right to repurchase from the Participant vested Shares issued upon exercise of a Stock Purchase Right at the lesser of Participant's original cost

for the Shares or the Fair Market Value of the Share at the time of repurchase. Such repurchase shall be effected pursuant to such terms and conditions, and at such time, as the Administrator shall determine. Nothing in this Section 11(b)(ii) shall in any way limit the Company's right to purchase unvested Shares as set forth in the applicable Restricted Stock Purchase Agreement.

(c) **Other Provisions.** The Restricted Stock Purchase Agreement shall contain such other terms, provisions and conditions not inconsistent with the Plan as may be determined by the Administrator in its sole discretion. In addition, the provisions of Restricted Stock Purchase Agreements need not be the same with respect to each purchaser.

(d) **Rights as a Stockholder.** Once the Stock Purchase Right is exercised, the purchaser shall have the rights equivalent to those of a stockholder, and shall be a stockholder when his or her purchase is entered upon the records of the duly authorized transfer agent of the Company. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Stock Purchase Right is exercised, except as provided in Section 14 of the Plan.

12. **Taxes**.

(a) As a condition of the grant, vesting or exercise of an Option or Stock Purchase Right granted under the Plan, the Participant (or in the case of the Participant's death, the person exercising the Option or Stock Purchase Right) shall make such arrangements as the Administrator may require for the satisfaction of any applicable federal, state, local or foreign withholding tax obligations that may arise in connection with such grant, vesting or exercise of the Option or Stock Purchase Right or the issuance of Shares. The Company shall not be required to issue any Shares under the Plan until such obligations are satisfied. If the Administrator allows the withholding or surrender of Shares to satisfy a Participant's tax withholding obligations under this Section 12 (whether pursuant to Section 12(c), (d) or (e), or otherwise), the Administrator shall not allow Shares to be withheld in an amount that exceeds the minimum statutory withholding rates for federal and state tax purposes, including payroll taxes.

(b) In the case of an Employee and in the absence of any other arrangement, the Employee shall be deemed to have directed the Company to withhold or collect from his or her compensation an amount sufficient to satisfy such tax obligations from the next payroll payment otherwise payable after the date of an exercise of the Option or Stock Purchase Right.

(c) This Section 12(c) shall apply only after the date, if any, upon which the Common Stock becomes a Listed Security. In the case of Participant other than an Employee (or in the case of an Employee where the next payroll payment is not sufficient to satisfy such tax obligations, with respect to any remaining tax obligations), in the absence of any other arrangement and to the extent permitted under the Applicable Laws, the Participant shall be deemed to have elected to have the Company withhold from the Shares to be issued upon exercise of the Option or Stock Purchase Right that number of Shares having a Fair Market Value determined as of the applicable Tax Date (as defined below) equal to the amount required to be withheld. For purposes of this Section 12, the Fair Market Value of the Shares to be

withheld shall be determined on the date that the amount of tax to be withheld is to be determined under the Applicable Laws (the "Tax Date").

(d) If permitted by the Administrator, in its discretion, a Participant may satisfy his or her tax withholding obligations upon exercise of an Option or Stock Purchase Right by surrendering to the Company Shares that have a Fair Market Value determined as of the applicable Tax Date equal to the amount required to be withheld. In the case of shares previously acquired from the Company that are surrendered under this Section 12(d), such Shares must have been owned by the Participant for more than six (6) months on the date of surrender (or such other period of time as is required for the Company to avoid adverse accounting charges).

(e) Any election or deemed election by a Participant to have Shares withheld to satisfy tax withholding obligations under Section 12(c) or (d) above shall be irrevocable as to the particular Shares as to which the election is made and shall be subject to the consent or disapproval of the Administrator. Any election by a Participant under Section 12(d) above must be made on or prior to the applicable Tax Date.

(f) In the event an election to have Shares withheld is made by a Participant and the Tax Date is deferred under Section 83 of the Code because no election is filed under Section 83(b) of the Code, the Participant shall receive the full number of Shares with respect to which the Option or Stock Purchase Right is exercised but such Participant shall be unconditionally obligated to tender back to the Company the proper number of Shares on the Tax Date.

13. **Non-Transferability of Options and Stock Purchase Rights.**

(a) **General.** Except as set forth in this Section 13, Options and Stock Purchase Rights may not be sold, pledged, assigned, hypothecated, transferred or disposed of in any manner other than by will or by the laws of descent or distribution. The designation of a beneficiary by an Optionee will not constitute a transfer. An Option or Stock Purchase Right may be exercised, during the lifetime of the holder of an Option or Stock Purchase Right, only by such holder or a transferee permitted by this Section 13.

(b) **Limited Transferability Rights.** Notwithstanding anything else in this Section 13, prior to the date, if any, on which the Common Stock becomes a Listed Security, the Administrator may in its discretion grant Nonstatutory Stock Options that may be transferred by instrument to an inter vivos or testamentary trust in which the Options are to be passed to beneficiaries upon the death of the trustor (settlor) or by gift to "Immediate Family" (as defined below), on such terms and conditions as the Administrator deems appropriate. Following the date, if any, on which the Common Stock becomes a Listed Security, the Administrator may in its discretion grant transferable Nonstatutory Stock Options pursuant to Option Agreements specifying the manner in which such Nonstatutory Stock Options are transferable. "Immediate Family" means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and shall include adoptive relationships.

14. **Adjustments Upon Changes in Capitalization, Merger or Certain Other Transactions**.

(a) **Changes in Capitalization.** Subject to any action required under Applicable Laws by the stockholders of the Company, the number of Shares of Common Stock covered by each outstanding award, the numbers of Shares set forth in Sections 3(a) and 8 above, and the number of Shares of Common Stock that have been authorized for issuance under the Plan but as to which no awards have yet been granted or that have been returned to the Plan upon cancellation or expiration of an award, as well as the price per Share of Common Stock covered by each such outstanding award, shall be proportionately adjusted for any increase or decrease in the number of issued Shares of Common Stock resulting from a stock split, reverse stock split, stock dividend, combination, recapitalization or reclassification of the Common Stock, or any other increase or decrease in the number of issued Shares of Common Stock effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Administrator, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of Shares of Common Stock subject to an award.

(b) **Dissolution or Liquidation.** In the event of the dissolution or liquidation of the Company, each Option and Stock Purchase Right will terminate immediately prior to the consummation of such action, unless otherwise determined by the Administrator.

(c) **Corporate Transaction.**

(i) In the event of a Corporate Transaction, each outstanding Option and Stock Purchase Right shall be assumed or an equivalent option or right shall be substituted by the successor corporation or a Parent or Subsidiary of such successor corporation, unless such successor corporation does not agree to assume the outstanding Options or Stock Purchase Rights or to substitute equivalent options or rights, in which case such Options or Stock Purchase Rights shall terminate upon the consummation of the transaction.

(ii) In the event of a Change of Control, if the successor corporation or a Parent or Subsidiary of such successor corporation agrees to assume unexercised Options or Stock Purchase Rights or to substitute them with equivalent options or stock purchase rights, the vesting and of each outstanding Option and Stock Purchase Right shall accelerate such that the Options and Stock Purchase Rights shall become vested and exercisable as to the lesser of 25% of the Shares subject to the Option or Stock Purchase Right or the remaining unvested Shares, and any repurchase right of the Company with respect to Shares issued upon exercise of an Option or Stock Purchase Right shall lapse as to the lesser of 25% of the Shares initially subject to the Company repurchase right or the remaining Shares subject to the Company repurchase right. The acceleration of vesting and lapse of repurchase rights provided for in this Section 15(c)(ii) shall occur immediately prior to consummation of the Change of Control and shall apply

to Shares that would have vested last under the vesting schedule applicable to the option or the shares subject to Company repurchase right.

(iii) In addition to the acceleration of vesting and lapse of repurchase rights provided for in Section 15(c)(ii), in the event of the Involuntary Termination within 12 months of the Change of Control of a Participant holding an Option or Stock Purchase Right that is assumed or substituted by the Successor Corporation in the Change of Control, or holding Restricted Stock issued upon exercise of an Option or Stock Purchase Right with respect to which the Successor Corporation has succeeded to a repurchase right as a result of the Change of Control, then any assumed or substituted Option or Stock Purchase Right held by such Participant at the time of the Involuntary Termination shall accelerate and become exercisable as to the lesser of 25% of the Shares subject to the Option or Stock Purchase Right or the remaining unvested Shares, and any repurchase right of the Company with respect to Shares issued upon exercise of an Option or Stock Purchase Right shall lapse as to the lesser of 25% of the Shares initially subject to the Company repurchase right or the remaining Shares subject to the Company repurchase right. The acceleration of vesting and lapse of repurchase rights provided for in this Section 15(c)(iii) shall occur as of the Participant's last day of Continuous Service Status and shall apply to Shares that would have vested first under the vesting schedule applicable to the options or the shares subject to Company repurchase right had the Participant's employment continued.

(iv) In the event the Successor Corporation does not agree to assume unexercised Options, or to substitute them with equivalent options or stock purchase rights, the vesting and exercisability of each outstanding Option and Stock Purchase Right shall accelerate such that the Options and Stock Purchase Rights shall become vested and exercisable as to 100% of the remaining unvested Shares, and any repurchase right of the Company with respect to Shares issued upon exercise of an Option or Stock Purchase Right shall lapse as to 100% of the remaining Shares subject to the Company repurchase right. The acceleration of vesting and lapse of repurchase rights provided for in this Section 15(c)(iv) shall occur immediately prior to consummation of the Change of Control.

(v) For purposes of this Section 15(c), an Option or a Stock Purchase Right shall be considered assumed, without limitation, if, at the time of issuance of the stock or other consideration upon a Corporate Transaction or a Change of Control, as the case may be, each holder of an Option or Stock Purchase Right would be entitled to receive upon exercise of the Option or Stock Purchase Right the same number and kind of shares of stock or the same amount of property, cash or securities as such holder would have been entitled to receive upon the occurrence of the transaction if the holder had been, immediately prior to such transaction, the holder of the number of Shares of Common Stock covered by the Option or the Stock Purchase Right at such time (after giving effect to any adjustments in the number of Shares covered by the Option or Stock Purchase Right as provided for in this Section 15); provided however that if such consideration received in the transaction is not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon exercise of the Option or Stock Purchase Right to be solely common stock of the successor corporation or its Parent equal to the

Fair Market Value of the per Share consideration received by holders of Common Stock in the transaction.

(d) **Certain Distributions.** In the event of any distribution to the Company's stockholders of securities of any other entity or other assets (other than dividends payable in cash or stock of the Company) without receipt of consideration by the Company, the Administrator may, in its discretion, appropriately adjust the price per Share of Common Stock covered by each outstanding Option or Stock Purchase Right to reflect the effect of such distribution.

15. **Time of Granting Options and Stock Purchase Rights.** The date of grant of an Option or Stock Purchase Right shall, for all purposes, be the date on which the Administrator makes the determination granting such Option or Stock Purchase Right, or such other date as is determined by the Administrator, provided that in the case of any Incentive Stock Option, the grant date shall be the later of the date on which the Administrator makes the determination granting such Incentive Stock Option or the date of commencement of the Optionee's employment relationship with the Company. Notice of the determination shall be given to each Employee or Consultant to whom an Option or Stock Purchase Right is so granted within a reasonable time after the date of such grant.

16. **Amendment and Termination of the Plan**.

(a) **Authority to Amend or Terminate.** The Board may at any time amend, alter, suspend or discontinue the Plan, but no amendment, alteration, suspension or discontinuation (other than an adjustment pursuant to Section 14 above) shall be made that would materially and adversely affect the rights of any Optionee or holder of Stock Purchase Rights under any outstanding grant, without his or her consent. In addition, to the extent necessary and desirable to comply with the Applicable Laws, the Company shall obtain stockholder approval of any Plan amendment in such a manner and to such a degree as required.

(b) **Effect of Amendment or Termination.** Except as to amendments which the Administrator has the authority under the Plan to make unilaterally, no amendment or termination of the Plan shall materially and adversely affect Options or Stock Purchase Rights already granted, unless mutually agreed otherwise between the Optionee or holder of the Stock Purchase Rights and the Administrator, which agreement must be in writing and signed by the Optionee or holder and the Company.

17. **Conditions Upon Issuance of Shares.** Notwithstanding any other provision of the Plan or any agreement entered into by the Company pursuant to the Plan, the Company shall not be obligated, and shall have no liability for failure, to issue or deliver any Shares under the Plan unless such issuance or delivery would comply with the Applicable Laws, with such compliance determined by the Company in consultation with its legal counsel. As a condition to the exercise of an Option or Stock Purchase Right, the Company may require the person exercising the award to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by law. Shares issued upon exercise of awards granted prior to the date on which the Common Stock

becomes a Listed Security shall be subject to a right of first refusal in favor of the Company pursuant to which the Participant will be required to offer Shares to the Company before selling or transferring them to any third party on such terms and subject to such conditions as is reflected in the applicable Option Agreement or Restricted Stock Purchase Agreement.

18. **Reservation of Shares.** The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

19. **Agreements.** Options and Stock Purchase Rights shall be evidenced by Option Agreements and Restricted Stock Purchase Agreements, respectively, in such form(s) as the Administrator shall from time to time approve.

20. **Stockholder Approval.** If required by the Applicable Laws, continuance of the Plan shall be subject to approval by the stockholders of the Company within twelve (12) months before or after the date the Plan is adopted. Such stockholder approval shall be obtained in the manner and to the degree required under the Applicable Laws.

21. **Information and Documents to Optionees and Purchasers.** Prior to the date, if any, upon which the Common Stock becomes a Listed Security and if required by the Applicable Laws, the Company shall provide financial statements at least annually to each Optionee and to each individual who acquired Shares pursuant to the Plan, during the period such Optionee or purchaser has one or more Options or Stock Purchase Rights outstanding, and in the case of an individual who acquired Shares pursuant to the Plan, during the period such individual owns such Shares. The Company shall not be required to provide such information if the issuance of Options or Stock Purchase Rights under the Plan is limited to key employees whose duties in connection with the Company assure their access to equivalent information.

XCYTE THERAPIES, INC.

2003 EMPLOYEE STOCK PURCHASE PLAN

The following constitute the provisions of the 2003 Employee Stock Purchase Plan of Xcyte Therapies, Inc.

1. **Purpose.** The purpose of the Plan is to provide employees of the Company and its Designated Subsidiaries with an opportunity to purchase Common Stock of the Company. It is the intention of the Company to have the Plan qualify as an "Employee Stock Purchase Plan" under Section 423 of the Code. The provisions of the Plan shall, accordingly, be construed so as to extend and limit participation in the Plan and application of Plan rules in a manner consistent with the requirements of that section of the Code.

2. **Definitions**.

(a) "**Board**" means the Board of Directors of the Company.

(b) "**Code**" means the Internal Revenue Code of 1986, as amended.

(c) "**Common Stock**" means the Common Stock of the Company.

(d) "**Company"** means Xcyte Therapies, Inc., a Delaware corporation.

(e) "**Compensation**" means all earnings reported as wages on Form W-2, including straight time pay, payments for overtime, shift premiums, incentive compensation, incentive payments, bonuses, commissions and other compensation, but excluding compensation recognized in connection with the exercise of options or stock purchase rights with respect to Common Stock.

(f) "**Continuous Status as an Employee**" means the absence of any interruption or termination of service as an Employee. Continuous Status as an Employee shall not be considered interrupted in the case of (i) sick leave; (ii) military leave; (iii) any other leave of absence approved by the Administrator, provided that such leave is for a period of not more than 90 days, unless reemployment upon the expiration of such leave is guaranteed by contract or statute, or unless provided otherwise pursuant to Company policy adopted from time to time; or (iv) transfers between locations of the Company, between the Company and its Subsidiaries or between the Company's Subsidiaries. Continuous Status as an Employee shall be considered interrupted in the case of a reduction of an individual's customary employment to fewer than twenty (20) hours per week (other than on account of a leave specified in the preceding sentence).

(g) "**Contributions**" means all amounts credited to the account of a participant pursuant to the Plan.

(h) **"Corporate Transaction"** means (i) a sale of all or substantially all of the Company's assets, (ii) any merger, consolidation or other business combination transaction of the

Company with or into another corporation, entity or person, other than a transaction in which the holders of at least a majority of the shares of voting capital stock of the Company outstanding immediately prior to such transaction continue to hold (either by such shares remaining outstanding or by their being converted into shares of voting capital stock of the surviving entity) a majority of the total voting power represented by the shares of voting capital stock of the Company (or the surviving entity) outstanding immediately after such transaction, or (iii) the direct or indirect acquisition (including by way of a tender or exchange offer) by any person, or persons acting as a group, of beneficial ownership or a right to acquire beneficial ownership of shares representing a majority of the voting power of the then outstanding shares of capital stock of the Company.

(i) "**Designated Subsidiaries**" means the Subsidiaries which have been designated by the Board from time to time in its sole discretion as eligible to participate in the Plan; provided, however, that the Board shall only have the discretion to designate Subsidiaries if the issuance of options to such Subsidiary's Employees pursuant to the Plan would not cause the Company to incur materially adverse accounting charges.

(j) "**Employee**" means any person, including an Officer, who is treated as an employee of the Company for payroll tax purposes and who is customarily employed for at least twenty (20) hours per week and more than five (5) months in a calendar year by the Company or one of its Designated Subsidiaries.

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

(l) **"Fair Market Value"** means, as of any date, the value of Common Stock determined by the Board in its discretion provided that, to the extent the Common Stock is trading on the Nasdaq National Market, (i) the Fair Market Value as of an Offering Date shall be the closing sales price of the Common Stock as reported by the Nasdaq National Market for the last trading day immediately preceding the Offering Date, and (ii) the Fair Market Value of the Common Stock as of a Purchase Date shall be the closing sales price of the Common Stock as reported on the Nasdaq National Market for the Purchase Date or, if the Common Stock is not traded on such date, the last trading day immediately preceding the Purchase Date, in each case as reported in *The Wall Street Journal*. For purposes of the Offering Date for the First Offering Period under the Plan, the Fair Market Value of a Share of the Common Stock of the Company shall be the "Price to Public" as set forth in the final prospectus filed with the Securities and Exchange Commission pursuant to Rule 424 under the Securities Act of 1933, as amended.

(m) **"First Offering Period"** means the first Offering Period of the Plan which shall commence on the effective date of the Company's Registration Statement on Form S-1 for the initial public offering of the its Common Stock (the "IPO Date").

(n) "**Offering Date**" means the first Trading Day of each Offering Period of the Plan, except that in the case of an individual who becomes an eligible Employee after the first Trading Day of an Offering Period but prior to the first day of the fourth month of such Offering Period, the term "Offering Date" with respect to such individual means the first Trading Day of the fourth month of such Offering Period; provided, however, that with respect to the First

Offering Period, in the case of an individual who becomes an eligible Employee after the first Trading Day of such Offering Period but prior to **[March __, 2004]**, the term "Offering Date" with respect to such individual means **[March __, 2004]** (rather than the first Trading Day of the fourth month of such Offering Period).

(o) "**Offering Period**" means a period of six (6) months, except for the First Offering Period as set forth in Section 3 of the Plan, and except for Offering Periods which are of shorter duration as a result of a participant's applicable Offering Date with respect to such Offering Period being an interim Offering Date pursuant to Section 2(n). The duration and timing of Offering Periods may be changed pursuant to Sections 3, 17 and 18 of the Plan, provided that no Offering Period shall exceed a period of twenty-seven (27) months.

(p) "**Officer**" means a person who is an officer of the Company within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder.

(q) "**Plan**" means this 2003 Employee Stock Purchase Plan.

(r) "**Purchase Date**" means the last Trading Day of each Offering Period of the Plan.

(s) "**Purchase Price**" means with respect to a Purchase Period an amount equal to 85% of the Fair Market Value (as defined in Section 2(l) above) of a Share of Common Stock on the applicable Offering Date or on the Purchase Date, whichever is lower; provided, however, that in the event (i) of any increase in the number of Shares available for issuance under the Plan as a result of a stockholder-approved amendment to the Plan, and (ii) all or a portion of such additional Shares are to be issued with respect to one or more Offering Periods that are underway at the time of such increase ("Additional Shares"), and (iii) the Fair Market Value of a Share of Common Stock on the date of such increase (the "Approval Date Fair Market Value") is higher than the Fair Market Value on the Offering Date for any such Offering Period, then in such instance the Purchase Price with respect to Additional Shares shall be 85% of the Approval Date Fair Market Value or the Fair Market Value of a Share of Common Stock on the Purchase Date, whichever is lower.

(t) "**Share**" means a share of Common Stock, as adjusted in accordance with Section 17 of the Plan.

(u) "**Subsidiary**" means a corporation, domestic or foreign, of which not less than 50% of the voting shares are held by the Company or a Subsidiary, whether or not such corporation now exists or is hereafter organized or acquired by the Company or a Subsidiary.

(v) "**Trading Day**" means a day on which the U.S. national stock exchanges and the Nasdaq System are open for trading.

3. **Offering Periods.** The Plan shall be implemented by a series of Offering Periods of approximately six (6) months duration, with new Offering Periods commencing on or about

May 1 and November 1 of each year and ending, respectively, on the next following April 30 and October 31 (or at such other time or times as may be determined by the Board of Directors). Notwithstanding the above, the First Offering Period shall begin on the IPO Date and continue until April 30, 2004 and no new Offering Period shall begin until the First Offering Period has ended. Offering Periods shall occur on a continuing, successive basis until the Plan is terminated in accordance with Section 18 or 21 hereof. The last Trading Day of each Offering Period shall be the "Purchase Date" for such Offering Period. The Board of Directors of the Company shall have the power to change the timing, duration and/or the frequency of Offering Periods with respect to future Offering Periods if such change is announced at least five (5) days prior to the scheduled beginning of the first Offering Period to be affected.

4. **Eligibility.**

(a) **First Offering Period.** With respect to the first Offering Date of the First Offering Period, each individual who is an Employee as of the date immediately preceding the IPO Date shall be eligible to be automatically granted an option to participate in such First Offering Period and these individuals shall thereby be automatically enrolled in the First Offering Period (subject to the requirements of Sections 5(a) and 6(a)(i) below).

(b) **Subsequent Offering Periods.** With respect to Offering Dates occurring after the IPO Date, any individual who is an Employee as of an applicable Offering Date shall be eligible to participate in such Offering Period, subject to the requirements of Section 5 and to the limitations imposed by the Plan and Code Section 423(b).

5. **Participation; Subscription Agreement.**

(a) **First Offering Period.** With respect to the First Offering Period, an Employee eligible under Section 4(a) above, shall be granted an option under Section 6(a)(i) below, and shall be entitled to continue his or her participation in such Offering Period only if he or she submits to the Company's payroll office (or its designee) a properly completed subscription agreement authorizing payroll deductions in accordance with Section 5(c) below in the form of subscription agreement provided by the Board for such purpose (i) no earlier than the effective date of the filing of the Company's Registration Statement on Form S-8 with respect to the Shares issuable under the Plan and (ii) no later than thirty (30) days following the date on which the Form S-8 becomes effective (such period referred to as the "Enrollment Period"). A participant's failure to submit the subscription agreement during the Enrollment Period pursuant to this Section 5(a) shall result in the automatic termination of his or her participation in the First Offering Period in accordance with Section 10(a). Payroll deductions shall commence with respect to the First Offering Period as of the first payday following the expiration of the Enrollment Period or on such other payday as is specified by the Board. The Board will provide notice to participants granted an option under Section 6(a)(i) above as to the expiration of the Enrollment Period.

(b) **Subsequent Offering Periods.** An Employee who is eligible to participate in the Plan under Section 4(b) above may become a participant by (i) submitting to the Company's payroll office (or its designee), on or before a date prescribed by the Board prior to

an applicable Offering Date, a properly completed subscription agreement authorizing payroll deductions in the form provided by the Board for such purpose, or (ii) following an electronic or other enrollment procedure prescribed by the Board.

(c) **Requirements as to Subscription Agreement and Participation.**

(i) A participant's subscription agreement shall set forth the percentage of the participant's Compensation to be paid as Contributions pursuant to the Plan, which percentage shall be a whole percentage and shall be not less than one percent (1%) and not more than fifteen percent (15%) (or such other maximum percentage as the Board may establish from time to time before an Offering Period) of such participant's Compensation on each payday during the Offering Period.

(ii) A participant's subscription shall be effective for the Offering Period with respect to which it is filed, and also shall be automatically effective for each successive Offering Period that commences after the end of the Offering Period for which it is filed, unless the participant changes his or her Contribution rate for the next Offering Period by following the procedures set forth in Section 5(c)(iii) below, withdraws from the Plan in accordance with Section 10, or is otherwise ineligible to participate in the next Offering Period.

(iii) While a participant may not change his or her rate of Contributions during an ongoing Offering Period, a participant may discontinue his or her participation in the Plan as provided in Section 10 at any time prior to a Purchase Date. In addition, subject to Section 5(b) above, a participant may change his or her rate of Contributions under the Plan with respect to the next Offering Period by filing a new subscription agreement with the Company on or prior to the tenth (10^{th}) business day prior to the first day of such next Offering Period (or by such other date as is specified by the Board) or by following an electronic or other procedure designated by the Board, in each case specifying the new Contribution rate that shall apply with respect to such Offering Period. Such change in Contribution rate will be effective as of the first payroll period following commencement of the next Offering Period. Notwithstanding the above, with respect to the First Offering Period, submission by a participant of a subscription agreement authorizing payroll deductions at a rate that is less than the maximum rate at which they would be entitled to participate under the Plan shall be permitted. Payroll deductions for the First Offering Period shall commence on the first payday on or following the end of the Enrollment Period (or on such other date as the Board may specify).

6. **Grant of Option; Limitations.**

(a) **Grant of Option.**

(i) **First Offering Period.** With respect to the First Offering Period, each eligible Employee shall automatically be granted an option to purchase on the Purchase Date for the First Offering Period a number of Shares of the Company's Common Stock determined by dividing the maximum amount permitted under the Plan (which amount shall be a percentage of such Employee's Compensation) with respect to such Offering Period, by the applicable Purchase Price, subject to the limitations in subsections (c), (d) and (e) of this

Section 6 (which limitations shall be applied in a manner that permits granting of an option of less than the maximum amount specified in this Section 6(a)(i) in order to conform to the limitations of such subsections).

(ii) **Subsequent Offering Periods.** Except with respect to the First Offering Period, and subject to the limitations in subsections (c), (d) and (e) of this Section 6 and Section 11(b), on the Offering Date of each Offering Period, each eligible Employee participating in such Offering Period shall be granted an option to purchase on each Purchase Date within such Offering Period a number of Shares of the Company's Common Stock determined by dividing such Employee's Contributions accumulated prior to such Purchase Date and retained in the participant's account as of the Purchase Date by the applicable Purchase Price.

(b) **Acceptance of Option Grant.** An Employee may accept the grant of such option (i) with respect to the First Offering Period, by submitting a properly completed subscription agreement in accordance with the requirements of Section 5(a) above on or before the last day of the Enrollment Period, and (ii) with respect to subsequent Offering Periods, by electing to participate in the Plan in accordance with the requirements of Section 5(b). Exercise of the option shall occur as provided in Section 8 below.

(c) **Limit on Number of Shares Purchased.** Notwithstanding the above, the maximum number of Shares an Employee may purchase during each Offering Period (including the First Offering Period) shall be 2,500 Shares (before giving effect to a stock split effected in connection with the Company's initial public offering and subject to any further adjustment pursuant to Section 17 below), and provided further that such purchase shall be subject to the limitations set forth in Sections 11(b). In addition to the limits on an Employee's participation in the Plan set forth herein, the Board in its sole discretion may establish new or change existing limits on the number of Shares an Employee may elect to purchase with respect to any Offering Period if such limit is announced at least ten (10) days prior to the scheduled beginning of the first Offering Period to be affected.

(d) **Limit on Value of Shares Purchased.** Any provisions of the Plan to the contrary notwithstanding, no Employee shall be granted an option under the Plan if such option would permit his or her rights to purchase stock under all employee stock purchase plans (described in Section 423 of the Code) of the Company and its Subsidiaries to accrue at a rate which exceeds twenty-five thousand dollars ($25,000) of the Fair Market Value (as defined in Section 2(l) above) of such stock (determined at the time such option is granted) for each calendar year in which such option is outstanding at any time.

(e) **5% Owner Limit.** Any provisions of the Plan to the contrary notwithstanding, no Employee shall be granted an option under the Plan if, immediately after the grant, such Employee (or any other person whose stock would be attributed to such Employee pursuant to Section 424(d) of the Code) would own capital stock of the Company and/or hold outstanding options to purchase stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company or of any subsidiary of the Company.

7. **Method of Payment for Purchase of Shares.** This Plan shall be operated as a payroll deduction plan. All payroll deductions made by a participant shall be credited to his or her account under the Plan. A participant may not make any additional payments into such account other than through the payroll deduction feature of the Plan.

(a) **Limitation on Payroll Deductions.** Notwithstanding the foregoing, to the extent necessary to comply with Section 423(b)(8) of the Code and the limitations of Section 6, a participant's payroll deductions may be decreased by the Company to zero percent (0%) at any time during an Offering Period. Payroll deductions shall re-commence at the rate provided in such participant's subscription agreement at the beginning of the next Offering Period or, in the case of the limitation of Section 6(d), the first Offering Period which is scheduled to end in the following calendar year, unless the participant withdraws in accordance with Section 10, or is otherwise ineligible to participate in such Offering Period.

(b) **Tax Withholding.** At the time an option is exercised, in whole or in part, or at the time some or all of the Company's Common Stock issued under the Plan is disposed of, the participant must make adequate provision for the Company's federal, state, or other tax withholding obligations, if any, which arise upon the exercise of the option or the disposition of the Common Stock. At any time, the Company may, but shall not be obligated to, withhold from the participant's compensation the amount necessary for the Company to meet applicable withholding obligations, including any withholding required to make available to the Company any tax deductions or benefits attributable to sale or early disposition of Common Stock by the participant.

(c) **Interest.** No interest shall accrue on the Contributions of a participant in the Plan.

8. **Exercise of Option**.

(a) During his or her lifetime, a participant's option to purchase Shares hereunder is exercisable only by him or her.

(b) Unless a participant withdraws from the Plan as provided in Section 10, his or her option for the purchase of Shares will be exercised automatically on the Purchase Date of an Offering Period, and unless otherwise limited by Section 6 or Section 11(b), the maximum number of full Shares subject to the option will be purchased at the applicable Purchase Price with the accumulated Contributions in the participant's account.

(c) No fractional Shares shall be purchased. Any payroll deductions accumulated in a participant's account which are not sufficient to purchase a full Share shall be retained in the participant's account for the subsequent Offering Period, subject to earlier withdrawal by the participant as provided in Section 10 below. Any other amounts left over in a participant's account after a Purchase Date shall be returned to the participant.

9. **Delivery.** The Shares purchased upon exercise of an option hereunder shall be deemed to be transferred to the participant as soon as administratively practicable on or following the Purchase Date. As promptly as administratively practicable after each Purchase Date of each

Offering Period, the Company shall arrange the delivery to each participant, as appropriate, a certificate representing the Shares purchased upon exercise of his or her option. Notwithstanding the foregoing, the Board may require that all Shares purchased under the Plan be held in an account (the participant's "ESPP Stock Account") established in the name of the participant (or in the name of the participant and his or her spouse, as designated by the participant on his or her subscription agreement), subject to such rules as determined by the Board and uniformly applied to all participants, including designation of a brokerage or other financial services firm (an "ESPP Broker") to hold such Shares for the participant's ESPP Stock Account with registration of such Shares in the name of such ESPP Broker for the benefit of the participant (or for the benefit of the participant and his or her spouse, as designated by the participant on his or her subscription agreement).

10. **Withdrawal from Plan.**

(a) **Withdrawal not in connection with Interruption or Termination of Continuous Service Status.**

(i) A participant may withdraw all but not less than all the Contributions credited to his or her account under the Plan at any time prior to a Purchase Date by giving written notice to the Company. All of the participant's Contributions credited to his or her account will be paid to him or her promptly after receipt of his or her notice of withdrawal and his or her option for the current period will be automatically terminated, and no further Contributions for the purchase of Shares will be made during the Offering Period. With respect to the First Offering Period, a participant who fails to submit a subscription agreement prior to termination of the Enrollment Period, in accordance with Section 5(a) shall be deemed to have withdrawn from the Plan under this Section 10(a).

(ii) A participant's withdrawal from an Offering Period will not have any effect upon his or her eligibility to participate in a succeeding Offering Period or in any similar plan which may hereafter be adopted by the Company.

(b) **Withdrawal in connection with Interruption or Termination of Continuous Service Status.** In the event an Employee fails to remain in Continuous Service Status during the Offering Period in which he or she is participating, he or she will be deemed to have elected to withdraw from the Plan and any option he or she holds to purchase Shares under the Plan terminated. Upon termination of a participant's Continuous Service Status prior to the Purchase Date of an Offering Period for any reason, including death or retirement, the Contributions credited to his or her account will be returned to him or her or, in the case of his or her death, to the person or persons entitled thereto under Section 13.

11. **Stock.**

(a) Subject to adjustment as provided in Section 17, the maximum number of Shares which shall be made available for sale under the Plan shall be 600,000 Shares, plus an annual increase on the first day of each of the Company's fiscal years beginning in 2005 and ending in 2010 equal to the lesser of (i) 300,000 Shares, (ii) one percent (1%) of the Shares

outstanding on the last day of the immediately preceding fiscal year, or (iii) such lesser number of Shares as is determined by the Board.

(b) If the Board determines that, on a given Purchase Date, the number of Shares with respect to which options are to be exercised may exceed (i) the number of Shares that were available for sale under the Plan on the Offering Date of the applicable Offering Period, or (ii) the number of Shares available for sale under the Plan on such Purchase Date, the Board may in its sole discretion provide (x) that the Company shall make a pro rata allocation of the Shares available for purchase on such Offering Date or Purchase Date, as applicable, in as uniform a manner as shall be practicable and as it shall determine in its sole discretion to be equitable among all participants exercising options to purchase Common Stock on such Purchase Date, and continue all Offering Periods then in effect, or (y) that the Company shall make a pro rata allocation of the Shares available for purchase on such Offering Date or Purchase Date, as applicable, in as uniform a manner as shall be practicable and as it shall determine in its sole discretion to be equitable among all participants exercising options to purchase Common Stock on such Purchase Date, and terminate any or all Offering Periods then in effect pursuant to Section 18 below. The Company may make pro rata allocation of the Shares available on the Offering Date of any applicable Offering Period pursuant to the preceding sentence, notwithstanding any authorization of additional Shares for issuance under the Plan by the Company's stockholders subsequent to such Offering Date.

(c) The participant shall have no dividend, voting or other shareholder rights in Shares covered by any option to acquire Shares under the Plan until such option has been exercised in accordance with Section 8.

(d) Shares to be delivered to a participant under the Plan will be registered in the name of the participant or in the name of the participant and his or her spouse; provided that if the Board has determined that Shares shall be held in an ESPP Stock Account held by an ESPP Broker in accordance with Section 9, Shares shall be registered in the name of such ESPP Broker for the benefit of the participant (or the participant and his or her spouse, as designated by the participant in his or her subscription agreement).

12. **Administration.** The Board, or one or more committees named by the Board, shall supervise and administer the Plan and shall have full power to adopt, amend and rescind any rules deemed desirable and appropriate for the administration of the Plan and not inconsistent with the Plan, to construe and interpret the Plan, and to make all other determinations necessary or advisable for the administration of the Plan. The Board may, in its sole discretion and on such terms and conditions as it may provide, delegate to one or more individuals all or any part of its authority and powers under the Plan. All determinations, interpretations, constructions, findings and determinations made by the Board (or its committee or other designee) with respect to the Plan shall be binding on all parties.

13. **Designation of Beneficiary.**

(a) A participant may file a written designation of a beneficiary who is to receive any Shares and cash, if any, from the participant's account under the Plan in the event of

such participant's death subsequent to the end of a Purchase Period but prior to delivery to him or her of such Shares and cash. In addition, a participant may file a written designation of a beneficiary who is to receive any cash from the participant's account under the Plan in the event of such participant's death prior to the Purchase Date of an Offering Period. If a participant is married and the designated beneficiary is not the spouse, spousal consent shall be required for such designation to be effective. Such designation of beneficiary shall be on such form and delivered in such manner as determined by the Company, and shall be effective upon acknowledgement of receipt by the Company.

(b) A designation of beneficiary may be changed by the participant (and his or her spouse, if any) at any time by written notice. In the event of the death of a participant and in the absence of a beneficiary validly designated under the Plan who is living at the time of such participant's death, the Company shall deliver such Shares and/or cash to the executor or Board of the estate of the participant, or if no such executor or Board has been appointed (to the knowledge of the Company), the Company, in its discretion, may deliver such Shares and/or cash to the spouse or to any one or more dependents or relatives of the participant, or if no spouse, dependent or relative is known to the Company, then to such other person as the Company may designate.

14. **Transferability.** Neither Contributions credited to a participant's account nor any rights with regard to the exercise of an option or to receive Shares under the Plan may be assigned, transferred, pledged or otherwise disposed of in any way (other than by will, the laws of descent and distribution, or as provided in this Section 14) by the participant. Any such attempt at assignment, transfer, pledge or other disposition shall be without effect, except that the Company may treat such act as an election to withdraw funds in accordance with Section 10.

15. **Use of Funds.** The Company may use all Contributions received or held by the Company under the Plan for any corporate purpose, and the Company shall not be obligated to segregate such Contributions.

16. **Reports.** Individual accounts will be maintained for each participant in the Plan. Statements of account will be given to participating Employees at least annually, which statements will set forth the amounts of Contributions, the per Share Purchase Price, the number of Shares purchased and the remaining cash balance, if any.

17. **Adjustments Upon Changes in Capitalization; Corporate Transactions.**

(a) **Adjustment.** Subject to any required action by the stockholders of the Company, the number of Shares covered by each option under the Plan which has not yet been exercised and the number of Shares which have been authorized for issuance under the Plan but have not yet been placed under option (collectively, the "Reserves"), as well as the maximum number of Shares which may be purchased by a participant in an Offering Period, the number of Shares set forth in Section 11(a)(i) above, and the per Share Purchase Price covered by each option under the Plan which has not yet been exercised, shall be proportionately adjusted for any increase or decrease in the number of issued Shares resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock (including any such

change in the number of Shares of Common Stock effected in connection with a change in domicile of the Company), or any other increase or decrease in the number of Shares effected without receipt of consideration by the Company; provided however that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Board, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issue by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of Shares subject to an option.

(b) **Corporate Transactions.**

(i) In the event of a dissolution or liquidation of the Company, any Offering Period then in progress will terminate immediately prior to the consummation of such action, unless otherwise provided by the Board. In the event of a Corporate Transaction, each option outstanding under the Plan shall be assumed or an equivalent option shall be substituted by the successor corporation or a parent or Subsidiary of such successor corporation. In the event that the successor corporation refuses to assume or substitute equivalent options for options outstanding under the Plan, each Offering Period then in progress shall be shortened and a new Purchase Date shall be set (the "New Purchase Date"), as of which date any Offering Period then in progress will terminate. The New Purchase Date shall be on or before the date of consummation of the Corporate Transaction and the Board shall notify each participant in writing, at least ten (10) days prior to the New Purchase Date, that the Purchase Date for his or her option has been changed to the New Purchase Date and that his or her option will be exercised automatically on the New Purchase Date, unless prior to such date he or she has withdrawn from the Offering Period as provided in Section 10.

(ii) For purposes of this Section 17, an option granted under the Plan shall be deemed to be assumed, without limitation, if, at the time of issuance of the stock or other consideration upon a Corporate Transaction, each holder of an option under the Plan would be entitled to receive upon exercise of the option the same number and kind of shares of stock or the same amount of property, cash or securities as such holder would have been entitled to receive upon the occurrence of the transaction if the holder had been, immediately prior to the transaction, the holder of the number of Shares of Common Stock covered by the option at such time (after giving effect to any adjustments in the number of Shares covered by the option as provided for in this Section 17); provided however that if the consideration received in the transaction is not solely common stock of the successor corporation or its parent (as defined in Section 424(e) of the Code), the Board may, with the consent of the successor corporation, provide for the consideration to be received upon exercise of the option to be solely common stock of the successor corporation or its parent equal in Fair Market Value to the per share consideration received by holders of Common Stock in the transaction.

(c) **Other Adjustments.** The Board may, if it so determines in the exercise of its sole discretion, also make provision for adjusting the Reserves, as well as the price per Share of Common Stock covered by each outstanding option, in the event that the Company effects one or more reorganizations, recapitalizations, rights offerings or other increases or reductions of

Shares of its outstanding Common Stock, and in the event of the Company's being consolidated with or merged into any other corporation.

18. **Amendment or Termination.**

(a) The Board may at any time and for any reason terminate or amend the Plan. Except as provided in Section 17 and this Section 18, no such termination of the Plan may affect options previously granted, provided that the Plan or an Offering Period may be terminated by the Board on a Purchase Date or by the Board's setting a new Purchase Date with respect to an Offering Period then in progress if the Board determines that termination of the Plan and/or the Offering Period is in the best interests of the Company and its stockholders, or if continuation of the Plan and/or the Offering Period would cause the Company to incur adverse accounting charges as a result of a change after the effective date of the Plan in the generally accepted accounting rules applicable to the Plan. Except as provided in Section 17 and in this Section 18, no amendment to the Plan shall make any change in any option previously granted which adversely affects the rights of any participant. In addition, to the extent necessary to comply with Rule 16b-3 under the Exchange Act, or under Section 423 of the Code (or any successor rule or provision or any other applicable law, regulation or stock exchange rule), the Company shall obtain stockholder approval in such a manner and to such a degree as so required.

(b) Without stockholder consent and without regard to whether any participant rights may be considered to have been adversely affected, the Board (or its committee) shall be entitled to change the Offering Periods, limit the frequency and/or number of changes in the amount of Contributions withheld from a participant's Compensation during an Offering Period, establish the exchange ratio applicable to amounts withheld in a currency other than U.S. dollars, permit payroll withholding in excess of the amount designated by a participant in order to adjust for delays or mistakes in the Company's processing of properly completed withholding elections, establish reasonable waiting and adjustment periods and/or accounting and crediting procedures to ensure that amounts applied toward the purchase of Common Stock for each participant properly correspond with amounts withheld from the participant's Compensation, and establish such other limitations or procedures as the Board (or its committee) determines in its sole discretion advisable which are consistent with the Plan.

19. **Notices.** All notices or other communications by a participant to the Company under or in connection with the Plan shall be deemed to have been duly given when received in the form specified by the Company at the location, or by the person, designated by the Company for the receipt thereof.

20. **Conditions Upon Issuance of Shares.** Shares shall not be issued with respect to an option unless the exercise of such option and the issuance and delivery of such Shares pursuant thereto shall comply with all applicable provisions of law, domestic or foreign, including, without limitation, the Securities Act of 1933, as amended, the Exchange Act, the rules and regulations promulgated thereunder, applicable state securities laws and the requirements of any stock exchange upon which the Shares may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

As a condition to the exercise of an option, the Company may require the person exercising such option to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by any of the aforementioned applicable provisions of law.

21. **Term of Plan; Effective Date.** The Plan shall become effective upon the IPO Date. It shall continue in effect for a term of twenty (20) years unless sooner terminated under Section 18.

XCYTE THERAPIES, INC.

2003 EMPLOYEE STOCK PURCHASE PLAN
SUBSCRIPTION AGREEMENT

New Election _____
Change of Election _____

1. I, _____, hereby elect to participate in the Xcyte Therapies, Inc. 2003 Employee Stock Purchase Plan (the "Plan") for the Offering Period commencing _____, ____ , and subscribe to purchase shares of the Company's Common Stock in accordance with this Subscription Agreement and the terms of the Plan.

2. I elect to have Contributions in the amount of ____% of my Compensation, as those terms are defined in the Plan, applied to this purchase. I understand that this amount must not be less than 1% and not more than 15% of my Compensation during the Offering Period. (Please note that no fractional percentages are permitted).

3. I hereby authorize payroll deductions from each paycheck during the Offering Period at the rate stated in Item 2 of this Subscription Agreement. I understand that all payroll deductions made by me shall be credited to my account under the Plan and that I may not make any additional payments into such account. I understand that all payments made by me shall be accumulated for the purchase of shares of Common Stock at the applicable purchase price determined in accordance with the Plan, and that no interest shall accrue on such amounts at any time. I further understand that, except as otherwise set forth in the Plan, shares will be purchased for me automatically on the Purchase Date of each Offering Period unless I become ineligible to continue participating in the Plan or I otherwise withdraw from the Plan by giving written notice to the Company for such purpose.

4. I understand that I may discontinue at any time prior to the Purchase Date my participation in the Plan as provided in Section 10 of the Plan. I understand that I may change the rate of deductions for future Offering Periods by filing a new Subscription Agreement, and any such change will be effective as of the beginning of the next Offering Period. In addition, I acknowledge that, unless I withdraw from the Plan as provided in Section 10 of the Plan or otherwise become ineligible to participate in the Plan, my election as set forth above will continue to be effective for each successive Offering Period.

5. I have received a copy of the Company's most recent description of the Plan and a copy of the complete "Xcyte Therapies, Inc. 2003 Employee Stock Purchase Plan." I understand that my participation in the Plan is in all respects subject to the terms of the Plan.

6. Shares purchased for me under the Plan should be issued in the name(s) of (name of employee or employee and spouse only):

7. I understand that this tax summary is only a summary and is subject to change. I further understand that I should consult a tax advisor concerning the tax implications of the purchase and sale of stock under the Plan.

Early Disposition (Prior to Expiration of Holding Periods): I understand that if I dispose of any shares received by me pursuant to the Plan within 2 years after the Offering Date (the first day of the Offering Period during which I purchased such shares) or within 1 year after the Purchase Date, I will be treated for federal income tax purposes as having received ordinary compensation income at the time of such disposition in an amount equal to the excess of the fair market value of the shares on the Purchase Date over the price which I paid for the shares, regardless of whether I disposed of the shares at a price less than their fair market value at the Purchase Date. The remainder of the gain or loss, if any, recognized on such disposition will be treated as capital gain or loss.

I hereby agree to notify the Company in writing within 30 days after the date of any such disposition, and I will make adequate provision for federal, state or other tax withholding obligations, if any, which arise upon the disposition of the Common Stock. The Company shall be entitled, to the extent required by applicable law, to withhold from my Compensation any amount necessary to comply with applicable tax withholding requirements with respect to the purchase or sale of shares under the Plan.

Disposition After Holding Periods: If I dispose of such shares at any time after expiration of the 2-year and 1-year holding periods, I understand that I will be treated for federal income tax purposes as having received compensation income only to the extent of an amount equal to the lesser of (a) the excess of the fair market value of the shares at the time of such disposition over the purchase price which I paid for the shares under the option, or (b) 15% of the fair market value of the shares on the Offering Date. The remainder of the gain or loss, if any, recognized on such disposition will be treated as capital gain or loss.

8. I hereby agree to be bound by the terms of the Plan. The effectiveness of this Subscription Agreement is dependent upon my eligibility to participate in the Plan.

NAME (print): _____

SIGNATURE: _____

SOCIAL SECURITY #: _____

DATE: _____

SPOUSE'S SIGNATURE (necessary
if beneficiary is not spouse):

_____

(Signature)

_____

(Print name)

XCYTE THERAPIES, INC.

2003 EMPLOYEE STOCK PURCHASE PLAN

NOTICE OF WITHDRAWAL

I, _____, hereby elect to withdraw my participation in the Xcyte Therapies, Inc. 2003 Employee Stock Purchase Plan (the "Plan") for the Offering Period that began on _____ __, ____. This withdrawal covers all Contributions credited to my account and is effective on the date designated below.

I understand that all Contributions credited to my account will be paid to me within ten (10) business days of receipt by the Company of this Notice of Withdrawal and that my option for such Offering Period will automatically terminate, and that no further Contributions for the purchase of shares can be made by me during such Offering Period.

I further understand and agree that I shall be eligible to participate in succeeding offering periods only by delivering to the Company a new Subscription agreement.

Dated:_____

_____

Signature of Employee

_____

Social Security Number

XCYTE THERAPIES, INC.

2003 EMPLOYEE STOCK PURCHASE PLAN

BENEFICIARY DESIGNATION

In the event of my death, I hereby designate the following as my beneficiary to receive all payments and shares due to me under the Xcyte Therapies, Inc. 2003 Employee Stock Purchase Plan. I understand that my Beneficiary Designation will be effective upon acknowledgement of receipt by Xcyte Therapies, Inc.

BENEFICIARY:

NAME: (Please print)

Relationship: _____

_____

(First) (Middle) (Last)

_____

(Address)

_____

SIGNATURE: _____ DATE: _____

Print Name: _____

SOCIAL SECURITY #: _____

SPOUSE'S SIGNATURE (necessary if beneficiary is not Employee's spouse):

_____

(Signature)

_____

(Print name)

MAIL OR DELIVER THIS FORM TO:

ACKNOWLEDGEMENT OF RECEIPT BY XCYTE THERAPIES, INC.:

By: _____ Dated: _____

Title:

Exhibit 10.24

XCYTE THERAPIES, INC.

2003 DIRECTORS' STOCK OPTION PLAN

1. **Purposes of the Plan.** The purposes of this Directors' Stock Option Plan are to attract and retain the best available personnel for service as Directors of the Company, to provide additional incentive to the Outside Directors of the Company to serve as Directors, and to encourage their continued service on the Board.

All options granted hereunder shall be nonstatutory stock options.

2. **Definitions.** As used herein, the following definitions shall apply:

(a) "Board" shall mean the Board of Directors of the Company.

(b) "Change of Control" means (i) a sale of all or substantially all of the Company's assets, or (ii) any merger, consolidation or other business combination transaction of the Company with or into another corporation, entity or person, other than a transaction in which the holders of at least a majority of the shares of voting capital stock of the Company outstanding immediately prior to such transaction continue to hold (either by such shares remaining outstanding or by their being converted into shares of voting capital stock of the surviving entity) a majority of the total voting power represented by the shares of voting capital stock of the Company (or the surviving entity) outstanding immediately after such transaction, or (iii) the direct or indirect acquisition (including by way of a tender or exchange offer) by any person, or persons acting as a group, of beneficial ownership or a right to acquire beneficial ownership of shares representing a majority of the voting power of the then outstanding shares of capital stock of the Company.

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

(d) "Common Stock" shall mean the Common Stock of the Company.

(e) "Company" shall mean Xcyte Therapies, Inc., a Delaware corporation.

(f) "Continuous Status as a Director" shall mean the absence of any interruption or termination of service as a Director.

(g) "Corporate Transaction" means a sale of all or substantially all of the Company's assets, or a merger, consolidation or other capital reorganization or transaction of the Company with or into another corporation, entity or person, and includes a Change of Control.

(h) "Director" shall mean a member of the Board.

(i) "Employee" shall mean any person, including any officer or director, employed by the Company or any Parent or Subsidiary of the Company. The payment of a director's fee by the Company shall not be sufficient in and of itself to constitute "employment" by the Company.

(j) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

(k) "Fair Market Value" means, as of any date, the fair market value of the Common Stock, as determined by the Administrator in good faith on such basis as it deems appropriate and applied consistently with respect to optionees hereunder. Whenever possible, the determination of Fair Market Value shall be based upon the closing price for the Shares as reported in the Wall Street Journal for the applicable date.

(l) "Option" shall mean a stock option granted pursuant to the Plan. All options shall be nonstatutory stock options (i.e., options that are not intended to qualify as incentive stock options under Section 422 of the Code).

(m) "Optioned Stock" shall mean the Common Stock subject to an Option.

(n) "Optionee" shall mean an Outside Director who receives an Option.

(o) "Outside Director" shall mean a Director who is not an Employee.

(p) "Parent" shall mean a "parent corporation," whether now or hereafter existing, as defined in Section 424(e) of the Code.

(q) "Plan" shall mean this 2003 Directors' Stock Option Plan.

(r) "Share" shall mean a share of the Common Stock, as adjusted in accordance with Section 11 of the Plan.

(s) "Subsidiary" shall mean a "subsidiary corporation," whether now or hereafter existing, as defined in Section 424(f) of the Code.

3. **Stock Subject to the Plan.** Subject to the provisions of Section 11 of the Plan, the maximum aggregate number of Shares which may be sold under the Plan is 500,000 Shares (the "Pool") of Common Stock. The Shares may be authorized, but unissued, or reacquired Common Stock.

If an Option should expire or become unexercisable for any reason without having been exercised in full, the unpurchased Shares which were subject thereto shall, unless the Plan shall have been terminated, become available for future grant under the Plan. In addition, any Shares that are retained by the Company upon exercise of an Option in order to satisfy the exercise price of such Option, or any withholding taxes due with respect to such exercise, shall be treated as not issued and shall continue to be available for issuance under the Plan. If Shares which were acquired upon exercise of an Option are subsequently repurchased by the Company, such Shares shall not in any event be returned to the Plan and shall not become available for future grant under the Plan.

4. **Administration of and Grants of Options under the Plan.**

(a) **Administrator.** Except as otherwise required herein, the Plan shall be administered by the Board.

(b) **Procedure for Grants.** All grants of Options hereunder shall be automatic and nondiscretionary and shall be made strictly in accordance with the following provisions:

(i) No person shall have any discretion to select which Outside Directors shall be granted Options or to determine the number of Shares to be covered by Options granted to Outside Directors.

(ii) Each person who becomes an Outside Director after the effective date of this Plan, as determined in accordance with Section 6 hereof, shall be automatically granted an Option (the "First Option") to purchase 25,000 (as adjusted for stock splits, stock dividends, reclassifications and like transactions) Shares on the date on which such person first becomes an Outside Director, whether through election by the stockholders of the Company or appointment by the Board of Directors to fill a vacancy.

(iii) Each Outside Director (including an Outside Director who did not receive a First Option) shall be automatically granted an Option (the "Annual Option") to purchase 10,000 Shares (as adjusted for stock splits, stock dividends, reclassifications and like transactions) on the date of each annual meeting of the stockholders of the Company, provided that, on such date, he or she shall have served on the Board for at least six (6) months prior to the first day of such fiscal year.

(iv) Notwithstanding the provisions of subsections (ii) and (iii) hereof, in the event that a grant would cause the number of Shares subject to outstanding Options plus the number of Shares previously purchased upon exercise of Options to exceed the Pool, then each such automatic grant shall be for that number of Shares determined by dividing the total number of Shares remaining available for grant by the number of Outside Directors receiving an Option on such date on the automatic grant date. Any further grants shall then be deferred until such time, if any, as additional Shares become available for grant under the Plan through action of the stockholders to increase the number of Shares which may be issued under the Plan or through cancellation or expiration of Options previously granted hereunder.

(v) Notwithstanding the provisions of subsections (ii) and (iii) hereof, any grant of an Option made before the Company has obtained stockholder approval of the Plan in accordance with Section 17 hereof shall be conditioned upon obtaining such stockholder approval of the Plan in accordance with Section 17 hereof.

(vi) The terms of each Option granted hereunder shall be as follows:

(1) each Option shall be exercisable only while the Outside Director remains a Director of the Company, except as set forth in Section 9 hereof;

(2) the exercise price per Share of the Option shall be 100% of the fair market value per Share on the date of grant of the Option, determined in accordance with Section 8 hereof;

(3) the First Option shall become vested and exercisable as to 1/3rd of the Shares underlying the Option on the first anniversary of its date of grant and as to 1/36th of the Shares underlying the Option each thereafter so that, subject to Section 11 below, the Option shall be fully vested and exercisable on the fourth anniversary of its date of grant; and

(4) each Annual Option shall become vested and exercisable as to 100% of the Shares underlying the Option as of the date that is immediately prior to the first anniversary of its date of grant.

(c) **Powers of the Board.** Subject to the provisions and restrictions of the Plan, the Board shall have the authority, in its discretion: (i) to determine, upon review of relevant information and in accordance with Section 8(b) of the Plan, the fair market value of the Common Stock; (ii) to determine the exercise price per Share of Options to be granted, which exercise price shall be determined in accordance with Section 8 of the Plan; (iii) to interpret the Plan; (iv) to prescribe, amend and rescind rules and regulations relating to the Plan; (v) to authorize any person to execute on behalf of the Company any instrument required to effectuate the grant of an Option previously granted hereunder; and (vi) to make all other determinations deemed necessary or advisable for the administration of the Plan.

(d) **Effect of Board's Decision.** All decisions, determinations and interpretations of the Board shall be final and binding on all Optionees and any other holders of any Options granted under the Plan.

(e) **Suspension or Termination of Option.** If the Chief Executive Officer or his or her designee reasonably believes that an Optionee has committed an act of misconduct, such officer may suspend the Optionee's right to exercise any option pending a determination by the Board (excluding the Outside Director accused of such misconduct). If the Board (excluding the Outside Director accused of such misconduct) determines an Optionee has committed an act of embezzlement, fraud, dishonesty, nonpayment of an obligation owed to the Company, breach of fiduciary duty or deliberate disregard of the Company rules resulting in loss, damage or injury to the Company, or if an Optionee makes an unauthorized disclosure of any Company trade secret or confidential information, engages in any conduct constituting unfair competition, induces any Company customer to breach a contract with the Company or induces any principal for whom the Company acts as agent to terminate such agency relationship, neither the Optionee nor his or her estate shall be entitled to exercise any Option whatsoever. In making such determination, the Board of Directors (excluding the Outside Director accused of such misconduct) shall act fairly and shall give the Optionee an opportunity to appear and present evidence on Optionee's behalf at a hearing before the Board or a committee of the Board.

5. **Eligibility.** Options may be granted only to Outside Directors. All Options shall be automatically granted in accordance with the terms set forth in Section 4(b) above. An Outside Director who has been granted an Option may, if he or she is otherwise eligible, be granted an additional Option or Options in accordance with such provisions.

The Plan shall not confer upon any Optionee any right with respect to continuation of service as a Director or nomination to serve as a Director, nor shall it interfere in any way with any rights which the Director or the Company may have to terminate his or her directorship at any time.

6. **Term of Plan; Effective Date.** The Plan shall become effective on the effectiveness of the registration statement under the Securities Act of 1933, as amended, relating to the Company's initial public offering of securities. It shall continue in effect for a term of ten (10) years unless sooner terminated under Section 13 of the Plan.

7. **Term of Options.** The term of each Option shall be ten (10) years from the date of grant thereof, unless an Option terminates sooner pursuant to Section 9 below.

8. **Exercise Price and Consideration.**

(a) **Exercise Price.** The per Share exercise price for the Shares to be issued pursuant to exercise of an Option shall be 100% of the Fair Market Value per Share on the date of grant of the Option.

(b) **Form of Consideration.** The consideration to be paid for the Shares to be issued upon exercise of an Option shall consist entirely of cash, check, other Shares of Common Stock having a fair market value on the date of surrender equal to the aggregate exercise price of the Shares as to which the Option shall be exercised (which, if acquired from the Company, shall have been held more than six months), delivery of a properly executed exercise notice together with such other documentation as the Administrator and the broker, if applicable, shall require to effect exercise of the Option and prompt delivery to the Company of the sale or loan proceeds required to pay the exercise price, or any combination of such methods of payment and/or any other consideration or method of payment as shall be permitted under applicable corporate law.

9. **Exercise of Option.**

(a) **Procedure for Exercise; Rights as a Stockholder.** Any Option granted hereunder shall be exercisable at such times as are set forth in Section 4(b) above; provided, however, that no Options shall be exercisable prior to stockholder approval of the Plan in accordance with Section 17 below has been obtained.

An Option may not be exercised for a fraction of a Share.

An Option shall be deemed to be exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Option by the person entitled to exercise the Option and full payment for the Shares with respect to which the Option is exercised has been received by the Company. Full payment may consist of any consideration and method of payment allowable under Section 8(c) of the Plan. Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the stock certificate evidencing such Shares, no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. A share certificate for the number of Shares so

acquired shall be issued to the Optionee as soon as practicable after exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Section 11 of the Plan.

Exercise of an Option in any manner shall result in a decrease in the number of Shares which thereafter may be available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(b) **Termination of Status as a Director.** If an Outside Director ceases to serve as a Director, he or she may, but only within ninety (90) days after the date he or she ceases to be a Director of the Company, exercise his or her Option to the extent that he or she was entitled to exercise it at the date of such termination. Notwithstanding the foregoing, in no event may the Option be exercised after its term set forth in Section 7 has expired. To the extent that such Outside Director was not entitled to exercise an Option at the date of such termination, or does not exercise such Option (to the extent he or she was entitled to exercise) within the time specified herein, the Option shall terminate and the Shares underlying the unexercised portion of the Option shall revert to the Pool.

(c) **Disability of Optionee.** Notwithstanding Section 9(b) above, in the event a Director is unable to continue his or her service as a Director with the Company as a result of his or her total and permanent disability (as defined in Section 22(e)(3) of the Code), he or she may, but only within twelve (12) months from the date of such termination, exercise his or her Option to the extent he or she was entitled to exercise it at the date of such termination. Notwithstanding the foregoing, in no event may the Option be exercised after its term set forth in Section 7 has expired. To the extent that he or she was not entitled to exercise the Option at the date of termination, or if he or she does not exercise such Option (to the extent he or she was entitled to exercise) within the time specified above, the Option shall terminate and the Shares underlying the unexercised portion of the Option shall revert to the Pool.

(d) **Death of Optionee.** In the event of the death of an Optionee (i) during the term of the Option who is, at the time of his or her death, a Director of the Company and who shall have been in Continuous Status as a Director since the date of grant of the Option, or (ii) 3 months after the termination of Continuous Status as a Director, the Option may be exercised, at any time within 12 months following the date of death, by the Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the date of death or the date of termination, as applicable. Notwithstanding the foregoing, in no event may the Option be exercised after its term set forth in Section 7 has expired. To the extent that an Optionee was not entitled to exercise the Option at the date of death or termination or if he or she does not exercise such Option (to the extent he or she was entitled to exercise) within the time specified above, the Option shall terminate and the Shares underlying the unexercised portion of the Option shall revert to the Plan.

10. **Nontransferability of Options.** The Option may not be sold, pledged, assigned, hypothecated, transferred or disposed of in any manner other than (a) by will or by the laws of descent or distribution; (b) pursuant to a qualified domestic relations order (as defined by the Code or the rules thereunder); (c) by gift to the Optionee's Family; or (d) by gift or in exchange

for an interest in such entity to (i) a trust in which Optionee and/or Optionee's Family have more than fifty percent of the beneficial interest, (ii) a foundation in which Optionee and/or Optionee's Family control the management of assets, or (iii) any other entity in which Optionee and/or Optionee's Family own more than fifty percent of the voting interests. For purposes of this Section 10, Optionee's "Family" shall include any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law; daughter-in-law, brother-in-law or sister-in-law, including adoptive relationships, and any person sharing the employee's household (other than a tenant or employee). The designation of a beneficiary by an Optionee does not constitute a transfer. An Option may be exercised during the lifetime of an Optionee only by the Optionee or a transferee permitted by this Section.

11. **Adjustments Upon Changes in Capitalization; Corporate Transactions.**

(a) **Adjustment.** Subject to any required action by the stockholders of the Company, the number of Shares of Common Stock covered by each outstanding Option, the number of Shares of Common Stock set forth in Section 4(b) above, and the number of shares of Common Stock which have been authorized for issuance under the Plan but as to which no Options have yet been granted or which have been returned to the Plan upon cancellation or expiration of an Option, as well as the price per share of Common Stock covered by each such outstanding Option, shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock, or any other increase or decrease in the number of issued shares of Common Stock effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Board, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Stock subject to an Option.

(b) **Corporate Transactions.** In the event of a Corporate Transaction, each outstanding Option shall be assumed or an equivalent option shall be substituted by the successor corporation or a Parent or Subsidiary of such successor corporation, unless the successor corporation does not agree to assume the outstanding Options or to substitute equivalent options, in which case the Options shall terminate upon the consummation of the transaction; provided, however, that in the event of any transaction that qualifies as a Change of Control and notwithstanding whether or not outstanding Options are assumed, substituted for or terminated in connection with the transaction, the vesting of each outstanding Option shall accelerate in full such that each Optionee shall have the right to exercise his or her Option as to all of the Optioned Stock, including Shares as to which the Option would not otherwise be exercisable, immediately prior to consummation of the transaction.

For purposes of this Section 11(b), an Option shall be considered assumed, without limitation, if, at the time of issuance of the stock or other consideration upon such

Corporate Transaction, each Optionee would be entitled to receive upon exercise of an Option the same number and kind of shares of stock or the same amount of property, cash or securities as the Optionee would have been entitled to receive upon the occurrence of such transaction if the Optionee had been, immediately prior to such transaction, the holder of the number of Shares of Common Stock covered by the Option at such time (after giving effect to any adjustments in the number of Shares covered by the Option as provided for in this Section 11); provided however that if such consideration received in the transaction was not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon exercise of the Option to be solely common stock of the successor corporation or its Parent equal to the Fair Market Value of the per Share consideration received by holders of Common Stock in the transaction.

(c) **Certain Distributions.** In the event of any distribution to the Company's stockholders of securities of any other entity or other assets (other than dividends payable in cash or stock of the Company) without receipt of consideration by the Company, the Administrator may, in its discretion, appropriately adjust the price per Share of Common Stock covered by each outstanding Option to reflect the effect of such distribution.

12. **Time of Granting Options.** The date of grant of an Option shall, for all purposes, be the date determined in accordance with Section 4(b) hereof. Notice of the determination shall be given to each Outside Director to whom an Option is so granted within a reasonable time after the date of such grant.

13. **Amendment and Termination of the Plan.**

(a) **Amendment and Termination.** The Board may amend or terminate the Plan from time to time in such respects as the Board may deem advisable; provided that, to the extent necessary and desirable to comply with Rule 16b-3 under the Exchange Act (or any other applicable law or regulation), the Company shall obtain approval of the stockholders of the Company to Plan amendments to the extent and in the manner required by such law or regulation. Notwithstanding the foregoing, the provisions set forth in Section 4 of this Plan (and any other Sections of this Plan that affect the formula award terms required to be specified in this Plan by Rule 16b-3) shall not be amended more than once every six months, other than to comport with changes in the Code, the Employee Retirement Income Security Act of 1974, as amended, or the rules thereunder.

(b) **Effect of Amendment or Termination.** Any such amendment or termination of the Plan that would impair the rights of any Optionee shall not affect Options already granted to such Optionee and such Options shall remain in full force and effect as if this Plan had not been amended or terminated, unless mutually agreed otherwise between the Optionee and the Board, which agreement must be in writing and signed by the Optionee and the Company.

14. **Conditions Upon Issuance of Shares.** Notwithstanding any other provision of the Plan or any agreement entered into by the Company pursuant to the Plan, the Company shall not be obligated, and shall have no liability for failure, to issue or deliver any Shares under the Plan unless such issuance or delivery would comply with the legal requirements relating to the

administration of stock option plans under applicable U.S. state corporate laws, U.S. federal and applicable state securities laws, the Code, any stock exchange or Nasdaq rules or regulations to which the Company may be subject and the applicable laws of any other country or jurisdiction where Options are granted under the Plan, as such laws, rules, regulations and requirements shall be in place from time to time (the "Applicable Laws"). Such compliance shall be determined by the Company in consultation with its legal counsel.

As a condition to the exercise of an Option, the Company may require the person exercising such Option to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by law.

15. **Reservation of Shares.** The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

16. **Option Agreement.** Options shall be evidenced by written option agreements in such form as the Board shall approve.

17. **Stockholder Approval.** If required by the Applicable Laws, continuance of the Plan shall be subject to approval by the stockholders of the Company. Such stockholder approval shall be obtained in the manner and to the degree required under the Applicable Laws.

XCYTE THERAPIES, INC.

2003 DIRECTORS' STOCK OPTION PLAN

NOTICE OF STOCK OPTION GRANT

«Optionee»

You have been granted an option to purchase Common Stock of Xcyte Therapies, Inc. (the "Company") as follows:

Date of Grant	«GrantDate»
Vesting Commencement Date	«VestingStartDate»
Exercise Price per Share	«ExercisePrice»
Total Number of Shares Granted	«SharesGranted»
Total Exercise Price	«TotalExercisePrice»
Expiration Date	«ExpirDate»
Vesting/Exercise Schedule	This Option shall vest and become exerciseable, according to the following schedule: _____.
Termination Period	This Option may be exercised for 90 days after termination of Optionee's Continuous Status as a Director, or such longer period as may be applicable upon death or Disability of Optionee as provided in the Plan, but in no event later than the Expiration Date as provided above.

By your signature and the signature of the Company's representative below, you and the Company agree that this option is granted under and governed by the terms and conditions of the 2003 Directors' Stock Option Plan and the Nonstatutory Stock Option Agreement, all of which are attached and made a part of this document.

OPTIONEE:

_____

«Optionee»

XCYTE THERAPIES, INC.

By: _____

Title: _____

XCYTE THERAPIES, INC.

NONSTATUTORY STOCK OPTION AGREEMENT

1. **Grant of Option.** The Board of Directors of the Company hereby grants to the Optionee named in the Notice of Stock Option Grant (the "Optionee") attached to this Agreement an option (the "Option") to purchase a number of Shares, as set forth in the Notice of Stock Option Grant, at the exercise price per share set forth in the Notice of Stock Option Grant (the "Exercise Price"'), subject to the terms and conditions of the 2003 Directors' Stock Option Plan (the "Plan"), which is incorporated herein by reference. Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Plan. In the event of a conflict between the terms and conditions of the Plan and the terms and conditions of this Nonstatutory Stock Option Agreement, the terms and conditions of the Plan shall prevail.

2. **Exercise of Option.**

(a) **Right to Exercise.** This Option is exercisable during its term in accordance with the Vesting/Exercise Schedule set out in the Notice of Stock Option Grant and the applicable provisions of the Plan and this Nonstatutory Stock Option Agreement. In the event of Optionee's death, disability or other termination of Optionee's service as a Director, the exercisability of the Option is governed by the applicable provisions of the Plan and this Nonstatutory Stock Option Agreement.

(b) **Method of Exercise.** This Option is exercisable by delivery of an exercise notice, in the form attached as Exhibit A (the "Exercise Notice"), which shall state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised (the "Exercised Shares"), and such other representations and agreements as may be required by the Company pursuant to the provisions of the Plan. The Exercise Notice shall be signed by the Optionee and shall be delivered in person or by certified mail to the Secretary of the Company. The Exercise Notice shall be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares. This Option shall be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by such aggregate Exercise Price.

No Shares shall be issued pursuant to the exercise of this Option unless such issuance and exercise complies with all relevant provisions of law and the requirements of any stock exchange or quotation service upon which the Shares are then listed. Assuming such compliance, for income tax purposes the Exercised Shares shall be considered transferred to the Optionee on the date the Option is exercised with respect to such Exercised Shares.

3. **Method of Payment.** Payment of the aggregate Exercise Price shall be by any of the following, or a combination thereof, at the election of the Optionee:

(a) cash;

(b) check;

(c) delivery of a properly executed exercise notice together with such other documentation as the Administrator and the broker, if applicable, shall require to effect an exercise of the Option and delivery to the Company of the sale or loan proceeds required to pay the exercise price; or

(d) surrender of other Shares which (i) in the case of Shares acquired directly or indirectly from the Company, have been owned by the Optionee for more than six (6) months on the date of surrender, and (ii) in any case which have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Exercised Shares.

4. **Non-Transferability of Option.** This Option may not be sold, pledged, assigned, hypothecated, transferred or disposed of in any manner other than (a) by will or by the laws of descent or distribution; (b) pursuant to a qualified domestic relations order (as defined by the Code or the rules thereunder); (c) by gift to the Optionee's Family; or (d) by gift or in exchange for an interest in such entity to (i) a trust in which Optionee and/or Optionee's Family have more than fifty percent of the beneficial interest, (ii) a foundation in which Optionee and/or Optionee's Family control the management of assets, or (iii) any other entity in which Optionee and/or Optionee's Family own more than fifty percent of the voting interests. For purposes of this Section 10, Optionee's "Family" shall include any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law; daughter-in-law, brother-in-law or sister-in-law, including adoptive relationships, and any person sharing the employee's household (other than a tenant or employee). The designation of a beneficiary by an Optionee does not constitute a transfer. An Option may be exercised during the lifetime of an Optionee only by the Optionee or a transferee permitted by this Section 4 and Section 10 of the Plan. The terms of the Plan and this Nonstatutory Stock Option Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of the Optionee.

5. **Term of Option.** This Option may be exercised only within the term set out in the Notice of Stock Option Grant, and may be exercised during such term only in accordance with the Plan and the terms of this Nonstatutory Stock Option Agreement.

6. **Tax Consequences.** Set forth below is a brief summary of certain federal and California tax consequences relating to this Option under the law in effect as of the date of grant. THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE. OPTIONEE SHOULD CONSULT HIS OR HER OWN TAX ADVISER BEFORE EXERCISING THIS OPTION OR DISPOSING OF THE SHARES.

(a) **Exercising the Option.** Since this Option does not qualify as an incentive stock option under Section 422 of the Code, the Optionee may incur regular federal and California income tax liability upon exercise. The Optionee will be treated as having received compensation income (taxable at ordinary income tax rates) equal to the excess, if any, of the fair market value of the Exercised Shares on the date of exercise over their aggregate Exercise Price.

(b) **Disposition of Shares.** If the Optionee holds the Option Shares for more than one year, gain realized on disposition of the Shares will be treated as long-term capital gain for federal and California income tax purposes. Long-term capital gain will be taxed for federal income tax and alternative minimum tax purposes at a maximum rate of 20% if the Shares are held more than one year after exercise.

By your signature and the signature of the Company's representative below, you and the Company agree that this Option is granted under and governed by the terms and conditions of the Plan and this Nonstatutory Stock Option Agreement. Optionee has reviewed the Plan and this Nonstatutory Stock Option Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Nonstatutory Stock Option Agreement and fully understands all provisions of the Plan and Nonstatutory Stock Option Agreement. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions relating to the Plan and Nonstatutory Stock Option Agreement.

XCYTE THERAPIES, INC.

_____ By: _____

«Optionee»

Title: _____

CONSENT OF SPOUSE

The undersigned spouse of Optionee has read and hereby approves the terms and conditions of the Plan and this Nonstatutory Stock Option Agreement. In consideration of the Company's granting his or her spouse the right to purchase Shares as set forth in the Plan and this Nonstatutory Stock Option Agreement, the undersigned hereby agrees to be irrevocably bound by the terms and conditions of the Plan and this Nonstatutory Stock Option Agreement and further agrees that any community property interest shall be similarly bound. The undersigned hereby appoints the undersigned's spouse as attorney-in-fact for the undersigned with respect to any amendment or exercise of rights under the Plan or this Nonstatutory Stock Option Agreement.

_____

Spouse of Optionee

EXHIBIT A

NOTICE OF EXERCISE

To: Xcyte Therapies, Inc.

Attn: Stock Option Administrator

Subject: Notice of Intention to Exercise Stock Option

This is official notice that the undersigned ("Optionee") intends to exercise Optionee's option to purchase _____ shares of Xcyte Therapies, Inc. Common Stock, under and pursuant to the Company's 2003 Directors' Stock Option Plan and the Nonstatutory Stock Option Agreement dated _____, as follows:

Grant Number: _____

Date of Purchase: _____

Number of Shares: _____

Purchase Price: _____

Method of Payment of Purchase Price: _____

Social Security No.: _____

The shares should be issued as follows:

Name: _____

Address: _____

_____

_____

Signed: _____

Date: _____

Exhibit 10.28

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (together with the attached Exhibits, the ("Agreement") is made as of July 8 (the "Effective Date") by and between Genetics Institute, Inc., a Delaware corporation with a business address at 87 Cambridge Park Drive, Cambridge, Massachusetts 02140 ("GI") and Xcyte Therapies, Inc., a Delaware corporation with a business address at 2203 Airport Way South, Suite 300, Seattle, Washington 98134 ("Xcyte").

1. Background.

1.1 GI. GI has acquired and/or licensed the rights to certain patents, as set forth in Exhibit D to this Agreement (the "Patents"), pursuant to agreements between GI and third parties (defined below as the "Licensors").

1.2 Xcyte. Xcyte desires to license and/or sublicense the Patents from GI, to make, use and sell Products (defined below) in the Field (defined below). GI is Willing, for the consideration and on the terms set forth herein, to license and/or sublicense the Patents to Xcyte for such purposes.

1.3 Agreement. In consideration of the mutual covenants and promises contained in this Agreement and other good and valuable consideration, the Parties agree as follows:

2. Definitions. As used in this Agreement, the following terms shall have the meanings set forth below.

2.1 "Affiliate" means any corporation, company, partnership, joint venture and/or firm which controls, is controlled by or is under common control with a Party. For purposes of this Section 2.1, "control" means (a) in the case of corporate entities, direct or indirect ownership of at least fifty percent (50%) of the stock or shares entitled to vote for the election of directors; and (b) in the case of non-corporate entities, direct or indirect ownership of at least fifty percent (50%) of the equity interest with the power to direct the management and policies of such noncorporate entities.

2.2 "Combination Product" means any Product sold in combination with one or more other products which are not Products.

2.3 "Confidential Information" shall mean(i) any proprietary or confidential information or material in tangible form disclosed hereunder that is marked as "Confidential" at the time it is delivered to the receiving party, or (ii) proprietary or confidential information disclosed orally hereunder which is identified as confidential or proprietary when disclosed and such disclosure of confidential information is confirmed in writing within thirty (30) days by the disclosing party.

"Confidential Information" does not include information which (a) was known to the receiving Party at the time it was disclosed, other than by previous disclosure

by the disclosing Party, as evidenced by written records at the time of disclosure; (b) is at the time of disclosure or later becomes publicly known under circumstances involving no breach of this Agreement; (c) is lawfully and in good faith made available to the receiving Party by a third party who did not derive it from the disclosing Party and who imposes no obligation of confidence on the receiving Party; or (d) is developed by the receiving Party independent of any disclosure by the disclosing Party.

2.4 **"Distributor"** means a third party which is not a Xcyte Affiliate or Sublicensee and which is a distributor, wholesaler or other entity purchasing Products from Xcyte or its Affiliate or Sublicensee for resale.

2.5 **"Field"** means *ex vivo* activation or expansion of human T-cells (including T-cells modified through gene transfer (except as indicated below) or otherwise) for treatment and/or prevention of infectious diseases (including, without limitation, AIDS), cancer and immunodeficiency states. **[*]**

2.6 **"Improvements"** means any invention or discovery whether or not patentable which is used commercially by Xcyte during the term of this Agreement and which directly relates to the methods of preparing T-cells claimed in the Patents, and is within the scope thereof. It is understood and agreed that any ligand (including, without limitation, any antibody or antibody derivative) identified or used by Xcyte or its designees for the practice of the methods claimed in the Patents shall not be an Improvement.

2.7 **"License Agreements"** means the 1995 Acquisition Agreement between GI and Repligen Corporation, together with the following agreements, pursuant to which GI licensed the Patents which are sublicensed to Xcyte under this Agreement:

(a) **"Navy Agreement"** means the December 10, 1996 License Agreement between GI and the Navy, a copy of which is attached as **Exhibit A** to this Agreement.

(b) **"Michigan Agreement"** means the May 28, 1992 License Agreement between GI and Michigan, a copy of which is attached as **Exhibit B** to this Agreement

(c) **"DFCI Agreement"** means the July 20, 1993 License Agreement between DFCI and Repligen, a copy of which is attached as **Exhibit C** to this Agreement.

2.8 **"Licensors"** means the United States of America, represented by the Secretary of the Navy (the "Navy"), the University of Michigan ("Michigan") and the Dana Farber Cancer Institute ("DFCI").

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

2.9 **"Net Sales"** means the aggregate United States dollar equivalent of gross revenues derived by or payable to Xcyte, its Affiliates and Sublicensees from or on account of the sale or distribution of Products (including Combination Products) and Services to third parties, less (a) reasonable credits or allowances, if any, actually granted on account of price adjustments, rebates, discounts, recalls, rejection or return of items previously sold, (b) excises, sales taxes, value added taxes, consumption taxes, duties or other taxes imposed upon and paid with respect to such sales or Services (excluding income or franchise taxes of any kind) and (c) separately itemized insurance, packaging and transportation costs incurred in shipping Products (including Combination Products) to such third parties. No deduction shall be made for any item of cost incurred by Xcyte, its Affiliates or Sublicensees in preparing, manufacturing, shipping or selling Products (including Combination Products) except as permitted pursuant to clauses (a), (b) and (c) of the foregoing sentence. Net Sales shall not include any transfer between Xcyte and any of its Affiliates or Sublicensees for resale.

If Xcyte or an Affiliate or Sublicensee sells Products (including Combination Products) to a Distributor, Net Sales shall be calculated from the gross revenues received by Xcyte and/or its Affiliate or Sublicensee from the sale of Products to the Distributor.

In the event that Xcyte or any of its Affiliates or Sublicensees shall make any transfer of Products (including Combination Products) to third parties for other than monetary value, such transfer shall be considered a sale hereunder for accounting and royalty purposes. Net Sales for any such transfers shall be determined on a country-by-country basis and shall be the average price of "arms length" sales by Xcyte, its Affiliates or Sublicensees in such country during the royalty reporting period in which such transfer occurs or, if no such "arms length" sales occurred in such country during such period, during the last period in which such "arms length" sales occurred. If no "arms length" sales have occurred in a particular country, Net Sales for any such transfer in such country shall be the average price of arms length" sales in all countries in the Territory.

Notwithstanding the foregoing, no transfer of Products (including Combination Products) for testing, pre-clinical, clinical or developmental purposes or as samples shall be considered a sale hereunder.

In the event a Product or Combination Product is sold to end-users together with a Service, in calculating Net Sales the payment received by Xcyte for such Service component shall be included in Net Sales, subject to Section 5.2(b); provided, any payment received by Xcyte for any service which is not a Service shall not be included in Net Sales.

2.10 **"Party"** means GI or Xcyte; "Parties" means GI and Xcyte.

2.11 **"Patents"** means the patents and patent applications listed in **Exhibit D** attached to this Agreement and shall include any foreign counterparts of the patents and patent applications listed in **Exhibit D** (which for all purposes of this Agreement shall be deemed to include certificates of invention anti applications for certificates of invention and priority rights), together with any reissues extensions or other governmental acts which effectively extend the period of exclusivity by the patent holder, substitutions, confirmations, registrations, revalidations, additions, continuations, continuations-in-pan, or divisions of or to any of the foregoing, to the extent GI owns or controls such rights, or has acquired or licensed such rights under the License Agreements.

2.12 **"Product"** means any product developed by or on behalf of Xcyte, the manufacture, use or sale of which is covered by a Valid Claim of the Patents in the country of manufacture, use or sale.

2.13 **"Service"** means any service provided by Xcyte in connection with a Product in the Field. By way of illustration and without limitation, services would include apheresis conducted in connection with the use of a Product or services relating to cell testing or cell characterization or quality assurance or quality control of Products.

2.14 **"Sublicensee"** means a third party, including any Xcyte Affiliate, to which Xcyte has granted a further sublicense to make, use, import, offer for sale and/or sell the Products.

2.15 **"Technology"** means the technology described in the Patents related to the manufacture, use or sale of the Products in the Field.

2.16 **"Territory"** means, with respect to each Patent, the area of the world in which GI has the rights to practice under such Patent, as set forth in applicable License Agreement under which GI obtained rights to such Patent.

2.17 **"Valid Claim"** means (a) a claim of an unexpired patent which shall not have been withdrawn, canceled or disclaimed, nor held invalid or unenforceable by a court of competent jurisdiction in an unappealed or unappealable decision or (b) a claim of a patent application which is either: (i) the subject of a pending patent interference proceeding or (ii) supported by the disclosure of such application or any prior filed patent application for a cumulative period not exceeding seven (7) years from the earliest date of such supporting disclosure for such claim in any such patent application.

3. License from GI to Xcyte.

3.1 **Grant.** Subject to the fulfillment of the terms and conditions of this Agreement, including, without limitation, the conditions of sublicense set forth in Section 3.4, below, GI grants to Xcyte exclusive, royalty-bearing licenses and/or sublicenses

under the Patents, restricted to the Field, to make and have made, to use, to offer for sale, to sell and have sold, to import and have imported, and to export and have exported, the Products in the Territory.

3.2 **Term.** The licenses and/or sublicenses granted in Section 3.1, above, shall run to the end of the enforceable term of the Patents or License Agreements under which such license and/or sublicense is granted.

3.3 **Further Sublicenses.** Xcyte shall have the right to grant further sublicenses under the foregoing license and/or sublicense, provided the Sublicensees agree to comply with all terms and conditions of this Agreement. Notwithstanding any such further sublicenses, Xcyte shall remain primarily liable for all of such Affiliates' and Sublicensees' duties and obligations contained in this Agreement.

3.4 **Conditions of Sublicense.** With respect to the applicable Patents or the applicable claim or claims of such Patents, the sublicenses granted to Xcyte under this Agreement are subject to thc following conditions imposed on GI, as licensee, and Xcyte, as sublicensee, by the applicable Licensors:

(a) **Approval of Licensors.** Each such sublicense shall be subject to the prior written approval of the applicable Licensor to the extent required by the License Agreements.

(b) **Licensors' Retained Rights.** Each sublicense is subject to any and all rights retained by the applicable Licensor.

(c) **Consistent with Terms of License Agreements.** Each sublicense is granted pursuant to the terms of the applicable License Agreement. No provision of this Agreement shall be in derogation of or diminish any rights of each Licensor in the applicable License Agreement. Each sublicense under this Agreement may be modified or terminated in whole or in part upon the modification or termination in whole or in part of the applicable License Agreement; provided, GI shall not terminate or enter into any modification of any of the License Agreements if such modification or termination would affect the rights of Xcyte under this Agreement, without the prior written consent of Xcyte, and shall notify Xcyte within ten (10) business days if GI receives any notice from any Licensor that (i) such Licensor believes that GI is in default or breach of the relevant License Agreement, or (ii) such Licensor intends to terminate the relevant License Agreement, or (iii) such Licensor intends to modify GI's rights under the applicable License Agreement (e.g., by converting GI's exclusive rights under such License Agreement to non-exclusive rights). Should any sublicense granted by Xcyte under this Agreement not comply with the requirements of any License Agreement, such sublicense of rights under this Agreement may be void. If either Party becomes aware of any potential inconsistency of a sublicense granted by Xcyte with this

Agreement, it shall promptly notify the other Party, providing a detailed explanation of the potential inconsistency.

(d) **GI to Furnish Copy.** Within thirty (30) days of the Effective Date, and within thirty (30) days of any modification of this Agreement, GI may be obligated to furnish to each Licensor a true and complete copy of this Agreement and any modification hereof.

4. Product Development.

4.1 **Diligence Obligations.** Xcyte shall exercise commercially reasonable and diligent efforts, in its scientific and business judgement, to develop at least one Product itself or through sublicensees. Each year during the term of the Agreement until the first commercial sale of a Product, Xcyte, itself or through a sublicensee, shall expend no less than **[*]** annually on research and development activities directly relaxing to Product development. During the term of this Agreement, within sixty (60) days of each anniversary of the Effective Date, Xcyte shall issue to GI a progress report detailing Xcyte's progress in developing Products.

4.2 **Conversion of License and/or Sublicense.** In the event that Xcyte fails to satisfy the requirements set forth in Section 4.1, above, GI shall have the right, in its sole discretion, upon written notice to Xcyte, to convert the licenses and/or sublicenses granted to Xcyte under this Agreement from exclusive to non-exclusive; provided Xcyte has not cured such failure within sixty (60) days following written notice from GI of any such failure. In the event that GI converts such licenses and/or sublicense to non-exclusive, GI shall be entitled to grant additional licenses and/or sublicenses under the Patents to not more than two (2) unrelated third parties. If GI exercises its conversion right under this Section 4.2, thereafter the royalty obligation due to GI pursuant to Section 5.2 below shall be reduced by **[*]** but in no event shall be less than **[*]** of Net Sales of Product or Combination Product.

5. Consideration.

5.1 **License Fee.** In partial consideration for the license granted herein, on the Effective Date Xcyte shall pay to GI a license fee in the form of 145,875 shares of Xcyte preferred stock, subject to the terms and conditions of the Stock Purchase Agreement attached hereto as Exhibit E, and shall pay a total of fifty three thousand four hundred eighty seven U.S. dollars and fifty cents ($53,487.50) to the Licensors as provided in the Letter Agreement of even date herewith between GI, Xcyte and the Licensors. In addition, upon the first to occur of (i) notice from GI to Xcyte of the issuance of the first Valid Claim within the Patents, (ii) the first grant of a sublicense by Xcyte to a third party pursuant to Section 3.3, or (iii) the third anniversary of the Effective Date, GI shall have the right to purchase 194,500 additional shares of Xcyte stock, subject to the terms and conditions of the Stock Warrant Agreement attached hereto as Exhibit F.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

5.2 Royalty Payments.

(a) With respect to the sales of each Product, Xcyte shall pay GI a royalty of **[*]** of Net Sales of Products sold by Xcyte, its Affiliates and Sublicensees without any Services.

(b) With respect to the sales of each Product, Xcyte shall pay GI a royalty of **[*]** of Net Sales of Products by Xcyte, its Affiliates and Sublicensees sold together with one or more Services.

(c) With respect to the sales of each Combination Product, Xcyte shall pay GI a royalty of such Combination Product, as follows:

(i) **[*]** of Net Sales of each Combination Product sold by Xcyte, its Affiliates and Sublicensees, if such Combination Product is sold without any Services, and

(ii) **[*]** of Net Sales of each Combination Product sold by Xcyte, its Affiliates and Sublicensees, if such Combination Product is sold together with one or more Services;

provided, in each case, in determining Net Sales of Combination Products, Net Sales shall first be calculated in accordance with the definition of Net Sales and then multiplied by a fraction, the numerator of which is the current Net Selling Price of Product and the denominator of which is the current Net Selling Price of the Combination Product. If there is no Net Selling Price of Product, then the numerator shall be the fair market value of the Product for the quantity contained in the Combination Product and of the same class, purity and potency, as negotiated in good faith by the parties, or, failing such agreement, as is determined by an appraisal to be conducted by an independent third party mutually agreed to by Xcyte and GI, which determination shall be binding. However, in no event shall the royalty be less than **[*]** of Net Sales of each Combination Product.

(d) In addition to the royalties payable under this Section 5.2, Xcyte shall pay to GI a portion of all compensation, including license fees, advances and other payments of compensation (however characterized), which are owed to Xcyte pursuant to further sublicensing of the rights granted to Xcyte hereunder, as follows:

Sublicense Date	% of Compensation
Within 24 months of Effective Date	[*]
After 24 months after Effective Date	[*]

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Notwithstanding the above, it is understood and agreed that Xcyte shall not be obligated to pay to GI any portion of any amounts received from any Sublicensee as payments for research and development activities to be conducted by Xcyte on behalf of such Sublicensee, or amounts received from a Sublicensee for equity, or the license or sublicense of any intellectual property other than the Patents, or products other than the Products, or reimbursement for patent or other expenses.

(e) Xcyte and its Affiliates and Sublicensees shall be responsible for any payments due to third parties under licenses or similar agreements entered by Xcyte or its Affiliates or Sublicensees necessary for the manufacture, use or sale of Products. Xcyte may offset one-half of any such payments made by Xcyte or its Affiliates or Sublicensees to third parties against royalties due GI pursuant to Section 5.2(a), (b) and (c) above; provided, GI shall have the right to receive the greater of (i) **[*]** the amounts due pursuant to Sections 5.2(a), (b) and (c) above, or (ii) **[*]** of Net Sales of Product or Combination Product.

(f) Payments due under this Section 5.2 shall be payable on a country-by-country and Product-by-Product basis and shall be payable until (i) with respect to Patents owned by GI, the expiration of the last-to-expire Valid Claim, and (ii) with respect to Patents subject to the License Agreements, the expiration of the applicable license term, as set forth in Section 3.2.

(g) Regardless of any credits or offsets available to Xcyte under Section 5.2(e) of this Agreement commencing on the first anniversary of the Launch of the first Product in any country, in no year shall Xcyte pay to GI less than the greater of (i) **[*]** of the royalties due pursuant to Sections 5.2(a), (b) or (c) in any year with regard to any Product or (ii) **[*]** of Net Sales of Product or Combination Product. Any credits or offsets not creditable against royalties in the year such credit or offset is earned may be carried forward until fully applied.

5.3 **Reports and Payment.** Xcyte shall deliver to GI, within sixty (60) days after the end of each calendar quarter, a written report showing its computation of royalties due under this Agreement upon Net Sales by Xcyte, its Affiliates and Sublicensees during such calendar quarter. All Net Sales shall be segmented in each such report according to sales by Xcyte, each Affiliate and each Sublicensee, as well as on a country-by-country basis, including the rates of exchange used to convert such royalties to United States Dollars from the currency in which such sales were made. Subject to the provisions of Sections 5.4 and 5.5 of this Agreement, simultaneously with the delivery of each such report, Xcyte shall tender payment in United States Dollars of all royalties shown to be due therein.

For purposes hereof, the rates of exchange to be used for converting royalties hereunder to United States Dollars shall be the closing price published for the

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

purchase of United States Dollars in the East Coast Edition of the Wall Street Journal for the last business day of the calendar quarter for which payment is due.

5.4 **Foreign Royalties.** Where royalties are due hereunder for sales of Products in a country where, by reason of currency regulations or taxes of any kind, it is impossible or illegal for Xcyte, any Affiliate or Sublicensee to transfer royalty payments to GI for Net Sales in that country, such royalties shall be deposited in whatever currency is allowable by the person or entity not able to make the transfer for the benefit or credit of GI in an accredited bank in that country that is reasonably acceptable to GI.

5.5 **Taxes.** Any and all income or similar taxes imposed or levied on account of the receipt of royalties payable under this Agreement which are required to be withheld by Xcyte shall be paid by Xcyte, its Affiliates or Sublicensees on behalf of GI and shall be paid to the proper taxing authority. Proof of payment shall be secured and sent to GI by Xcyte, its Affiliates or Sublicensees as evidence of such payment in such form as required by the tax authorities having jurisdiction over Xcyte, its Affiliates or Sublicensees. Such taxes shall be deducted from the royalty that would otherwise be remittable by Xcyte, its Affiliates or Sublicensees.

5.6 **Records.** Xcyte shall keep, and shall require all Affiliates and Sublicensees to keep, for a period of at least two (2) years, full, true and accurate books of accounts and other records containing all information and data which may be necessary to ascertain and verify the royalties payable hereunder. During the term of this Agreement and for a period of two (2) years following its termination, GI shall have the right from time to time (not to exceed once during each calendar year) to inspect in confidence, or have an agent, accountant or other representative inspect in confidence, such books, records and supporting data.

6. **Representation, Warranty and Indemnity.**

6.1 **Representation and Warranty of GI.** GI represents and warrants to Xcyte that, subject to the terms and conditions of this Agreement and the License Agreements, (i) it has an interest licensable or sublicensable to Xcyte in the Patents; (ii) it has full right, power and authority to grant the licenses and / sublicense granted by it under this Agreement; (iii) GI has not previously granted, and will not grant during the term of this Agreement, any right, license or interest in and to the Patents, or any portion thereof, inconsistent with the license granted to Xcyte herein; (iv) as of the Effective Date, there are no actions, suits, investigations, claims or proceedings pending or threatened in any way relating to the Patents except as set forth on Schedule 6.1 to this Agreement; and (v) during the term of this Agreement, GI shall use its reasonable efforts not to breach any of the License Agreements.

6.2 **Representation and Warranty of Xcyte.** Xcyte represents and warrants to GI that, subject to the terms and conditions of this Agreement and the License

Agreements, during the term of this Agreement, Xcyte shall use its reasonable efforts not to breach any of the License Agreements.

6.3 **Indemnity of GI by Xcyte.** Xcyte shall defend, indemnify and hold GI (and its agents, directors, officers and employees) harmless, at Xcyte's cost and expense, from and against any and all losses, costs, liabilities, damages, fees and expenses, including reasonable attorneys' fees and expenses (collectively, "Liabilities") arising out of or in connection with the manufacture, promotion, sale or other disposition of the Products by Xcyte, its Affiliates and Sublicensees, and any actual or alleged injury, damage, death or other consequence occurring to any third person as a result, directly or indirectly, of the possession, consumption or use of the Products sold by Xcyte or its Affiliates or Sublicensees, regardless of the form in which any such claim is made.

6.4 **Effect of Representations and Warranties.** It is understood that if the representations and warranties made by a party under this Article 6 are not true and accurate, the party making such representations and warranties shall indemnify and hold the other party harmless from and against any Liabilities incurred as a result.

6.5 **Exclusion.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY, OR ANY OF ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES OR AGENTS, OR ANY OTHER PERSON OR ENTITY, FOR ANY INCIDENTAL, CONSEQUENTIAL, OR OTHER SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR OPPORTUNITIES INCURRED BY SUCH PARTY, OR ANY OTHER PERSON OR ENTITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE LICENSES AND RIGHTS GRANTED HEREIN, THE PRODUCT, PATENTS OR IMPROVEMENTS, OR ACTUAL OR ALLEGED NEGLIGENCE, STRICT LIABILITY, BREACH OF REPRESENTATIONS OR WARRANTIES, OR ANY OTHER CAUSE OF ACTION.

6.6 **Procedure.** A party entitled to indemnification hereunder agrees to give prompt written notice to the indemnifying party after the receipt by such party of any written notice of the commencement of any action, suit, proceeding or investigation or threat thereof made in writing for which such party will claim indemnification pursuant to this Agreement. Unless, in the reasonable judgment of the indemnified party, a conflict of interest may exist between the indemnified party and the indemnifying party with respect to a claim, the indemnifying party may assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. if the indemnifying party is not entitled to, or elects not to, assume the defense of a claim, it will not be obligated to pay the fees and expenses of more than one counsel with respect to such claim. The indemnifying party will not be subject to any liability for any settlement made without its consent, which consent shall not be unreasonably withheld or delayed.

7. Intellectual Property.

7.1 Improvements. Xcyte shall own the entire right, title and interest in and to all Improvements.

7.2 Option; Right of First Refusal. Xcyte grants to GI an option to execute an exclusive, worldwide, royalty-bearing commercialization license, with the right to grant sublicenses, to the Improvements, to commercialize products based on or incorporating Improvements outside the Field, on terms to be negotiated by the parties in good faith.

GI may exercise its option by written notice to Xcyte within three (3) months of notice by Xcyte to GI of such Improvement and receipt by GI of sufficient technical information to evaluate such Improvement. If GI exercise its option, the parties will negotiate in good faith to reach agreement on a commercialization license for up to 120 days. If GI does not exercise its option, or the parties do not reach agreement within 120 days, Xcyte may commercialize such Improvement outside the Field, itself or license such Improvement to a third party, without obligation to GI. Before entering into any transaction with a third party on terms which, taken as a whole, are materially more favorable than those offered to GI in writing to license such Improvement, Xcyte will inform GI and shall allow GI sixty (60) days in which to elect whether to license such Improvement under all the terms of the proposed transaction with the third party. Nothing in this Section 7.2 shall imply the grant of any license under the Patents to Xcyte outside the Field.

7.3 Patent Maintenance. GI shall have the right to seek or continue to seek or maintain patent protection on the Patents in any country. GI shall obtain the advice of Xcyte concerning the countries in which to seek or maintain patent protection, and the nature and text of such patents and prosecutions matters related thereto prior to the filing thereof and provide Xcyte a reasonable opportunity to review and comment on all proposed submissions to any patent office before submittal, and provided further that GI shall keep Xcyte reasonably informed as to the status of such patent applications by promptly providing Xcyte copies of all communications relating to such patent applications that are received from any patent office. Xcyte shall reimburse GI for any reasonable expenses incurred by GI during the term of this Agreement in preparing, filing, prosecuting and maintaining any Patents containing claims relating to the Field. If GI elects not to seek or continue to seek or maintain patent protection on any patent application or patent within the Patents in any country, Xcyte shall have the right, at its expense, to file, procure and maintain in such countries such Patents. If Xcyte elects not to continue to make payments to seek or continue to seek or maintain patent protection on any patent application or patent within the Patents in any country, it may notify GI, and its obligation to make such payments shall cease and its license with regard to such patent application or patent shall terminate. Xcyte shall have the right, at Xcyte cost and expense, to audit all

expenses relating to the preparing, filing, prosecuting and maintaining of the Patents.

7.4 Patent Infringement.

(a) Each Party shall promptly report in writing to the other Party during the term of this Agreement any known infringement or suspected infringement of any of the Patents, and promptly shall provide the other Party with all available evidence supporting said infringement, suspected infringement, or unauthorized use or misappropriation.

(b) Except as provided in Section 7.4(c) below, Xcyte shall have the right to initiate an infringement or other appropriate suit anywhere in the Territory against any third party who at any time has infringed, or is suspected of infringing, any of the Patents in the Field. Xcyte shall give GI sufficient advance notice of its intent to file said suit and the reasons therefor, and shall provide GI with an opportunity to make suggestions and comments regarding such suit. Xcyte shall keep GI promptly informed, and shall from time to time consult with GI regarding the status of any such suit and shall provide GI with copies of all documents filed in, and all written communications relating to, such suit. Xcyte shall have the sole and exclusive right to select counsel for any such suit and shall, except as provided below, pay all expenses of the suit, including without limitation attorneys' fees and court costs. GI, in its sole discretion, may elect, within sixty (60) days after the commencement of such litigation, to contribute to the costs incurred by Xcyte in connection with such litigation and, if it so elects, any damages, royalties, settlement fees or other consideration received by Xcyte or any of its Affiliates for infringement as a result of such litigation shall be shared by Xcyte and GI pro rata based on their respective sharing of the costs of such litigation. In the event that GI elects not to contribute to the costs of such litigation, Xcyte and/or its Sublicensees shall be entitled to retain any damages, royalties, settlement fees or other consideration for infringement resulting therefrom. If necessary, GI shall join as a party to the suit but shall be under no obligation to participate except to the extent that such participation is required as the result of being a named party to the suit. GI shall offer reasonable assistance to Xcyte in connection therewith at no charge to Xcyte except for reimbursement of reasonable out-of-pocket expenses, incurred in rendering such assistance. GI shall have the right to participate and be represented in any such suit by its own counsel at its own expense.

(c) In the event that Xcyte elects not to initiate an infringement or other appropriate suit pursuant to Section 7.4(b) above, Xcyte shall promptly advise GI of its intent not to initiate such suit, and GI shall have the right, at the expense of GI, of initiating an infringement or other appropriate suit against any third party who at any time has infringed, or is suspected of

infringing, any of the Patents in the Field. GI shall have the sole and exclusive right to select counsel for any such suit and shall, except as provided below, pay all expenses of the suit including without limitation attorneys' fees and court costs. Xcyte, in its sole discretion, may elect, within sixty (60) days after the commencement of such litigation, to contribute to the costs incurred by GI in connection with such litigation and, if it so elects, any damages, royalties, settlement fee or other consideration received by GI or any of its Affiliates for infringement as a result of such litigation shall be shared by GI and Xcyte pro rata based on their respective sharing of the costs of such litigation. In the event that Xcyte elects not to contribute to the costs of such litigation, GI and/or its Affiliates shall be entitled to retain any damages, royalties, settlement fees or other consideration for infringement resulting therefrom. If necessary, Xcyte shall join as a party to the suit but shall be under no obligation to participate except to the extent that such participation is required as a result of being a named party to the suit. At GI's request, Xcyte shall offer reasonable assistance to GI in connection therewith at no charge to GI except for reimbursement of reasonable out-of-pocket expenses incurred in rendering such assistance. Xcyte shall have the right to participate and be represented in any such suit by its own counsel at its own expense.

7.5 Claimed Infringement.

(a) In the event that a third party at any time provides written notice of a claim to, or brings an action, suit, or proceeding against, either Party or any of their respective Affiliates or Sublicensees, claiming infringement of its patent rights or unauthorized use or misappropriation of its know-how, based upon an assertion or claim arising out of the development, use, manufacture, distribution, or sale of Products, such Party shall promptly notify the other Party of the claim or the commencement of such action, suit, or proceeding, enclosing a copy of the claim and/or all papers served. Each Party agrees to make available to the other Party its advice and counsel regarding the technical merits of any such claim at no cost to the other Party.

(b) THE FOREGOING STATES THE ENTIRE RESPONSIBILITY OF THE PARTIES IN THE CASE OF ANY CLAIMED INFRINGEMENT OR VIOLATION OF ANY THIRD PARTY'S RIGHTS OR UNAUTHORIZED USE OR MISAPPROPRIATION OF ANY THIRD PARTY'S KNOW-HOW.

8. Confidential Information.

8.1 Nondisclosure of Confidential Information. Each Party shall not directly or indirectly publish, disseminate or otherwise disclose, deliver or make available to any person outside its organization any of the other Party's Confidential

information. Each Party may disclose the other Party's Confidential Information to persons within its organization and to its Affiliates and Sublicensees who/which have a need to receive such Confidential Information in order to further the purposes of this Agreement and who/which are bound to protect the confidentiality of such Confidential Information, as set forth in Section 8.4 below. Each Party may disclose the other Party's Confidential Information to a governmental authority or by order of a court of competent jurisdiction, provided that such disclosure is subject to all applicable governmental or judicial protection available for like material and reasonable advance notice is given to the other Party.

8.2 **Use of Confidential Information.** Each Party shall use the other Party's Confidential Information solely for the purposes contemplated in this Agreement or for such other purposes as may be agreed upon by the Parties in writing.

8.3 **Physical Protection of Confidential Information.** The Parties shall exercise commercially reasonable precautions to physically protect the integrity and confidentiality of the other Party's Confidential Information.

8.4 **Agreements with Personnel and Third Parties.** The Parties have or shall obtain agreements with all personnel and third parties who will have access to the other Party's Confidential Information which impose comparable confidentiality obligations as are set forth in this Agreement on such personnel and third parties.

9. Term and Termination.

9.1 **Term.** Unless sooner terminated in accordance with the provisions of this Section 9, this Agreement shall continue in force on a country-by-country and Product-by-Product basis for the period set forth in Section 3.2.

9.2 **Termination for Breach.** Each Party shall be entitled to terminate this Agreement by written notice to the other party in the event that the other party shall be in default of any of its material obligations hereunder, and shall fail to remedy any such default within sixty (60) days after notice thereof by the non-breaching party. Any such notice shall specifically state that the non-breaching party intends to terminate this Agreement in the event that the breaching party shall fail to remedy the default.

9.3 **Permissive Termination.** Xcyte may terminate this Agreement with thirty (30) days notice to GI.

9.4 **Effect of Termination.**

(a) **Accrued Obligations.** Termination of this Agreement for any reason shall not release any Party hereto from any liability which, at the time of such termination, has already accrued to the other Party or which is attributable to such termination, nor shall it preclude either Party from

pursuing all rights and remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement.

(b) **Return of Confidential Information.** Subject to any license granted pursuant to Section 7.2, upon any termination of this Agreement each Party shall return to the other Party all Confidential Information received from the other Party (except one copy of which may be retained for archival purposes), and neither Party shall use any such Confidential Information of the other Party for any purpose.

(c) **Stock on Hand.** In the event this Agreement is terminated for any reason, Xcyte, its Affiliates and its Sublicensees shall have the right for six (6) months following the date of termination to sell or otherwise dispose of the stock of any Licensed Product subject to this Agreement then on hand, subject to the right of GI to receive payment thereon as provided in Section 5.

9.5 **Survival of Obligations.** Notwithstanding any termination of this Agreement, the obligations of the Parties under Sections 5.3, 5.6, 6,7.1, 8,9.4, 9.5 and 10 shall survive and continue to be enforceable.

10. Miscellaneous.

10.1 **Publicity.** Neither Party shall originate any publicity, news release or other public announcement, written or oral, relating to this Agreement or the existence of an arrangement between the Parties, without the prior written approval of the other Party, which approval shall not be unreasonably withheld, except as otherwise required by law. It is expressly understood that nothing in this Section 10.1 shall prevent a Party from making a disclosure in connection with any required filings with the Securities and Exchange Commission or in connection with the offering of securities or any financing.

10.2 **Export Control.** The Parties acknowledge that the export of technical data, materials, or products is subject to the exporting Party receiving the necessary export licenses and that the Parties cannot be responsible for any delays attributable to export controls which are beyond the reasonable control of either Party. The Parties agree that regardless of any disclosure made by the Party receiving an export of an ultimate destination of any technical data, materials, or products, the receiving Party will not reexport either directly or indirectly, any technical data, material, or products without first obtaining the applicable validated or general license from the United States Department of Commerce, United States Food and Drug Administration, and/or any other agency or department of the United States Government, as required. The receiving Party shall provide the exporting Party with any information, materials, certifications, or other documents which may be reasonably required in connection with such exports under the Export Administration Act of 1979, as amended, its rules and

regulations, the Federal Food, Drug and Cosmetic Act, and other applicable export laws.

10.3 **No Implied Licenses.** Only the licenses granted pursuant to the express terms of this Agreement shall be of any legal force and effect. No license tights shall be created by implication or estoppel.

10.4 **No Agency.** Nothing herein shall be deemed to constitute either Party as the agent or representative of the other Party, or both Parties as joint venturers or partners for any purpose. Each Party shall be an independent contractor, not an employee or partner of the other Party, and the manner in which each Party renders its services under this Agreement shall be within its sole discretion. Neither Party shall be responsible for the acts or omissions of the other Party, and neither Party will have authority to speak for, represent or obligate the other Party in any way without prior written authority from the other Party.

10.5 **Notice.** All notices required under this Agreement to be given by one Party to the other shall be in writing and shall be given by addressing the same to the other at the address or facsimile number set forth below, or at such other address or facsimile number as either may specify in writing to the other. All notices shall become effective when deposited in the United States Mail with proper postage for first class registered or certified mail prepaid, return receipt requested, or when delivered personally, or, if promptly confirmed by mail as provided above, when dispatched by facsimile.

GI: Genetics Institute, Inc.
87 Cambridge Park Drive
Cambridge, Massachusetts 02140
Telecopier (617) 876-5851
Attn: Legal Department

Xcyte: Xcyte Therapies, Inc.
2203 Airport Way South
Suite 300
Seattle, Washington 98134
Telecopier (206) 328-7316
Attn: President and CEO

10.6 **Assignment.** This Agreement, and the rights and obligations hereunder, may not be assigned or transferred, in whole or in part, by either Party without the prior written consent of the other Party, except that neither Party shall require the other Party's consent to assign this Agreement to any Affiliate, or to any entity acquiring such Party or substantially all of the assets of such Party as to which this Agreement relates whether by sale, operation of law or otherwise, or to any successor entity of such Party as the result of a merger or consolidation.

10.7 **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties with regard to its subject matter, and supersedes all previous written or oral representations, agreements and understandings between the Parties.

10.8 **No Modification.** This Agreement may be changed only by a writing signed by the Parties.

10.9 **Headings.** The headings contained in this Agreement are for convenience of reference only and shall not be considered in construing this Agreement.

10.10 **Waiver.** The waiver by either Party of a breach or a default of any provision of this Agreement by the other Party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power, or privilege by such Party.

10.11 **Severability.** In the event that any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and all other provisions shall remain in full force and effect. If any of the provisions of this Agreement is held to be excessively broad or invalid, illegal or unenforceable in any jurisdiction, it shall be reformed and construed by limiting and reducing it so as to be enforceable to the maximum extent permitted by law in conformance with its original intent. In the event that after such reformation, a Party's rights or obligations are materially changed, then such Party may terminate this Agreement.

10.12 **Force Majeure.** Any delays in or failures of performance by either party under this Agreement shall not be considered a breach of this Agreement if and to the extent caused by occurrences beyond the reasonable control of the party affected, including but not limited to: acts of God, acts, regulations or laws of any government; strikes or other concerted acts of workers; fires; earthquakes; floods; explosions; riots; wars; rebellion; and sabotage. Any time for performance imposed hereunder shall be extended by the actual time of delay caused by any such occurrence.

10.13 **LIMITATION OF LIABILITY.** NEITHER. PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY.

10.14 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and permitted assigns.

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

10.16 **Applicable Law.** This Agreement shall in all events and for all purposes be governed by, and construed in accordance with, the law of The Commonwealth of Massachusetts without regard to any choice of law principle that would dictate the application of the law of another jurisdiction.

10.17 **HSR.** Xcyte represents and warrants that neither Xcyte nor any ultimate parent entity of Xcyte has $10 million in sales or total assets and therefore does not meet the size of person test under Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and the regulations promulgated thereunder.

IN WITNESS WHEREOF, duly-authorized representatives of the Parties have signed this Agreement as a document under seal as of the Effective Date.

GENETICS INSTITUTE, INC.

By /s/ Egon E. Berg

Print Name

Title

XCYTE THERAPIES, INC.

By /s/ Ronald Jay Berenson

Print Name Ronald Jay Berenson

Title President & CEO

Exhibit A

Navy Agreement

Exhibit B

Michigan Agreement

Exhibit C

Dana Farber Cancer Institute Agreement

Exhibit D

Patents

Schedule 6.1

Exceptions to Patents Warranty

None

Exhibit 10.29

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

NON-EXCLUSIVE LICENSE AGREEMENT

This Agreement is entered into as of the 20th day of October, 1999 ("Effective Date") by and between the Fred Hutchinson Cancer Research Center, a Washington non-profit corporation ("FHCRC") and Xcyte Therapies, Inc ("LICENSEE"), a Delaware corporation having a place of business at 2203 Airport Way S., Suite 300, Seattle, Washington 98134. All references to LICENSEE shall include its AFFILIATES.

RECITALS

A. FHCRC has developed and owns the valuable **[*]**;

B. FHCRC is committed to a policy that ideas or creative works produced at FHCRC should be used for the greatest possible public benefit and believes that every reasonable incentive should be provided for the prompt introduction of such ideas into public use, all in a manner consistent with the public interest;

C. LICENSEE desires to obtain a worldwide license in and to the above-referenced rights; and

D. FHCRC is willing to grant such a license to LICENSEE subject to the terms and conditions of this Agreement.

TERMS AND CONDITIONS

The parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 "AFFILIATE" shall mean any corporation or other entity which is directly or indirectly controlling, controlled by or under the common control with a party hereto which has agreed in writing to be bound by the terms of this Agreement. For the purpose of this Agreement, "control" shall mean the direct or indirect ownership of at least thirty percent (30%) of the outstanding shares or other voting rights of the subject entity to elect directors, or if not meeting the preceding, any entity owned or controlled by or owning or controlling at the maximum control or ownership right permitted in the country where such entity exists. "Affiliates" includes only Affiliates of LICENSEE and does not include Affiliates of LICENSEE's Affiliates.

1.2 "LICENSED CELL LINE" means the **[*]**. Such derivatives and modifications shall not include antibodies which are not derived from or developed using the Licensed Materials and which have been entirely made with the use of information or materials available in the public domain.

1.3 "LICENSED MONOCLONAL ANTIBODY" means the **[*]**, produced by or derived from the licensed CELL LINE.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

1.4 “LICENSED PRODUCTS” means any product, including reagents, devices, kits and packages that contain, or are derived from, or result from the use of the LICENSED MONOCLONAL ANTIBODY including without limitation beads coated with the LICENSED MONOCLONAL ANTIBODY either by itself or in combination with other antibodies. LICENSED PRODUCTS does not include the LICENSED CELL LINE.

1.5 “LICENSED SERVICES” means any service performed for a third party using a LICENSED PRODUCT or the LICENSED MONOCLONAL ANTIBODY. Services performed on biological materials from a single patient which are clinically defined to constitute a single course of treatment shall constitute the performance of a single LICENSED SERVICE procedure for purposes of Section 5.2 of this Agreement.

1.6 “FIELD” means **[*]**.

1.7 “NET SALES” means the amount actually received by LICENSEE and its AFFILIATES or sublicensees on sales of LICENSED PRODUCTS and LICENSED SERVICES less:

(a) Customary trade, quantity or cash discounts and non-affiliated brokers’ or agents’ commissions actually allowed and taken;

(b) Amounts repaid or credited by reason of rejection or return; and/or

(c) To the extent separately stated on purchase orders, invoices or other documents of sales, taxes levied on and/or other governmental charges made as to production, sale, transportation, delivery or use and paid by or on behalf of LICENSEE; and/or Import and I or export duties actually paid.

(d) NET SALES shall include all consideration received for a sale and shall be based on the usual full arms length third party price in the event that LICENSED PRODUCT is transferred at a lower sum.

ARTICLE 2 - GRANT

2.1 Non-Exclusive License. FHCRC hereby grants to LICENSEE and LICENSEE accepts subject to the terms and conditions hereof the following licenses:

(a) a non-exclusive license to use, possess, culture and employ the LICENSED CELL LINE at its business premises solely in the United States;

(b) a worldwide, non-exclusive license to the LICENSED MONOCLONAL ANTIBODY to make and have made, to use, to sell, have sold and offer for sale the LICENSED PRODUCTS and the LICENSED SERVICES in the FIELD for the term of this Agreement (collectively the “Licenses”). Notwithstanding any other provision of this Agreement, (1) LICENSEE and its Affiliates shall not use the LICENSED CELL LINE or LICENSED MONOCLONAL ANTIBODY for any purpose other than that expressly described in this Agreement (2) shall not transfer the LICENSED CELL LINE to any third party or AFFILIATE for any purpose except to a sublicensee as provided in Section

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

2.2(a) of this Agreement and (3) shall in no event transfer the LICENSED CELL LINE outside of the United States.

2.2 Sublicensing

(a) LICENSEE shall have no right or power to grant sublicenses of the LICENSED CELL LINE, under section 21. (a), except LICENSEE shall have the right to sublicense third parties to make the LICENSED MONOCLONAL ANTIBODY on behalf of LICENSEE solely for the use of LICENSEE, its AFFILIATES and sublicensees subject to FHCRC's prior written consent, which consent shall not be unreasonably withheld. If FHCRC does not respond in thirty (30) days to written request for consent from LICENSEE, such non-response shall constitute consent by FHCRC hereunder. In addition to any other requirements imposed under this Agreement, a sublicense of the LICENSED CELL LINE shall require that the LICENSED CELL LINE be maintained in and not transferred from the United States and will prohibit the sublicensee from sublicensing or otherwise transferring the LICENSED CELL LINE to any other person or entity. Upon the prior written approval of FHCRC, which shall not be unreasonably withheld, LICENSEE may sublicense on third party to make the LICENSED MONOCLONAL ANTIBODY in Europe on behalf of LICENSEE solely for the use of LICENSEE, its AFFILIATES and sublicensees upon terms and conditions agreeable to FHCRC. A determination by FHCRC that a sublicense will affect adversely its rights in the LICENSED CELL LINE or the LICENSED MONOCLONAL ANTIBODY or its ability to enforce those rights shall be deemed a reasonable basis to withhold consent to that sublicense for purposes of this Section 2.2(a).

(b) LICENSEE may grant and authorize sublicenses to permit third parties to perform LICENSED SERVICES and to make, have made, use and sell LICENSED PRODUCTS (but not the LICENSED CELL LINE) within the scope of the License described in Section 2.1(b) of this Agreement with FHCRC's prior written consent, which consent will not be unreasonably withheld. If FHCRC does not respond in thirty (30) days to written request for consent from LICENSEE, such non-response shall constitute consent by FHCRC hereunder. All sublicenses granted by LICENSEE under this Section 2.2 (b) shall include a requirement that the sublicensesee use reasonable efforts to introduce the LICENSED PRODUCTS into the commercial market as soon as reasonably possible, consistent with sound and reasonable business practices and judgment, and thereafter endeavor to keep LICENSED PRODUCTS reasonably available to the public.

(c) In addition to any other requirements of this Agreement, any sublicense agreement under this Section 2.2 shall bind the sublicensee to meet all LICENSEE's obligations to FHCRC under this Agreement. Royalties charged for sublicenses by LICENSEE shall be commercially reasonable. LICENSEE shall promptly provide FHCRC with a copy of any sublicense agreement subject to the confidentiality provisions of Article 10 of this Agreement.

(d) Notwithstanding 2.2 (a)-(c), LICENSEE may transfer the LICENSED MONOCLONAL ANTIBODY to third parties, and if required by such third party,

sublicense the LICENSED MONOCLONAL ANTIBODY for the purpose of testing, analysis, development or manufacturing of LICENSED PRODUCTS or LICENSED SERVICES to be sold or offered for sale by LICENSEE or authorized sublicensees; provided that the third party to whom the transfer is made has agreed (1) in writing to use the LICENSED MONOCLONAL ANTIBODY solely for that limited purpose and has agreed (2) not to make, use or sell or offer for sale or otherwise distribute or exploit the LICENSED MONOCLONAL ANTIBODY or any LICENSED PRODUCT or LICENSED SERVICE and (3) to be bound by the Confidentiality provisions in Article 10 of this Agreement.

2.3 Restrictions on License. Notwithstanding any other provision of this Agreement, the License is subject to the following policies, obligations and/or conditions:

(a) FHCRC's Patents and Inventions Policy adopted September 30, 1983, Public Laws 96-517 and 98-620 and FHCRC's obligations under agreement with other sponsors of research. Any right granted in this Agreement greater than that permitted under Public Laws 96-5 17 or 98-620 shall be subject to modification as may be required to conform to the provisions of the statutes.

(b) LICENSEE agrees during the term of the License that any LICENSED MONOCLONAL ANTIBODY produced for sale in the United States will be manufactured substantially in the United States.

ARTICLE 3 - TERM OF AGREEMENT

3.1 Term. The term of this Agreement commences on the Effective Date and, subject to earlier termination as provided in Article 9, shall remain in effect for fifteen (15) years following the first sale of a LICENSED PRODUCT or LICENSED SERVICE by LICENSEE to a customer who is not an AFFILIATE or sublicensee ("First Commercial Sale"). Upon expiration of the term, provided LICENSEE is not in material breach of this Agreement, the licenses granted LICENSEE under this Agreement shall be deemed fully paid-up.

ARTICLE 4 - DELIVERY OF LICENSED MATERIAL

4.1 Delivery of **[*]**. Within thirty (30) days of receipt by FHCRC of any Signing Fee owed under this Agreement, the Effective Date, FHCRC shall provide to LICENSEE **[*]** from the Manufacturer's Working Cell Bank ("MWCB").

4.2 Replacement of **[*]**. If the **[*]** dies during the Term of this Agreement, FHCRC will, after it has been reimbursed its reasonable costs and expenses by LICENSEE, and no more than two occasions during the Term, provide to LICENSEE sufficient quantities of additional seed stock from the MWCB to replace the cell line, but in no event more then a total of two additional vials.

4.3 Antibody Production. The parties acknowledge that LICENSEE has contracted with FHCRC for production and supply of the **[*]** pursuant to a Laboratory Services Agreement dated even herewith.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

ARTICLE 5 - PAYMENTS

5.1 Signing Fee. LICENSEE shall pay to FHCRC a non-refundable signing fee in the sum of **[*]**, which shall be due and payable within five (5) days of the execution of this Agreement.

5.2 Earned Royalties. LICENSEE shall pay to FHCRC a royalty in the amount of **[*]** of the NET SALES of all LICENSED PRODUCTS, and **[*]** of the NET SALES of all LICENSED SERVICES sold by LICENSEE during the Term. The royalty payable with respect to the performance of a single LICENSED SERVICE procedure shall not exceed **[*]** (the "LICENSED SERVICES Royalty Cap") for a period of **[*]**. Thereafter, the LICENSED SERVICES Royalty Cap shall increase at the rate of **[*]**. LICENSEE shall also pay FHCRC a) **[*]** and **[*]** received as a result of a sublicense of LICENSED SERVICES , b) and **[*]** received as a result of a sublicense of LICENSED PRODUCTS, all within thirty (30) days of receipt of such consideration; provided, however, that to the extent the non-royalty consideration received as a result of a sublicense is paid to LICENSEE as funding for a specific research project, LICENSEE may at its option elect to give FHCRC a negotiable promissory note in the principal amount of such funding payable in twenty-four (24) months from the date the funding is received by LICENSEE together with interest thereon at a per annum rate equal to the prime rate of Bank of America, adjusted quarterly. Non-cash consideration received by LICENSEE on account of a sublicense shall be appraised at LICENSEE's expense using a third party acceptable to FHCRC. Non-cash consideration includes, without limitation, debt, equity or other financial instruments, real property, tangible personal property, rights and patents, patent applications, trade secrets and licenses to such patents, patent applications and trade secrets. Non-royalty sublicense income includes, without limitation, signing fees, upfront fees, license issue fees, license maintenance fees, milestone payments or other payments paid as consideration for the right to sell or otherwise distribute LICENSED PRODUCTS or LICENSED SERVICES whether structured as a sublicense, joint venture, collaboration or other arrangement. On sales between LICENSEE'S and its AFFILIATES or authorized sublicensees for resale royalties shall be paid on the resale.

5.3 Combined Products. In the event that any of the LICENSED PRODUCTS or LICENSED SERVICES are used or sold by LICENSEE in combination as a single product or service with one or more other product(s) or service(s) whose sale and/or use are not within the scope of the this Agreement, and do not entail the use of the LICENSED MONOCLONAL ANTIBODY, NET SALES from such sales and/or use for purposes of calculating the amounts due under Section 5.2 above shall be calculated by multiplying the NET SALES of that combination by the faction A/(A+B), where A is the gross selling price of the LICENSED PRODUCT or LICENSED SERVICE sold separately and B is the gross selling price of the other product or service sold separately. In the event that no such separate sales or use are made by LICENSEE, NET SALES for purposes of royalty determination shall be as reasonably allocated by LICENSEE between such LICENSED PRODUCT or LICENSED SERVICE and such other product or service, based upon their relative importance and proprietary protection. It is understood and agreed that LICENSEE intends to use LICENSED PRODUCTS and LICENSED SERVICES in connection with products and services provided by LICENSEE which do not entail the use of the LICENSED MONOCLONAL ANTIBODY, and that such products and services shall be subject to this Section 5.3.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

5.4 One Royalty. No more than one royalty payment shall be due with respect to a sale of a particular LICENSED PRODUCT. No royalty shall be payable under this Article 5 with respect to LICENSED PRODUCTS, distributed at no charge, for use in research and/or development, in clinical, in clinical trials or as promotional samples. When a LICENSED PRODUCT is used, sold or sublicensed as part of LICENSED SERVICES, the royalty rate and other changes applicable to LICENSED SERVICES shall apply and no royalty or charge shall be made for the LICENSED PRODUCT in that case.

ARTICLE 6 - REPORTING AND ROYALTY PAYMENT TERMS

6.1 First Sales. LICENSEE shall report to FHCRC the date of first sale of LICENSED PRODUCTS and or LICENSED SERVICES in each country within thirty (30) days of occurrence.

6.2 Sales Reports and Royalty Payments. Commencing upon the First Commercial Sale, LICENSEE shall submit to FHCRC within sixty (60) days after June 30 and December 31 of each year during the Term, and upon the effective termination Of this Agreement, reports for the preceding six (6) month period identifying the amount of the LICENSED PRODUCTS or LICENSED SERVICES sold by LICENSEE, its AFFILIATES and sublicensees in each country, the sales volume and NET SALES, and the amount of royalty due to FHCRC together with payment of such royalty amount. Such report shall be certified as correct by an officer of LICENSEE and shall include a detailed listing of all deductions from NET SALES, sublicensee income or from royalties as specified herein. If no royalties are due to FHCRC for any reporting period, the written report shall so state. All payments due hereunder shall be paid in United States Dollars. If any currency conversion shall be required in connection with the payment of any royalties hereunder, such conversion shall be made by using the exchange rate for the purchase of United States Dollars reported by the Bank of America on the last business day of the calendar quarter to which such royalty payments relate. If at any time legal restrictions prevent the prompt remittance of any royalties owed on NET SALES in any jurisdiction, LICENSEE shall notify FHCRC and make such payments by depositing the amount thereof in local currency in a bank account or other depository in such country in the name of FHCRC. All payments shall be without deduction of exchange, collection or other charges. Without regard to or waiver of any other remedies that may be available under this Agreement, any royalty payments not made when due shall bear interest at the rate of **[*]** per annum, compounded daily.

6.3 Withholding Taxes on Royalties. To the extent that any earned royalties due FHCRC under this Agreement are subject to taxation where the taxes are imposed on FHCRC, FHCRC agrees to bear such taxes. FHCRC hereby authorizes LICENSEE or sublicensee to withhold such taxes from the payment which are otherwise payable to FHCRC in accordance with this Agreement if LICENSEE or sublicensee is either required to do so under the tax laws of the country of sale or in the United States or directed to do so by an agency of either such government. LICENSEE shall furnish FHCRC with relevant documentation showing assessment of the taxes and the best available evidence of payment whenever LICENSEE or sublicensee deducts such tax from any payments due FHCRC.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

6.4 Confidentiality of Reports. All such reports shall be maintained in confidence by FHCRC, except as required by law, including Public Laws 96-517 and 98-620.

ARTICLE 7 - RECORD KEEPING

7.1 Recordkeeping. LICENSEE shall maintain and require each sublicensee to maintain complete and accurate books of account and records showing all sales of LICENSED PRODUCTS and all NET SALES (including the amount of gross sales and allowable deductions attributable to such sales). For purposes of verifying the accuracy of the royalties paid by LICENSEE pursuant to this Agreement or verifying performance of LICENSEE of any other obligation to FHCRC hereunder, such books and records shall be open to inspection and copying, during usual business hours, by an independent certified public accountant. Such accountant shall not disclose to FHCRC any information other than information relating to accuracy of reports and calculations of amounts due to FHCRC made under this Agreement. In the event that any such inspection shows any underreporting and underpayment by LICENSEE in excess of five percent (5%) for any twelve (12) month period, then LICENSEE shall pay the cost of such examination. Such books and records shall be maintained for at least three (3) years following the reporting period to which the books and records relate.

ARTICLE 8 - INDEMNIFICATION AND INSURANCE

8.1 Indemnification. LICENSEE, including any successor to LICENSEE, shall, and shall obligate its AFFILIATES or its sublicensees, if any, to indemnify, defend and hold harmless FHCRC, its AFFILIATES and their respective directors, officers, employees, agents and contractors (each an “Indemnitee”) from and against any and all liabilities, damages, losses, costs or expenses (including reasonable attorneys’ and professionals’ fees and other expenses of litigation and/or arbitration (a “Liability”)) resulting from a claim, suit or proceeding brought against an Indenmitee, arising out of or in connection with or resulting from (i) any misrepresentation with regard to, or breach of, any of the representations and warranties of LICENSEE set forth in Section 12 of this Agreement, (ii) the use, development, manufacture, distribution, sublicensing or sale of the LICENSED PRODUCTS or LICENSED SERVICES by LICENSEE or its AFFILIATES or sublicensees except to the extent caused by the negligence or willful misconduct of FHCRC, including without limitation any Liabilities resulting from infringement of third party intellectual property rights, and (iii) any other activities performed by LICENSEE or its AFFILIATES or sublicensees pursuant to this Agreement.

8.2 FHCRC. FHCRC shall indemnify, defend and hold harmless LICENSEE and its directors, officers and employees (each an “Indemnitee”) from and against any and all liabilities, damages, losses, costs or expenses (including reasonable attorneys’ and professionals’ fees and other expenses of litigation and/or arbitration) resulting from a claim, suit or proceeding brought against an Indemnitee, arising out of or in connection with any misrepresentation with regard to, or breach of, any of the representations and warranties of FHCRC set forth in Section 12, except to the extent caused by the negligence or willful misconduct of LICENSEE.

8.3 Insurance. In the event of any testing or use in human subjects of LICENSED PRODUCTS, LICENSEE will have FHCRC named as an additional insured on LICENSEE’S

product liability insurance policies, with limits of at least **[*]**. Upon the First Commercial Sale, LICENSEE will have FHCRC named as an additional insured on LICENSEE's product liability insurance policies, with limits of **[*]**. Such policies shall not be terminated without thirty (30) days prior written notice to FHCRC. LICENSEE shall provide FHCRC with written evidence of the insurance and a copy of the policy upon request.

8.4 Legal Action. In the event any legal action is commenced against LICENSEE involving the LICENSED MONOCLONAL ANTIBODY, LICENSED CELL LINE, LICENSED PRODUCTS and/or LICENSED SERVICES, whether or not FHCRC is named as a party to the legal action, LICENSEE shall keep FHCRC or its attorney nominee fully advised of the progress of the legal action and shall reimburse FHCRC for its reasonable legal costs (including attorney's fees) incurred as a result of FHCRC's employees or agents being called as witnesses therein or asked to testify for or consult with LICENSEE in connection therewith. FHCRC agrees to cooperate with LICENSEE, to the extent reasonably possible, in any legal action brought pursuant to this Article 8.

ARTICLE 9 - DISPUTE RESOLUTION

9.1 The parties do not favor litigation. Therefore, unless a party is entitled to injunctive relief, as ultimately determined by a court of competent jurisdiction, because (i) the party is exposed to irreversible losses unless the conduct is enjoined, (ii) there is no adequate remedy in the form of compensatory damages, and (iii) there is a substantial likelihood that the party will prevail on the merits, the parties agree to submit all disputes relating to the interpretation, enforcement, or breach of this Agreement to non-binding mediation before a mediator acceptable to both parties in accordance with its Commercial Mediation Rules or such alternative mediator as the parties may approve in writing.

9.2 If the parties are unable to resolve their differences through mediation as provided in this Article 14 or if the matter is not subject to mediation under this Article 14, either party may initiate a lawsuit to resolve the dispute.

ARTICLE 10 - CONFIDENTIALITY

10.1 Definition of Confidential Information. It is contemplated that in the course of the performance of this Agreement each party may, from time to time, disclose proprietary and confidential information to the other ("Confidential Information"). Confidential Information shall include all disclosures made hereunder or under previous confidentiality agreements between the Parties in writing and identified as being "Confidential," or if disclosed orally, which are reduced to writing within thirty (30) days of oral disclosure and clearly identified as being "Confidential." FHCRC and LICENSEE agree that this Agreement shall supersede all previous confidentiality agreements between the parties and all disclosures made under any previous confidentiality agreements shall be subject to the terms of this Section 10.

10.2 Nondisclosure of Confidential Information. Except to the extent expressly authorized by this Agreement or otherwise agreed to in writing, during the term of this Agreement and for a period of five (5) years following the termination of this Agreement, each party shall take such

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

reasonable measures to protect the secrecy of and avoid disclosure or use of such Confidential Information of the other party in order to prevent it from falling into the public domain or the possession of any person other than those persons authorized under this Agreement to have any such information. Such measures shall include, but not be limited to, the highest degree of care the receiving party takes to protect its own proprietary and confidential information of a similar nature, which shall be no less than reasonable care. Neither party shall disclose or permit disclosure of any Confidential Information of the other party to third parties or to employees of the party receiving Confidential Information, other than directors, officers, employees, consultants and agents who are required to have the information in order to carry out the terms of this Agreement. Each party shall notify the other in writing of any actual or suspected misuse, misappropriation or unauthorized disclosure of the other party's Confidential Information that may come to such party's attention. Not withstanding the foregoing, Confidential Information from FHCRC shall include but not be limited to devices, cell lines, monoclonal antibodies, methods, processes, data regarding testing and experiments, drawings, documentation, patent applications and product development plans, is FHCRC's confidential, proprietary, trade secret information.

10.3 Exceptions. The following information shall not be considered Confidential Information:

(a) information which was already known to the receiving party, other than under an obligation of confidentiality to the disclosing party, at the time of disclosure by the other party as shown by the receiving parties written records;

(b) information which was generally available to the public or otherwise part of the public domain at the time of its disclosure to the receiving party;

(c) information which becomes generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the receiving party in breach of this Agreement;

(d) information which was disclosed to the receiving party, other than under an obligation of confidentiality, by a third party who had no obligation to the disclosing party not to disclose such information; or

(e) information which was developed independently without reference to Confidential Information received from the other party hereunder as evidenced by the receiving party's own written records.

10.4 Permitted Usage. Notwithstanding the provisions of Section 10.1 above, the receiving party may use or disclose Confidential Information of the disclosing party in connection with the exercise of its rights hereunder (including commercialization and/or sublicensing) or the fulfillment of its obligations and/or duties hereunder and in filing for, prosecuting or maintaining any proprietary rights, prosecuting or defending litigation, complying with applicable governmental regulations and/or submitting information to tax or other governmental authorities; provided that if the receiving party is required by law to make any public disclosures of Confidential Information of the disclosing party, to the extent it may legally do so, it shall give

reasonable advance notice to the disclosing party of such disclosure and shall use its reasonable efforts to secure confidential treatment of Confidential Information prior to its disclosure (whether through protective orders or otherwise) ; and, provided, further, that to the extent that the receiving party is disclosing information to a third party for commercialization or sublicensing that the third party has agreed to terms at least as restrictive as the terms of this Article 10 and may not further disclose the information to any third party and FHCRC has been provided with a copy of the agreement.

ARTICLE 11 - TERMINATION OF AGREEMENT

11.1 Termination on Payment Default. At FHCRC's option, FHCRC may terminate this Agreement effective thirty (30) days after giving written notice in the event LICENSEE fails to pay any royalties or other amounts owed under this Agreement when due. During the thirty (30) day period after written notice of payment default, LICENSEE has the right to cure any payment default and prevent termination under this Section 11.1.

11.2 Termination on Other Defaults. This Agreement may be terminated by either party upon a material breach by the other party other than a payment default which is governed by Section 11.1, effective ninety (90) days after giving written notice to the breaching party of such termination under this Section and specifying such breach, unless the breach is cured or shown to be non-existent within the ninety (90) day period, in which case the Agreement will remain in effect.

11.3 Termination on Bankruptcy or Insolvency. Subject to any provisions of the federal bankruptcy laws limiting rights of termination, FHCRC may terminate this Agreement if LICENSEE files for protection under federal bankruptcy laws, becomes insolvent, makes an assignment for the benefit of creditors, appoints or suffers appointment of a receiver or trustee over its property, files a petition under any bankruptcy or insolvency act or has any such petition filed against it or files for dissolution.

11.4 Termination by LICENSEE. LICENSEE may terminate this Agreement in its entirety for any reason or no reason with thirty (30) days written notice to FHCRC.

11.5 Effect of Termination. Upon termination of this Agreement, each party will turn over to the other party all Confidential Information of such other party and all documents or data storage media containing any such Confidential Information and any and all copies thereof and will delete all such Confidential Information from its documents or data storage media. In addition, upon termination of this Agreement, LICENSEE shall return to FHCRC or destroy, at FHCRC's option and expense all of the LICENSED CELL LINE and all LICENSED MONOCLONAL ANTIBODY in possession of LICENSEE or any AFFILIATE sublicensee or other third party who has received the LICENSED CELL LINE or LICENSED MONOCLONAL ANTIBODY from LICENSEE provided that LICENSEE shall be entitled to sell LICENSED PRODUCT as provided in Section 11.7 of this Agreement. Upon termination of this Agreement the Licenses shall terminate. Neither party shall be able to claim from the other party any damages or compensation for loses or expenses resulting solely from termination of this Agreement as permitted under this Section 11.

11.6 Effect of Termination on Sublicensees. Any sublicenses granted by LICENSEE under this Agreement shall provide for termination or assignment to FHCRC at FHCRC's sole discretion, of LICENSEE's interests therein upon termination of this Agreement for any reason.

11.7 Sale of Products on Termination. In the event of any early termination of this Agreement in accordance with this Article 11, for a period of six (6) months after termination LICENSEE shall have the right to sell all LICENSED PRODUCTS on hand at the time of such termination, provided that LICENSEE shall make all payments with respect thereto to FHCRC in accordance with this Agreement.

11.8 Final Report. Upon termination, a final report shall promptly be submitted in accordance with the provisions of Section 5.4, together with any royalty payments and unreimbursed patent expenses due to FHCRC.

11.9 Survival of Rights and Duties. Rights and duties hereunder which by their terms or nature survive the termination or expiration of this Agreement shall so survive such termination or expiration, including without limitation LICENSEE's duties under Articles 5 through 11 and 15.

ARTICLE 12 - REPRESENTATIONS AND COVENANTS

12.1 LICENSEE Representations and Warranties. LICENSEE represents and warrants to FHCRC that it has obtained and will at all times during the Term hold and comply with all licenses, permits and authorizations necessary to LICENSEE's complete and timely performance of its obligations under this Agreement which are required under any applicable statutes, laws, ordinances, rules and regulations of the United States as well as those of all applicable foreign governmental bodies, agencies and subdivisions, having, asserting or claiming jurisdiction over LICENSEE or LICENSEE's performance of the terms of this Agreement. In particular, LICENSEE:

(a) will be responsible for obtaining all necessary United States Food and Drug Administration approvals and all approvals required by similar governmental bodies or agencies of all applicable foreign countries; and

(b) understands and acknowledges that the transfer of certain commodities and technical data is subject to United States laws and regulations controlling the export of such commodities and technical data, including all Export Administration Regulations of the United States Department of Commerce. These laws and regulations, among other things, prohibit or require a license for the export of certain types of technical data to certain specified countries. LICENSEE hereby agrees and gives written assurance that it will comply with all United States laws and regulations controlling the export of commodities and technical data, that it will be solely responsible for any violation of such by LICENSEE or its AFFILIATES or sublicensees, and that it will defend and hold FHCRC harmless in the event of any legal action of any nature occasioned by such violation.

12.2 FHCRC Representations and Covenants. FHCRC warrants and represents to LICENSEE that: (i) it has and will maintain the full right and authority to enter into this Agreement and grant the rights and licenses granted herein; (ii) it has not previously granted and will not grant any rights or licenses in conflict with the rights and licenses granted herein; (iii) to its knowledge no action, suit or claim has been initiated or threatened with respect to the LICENSED MATERIALS that would call into question FHCRC's right to enter into and perform its obligations under this Agreement;

12.3 Disclaimer of Warranty. To Licensee, its AFFILIATES, its sublicensees and customers or otherwise, express or implied, oral or written, arising by law, course of dealing, course of performance usage of trade or otherwise, with respect to the LICENSED CELL LINE, LICENSED MONOCLONAL ANTIBODY, LICENSED PRODUCT, LICENSED TECHNICAL INFORMATION, including without limitation all warranties as to the condition, manufacture, sale, use, operation, design, quality, capacity, latent defects, compliance with any law, ordinance, regulation, rule, contract or specification, "merchantability," fitness for any particular purpose, and all other qualities and characteristics whatsoever. FHCRC neither assumes nor authorizes LICENSEE or any person to assume for FHCRC any liability in connection with the manufacture, sale or use of any LICENSED PRODUCT. In no event shall FHCRC be liable for any consequential, incidental or special damages or expenses (including without limitation labor, transportation, loss of use, loss of profits and damage to persons or property) even if FHCRC has been advised of the possibility thereof.

ARTICLE 13 - COMMERCIALLY REASONABLE EFFORTS

13.1 Reasonable Efforts. LICENSEE shall use reasonable effort to introduce the LICENSED PRODUCTS into the commercial market within five (5) years of the Effective Date, consistent with sound and reasonable business practices and judgment, and thereafter endeavor to keep LICENSED PRODUCTS reasonably available to the public.

ARTICLE 14 - NOTICES

14.1 Notices. All communications, including payments, notices, demands or requests required or permitted to be given hereunder, shall be given in writing and shall be:

(a) personally delivered;

(b) sent by facsimile or other electronic means of transmitting written documents; or

(c) sent to the parties at their respective addresses indicated herein by registered or certified U.S. mail, return receipt requested and postage prepaid, or by private overnight mail courier service. The respective addresses to be used for all such payments, notices, demands or requests are as follows:

If to FHCRC: Fred Hutchinson Cancer Research Center
1100 Fairview Ave. N., C2M-027
Seattle, Washington 98109
Attention: Rosalie Beer,

Senior Licensing Associate
Facsimile: (206) 667-4732

With copies to: Douglas J. Shaeffer, Esq.
Fred Hutchinson Cancer Research Center
1100 Fairview Ave. N., C2M-027
Seattle, Washington 98109
Facsimile: (206) 667-6590

If to LICENSEE: Xcyte Therapies, Inc.
2203 Airport Way South, Suite 300
Seattle, WA 98134
Attention: Business Development
Facsimile: (206) 328-7316

With copies to: Venture Law Group
4750 Carillon Point
Kirkland, Washington 98033-7355
Attn: William W. Ericson
Facsimile: (425) 739-8750

If personally delivered, such communication shall be deemed delivered upon actual receipt. If electronically transmitted pursuant to this section, such communication shall be deemed delivered when transmitted. If sent by overnight courier pursuant to this section, such communication shall be deemed delivered within twenty-four hours of deposit with such courier. If sent by U.S. mail pursuant to this section, such communications shall be deemed delivered as of the date of delivery indicated on the receipt issued by the relevant postal service, or, if the addressee fails or refuses to accept delivery, as of the date of such failure or refusal. Any party to this Agreement may change their address for the purposes of this Agreement by giving notice in accordance with this Section.

ARTICLE 15 - MISCELLANEOUS

15.1 Governing Law. The rights and obligations of the parties under this Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

15.2 Amendments. This Agreement may not be amended except by an instrument in writing signed by both parties.

15.3 Assignability. The Agreement shall be binding on the parties hereto and upon their respective heirs, administrators, successors and assigns. This Agreement may not be assigned by LICENSEE or by operation of law without the prior written consent of FHCRC, which consent shall not be unreasonably withheld; except either party may assign this Agreement, without such consent, to (i) an AFFILIATE of such party; or (ii) an entity that acquires all or substantially all of the business or assets of such party to which this Agreement pertains, whether by merger,

reorganization, acquisition, sale or otherwise, and that agrees in writing to be strictly bound by the terms and conditions of this Agreement.

15.4 Non-Profit Status. LICENSEE acknowledges that FHCRC is a non-profit organization qualifying for and holding the status of an exempt organization under Section 50l(c)(3) of the United States Internal Revenue Code. If the Internal Revenue Service determines, or a determination by FHCRC based on advice of legal or tax counsel is reasonably made, that any part or all of this Agreement will jeopardize FHCRC's Section 501(c)(3) status, the parties agree to meet and confer in good faith to amend this Agreement to the extent necessary to satisfy Internal Revenue Service requirements for retention of FHCRC's Section 50l(c)(3) status. If FHCRC and LICENSEE cannot agree within 30 days after commencing negotiations regarding the amendments to be made to this Agreement in order for FHCRC to retain its Section 501(c)(3) status, FHCRC may terminate this Agreement effective upon giving written notice to LICENSEE of termination under this Section 10.

15.5 Conflicts with Grants. LICENSEE understands and acknowledges that agreements between FHCRC and agencies of the United States Government funding FHCRC's programs may contain clauses granting patent and/or other rights to the agencies or the U.S. Government; LICENSEE agrees that the rights granted to it under this Agreement shall be subject to any rights of the agencies and the U.S. Government. If a conflict arises, the provisions of any U.S. Government agency funding agreement and/or regulation shall prevail over any conflicting provisions of this Agreement and FHCRC will have no liability to LICENSEE as a result of such conflict. If such a conflict arises or is reasonably anticipated, FHCRC will promptly give notice to LICENSEE of the nature of the conflict and copies of any correspondence relating thereto in accordance with Section 14.1.

15.6 Use of Name. Neither party shall use the name of the other party or reveal the terms of this Agreement in any publicity or advertising without the prior written approval of the other party, except that (i) either party may use the text of a written statement approved in advance by both parties without further approval; (ii) either party shall have the right to identify the other party and to disclose the terms of this Agreement as required by applicable securities laws or other applicable law or regulation; and (iii) either party may disclose that a licensing relationship exists between the parties and may disclose the name of the other party in that context.

15.7 Written Notices. All letters, documents, or other materials of a written or physical nature, required by or relating to this Agreement shall be in English and sent to the party at the address given in Article 14.

15.8 Independent Parties. The parties to this Agreement are independent contractors and not agent of the other. This Agreement shall not constitute a partnership or joint venture, and neither party may be bound by the other to any contract, arrangement or understanding except as specifically stated herein.

15.9 Enforceability. Should a court of competent jurisdiction later consider any provision of this Agreement to be invalid, illegal, or unenforceable, it shall be considered severed from this Agreement. All other provisions, rights and obligations shall continue without regard to the

severed provision, provided that the remaining provisions of this Agreement are in accord with the intention of the parties.

15.10 Actions. In the event any party to this Agreement commences any action or proceeding, including an appeal of an action or proceeding, against the other, or otherwise retains an attorney, by reason of any breach or claimed breach of any provision of this Agreement, or to seek a judicial declaration of rights hereunder or judicial or equitable relief, the prevailing party in such action or proceeding shall be entitled to recover its reasonable attorneys' fees and costs. At the option of FHCRC, venue of any such legal or equitable action shall lie in Seattle, Washington. LICENSEE hereby submits to the jurisdiction of the Federal District Court of Western Washington located in Seattle, Washington, and hereby agrees to accept service of process by certified mail, return receipt requested, effective upon delivery to LICENSEE.

15.11 Force Majeure. LICENSEE and FHCRC shall not be liable for loss, damage, detention or delay resulting from any cause whatsoever beyond its reasonable control or resulting from a force maj cure, including, without limitation, fire, flood, strike, lockout, civil or military authority, insurrection, war, embargo, container or transportation shortage or delay of suppliers due to such causes, and delivery dates shall be extended to the extent of any delays resulting from the foregoing or similar causes. The party so affected shall give prompt notice to the other party of such cause, and shall take whatever reasonable steps are necessary to relieve the effect of such cause as rapidly as reasonably possible. The party giving such notice shall thereupon be excused from such of its obligations hereunder as it is thereby disabled from performing for so long as it is so disabled and for thirty (30) days thereafter, whichever is longer; provided, however, that such affected party commences and continues to take reasonable and diligent actions to cure such cause.

IN WITNESS WHEREOF, the parties have executed this Agreement through duly authorized representatives as of the date first above written.

FRED HUTCHINSON CANCER RESEARCH CENTER

By /s/ Douglas J. Shaeffer

Printed
Name Souglas J Shaeffer
Title, V.P. and General Counsel

XCYTE THERAPIES INC.

By /s/ Ronald Jay Berenson

Printed
Name Ronald Jay Berenson

Title President & CEO

Exhibit 10.30

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

AGREEMENT

For Services Relating to the [*]

Expressing [*]

Between

LONZA BIOLOGICS PLC

And

XCYTE THERAPIES, INC.

AGREEMENT

For Services Relating to the **[*]**

Expressing **[*]**

between

LONZA BIOLOGICS PLC

and

XCYTE THERAPIES, INC.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

THIS AGREEMENT is made the 6 day of June, 2000

BETWEEN

1. LONZA BIOLOGICS PLC, the registered office of which is at 228 Bath Road, Slough, Berkshire SL1 4DY, England ("LB"), and
2. XCYTE THERAPIES, INC., of 1124 Columbia Street, Suite 130, Seattle, Washington 98104, USA, ("Customer").

WHEREAS

A. Customer is the proprietor of, or licensed to use, the **[*]** (designated at LB as **[*]**) expressing **[*]**, and

B. LB has the expertise in the development of process for and manufacture of similar products, and

C. Customer wishes to contract with LB for services to develop a Process for and manufacture Product, and

D. LB is prepared to perform such Services for Customer on the terms and conditions set out herein, and

E. LB will where scientifically possible perform such Services in parallel with Services to produce **[*]** for Customer.

NOW THEREFORE it is agreed as follows:

1. In this Agreement, its recitals and the schedules hereto, the words and phrases defined in Schedule 4 hereto and in the Standard Terms for Contract Services set out in Schedule 5 hereto shall have the meanings set out therein.
2. Subject to the Standard Terms for Contract Services set out in Schedule 5 and any Special Terms, LB agrees to perform the Services and the Customer agrees to pay the Price together with any additional costs and expenses that fall due hereunder.
3. 3.1 Any notice or other communication to be given under this Agreement shall be delivered personally or sent by facsimile transmission, or if facsimile transmission is not available, by first class pre-paid post addressed as follows:

   3.1.1 if to LB to:

   Lonza Biologics plc
   228 Bath Road

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Slough
Berkshire SL1 4DY

Facsimile: 01753 777001
For the attention of the Head of Legal Services

3.1.2 if to the Customer to:

Xcyte Therapies, Inc.
1124 Columbia Street
Suite 130
Seattle
Washington 98104

Facsimile: 206 262 0900
For the attention of Director, Business Development

or to such other destination as either party hereto may hereafter notify to the other in accordance with the provisions of this clause.

3.2 All such notices or other communications shall be deemed to have been served as follows:

3.2.1 if delivered personally, at the time of such delivery;

3.2.2 if sent by facsimile, upon receipt of the transmission confirmation slip showing completion of the transmission;

3.2.3 if sent by first class pre-paid post, ten (10) business days (Saturdays, Sundays and Bank or other public holidays excluded) after being placed in the post.

AS WITNESS the hands of the duly authorised representatives of the parties hereto the day and year first above written.

Signed for and on behalf of	/s/ Edwin Davies	
LONZA BIOLOGICS PLC	President	Title
Signed for and on behalf of	/s/ Ronald Jay Berenson	
XCYTE THERAPIES, INC.	President & CEO	Title

SCHEDULE 1

[*]

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SCHEDULE 2

SERVICES

CONTENTS

[*]

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SCHEDULE 3

PRICE AND TERMS OF PAYMENT

1.0 Price

In consideration for LB carrying out the Services as detailed in Schedule 2 the Customer shall pay LB, as follows

Stage		Price (UK £ sterling)
1	[*]	£105,000
2	[*]	£64,000(1)
3	[*]	£73,500
4	[*]	£26,250
5	[*]	£79,000
6	[*]	£295,000(2)
7	[*]	£17,000(3)
8	[*]	£40,000(4)
9	[*]	£30,000
10	[*]	£57,750
11	[*]	£12,500 per time point
12	[*]	£50,000
13	[*]	£7,000

[*]

2.0 Payment

Payment by the Customer of the Price for each Stage shall be made against LB invoices on the following basis:

[*]

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SCHEDULE 4

[*]

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SCHEDULE 5

TERMS FOR CONTRACT SERVICES FOR **[*]**
FOR XCYTE THERAPIES, INC.

1. Interpretation

1.1 In these Standard Terms, unless the context requires otherwise:

1.1.1 "Affiliate" means any Company, partnership or other entity which directly or indirectly controls, is controlled by or is under common control with the relevant party to this Agreement. "Control" means the ownership of more than fifty per cent (50%) of the issued share capital or the legal power to direct or cause the direction of the general management and policies of the party in question.

1.1.2 "Agreement" means any contract between LB and a Customer incorporating these Standard Terms.

1.1.3 "Cell Line" means the cell line, particulars of which are set out in Schedule 1.

1.1.4 "cGMP" means Good Manufacturing Practices and General Biologics Products Standards as promulgated under the US Federal Food Drug and Cosmetic Act at 21CFR (Chapters 210, 211, 600 and 610) and the Guide to Good Manufacturing Practices for Medicinal Products as promulgated under European Directive 91/356/EEC. LB's operational quality standards are defined in internal GMP policy documents. Additional product-specific development documentation and validation work may be required to support regulatory applications to conduct clinical trials or market a product.

1.1.5 "Customer" includes any person to whom a Proposal is issued by LB.

1.1.6 "Customer information" means all technical and other information not known to LB or in the public domain relating to the Cell Line, the Process and the Product, from time to time supplied by the Customer to LB.

1.1.7 "Customer Materials" means the Materials supplied by Customer to LB (if any) and identified as such by Schedule 1 hereto.

1.1.8 "Customer Tests" means the tests to be carried out on the Product immediately following receipt of the Product by the Customer, particulars of which are set out in Schedule 1.

1.1.9 "ex works" means LB has fulfilled its obligation to deliver when it has made the object of delivery available at its premises to the Customer or the Customer's agent (or to LB's carrier if the provisions of Clause 5.1 of this Schedule 5 apply). For the avoidance of doubt, unless otherwise agreed in writing, LB is not responsible for loading the object of delivery on to the vehicle provided by the Customer or the Customers agent (or to LB's nominated carrier if Clause 5.1 of this Schedule 5 applies) or for delaying the object of delivery for export.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

1.1.10 “LB Know-How” means all technical and other information relating to the Process known to LB from time to time other than confidential Customer Information and information in the public domain.

1.1.11 “Patent Rights” means all patents and patent applications of any kind throughout the world relating to the Process which from time to time LB is the owner of or is entitled to use but not in any case any patent rights owned or controlled by Customer or its licensor/supplier.

1.1.12 “Price” means the price specified in Schedule 3 for the Services.

1.1.13 “Process” means the process for the production of the Product from the Cell Line, including any improvements thereto from time to time.

1.1.14 “Product” means all or any part of the product (including any sample thereof), particulars of which are set out in Schedule 1.

1.1.15 “Proposal” means any proposal or quotation issued by LB.

1.1.16 “Services” means all or any part of the services the subject of the Agreement or Proposal (including, without limitation, cell culture evaluation, purification evaluation, master, working and extended cell bank creation, and sample and bulk production), particulars of which are set-out in Schedule 2.

1.1.17 “Special Term” means any term additional or supplemental to these Standard Terms from time to time agreed in writing between LB and the Customer. Particulars of any Special Terms at the date of the Agreement are set out in Schedule 4.

1.1.18 “Specification” means the specification for Product, particulars of which are set out In Schedule 1.

1.1.19 “Terms of Payment” means the terms of payment specified in Schedule 3.

1.1.20 “Testing Laboratories” means any third party instructed by LB to carry out tests on the Cell Line or the Product.

1.2 Unless the context requires otherwise, words and phrases defined in any other part of the Agreement shall bear the same meanings in these Standard Terms, references to the singular number include the plural and vice versa, references to Schedules are references to schedules to the Agreement, and references to Clauses are references to clauses of these Standard Terms.

1.3 In the event of a conflict between a Special Term and these Standard Terms, the Special Term shall prevail.

2. Applicability of Standard Terms

2.1 Unless agreed otherwise, these Standard Terms shall apply to every Proposal and Agreement, and to any services additional to the Services requested by a Customer. LB shall not be bound by any terms which may be inconsistent with these Standard Terms and the Special Terms. No variation of or addition to these Standard Terms and the Special Terms or any other term of an Agreement shall be effective unless in writing and signed for and on behalf of LB and Customer. For the avoidance of doubt, amendments to the draft Specification or Specification for Product shall be effective if reduced to writing and signed by the regulatory

representative of both Parties, which regulatory representative shall be nominated from time to time by the parties.

2.2 Unless previously withdrawn, a Proposal is open for acceptance within the period stated therein. Where no period is stated, the Proposal shall be open for acceptance within thirty (30) days from the date it is issued unless withdrawn in the meantime. Any acceptance by a Customer of a Proposal shall not create a binding contract.

2.3 A binding contract shall only be created when LB has accepted in writing an offer placed by a Customer.

3. Supply by Customer

3.1 Prior to or immediately following the date of the Agreement the Customer shall supply to LB the Customer Information, together with full details of any hazards relating to the Cell Line and/or the Customer Materials, their storage and use. On review of this Customer Information, the Cell Line and/or the Customer Materials shall be provided to LB at LB's request. Property in the Cell Line and/or the Customer Materials supplied to LB shall remain vested in the Customer.

3.2 The Customer hereby grants LB **[*]**. LB hereby undertakes not to use the Cell Line, the Customer Materials or the Customer Information (or any part thereof) for any other purpose.

3.3 LB shall:

3.3.1 at all times use all reasonable endeavours to keep the Cell Line and/or the Customer Materials secure and safe from loss and damage in such manner as LB stores its own material of similar nature;

3.3.2 not part with possession of the Cell Line and/or the Customer Materials or the Product, save for the purpose of tests at the Testing Laboratories; and

3.3.3 procure that all Testing Laboratories are subject to obligations of confidence and restrictions to use and transfer substantially in the form of those obligations of confidence imposed on LB under these Standard Terms.

3.4 The Customer warrants to LB that:

3.4.1 the Customer is and shall at all times throughout the duration of the Agreement remain entitled to supply the Cell Line, the Customer Materials and Customer Information to LB;

3.4.2 to the best of the Customer's knowledge and belief the use by LB of the Cell Line, the Customer Materials or and the Customer Information for the Services will not infringe any rights (including, without limitation, any intellectual or industrial property rights) vested in any third party; and

3.4.3 the Customer will notify LB, in writing, immediately it knows or ought to know that it is no longer entitled to supply the Cell Line, the Customer Materials and/or the Customer Information to LB or that the use by LB of the Cell Line, the Customer Materials or the Customer Information for the Services infringes or is alleged to infringe any rights (including, without limitation, any intellectual or industrial property rights) vested in any third party.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

3.5 Provided that LB gives Customer prompt written notice and full particulars of any claim, tenders to Customer, full control of any defense or settlement and co-operates fully with Customer, the Customer undertakes to indemnify and to maintain LB promptly indemnified against any loss, damage, costs and expenses of any nature (including court costs and legal fees on a full indemnity basis), whether direct or consequential, and whether or not foreseeable or in the contemplation of LB or the Customer, that LB may suffer arising out of or incidental to any breach of the warranties given by the Customer under Clause 3.4 above or any claims alleging LB's use of the Cell Line, the Customer Materials or the Customer Information infringes any rights (including, without limitation, any intellectual or industrial property rights) vested in any third party (whether or not the Customer knows or ought to have known about the same), however it is agreed that LB will retain its own independent legal counsel with settlement of any claim requiring LB's prior written consent which shall not be unreasonably withheld.

3.6 The obligations of LB and the Customer under this Clause 3 shall survive the termination for whatever reason of the Agreement.

4. Provision of the Services

4.1 LB shall diligently carry out the Services as provided in Schedule 2 and shall use all reasonable efforts to achieve the estimated timescales therefor.

4.2 Due to the unpredictable nature of the biological processes involved in the Services, the timescales set down for the performance of the Services (including without limitation the dates for production and delivery of Product) and the quantities of Product for delivery set out in Schedule 2 are estimated only.

4.3 Provided that LB has complied with Section 4.1 the Customer shall not be entitled to cancel any unfulfilled part of the Services or to refuse to accept the Services on grounds of late performance, late delivery or failure to produce the estimated quantities of Product for delivery. LB shall not be liable for any loss, damage, costs or expenses of any nature, whether direct or consequential, occasioned by:

4.3.1 any delay in performance or delivery howsoever caused; or

4.3.2 any failure to produce the estimated quantities of Product for delivery.

4.4 LB shall comply with the regulatory requirements from time to applicable to the Services as set out in Schedule 2 hereto, including without limitation all relevant requirements of current Good Manufacturing Practices under the policies and practices of the US FDA and European Regulatory Authorities and shall consider ICH and other relevant regulatory guidance documents whether or not set forth with precision in said Schedule 2. If the Customer requests LB to comply with any other regulatory or similar legislative requirements LB shall use all reasonable commercial endeavours to do so provided that:

4.4.1 the Customer shall be responsible for informing LB in writing of the precise foreign requirements which the Customer is requesting LB to observe;

4.4.2 such foreign requirements do not conflict with any mandatory requirements under the laws of England;

4.4.3 LB shall be under no obligation to ensure that such written information complies with the applicable requirements of any foreign jurisdiction; and

4.4.4 all costs and expenses incurred by LB in complying with such foreign requirements shall be charged to the Customer in addition to the Price.

4.5 Delivery of Product shall be ex-works LB's premises (Incoterms 1990). Risk in and title to Product shall pass on delivery. Transportation of Product, whether or not under any arrangements made by LB on behalf of the Customer, shall be made at the sole risk and expense of the Customer.

4.6 Unless otherwise agreed, LB shall package and label Product for delivery ex-works in accordance with its standard operating procedures. It shall be the responsibility of the Customer to inform LB in writing in advance of any special packaging and labelling requirements for Product. All additional costs and expenses of whatever nature incurred by LB in complying with such special requirements shall be charged to the Customer in addition to the Price.

5. Transportation of Product and Customer Tests

5.1 If requested by the Customer, LB will (acting as agent of the Customer for such purpose) arrange the transportation of Product from LB's premises to the destination indicated by the Customer together with insurance cover for Product in transit at its invoiced value. All additional costs and expenses of whatever nature incurred by LB in arranging such transportation and insurance shall be charged to the Customer in addition to the Price.

5.2 Where LB has made arrangements for the transportation of Product, the Customer shall diligently examine the Product as soon as practicable after receipt. Notice of all claims (time being of the essence) arising out of:

5.2.1 damage to or total or partial loss of Product in transit shall be given in writing to LB and the carrier within three (3) working days of delivery; or

5.2.2 non-delivery shall be given in writing to LB within ten (10) days after the date of LB's dispatch notice.

5.3 The Customer shall make damaged Product available for inspection and shall comply with the requirements of any insurance policy covering the Product notified by LB to the Customer. LB shall offer the Customer all reasonable assistance (at the cost and expense of the Customer) in pursuing any claims arising out of the transportation of Product.

5.4 Promptly following receipt of Product or any sample thereof, the Customer shall carry out the Customer Tests. PROVIDED ALWAYS the Specification for such Product is not stated to be in draft form, if the Customer Tests show that the Product fails to meet Specification, the Customer shall give LB written notice thereof within forty-five (45) days from the date of delivery of the Product ex-works and shall return such Product to LB's premises for further testing. In the absence of such written notice Product shall be deemed to have been accepted by the Customer as meeting Specification. If LB is satisfied that Product returned to LB fails to meet Specification and that such failure is not due (in whole or in part) to acts or omissions of the Customer or any third party after delivery of such Product ex-works, LB shall at Customer's discretion refund that part of the Price

that relates to the production of such Product or replace such Product at its own cost and expense. In the event Customer requires LB to replace such Product, LB shall be entitled to have regard to its commercial commitments to third parties in the timing of such replacement and will consider Customer's requirements in as fair and equal manner as it considers other third party customer requirements, Customer acknowledges that there may, therefore, be a delay in the timing of the replacement of such Product.

FOR THE AVOIDANCE OF DOUBT, WHERE THE SPECIFICATION IS STATED TO BE IN DRAFT FORM LB SHALL BE OBLIGED ONLY TO USE ITS REASONABLE ENDEAVOURS TO PRODUCE PRODUCT THAT MEETS SPECIFICATION.

5.5 If there is any dispute concerning whether Product returned to LB, fails to meet Specification or whether such failure is due (in whole or in part) to acts or omissions of the Customer or any third party after delivery of such Product ex-works, such dispute shall be referred for decision to an independent expert (acting as an expert and not as an arbitrator) to be appointed by agreement between LB and the Customer or, in the absence of agreement by the President for the time being of the Association of the British Pharmaceutical Industry. The costs of such independent expert shall be borne equally between LB and the Customer. The decision of such independent expert shall be in writing and, save for manifest error on the face of the decision, shall be binding on both LB and the Customer.

5.6 The provisions of Clauses 5.4 and 5.5 shall be the sole remedy available to the Customer in respect of Product that fails to meet Specification.

6. Price and Terms of Payment

6.1 The Customer shall pay the Price in accordance with the Terms of Payment.

6.2 Unless otherwise indicated in writing by LB. all prices and charges are exclusive of Value Added Tax or of any other applicable taxes, levies, imposts, duties and fees of whatever nature imposed by or under the authority of any government or public authority, which shall be paid by the Customer (other than taxes on LB's income). All Invoices are strictly net and payment must be made within thirty (30) days of date of invoice. Payment shall be made without deduction, deferment, set-off, lien or counterclaim of any nature.

6.3 In default of payment on due date:

6.3.1 interest shall accrue on any amount overdue at the rate of **[*]** above the base lending rate from time to time of HSBC Bank plc, interest to accrue on a day to day basis both before and after judgement; and

6.3.2 LB shall, at its sole discretion, and without prejudice to any other of its accrued rights, be entitled to suspend the provision of the Services or to treat the Agreement as repudiated by notice in writing to the Customer exercised at any time thereafter.

7. Warranty and Limitation of Liability

7.1 LB warrants that:

7.1.1 the Services shall be performed in accordance with Clause 4.1; and

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

7.1.2 the Product shall meet Specification on delivery, save where the Specification is stated to be in draft form when LB shall be obliged only to use its reasonable endeavours to produce Product that meets Specification.

7.2 Clause 7.1 is in lieu of all conditions, warranties and statements in respect of the Services and/or the Product whether expressed or implied by statute, custom of the trade or otherwise (including but without limitation any such condition, warranty or statement relating to the description or quality of the Product, its fitness for a particular purpose or use under any conditions whether or not known to LB) and any such condition, warranty or statement is hereby excluded.

7.3 Without prejudice to the terms of Clauses 5.6, 7.1. 7.2, 7.4 and 7.6, the liability of LB for any loss or damage suffered by the Customer as a direct result of any breach of the Agreement or of any other liability of LB (including misrepresentation and negligence or third party claim brought against Customer relating solely to LB know-how) in respect of the Services (including without limitation the production and/or supply of the Product) shall be limited to the payment by LB of damages which shall not exceed **[*]**.

7.4 Subject to Clause 7.6, LB shall not be liable for the following loss or damage howsoever caused (even if foreseeable or in the contemplation of LB or the Customer):

7.4.1 loss of profits, business or revenue whether suffered by the Customer or any other person; or

7.4.2 special, indirect or consequential loss, whether suffered by the Customer or any other person; and

7.4.3 any loss arising from any claim made against the Customer by any other person.

7.5 Provided that LB gives Customer prompt written notice and full particulars of any claim, tenders to Customer, full control of any defense or settlement, and co-operate fully with Customer, the Customer shall indemnify and maintain LB promptly indemnified against all claims, actions, costs, expenses of any nature (including court costs and legal fees on a full indemnity basis) or other liabilities whatsoever in respect of the following, it been agreed, however that LB will retain its own independent legal counsel with settlement of any claim requiring LB’s prior written consent which will not be unreasonably withheld:

7.5.1 any liability under the Consumer Protection Act 1987, unless such liability is caused by the negligent act or omission of LB in the production and/or supply of the Product; and

7.5.2 any product liability (other than that referred to in Clause 7.5.1) in respect of Product, unless such liability is caused by the negligent act or omission of LB in the production and/or supply of Product; and

7.5.3 any negligent or willful act or omission of the Customer in relation to the use, processing, storage or sale of the Product.

7.6 Nothing contained in these Standard Terms shall purport to exclude or restrict any liability for death or personal injury resulting directly from negligence by LB in

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

carrying out the Services or any liability for breach of the implied undertakings of LB as to title.

7.7 The obligations of LB and the Customer under this Clause 7 shall survive the termination for whatever reason of the Agreement.

8. Customer Information, LB Know-How and Patent Rights

8.1 The Customer acknowledges that LB Know-How and LB acknowledges that Customer Information with which it is supplied by the other pursuant to the Agreement is supplied, subject to Clause 8.4, in circumstances imparting an obligation of confidence and each agrees to keep such LB Know-How or such Customer Information secret and confidential and to respect the other's proprietary rights therein and not at any time for any reason whatsoever to disclose or permit such LB Know-How or such Customer Information to be disclosed to any third party save as expressly provided herein.

8.2 The Customer and LB shall each procure that all their respective employees, consultants and contractors having access to confidential LB Know-How or confidential Customer Information shall be subject to the same obligations of confidence as the principals pursuant to Clause 8.1 and shall enter into secrecy agreements in support of such obligations. Insofar as this is not reasonably practicable, the principals shall take all reasonable steps to ensure that any such employees, consultants and contractors are made aware of such obligations.

8.3 LB and the Customer each undertake not to disclose or permit to be disclosed to any third party, or otherwise make use of or permit to be made use of, any trade secrets or confidential information relating to the technology, business affairs or finances of the other, any subsidiary, holding company or subsidiary or any such holding company of the other, or of any suppliers, agents, distributors, licensees or other customers of the other which comes into its possession under this Agreement.

8.4 The obligations of confidence referred to in this Clause 8 shall not extend to any information which:

8.4.1 is or becomes generally available to the public otherwise than by reason of a breach by the recipient party of the provisions of this Clause 8;

8.4.2 is known to the recipient party and is at its free disposal prior to its receipt from the other;

8.4.3 is subsequently disclosed to the recipient party without being made subject to an obligation of confidence by a third party;

8.4.4 LB or the Customer may be required to disclose under any statutory, regulatory or similar legislative requirement, subject to the imposition of obligations of secrecy wherever possible in that relation; or

8.4.5 is developed by any servant or agent of the recipient party without access to or use or knowledge of the information by the disclosing party.

8.5 The Customer acknowledges that:

8.5.1 LB Know-How and the Patent Rights are vested in LB or LB is otherwise entitled thereto; and

8.5.2 the Customer shall not at any time have any right, title, license or interest in or to LB Know-How, the Patent Rights or any other intellectual property rights relating to the Process which are vested in LB or to which LB is otherwise entitled.

8.6 LB acknowledges that:

8.6.1 Customer has undertaken that the Customer Information is vested in the Customer or the Customer is otherwise entitled thereto; and

8.6.2 save as provided herein LB shall not at any time have any right, title, license or interest in or to the Customer information or any other Intellectual Property rights vested in Customer or to which the Customer is entitled.

8.7 The obligations of LB and the Customer under this Clause 8 shall survive the termination for whatever reason of the Agreement.

9. Termination

9.1 If it becomes apparent to either LB or the Customer at any stage in the provision of the Services that it will not be possible to complete the Services for scientific or technical reasons, a sixty (60) day period shall be allowed for discussion to resolve such problems. If such problems are not resolved within such period, LB and the Customer shall each have the right to terminate the Agreement forthwith by notice in writing. In the event of such termination, the Customer shall pay to LB a termination sum calculated by reference to all the Services performed by LB prior to such termination (including a pro rata proportion of the Price for any stage of the Services which is in process at the date of termination) and all expenses reasonably incurred by LB in giving effect to such termination, including the costs of terminating any commitments entered into under the Agreement, such termination sum not to exceed the balance of the Price for the remaining services not yet commenced, LB will engage in good faith efforts to offer to other third party customers those development resources or manufacturing slots which become available due to termination by Customer of this Agreement, and Customer will not be required to pay for that portion of the Services and related expenses that LB is able to charge to such other customers.

9.2 Customer shall be entitled to terminate this Agreement at any time for any reason by sixty (60) days' notice to LB in writing. In the event of Customer serving notice to terminate this Agreement which notice is expressed to be given pursuant to this Clause 9.2, Customer shall:

9.2.1 pay LB a termination sum calculated in accordance with the principles of Clause 9.1 above, and

9.2.2 In the event notice to terminate this Agreement pursuant to this Clause 9.2 is issued to LB within six (6) months of LB's then estimated start date for any stage of the Services which includes cGMP fermentation activities, Customer shall pay LB a sum (to the extent not already payable as noted above in accordance with the principles of Clause 9.1) equal to not less than ten percent (10%) nor more than eighty-five percent (85%) of the full Price of that stage, or those stages, in question, as provided in Clause 9.2.3

below. Such payment shall fall due to LB on or before the date of termination of the Services. For the avoidance of doubt activities relating to cGMP fermentation shall be deemed to commence with the date of removal of the vial of cells for the performance of the fermentation from frozen storage.

9.2.3 In the event of Customer serving notice to terminate this Agreement in the circumstances described in Clause 9.2.2, LB shall use reasonable endeavours to substitute a requirement for the manufacturing slot which becomes available due to Customer of the Agreement. If LB finds such an alternative third party selling the manufacturing slot, which third party requirement is not for business (i.e. LB shall not be required to reschedule parties), the fee payable by Customer under Clause 10% of the price for the manufacturing slot originally amount, if any, by which the fees to be paid for such customer is less than 85% of the price under this originally reserved for Customer. If LB is substitute a third party requirement for the such manner, Customer shall be liable to of the price under this Agreement third party termination by and is successful in previously contracted existing commitments to third parties), the fee payable by Customer under Clause 9.2.2 shall equal the greater of (a) reserved for Customer and (b) the manufacturing slot by such other Agreement for the manufacturing slot unable, by using reasonable endeavours, to manufacturing slot reserved for Customer in pay LB under Clause 9.2.2 a sum equal to 85% for the manufacturing slot.

9.3 LB and the Customer may each terminate the Agreement forthwith by notice in writing to the other upon the occurrence of any of the following events:

9.3.1 if the other commits a breach of the Agreement which (in the case of a breach capable of remedy) is not remedied within thirty (30) days of the receipt by the other of notice identifying the breach and requiring its remedy; or

9.3.2 if the other ceases for any reason to carry on business or compounds with or convenes a meeting of its creditors or has a receiver or manager appointed in respect of all or any part of its assets or is the subject of an application for an administration order or of any proposal for a voluntary arrangement or enters into liquidation (whether compulsorily or voluntarily) or undergoes any analogous act or proceedings under foreign law.

9.4 Upon the termination of the Agreement for whatever reason:

9.4.1 LB shall promptly return all Customer Information to the Customer and shall dispose of or return to the Customer the Customer Materials (and where supplied by Customer the Cell Line) and any materials therefrom, as directed by the Customer;

9.4.2 the Customer shall promptly return to LB all LB Know-How it has received from LB;

9.4.3 the Customer shall not thereafter use or exploit the Patent Rights or the LB Know-How in any way whatsoever;

9.4.4 LB may thereafter use or exploit the Patent Rights or the LB Know-How in any way whatsoever without restriction; and

9.4.5 LB and the Customer shall do all such acts and things and shall sign and execute all such deeds and documents as the other may reasonably require to evidence compliance with this Clause 9.4.

9.5 Termination of the Agreement for whatever reason shall not affect the accrued rights of either LB or the Customer arising under or out of this Agreement and all provisions which are expressed to survive the Agreement shall remain in full force and effect.

10. Force Majeure

10.1 If LB is prevented or delayed in the performance of any of its obligations under the Agreement by Force Majeure and shall give written notice thereof to the Customer specifying the matters constituting Force Majeure together with such evidence as LB reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue, LB shall be excused from the performance or the punctual performance of such obligations as the case may be from the date of such notice for so long as such cause of prevention or delay shall continue.

10.2 The expression “Force Majeure” shall be deemed to include any cause affecting the performance by LB of the Agreement arising from or attributable to acts, events, acts of God, omissions or accidents beyond the reasonable control of LB.

11. Governing Law, Jurisdiction and Enforceability

11.1 The construction, validity and performance of the Agreement shall be governed by the laws of England, to the jurisdiction of whose courts LB and the Customer submit.

11.2 No failure or delay on the part of either LB or the Customer to exercise or enforce any rights conferred on it by the Agreement shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege or further exercise thereof operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

11.3 The illegality or invalidity of any provision (or any part thereof) of the Agreement or these Standard Terms shall not affect the legality, validity or enforceability of the remainder of its provisions or the other parts of such provision as the case may be.

12. Miscellaneous

12.1 Neither party shall be entitled to assign, transfer, charge or in any way make over the benefit and/or the burden of this Agreement without the prior written consent of the other which consent shall not be unreasonably withheld or delayed, save that either LB or the Customer shall respectively be entitled without the prior written consent of the other to assign, transfer, charge, sub-contract, deal with or in any other manner make over the benefit and/or burden of this Agreement to an

Affiliate or to any 50/50 joint venture company of which either party is the beneficial owner or fifty per cent (50%) of the issued share capital thereof or to any company with which either party may merge or to any company to which that party may transfer its assets and undertakings.

12.2 The text of any press release or other communication to be published by or in the media concerning the subject matter of the Agreement shall require the prior written approval of LB and the Customer.

12.3 The Agreement embodies the entire understanding of LB and the Customer and there are no promises, terms, conditions or obligations, oral or written, expressed on implied, other than those contained in the Agreement. The terms of the Agreement shall supersede all previous agreements (if any) which may exist or have existed between LB and the Customer relating to the Services.

Exhibit 10.31

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

AMENDMENT NO. 1

to the

Services Agreement

dated 6 June 2000

between

LONZA BIOLOGICS PLC

and

XCYTE THERAPIES, INC.

THIS AMENDMENT is made the 10th day of January, 2001.

BETWEEN

LONZA BIOLOGICS PLC of 228 Bath Road, Slough, Berkshire SL1 4DY, England (hereinafter referred to as "LB"), and

XCYTE THERAPIES, INC. of 1124 Columbia Street, Suite 130, Seattle, Washington 98104, USA (hereinafter referred to as "Customer").

WHEREAS

A. Customer and LB entered into a services agreement dated 6 June 2000 (hereinafter referred to as "the Agreement"), under which LB is required to perform the Services as stated therein.

B. Customer would like LB to carry out additional activities under the Agreement.

C. LB is willing to carry out the additional activities.

NOW THEREFORE it is hereby agreed by the parties to amend the Agreement as follows:

1. A new Stage 14 shall be added to Schedule 2 to the Agreement to read as follows:

"14.0 Stage 14 [**]

14.1 Objectives

14.1.1 Production of [**] from the [**] Cell Line

14.2 Activities

14.2.1 Performance of [**] to [**] from the [**] Cell Line

14.2.2 [**] of [**].

Note: A proportion of the [**] will be used to [**].

14.2.3 [**] product from [**].

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

14.2.4 [**] into [**] to be specified by the Customer. [**] or as agreed with the Customer.

14.2.5 Analyze the [**] by [**]. Measure levels of [**] in the [**].

14.2.6 Ship Product (approximately [**]) to Customer. The Customer accepts that the [**] may not be complete at the time of shipment.

14.2.7 Issue a [**] of the Activities to the Customer.

Note: The [**] will be defined at the end of Stage 3 and used to [**] the Pilot Batch (Stage 5). [**] may be made to the purification process after [**] and prior to the [**] (Stage 6).

Stage 14 will commence by agreement with the [**]. This Stage will be complete upon [**]. It is estimated that this Stage will be complete [**] from commencement of the Stage."

2. The following shall be added to Schedule 3 of the Agreement:

"1.0 Price

In consideration for LB carrying out the Services as detailed in Schedule 2 the Customer shall pay LB as follows:

Stage		Price (UK £ Sterling)
Stage 14	[**]	£ [**]

2.0 Payment

Payment by the Customer of the Price for each Stage and substage shall be made against LB's invoices as follows:

2.1 For Stage 14

Fee of £ [**] upon [**] of Stage 14.

Fee of £ [**] upon [**] of Stage 14."

3. Save as herein provided all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties have caused this Amendment No. 1 to be executed by their respective representatives thereunto duly authorized as of the day and year first above written.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Signed for and behalf of	/s/:	Judith Symes	
LONZA BIOLOGICS PLC	Company Secretary		Title
Signed for and behalf of	/s/:	Ronald J. Berenson	
XCYTE THERAPIES	President and CEO		Title

Exhibit 10.32

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

AMENDMENT NO. 2

to the

Services Agreement Relating to
the Cell Line Known as [**]
Expressing Product XR- [**]

dated 6 June 2000

Between

LONZA BIOLOGICS PLC

and

XCYTE THERAPIES INC

THIS SECOND AMENDMENT is made the 18th day of April 2001 to an Agreement dated 6 JUNE 2000.

between

LONZA BIOLOGICS PLC of 228 Bath Road, Slough, Berkshire, SL1 4DY, England (hereinafter referred to as “LB”)

and

XCYTE THERAPIES INC. of 1124 Columbia Street, Suite 130, Seattle, Washington 98104, USA (hereinafter referred to as “the Customer”)

WHEREAS

A. Customer and LB entered into the Agreement dated 6th June 2000 (hereinafter referred to as “the Agreement”), under which LB is required to perform the Services as stated therein.

B. Customer would like LB to carry out additional activities under the Agreement.

C. LB is willing to undertake at the discretion of LB the additional activities.

NOW THEREFORE IT IS HEREBY AGREED as follows:

1. Schedule 2 to the Agreement shall be amended to include the Services as set out in Appendix 1 hereto.

2. Schedule 3 of the Agreement shall be amended to include provision of payment for the above mentioned additional Services, as set out in Appendix 2 hereto.

3. Save as herein provided all other terms and conditions of the Agreement shall remain in full force and effect.

AS WITNESS the hands of the duly authorized representatives of the parties hereto the day and year first before written.

SIGNED BY:

For and in behalf of	/s/ Judith Symes
LONZA BIOLOGICS PLC	Secretary Title

SIGNED BY:

For and in behalf of	/s/ Ronald J. Berenson
XCYTE THERAPIES INC	President & CEO Title

APPENDIX 1

Stages 15, 16, 17 of the Services shall be added to Schedule 2 as follows:

SCHEDULE 2

"Stage 15 – [**]

Note: This Stage to be undertaken by mutual agreement between LB and Customer.

15.1 **Objectives**

15.1.1 To carry out a [**] at [**].

15.1.2 To store [**] for further [**].

15.2 **Activities**

15.2.1 Recover [**] from the MCB or WCB and [**] to [**]. Carry out [**].

15.2.2 To carry out a series of [**] to evaluate the effect of [**] on [**].

15.2.3 Carry out [**] at [**].

15.2.4 Clarify [**]. Refine the [**] of the [**] stage in the Process.

15.2.5 Measure [**] and across [**].

15.2.6 Store [**].

15.2.7 Review requirements (if any) for [**] that may be needed following this study. Any such [**] are subject to agreement.

15.2.8 Produce a [**] on the [**] operations.

Note: The following operational activities 15.2.9 – 15.2.11 to be agreed between LB and Customer.

15.2.9 [**] using procedure established in Stage 3 to be agreed between LB and Customer.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

15.2.10 Test [**] by [**]. Also test by the[**].

15.2.11 Issue [**] on the [**].

15.3 **Timescale**

Stage 15 shall be complete upon the issuance of the summary report. It is estimated that the summary report will be issued [**] from the commencement of the Stage.

"Stage 16 – [**]

Note: This Stage to be undertaken by mutual agreement between LB and Customer.

16.1 **Objectives**

16.1.1 To prepare cGMP documentation for use in manufacture of [**].

16.1.2 To carry out a [**].

16.1.3 To evaluate the ability of the Process to produce Product meeting the [**] included in the draft Specification.

16.1.4 To store [**] for further processing.

16.2 **Activities**

Note: This Stage to be undertaken by mutual agreement between LB and Customer.

16.2.1 Prepare cGMP documentation. The documentation shall cover:

- [**] manufacturing directions and in-Process controls contained in the manufacturing directions.
- Materials Specifications (as required)
- Sampling protocols.

16.2.2 Recover [**] from the MCB or WCB and [**] to [**]. Carry out [**].

16.2.3 Clarify [**]. Refine the [**] of the [**] stage in the Process.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

16.2.4 Measure [**] and across [**].

16.2.5 Store [**].

16.2.6 Review requirements (if any) for [**] that may be needed following this study. Any such [**] are subject to agreement.

16.2.7 Produce a [**] on the [**] operations.

16.3 **Timescale**

Stage 16 shall be complete upon the issuance of the summary report. It is estimated that the summary report will be issued [**] from the commencement of the Stage.

Stage 17 – [**]

Note: This Stage to be undertaken at the discretion of LB on behalf of the Customer.

17.1 **Objectives**

17.1.1 To [**] from one of the [**] batches produced at either [**] by the [**] process defined in Stage 3.

17.2 **Activities**

17.2.1 [**] at [**] of the [**] batches produced at either [**] by the process defined in Stage 3.

17.2.2 Test [**] by [**]. Also test by the [**].

17.2.3 Review requirements (if any) for [**] that may be needed following this study before GMP production. Any such [**] are subject to agreement between Biologics and the Customer with consideration to [**] requirements.

17.2.4 Produce a 5 page summary report on the [**].

17.3 **Timescale**

Stage 17 shall be complete upon the issuance of the summary report. It is estimated that the summary report will be issued [**] from the commencement of the Stage."

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

APPENDIX 2

The following shall be added to Schedule 3 of the Agreement

"1.0 **Price**

In consideration for LB carrying out the additional Services as detailed in Schedule 2 the Customer shall pay LB as follows:

Stage	Description	Cost Price (UK £ sterling)
15	[**]	£[**]*
15 including option	[**]	£[**]
16	[**]	£[**] **
17	[**]	£[**]

* In the event the [**] activities are undertaken by LB the price of Stage 15 shall revert to the price for Stage 15 including option.

** Price to be confirmed. The value of the Stage is subject to confirmation between LB and Customer prior to commencement.

2.0 Payment

Payment by the Customer of the Price for each Stage shall be made against LB invoices that will be issued as follows:

Stage	Payment
For Stage 15	[**] upon commencement of Stage 15. [**] upon issue of summary report to Customer.
For Stage 15	[**] upon commencement of Stage 15.
Option	[**] upon issue of summary report to Customer.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

For Stage 16	[**] upon commencement of Stage 16. [**] upon issue of summary report to Customer.
For Stage 17	[**] upon commencement of Stage 16. [**] upon issue of summary report to Customer.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Exhibit 10.33

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

AMENDMENT NO. 3

TO THE

SERVICES AGREEMENT

between

LONZA BIOLOGICS PLC

and

XCYTE THERAPIES INC

RELATING TO [**]

THIS AMENDMENT is made the 26th day of August 2002.

BETWEEN

1. Lonza Biologics plc of 228 Bath Road, Slough, SL1 4DX, Berkshire, England ("Biologics") and

2. Xcyte Therapies Inc of 1124 Columbia Street, Suite 130, Seattle, Washington 98104, USA ("Customer").

WHEREAS

A. The parties have entered into an Agreement dated 6th June 2000 relating to the supply of Services (as therein defined), and

B. The parties now wish to amend the terms of the Agreement

THEREFORE it is hereby agreed by and between the parties that the Agreement shall be amended as follows: -

1. Stage 18 shall be added to Schedule 2 as follows:

"18.0 Stage 18 – Production of cGMP Product [**]

18.1 Objectives

18.1.1 To manufacture [**] from a [**] in accordance with the principles of current Good Manufacturing Practice (cGMP).

18.2 Activities

18.2.1 Review status of GMP documentation for GMP manufacture of Product.

18.2.2 Recover [**] from the MCB and [**] to [**].

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

18.2.3 Carry out [**] at [**].

18.2.4 Clarify [**] as specified.

18.2.5 [**] by the [**] established.

18.2.6 Test [**] against the current [**].

18.2.7 Undertake quality assurance review of lot documentation and issue a [**].

18.2.8 Make [**] available to the Customer ex-works with the documents associated with the [**].

18.3 Timescale

Stage 6 will be complete upon issue of the [**] (activity 6.2.7) for the [**]. It is estimated that the [**] for the [**] will be issued [**] from commencement of the batch. "

2. Schedule 3, Part 1 shall be amended as follows:

"**18** Production of cGMP Product [**] £[**]"

3. Schedule 3, Part 2 Price shall be amended as follows:

"2.4 For Stage 18

"[**] upon completion of Stage"

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

As witness the hands of the duly authorized representatives of the parties hereto, the day and year first before written.

Signed by
for and on behalf of Xcyte Therapies Inc. /s/ Ronald J. Berenson

Signed by
for and on behalf of Lonza Biologics plc. /s/ Judith Symes

Exhibit 10.34

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

AMENDMENT NO. 4

TO THE

SERVICES AGREEMENT

between

LONZA BIOLOGICS PLC

and

XCYTE THERAPIES, INC.

RELATING TO [**]

THIS AMENDMENT is made the 30th day of September 2002.

BETWEEN

1. Lonza Biologics plc of 228 Bath Road, Slough, Berkshire SL1 4DY, England (“Biologics”) and

2. Xcyte Therapies Inc. of 1124 Columbia Street, Suite 130, Seattle, Washington 98104, USA (“Customer”).

WHEREAS

A. The parties have entered into an Agreement dated 6th June 2000 relating to the supply of Services (as therein defined), and

B. The parties now wish to amend the terms of the Agreement

THEREFORE it is hereby agreed by and between the parties that the Agreement shall be amended as follows: -

1. Stage 19 shall be added to Schedule 2 as follows:

19.0 **Stage 19 – [**]**

19.1 **Objectives**

19.1.1 Carry out a series of [**] to provide material for [**].

19.1.2 Carry out work to improve the [**] for the clarification of cell line [**], using material from [**].

19.2 **Activities**

19.2.1 Recover [**] from the WCB and [**] to prepare a [**]. [**] to [**] and carry out [**].

19.2.2 Evaluate a range of [**] at [**] for clarification of the [**]. Identify a suitable [**] for further evaluation at [**] or [**].

19.2.3 Further refine [**] of the [**] process, including the [**].

19.2.4 Measure [**] across [**].

19.2.5 Review requirements (if any) for [**] that may be needed following this study. Any such [**] are subject to agreement.

19.2.6 Revise [**] for use in [**], as appropriate.

19.2.7 Produce a [**] detailing the [**] evaluations performed.

19.3 **Timescale**

Stage 19 shall commence upon recovery of a [**] from the WCB. The stage shall be complete with the issue of the summary report and it is estimated that this report will be issued within [**] from the start of the Stage."

2. Schedule 3, Part 1 shall be amended as follows:

"19 [**]"

3. Schedule 3, Part 2 Price shall be amended as follows:

"For Stage 19, [**] of the price on commencement of Stage 19 and [**] upon completion of Stage 19."

As witness the hands of the duly authorized representatives of the parties hereto, the day and year first before written.

Signed by
for and behalf of Xcyte Therapies Inc. /s/ Ronald J. Berenson

Signed by
for and behalf of Lonza Biologics plc. /s/ Judith Symes

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Exhibit 10.35

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

AMENDMENT NO. 5

TO THE

SERVICES AGREEMENT

between

LONZA BIOLOGICS PLC

and

XCYTE THERAPIES INC

RELATING TO [**]

THIS AMENDMENT is made the 5th day of August 2003.

BETWEEN

1. Lonza Biologics plc of 228 Bath Road, Slough, SL1 4DX, Berkshire, England ("LB") and

2. Xcyte Therapies Inc of 1124 Columbia Street, Suite 130, Seattle, Washington 98104, USA ("Customer").

WHEREAS

A. The parties have entered into an Agreement dated 6th June 2000 relating to the supply of Services (as therein defined), and

B. The parties now wish to amend the terms of the Agreement

THEREFORE it is hereby agreed by and between the parties that the Agreement shall be amended as follows: -

1. Stage 20 shall be added to Schedule 2 as follows:

20.0 **"Stage 20— Additional Regulatory Services for [**]**

20.1 **Objectives**

20.1.1 To respond to the FDA questions received by LB regarding [**] on 02nd April 2003.

20.1.2 To prepare the 2003 update of the [**] for [**].

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

20.2 **Activities**

20.2.1 Prepare and submit a draft of the responses to the FDA questions received on 02nd April 2003 to the Customer.

20.2.2 Agree any Customer comments and incorporate them into the responses.

20.2.3 Submit the responses to the FDA and provide a copy of the responses to the Customer.

20.2.4 Prepare and submit a draft of the [**] update for [**] to the Customer.

20.2.5 Agree any Customer comments and incorporate them into the update.

20.2.6 Submit the [**] update to the relevant authorities.

20.2 **Timescale**

Stage 20 shall be completed on submission of the responses to the FDA and submission of the [**] update to the relevant authorities"

2. Schedule 3, Part 1 shall be amended by the inclusion of the following:

Stage	Description	Cost Price (UK £ Sterling)
Stage 20	Additional Regulatory Services for [**]	£ [**]

3. Schedule 3, Part 2 Price shall be amended by the inclusion of the following:

Stage	Payment
Stage 20	[**] upon completion of Stage 20

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

As witness the hands of the duly authorized representatives of the parties hereto, the day and year first before written.

Signed by
for and on behalf of Xcyte Therapies Inc. /s/ Ronald J. Berenson

Signed by
for and on behalf of Lonza Biologics plc. /s/ Judith Symes

Exhibit 10.36

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

AGREEMENT

For Services Relating to the [*]

Expressing [*]

Between

LONZA BIOLOGICS PLC

And

XCYTE THERAPIES, INC.

AGREEMENT

For Services Relating to the **[*]**

Expressing **[*]**

between

LONZA BIOLOGICS PLC

and

XCYTE THERAPIES, INC.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

THIS AGREEMENT is made the 6 day of June, 2000

BETWEEN

1. LONZA BIOLOGICS PLC, the registered office of which is at 228 Bath Road, Slough, Berkshire SL1 4DY, England ("LB"), and

2. XCYTE THERAPIES, INC., of 1124 Columbia Street, Suite 130, Seattle, Washington 98104, USA, ("Customer").

WHEREAS

A. Customer is the proprietor of, or licensed to use, the **[*]** (designated at LB as **[*]**) expressing **[*]**, and

B. LB has the expertise in the development of process for and manufacture of similar products, and

C. Customer wishes to contract with LB for services to develop a Process for and manufacture Product, and

D. LB is prepared to perform such Services for Customer on the terms and conditions set out herein, and

E. LB will where scientifically possible perform such Services in parallel with Services to produce **[*]** for Customer.

NOW THEREFORE it is agreed as follows:

1. In this Agreement, its recitals and the schedules hereto, the words and phrases defined in Schedule 4 hereto and in the Standard Terms for Contract Services set out in Schedule 5 hereto shall have the meanings set out therein.

2. Subject to the Standard Terms for Contract Services set out in Schedule 5 and any Special Terms, LB agrees to perform the Services and the Customer agrees to pay the Price together with any additional costs and expenses that fall due hereunder.

3. 3.1 Any notice or other communication to be given under this Agreement shall be delivered personally or sent by facsimile transmission, or if facsimile transmission is not available, by first class pre-paid post addressed as follows:

3.1.1 if to LB to:

Lonza Biologics plc
228 Bath Road

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

Slough
Berkshire SL1 4DY

Facsimile: 01753 777001
For the attention of the Head of Legal Services

3.1.2 if to the Customer to:

Xcyte Therapies, Inc.
1124 Columbia Street
Suite 130
Seattle
Washington 98104

Facsimile: 206 262 0900
For the attention of Director, Business Development

or to such other destination as either party hereto may hereafter notify to the other in accordance with the provisions of this clause.

3.2 All such notices or other communications shall be deemed to have been served as follows:

3.2.1 if delivered personally, at the time of such delivery;

3.2.2 if sent by facsimile, upon receipt of the transmission confirmation slip showing completion of the transmission;

3.2.3 if sent by first class pre-paid post, ten (10) business days (Saturdays, Sundays and Bank or other public holidays excluded) after being placed in the post.

AS WITNESS the hands of the duly authorised representatives of the parties hereto the day and year first above written.

Signed for and on behalf of
LONZA BIOLOGICS PLC

/s/ Edwin Davies

President
Title

Signed for and on behalf of
XCYTE THERAPIES, INC.

/s/ Ronald Jay Berenson

President & CEO
Title

SCHEDULE 1

[*]

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SCHEDULE 2

SERVICES

CONTENTS

[*]

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SCHEDULE 3

PRICE AND TERMS OF PAYMENT

1.0 Price

In consideration for LB carrying out the Services as detailed in Schedule 2 the Customer shall pay LB, as follows

Stage		Price (UK £ sterling)	
1	[*]	£	105,000
2	[*]	£	64,000(1)
3	[*]	£	73,500
4	[*]	£	26,250
5	[*]	£	79,000
6	[*]	£	295,000(2)
7	[*]	£	17,000(3)
8	[*]	£	40,000(4)
9	[*]	£	30,000
10	[*]	£	57,750
11	[*]	£	12,500 per time point
12	[*]	£	50,000
13	[*]	£	7,000

[*]

2.0 Payment

Payment by the Customer of the Price for each Stage shall be made against LB invoices on the following basis:

[*]

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SCHEDULE 4

[*]

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

SCHEDULE 5

TERMS FOR CONTRACT SERVICES FOR **[*]**
FOR XCYTE THERAPIES, INC.

1. Interpretation

1.1 In these Standard Terms, unless the context requires otherwise:

1.1.1 "Affiliate" means any Company, partnership or other entity which directly or indirectly controls, is controlled by or is under common control with the relevant party to this Agreement. "Control" means the ownership of more than fifty per cent (50%) of the issued share capital or the legal power to direct or cause the direction of the general management and policies of the party in question.

1.1.2 "Agreement" means any contract between LB and a Customer incorporating these Standard Terms.

1.1.3 "Cell Line" means the cell line, particulars of which are set out in Schedule 1.

1.1.4 "cGMP" means Good Manufacturing Practices and General Biologics Products Standards as promulgated under the US Federal Food Drug and Cosmetic Act at 21CFR (Chapters 210, 211, 600 and 610) and the Guide to Good Manufacturing Practices for Medicinal Products as promulgated under European Directive 91/356/EEC. LB's operational quality standards are defined in internal GMP policy documents. Additional product-specific development documentation and validation work may be required to support regulatory applications to conduct clinical trials or market a product.

1.1.5 "Customer" includes any person to whom a Proposal is issued by LB.

1.1.6 "Customer information" means all technical and other information not known to LB or in the public domain relating to the Cell Line, the Process and the Product, from time to time supplied by the Customer to LB.

1.1.7 "Customer Materials" means the Materials supplied by Customer to LB (if any) and identified as such by Schedule 1 hereto.

1.1.8 "Customer Tests" means the tests to be carried out on the Product immediately following receipt of the Product by the Customer, particulars of which are set out in Schedule 1.

1.1.9 "ex works" means LB has fulfilled its obligation to deliver when it has made the object of delivery available at its premises to the Customer or the Customer's agent (or to LB's carrier if the provisions of Clause 5.1 of this Schedule 5 apply). For the avoidance of doubt, unless otherwise agreed in writing, LB is not responsible for loading the object of delivery on to the vehicle provided by the Customer or the Customers agent (or to LB's nominated carrier if Clause 5.1 of this Schedule 5 applies) or for delaying the object of delivery for export.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

1.1.10 “LB Know-How” means all technical and other information relating to the Process known to LB from time to time other than confidential Customer Information and information in the public domain.

1.1.11 “Patent Rights” means all patents and patent applications of any kind throughout the world relating to the Process which from time to time LB is the owner of or is entitled to use but not in any case any patent rights owned or controlled by Customer or its licensor/supplier.

1.1.12 “Price” means the price specified in Schedule 3 for the Services.

1.1.13 “Process” means the process for the production of the Product from the Cell Line, including any improvements thereto from time to time.

1.1.14 “Product” means all or any part of the product (including any sample thereof), particulars of which are set out in Schedule 1.

1.1.15 “Proposal” means any proposal or quotation issued by LB.

1.1.16 “Services” means all or any part of the services the subject of the Agreement or Proposal (including, without limitation, cell culture evaluation, purification evaluation, master, working and extended cell bank creation, and sample and bulk production), particulars of which are set-out in Schedule 2.

1.1.17 “Special Term” means any term additional or supplemental to these Standard Terms from time to time agreed in writing between LB and the Customer. Particulars of any Special Terms at the date of the Agreement are set out in Schedule 4.

1.1.18 “Specification” means the specification for Product, particulars of which are set out In Schedule 1.

1.1.19 “Terms of Payment” means the terms of payment specified in Schedule 3.

1.1.20 “Testing Laboratories” means any third party instructed by LB to carry out tests on the Cell Line or the Product.

1.2 Unless the context requires otherwise, words and phrases defined in any other part of the Agreement shall bear the same meanings in these Standard Terms, references to the singular number include the plural and vice versa, references to Schedules are references to schedules to the Agreement, and references to Clauses are references to clauses of these Standard Terms.

1.3 In the event of a conflict between a Special Term and these Standard Terms, the Special Term shall prevail.

2. Applicability of Standard Terms

2.1 Unless agreed otherwise, these Standard Terms shall apply to every Proposal and Agreement, and to any services additional to the Services requested by a Customer. LB shall not be bound by any terms which may be inconsistent with these Standard Terms and the Special Terms. No variation of or addition to these Standard Terms and the Special Terms or any other term of an Agreement shall be effective unless in writing and signed for and on behalf of LB and Customer. For the avoidance of doubt, amendments to the draft Specification or Specification for Product shall be effective if reduced to writing and signed by the regulatory

representative of both Parties, which regulatory representative shall be nominated from time to time by the parties.

2.2 Unless previously withdrawn, a Proposal is open for acceptance within the period stated therein. Where no period is stated, the Proposal shall be open for acceptance within thirty (30) days from the date it is issued unless withdrawn in the meantime. Any acceptance by a Customer of a Proposal shall not create a binding contract.

2.3 A binding contract shall only be created when LB has accepted in writing an offer placed by a Customer.

3. Supply by Customer

3.1 Prior to or immediately following the date of the Agreement the Customer shall supply to LB the Customer Information, together with full details of any hazards relating to the Cell Line and/or the Customer Materials, their storage and use. On review of this Customer Information, the Cell Line and/or the Customer Materials shall be provided to LB at LB's request. Property in the Cell Line and/or the Customer Materials supplied to LB shall remain vested in the Customer.

3.2 The Customer hereby grants LB **[*]**. LB hereby undertakes not to use the Cell Line, the Customer Materials or the Customer Information (or any part thereof) for any other purpose.

3.3 LB shall:

3.3.1 at all times use all reasonable endeavours to keep the Cell Line and/or the Customer Materials secure and safe from loss and damage in such manner as LB stores its own material of similar nature;

3.3.2 not part with possession of the Cell Line and/or the Customer Materials or the Product, save for the purpose of tests at the Testing Laboratories; and

3.3.3 procure that all Testing Laboratories are subject to obligations of confidence and restrictions to use and transfer substantially in the form of those obligations of confidence imposed on LB under these Standard Terms.

3.4 The Customer warrants to LB that:

3.4.1 the Customer is and shall at all times throughout the duration of the Agreement remain entitled to supply the Cell Line, the Customer Materials and Customer Information to LB;

3.4.2 to the best of the Customer's knowledge and belief the use by LB of the Cell Line, the Customer Materials or and the Customer Information for the Services will not infringe any rights (including, without limitation, any intellectual or industrial property rights) vested in any third party; and

3.4.3 the Customer will notify LB, in writing, immediately it knows or ought to know that it is no longer entitled to supply the Cell Line, the Customer Materials and/or the Customer Information to LB or that the use by LB of the Cell Line, the Customer Materials or the Customer Information for the Services infringes or is alleged to infringe any rights (including, without limitation, any intellectual or industrial property rights) vested in any third party.

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

3.5 Provided that LB gives Customer prompt written notice and full particulars of any claim, tenders to Customer, full control of any defense or settlement and co-operates fully with Customer, the Customer undertakes to indemnify and to maintain LB promptly indemnified against any loss, damage, costs and expenses of any nature (including court costs and legal fees on a full indemnity basis), whether direct or consequential, and whether or not foreseeable or in the contemplation of LB or the Customer, that LB may suffer arising out of or incidental to any breach of the warranties given by the Customer under Clause 3.4 above or any claims alleging LB's use of the Cell Line, the Customer Materials or the Customer Information infringes any rights (including, without limitation, any intellectual or industrial property rights) vested in any third party (whether or not the Customer knows or ought to have known about the same), however it is agreed that LB will retain its own independent legal counsel with settlement of any claim requiring LB's prior written consent which shall not be unreasonably withheld.

3.6 The obligations of LB and the Customer under this Clause 3 shall survive the termination for whatever reason of the Agreement.

4. Provision of the Services

4.1 LB shall diligently carry out the Services as provided in Schedule 2 and shall use all reasonable efforts to achieve the estimated timescales therefor.

4.2 Due to the unpredictable nature of the biological processes involved in the Services, the timescales set down for the performance of the Services (including without limitation the dates for production and delivery of Product) and the quantities of Product for delivery set out in Schedule 2 are estimated only.

4.3 Provided that LB has complied with Section 4.1 the Customer shall not be entitled to cancel any unfulfilled part of the Services or to refuse to accept the Services on grounds of late performance, late delivery or failure to produce the estimated quantities of Product for delivery. LB shall not be liable for any loss, damage, costs or expenses of any nature, whether direct or consequential, occasioned by:

4.3.1 any delay in performance or delivery howsoever caused; or

4.3.2 any failure to produce the estimated quantities of Product for delivery.

4.4 LB shall comply with the regulatory requirements from time to applicable to the Services as set out in Schedule 2 hereto, including without limitation all relevant requirements of current Good Manufacturing Practices under the policies and practices of the US FDA and European Regulatory Authorities and shall consider ICH and other relevant regulatory guidance documents whether or not set forth with precision in said Schedule 2. If the Customer requests LB to comply with any other regulatory or similar legislative requirements LB shall use all reasonable commercial endeavours to do so provided that:

4.4.1 the Customer shall be responsible for informing LB in writing of the precise foreign requirements which the Customer is requesting LB to observe;

4.4.2 such foreign requirements do not conflict with any mandatory requirements under the laws of England;

4.4.3 LB shall be under no obligation to ensure that such written information complies with the applicable requirements of any foreign jurisdiction; and

4.4.4 all costs and expenses incurred by LB in complying with such foreign requirements shall be charged to the Customer in addition to the Price.

4.5 Delivery of Product shall be ex-works LB's premises (Incoterms 1990). Risk in and title to Product shall pass on delivery. Transportation of Product, whether or not under any arrangements made by LB on behalf of the Customer, shall be made at the sole risk and expense of the Customer.

4.6 Unless otherwise agreed, LB shall package and label Product for delivery ex-works in accordance with its standard operating procedures. It shall be the responsibility of the Customer to inform LB in writing in advance of any special packaging and labelling requirements for Product. All additional costs and expenses of whatever nature incurred by LB in complying with such special requirements shall be charged to the Customer in addition to the Price.

5. Transportation of Product and Customer Tests

5.1 If requested by the Customer, LB will (acting as agent of the Customer for such purpose) arrange the transportation of Product from LB's premises to the destination indicated by the Customer together with insurance cover for Product in transit at its invoiced value. All additional costs and expenses of whatever nature incurred by LB in arranging such transportation and insurance shall be charged to the Customer in addition to the Price.

5.2 Where LB has made arrangements for the transportation of Product, the Customer shall diligently examine the Product as soon as practicable after receipt. Notice of all claims (time being of the essence) arising out of:

5.2.1 damage to or total or partial loss of Product in transit shall be given in writing to LB and the carrier within three (3) working days of delivery; or

5.2.2 non-delivery shall be given in writing to LB within ten (10) days after the date of LB's dispatch notice.

5.3 The Customer shall make damaged Product available for inspection and shall comply with the requirements of any insurance policy covering the Product notified by LB to the Customer. LB shall offer the Customer all reasonable assistance (at the cost and expense of the Customer) in pursuing any claims arising out of the transportation of Product.

5.4 Promptly following receipt of Product or any sample thereof, the Customer shall carry out the Customer Tests. PROVIDED ALWAYS the Specification for such Product is not stated to be in draft form, if the Customer Tests show that the Product fails to meet Specification, the Customer shall give LB written notice thereof within forty-five (45) days from the date of delivery of the Product ex-works and shall return such Product to LB's premises for further testing. In the absence of such written notice Product shall be deemed to have been accepted by the Customer as meeting Specification. If LB is satisfied that Product returned to LB fails to meet Specification and that such failure is not due (in whole or in part) to acts or omissions of the Customer or any third party after delivery of such Product ex-works, LB shall at Customer's discretion refund that part of the Price

that relates to the production of such Product or replace such Product at its own cost and expense. In the event Customer requires LB to replace such Product, LB shall be entitled to have regard to its commercial commitments to third parties in the timing of such replacement and will consider Customer's requirements in as fair and equal manner as it considers other third party customer requirements, Customer acknowledges that there may, therefore, be a delay in the timing of the replacement of such Product.

FOR THE AVOIDANCE OF DOUBT, WHERE THE SPECIFICATION IS STATED TO BE IN DRAFT FORM LB SHALL BE OBLIGED ONLY TO USE ITS REASONABLE ENDEAVOURS TO PRODUCE PRODUCT THAT MEETS SPECIFICATION.

5.5 If there is any dispute concerning whether Product returned to LB, fails to meet Specification or whether such failure is due (in whole or in part) to acts or omissions of the Customer or any third party after delivery of such Product ex-works, such dispute shall be referred for decision to an independent expert (acting as an expert and not as an arbitrator) to be appointed by agreement between LB and the Customer or, in the absence of agreement by the President for the time being of the Association of the British Pharmaceutical Industry. The costs of such independent expert shall be borne equally between LB and the Customer. The decision of such independent expert shall be in writing and, save for manifest error on the face of the decision, shall be binding on both LB and the Customer.

5.6 The provisions of Clauses 5.4 and 5.5 shall be the sole remedy available to the Customer in respect of Product that fails to meet Specification.

6. Price and Terms of Payment

6.1 The Customer shall pay the Price in accordance with the Terms of Payment.

6.2 Unless otherwise indicated in writing by LB. all prices and charges are exclusive of Value Added Tax or of any other applicable taxes, levies, imposts, duties and fees of whatever nature imposed by or under the authority of any government or public authority, which shall be paid by the Customer (other than taxes on LB's income). All Invoices are strictly net and payment must be made within thirty (30) days of date of invoice. Payment shall be made without deduction, deferment, set-off, lien or counterclaim of any nature.

6.3 In default of payment on due date:

6.3.1 interest shall accrue on any amount overdue at the rate of **[*]** above the base lending rate from time to time of HSBC Bank plc, interest to accrue on a day to day basis both before and after judgement; and

6.3.2 LB shall, at its sole discretion, and without prejudice to any other of its accrued rights, be entitled to suspend the provision of the Services or to treat the Agreement as repudiated by notice in writing to the Customer exercised at any time thereafter.

7. Warranty and Limitation of Liability

7.1 LB warrants that:

7.1.1 the Services shall be performed in accordance with Clause 4.1; and

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

7.1.2 the Product shall meet Specification on delivery, save where the Specification is stated to be in draft form when LB shall be obliged only to use its reasonable endeavours to produce Product that meets Specification.

7.2 Clause 7.1 is in lieu of all conditions, warranties and statements in respect of the Services and/or the Product whether expressed or implied by statute, custom of the trade or otherwise (including but without limitation any such condition, warranty or statement relating to the description or quality of the Product, its fitness for a particular purpose or use under any conditions whether or not known to LB) and any such condition, warranty or statement is hereby excluded.

7.3 Without prejudice to the terms of Clauses 5.6, 7.1. 7.2, 7.4 and 7.6, the liability of LB for any loss or damage suffered by the Customer as a direct result of any breach of the Agreement or of any other liability of LB (including misrepresentation and negligence or third party claim brought against Customer relating solely to LB know-how) in respect of the Services (including without limitation the production and/or supply of the Product) shall be limited to the payment by LB of damages which shall not exceed **[*]**.

7.4 Subject to Clause 7.6, LB shall not be liable for the following loss or damage howsoever caused (even if foreseeable or in the contemplation of LB or the Customer):

7.4.1 loss of profits, business or revenue whether suffered by the Customer or any other person; or

7.4.2 special, indirect or consequential loss, whether suffered by the Customer or any other person; and

7.4.3 any loss arising from any claim made against the Customer by any other person.

7.5 Provided that LB gives Customer prompt written notice and full particulars of any claim, tenders to Customer, full control of any defense or settlement, and co-operate fully with Customer, the Customer shall indemnify and maintain LB promptly indemnified against all claims, actions, costs, expenses of any nature (including court costs and legal fees on a full indemnity basis) or other liabilities whatsoever in respect of the following, it been agreed, however that LB will retain its own independent legal counsel with settlement of any claim requiring LB's prior written consent which will not be unreasonably withheld:

7.5.1 any liability under the Consumer Protection Act 1987, unless such liability is caused by the negligent act or omission of LB in the production and/or supply of the Product; and

7.5.2 any product liability (other than that referred to in Clause 7.5.1) in respect of Product, unless such liability is caused by the negligent act or omission of LB in the production and/or supply of Product; and

7.5.3 any negligent or willful act or omission of the Customer in relation to the use, processing, storage or sale of the Product.

7.6 Nothing contained in these Standard Terms shall purport to exclude or restrict any liability for death or personal injury resulting directly from negligence by LB in

[*]Certaininformation on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

carrying out the Services or any liability for breach of the implied undertakings of LB as to title.

7.7 The obligations of LB and the Customer under this Clause 7 shall survive the termination for whatever reason of the Agreement.

8. Customer Information, LB Know-How and Patent Rights

8.1 The Customer acknowledges that LB Know-How and LB acknowledges that Customer Information with which it is supplied by the other pursuant to the Agreement is supplied, subject to Clause 8.4, in circumstances imparting an obligation of confidence and each agrees to keep such LB Know-How or such Customer Information secret and confidential and to respect the other's proprietary rights therein and not at any time for any reason whatsoever to disclose or permit such LB Know-How or such Customer Information to be disclosed to any third party save as expressly provided herein.

8.2 The Customer and LB shall each procure that all their respective employees, consultants and contractors having access to confidential LB Know-How or confidential Customer Information shall be subject to the same obligations of confidence as the principals pursuant to Clause 8.1 and shall enter into secrecy agreements in support of such obligations. Insofar as this is not reasonably practicable, the principals shall take all reasonable steps to ensure that any such employees, consultants and contractors are made aware of such obligations.

8.3 LB and the Customer each undertake not to disclose or permit to be disclosed to any third party, or otherwise make use of or permit to be made use of, any trade secrets or confidential information relating to the technology, business affairs or finances of the other, any subsidiary, holding company or subsidiary or any such holding company of the other, or of any suppliers, agents, distributors, licensees or other customers of the other which comes into its possession under this Agreement.

8.4 The obligations of confidence referred to in this Clause 8 shall not extend to any information which:

8.4.1 is or becomes generally available to the public otherwise than by reason of a breach by the recipient party of the provisions of this Clause 8;

8.4.2 is known to the recipient party and is at its free disposal prior to its receipt from the other;

8.4.3 is subsequently disclosed to the recipient party without being made subject to an obligation of confidence by a third party;

8.4.4 LB or the Customer may be required to disclose under any statutory, regulatory or similar legislative requirement, subject to the imposition of obligations of secrecy wherever possible in that relation; or

8.4.5 is developed by any servant or agent of the recipient party without access to or use or knowledge of the information by the disclosing party.

8.5 The Customer acknowledges that:

8.5.1 LB Know-How and the Patent Rights are vested in LB or LB is otherwise entitled thereto; and

8.5.2 the Customer shall not at any time have any right, title, license or interest in or to LB Know-How, the Patent Rights or any other intellectual property rights relating to the Process which are vested in LB or to which LB is otherwise entitled.

8.6 LB acknowledges that:

8.6.1 Customer has undertaken that the Customer Information is vested in the Customer or the Customer is otherwise entitled thereto; and

8.6.2 save as provided herein LB shall not at any time have any right, title, license or interest in or to the Customer information or any other Intellectual Property rights vested in Customer or to which the Customer is entitled.

8.7 The obligations of LB and the Customer under this Clause 8 shall survive the termination for whatever reason of the Agreement.

9. Termination

9.1 If it becomes apparent to either LB or the Customer at any stage in the provision of the Services that it will not be possible to complete the Services for scientific or technical reasons, a sixty (60) day period shall be allowed for discussion to resolve such problems. If such problems are not resolved within such period, LB and the Customer shall each have the right to terminate the Agreement forthwith by notice in writing. In the event of such termination, the Customer shall pay to LB a termination sum calculated by reference to all the Services performed by LB prior to such termination (including a pro rata proportion of the Price for any stage of the Services which is in process at the date of termination) and all expenses reasonably incurred by LB in giving effect to such termination, including the costs of terminating any commitments entered into under the Agreement, such termination sum not to exceed the balance of the Price for the remaining services not yet commenced, LB will engage in good faith efforts to offer to other third party customers those development resources or manufacturing slots which become available due to termination by Customer of this Agreement, and Customer will not be required to pay for that portion of the Services and related expenses that LB is able to charge to such other customers.

9.2 Customer shall be entitled to terminate this Agreement at any time for any reason by sixty (60) days' notice to LB in writing. In the event of Customer serving notice to terminate this Agreement which notice is expressed to be given pursuant to this Clause 9.2, Customer shall:

9.2.1 pay LB a termination sum calculated in accordance with the principles of Clause 9.1 above, and

9.2.2 In the event notice to terminate this Agreement pursuant to this Clause 9.2 is issued to LB within six (6) months of LB's then estimated start date for any stage of the Services which includes cGMP fermentation activities, Customer shall pay LB a sum (to the extent not already payable as noted above in accordance with the principles of Clause 9.1) equal to not less than ten percent (10%) nor more than eighty-five percent (85%) of the full Price of that stage, or those stages, in question, as provided in Clause 9.2.3

below. Such payment shall fall due to LB on or before the date of termination of the Services. For the avoidance of doubt activities relating to cGMP fermentation shall be deemed to commence with the date of removal of the vial of cells for the performance of the fermentation from frozen storage.

9.2.3 In the event of Customer serving notice to terminate this Agreement in the circumstances described in Clause 9.2.2, LB shall use reasonable endeavours to substitute a requirement for the manufacturing slot which becomes available due to Customer of the Agreement. If LB finds such an alternative third party selling the manufacturing slot, which third party requirement is not for business (i.e. LB shall not be required to reschedule parties), the fee payable by Customer under Clause 10% of the price for the manufacturing slot originally amount, if any, by which the fees to be paid for such customer is less than 85% of the price under this originally reserved for Customer. If LB is substitute a third party requirement for the such manner, Customer shall be liable to of the price under this Agreement third party termination by and is successful in previously contracted existing commitments to third parties), the fee payable by Customer under Clause 9.2.2 shall equal the greater of (a) reserved for Customer and (b) the manufacturing slot by such other Agreement for the manufacturing slot unable, by using reasonable endeavours, to manufacturing slot reserved for Customer in pay LB under Clause 9.2.2 a sum equal to 85% for the manufacturing slot.

9.3 LB and the Customer may each terminate the Agreement forthwith by notice in writing to the other upon the occurrence of any of the following events:

9.3.1 if the other commits a breach of the Agreement which (in the case of a breach capable of remedy) is not remedied within thirty (30) days of the receipt by the other of notice identifying the breach and requiring its remedy; or

9.3.2 if the other ceases for any reason to carry on business or compounds with or convenes a meeting of its creditors or has a receiver or manager appointed in respect of all or any part of its assets or is the subject of an application for an administration order or of any proposal for a voluntary arrangement or enters into liquidation (whether compulsorily or voluntarily) or undergoes any analogous act or proceedings under foreign law.

9.4 Upon the termination of the Agreement for whatever reason:

9.4.1 LB shall promptly return all Customer Information to the Customer and shall dispose of or return to the Customer the Customer Materials (and where supplied by Customer the Cell Line) and any materials therefrom, as directed by the Customer;

9.4.2 the Customer shall promptly return to LB all LB Know-How it has received from LB;

9.4.3 the Customer shall not thereafter use or exploit the Patent Rights or the LB Know-How in any way whatsoever;

9.4.4 LB may thereafter use or exploit the Patent Rights or the LB Know-How in any way whatsoever without restriction; and

9.4.5 LB and the Customer shall do all such acts and things and shall sign and execute all such deeds and documents as the other may reasonably require to evidence compliance with this Clause 9.4.

9.5 Termination of the Agreement for whatever reason shall not affect the accrued rights of either LB or the Customer arising under or out of this Agreement and all provisions which are expressed to survive the Agreement shall remain in full force and effect.

10. Force Majeure

10.1 If LB is prevented or delayed in the performance of any of its obligations under the Agreement by Force Majeure and shall give written notice thereof to the Customer specifying the matters constituting Force Majeure together with such evidence as LB reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue, LB shall be excused from the performance or the punctual performance of such obligations as the case may be from the date of such notice for so long as such cause of prevention or delay shall continue.

10.2 The expression “Force Majeure” shall be deemed to include any cause affecting the performance by LB of the Agreement arising from or attributable to acts, events, acts of God, omissions or accidents beyond the reasonable control of LB.

11. Governing Law, Jurisdiction and Enforceability

11.1 The construction, validity and performance of the Agreement shall be governed by the laws of England, to the jurisdiction of whose courts LB and the Customer submit.

11.2 No failure or delay on the part of either LB or the Customer to exercise or enforce any rights conferred on it by the Agreement shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege or further exercise thereof operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

11.3 The illegality or invalidity of any provision (or any part thereof) of the Agreement or these Standard Terms shall not affect the legality, validity or enforceability of the remainder of its provisions or the other parts of such provision as the case may be.

12. Miscellaneous

12.1 Neither party shall be entitled to assign, transfer, charge or in any way make over the benefit and/or the burden of this Agreement without the prior written consent of the other which consent shall not be unreasonably withheld or delayed, save that either LB or the Customer shall respectively be entitled without the prior written consent of the other to assign, transfer, charge, sub-contract, deal with or in any other manner make over the benefit and/or burden of this Agreement to an

Affiliate or to any 50/50 joint venture company of which either party is the beneficial owner or fifty per cent (50%) of the issued share capital thereof or to any company with which either party may merge or to any company to which that party may transfer its assets and undertakings.

12.2 The text of any press release or other communication to be published by or in the media concerning the subject matter of the Agreement shall require the prior written approval of LB and the Customer.

12.3 The Agreement embodies the entire understanding of LB and the Customer and there are no promises, terms, conditions or obligations, oral or written, expressed on implied, other than those contained in the Agreement. The terms of the Agreement shall supersede all previous agreements (if any) which may exist or have existed between LB and the Customer relating to the Services.

Exhibit 10.37

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

AMENDMENT NO. 2

TO THE

SERVICES AGREEMENT

between

LONZA BIOLOGICS PLC

and

XCYTE THERAPIES INC

RELATING TO [**]

THIS AMENDMENT is made the 26th day of August 2002.

BETWEEN

1. Lonza Biologics plc of 228 Bath Road, Slough, SL1 4DX, Berkshire, England ("Biologics") and

2. Xcyte Therapies Inc of 1124 Columbia Street, Suite 130, Seattle, Washington 98104, USA ("Customer").

WHEREAS

A. The parties have entered into an Agreement dated 6th June 2000 (as amended) relating to the supply of Services (as therein defined), and

B. The parties now wish to amend the terms of the Agreement

THEREFORE it is hereby agreed by and between the parties that the Agreement shall be amended as follows: -

1. Stage 14 shall be added to Schedule 2 as follows:

"14.0 Stage 14 – Production of cGMP Product at [**]

14.1 Objectives

14.1.1 To manufacture [**] from a [**] in accordance with the principles of current Good Manufacturing Practice (cGMP).

14.2 Activities

14.2.1 Review status of GMP documentation for GMP manufacture of Product.

14.2.2 Recover [**] from the MCB and [**] to [**].

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

14.2.3 Carry out [**] at [**].

14.2.4 Clarify [**] as specified.

14.2.5 [**] by the [**] established.

14.2.6 Test [**] against the current [**].

14.2.7 Undertake quality assurance review of lot documentation and issue a [**].

14.2.8 Make [**] available to the Customer ex-works with the documents associated with the [**].

14.3 Timescale

Stage 6 will be complete upon issue of the [**] (activity 6.2.7) for the [**]. It is estimated that the [**] for the [**] will be issued [**] from commencement of the batch. "

2. Schedule 3, Part 1 shall be amended as follows:

"**14** Production of cGMP Product at [**] £[**]"

3. Schedule 3, Part 2 Price shall be amended as follows:

"**2.4** For Stage 14

"[**] upon completion of Stage"

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

As witness the hands of the duly authorized representatives of the parties hereto, the day and year first before written.

Signed by
for and on behalf of Xcyte Therapies Inc. /s/ Ronald J. Berenson

Signed by
for and on behalf of Lonza Biologics plc. /s/ Edwin Davies

Exhibit 10.38

Confidential treatment has been requested for portions of this exhibit. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [*****]. A complete version of this exhibit has been filed separately with the Securities and Exchange Commission.

AMENDMENT NO. 3

TO THE

SERVICES AGREEMENT

between

LONZA BIOLOGICS PLC

and

XCYTE THERAPIES INC

RELATING TO [**]

THIS AMENDMENT is made the 5th day of August 2003.

BETWEEN

1. Lonza Biologics plc of 228 Bath Road, Slough, SL1 4DX, Berkshire, England ("LB") and

2. Xcyte Therapies Inc of 1124 Columbia Street, Suite 130, Seattle, Washington 98104, USA ("Customer").

WHEREAS

A. The parties have entered into an Agreement dated 6th June 2000 relating to the supply of Services (as therein defined), and

B. The parties now wish to amend the terms of the Agreement

THEREFORE it is hereby agreed by and between the parties that the Agreement shall be amended as follows:—

1. Stage 15 shall be added to Schedule 2 as follows:

15.0 **"Stage 15— Additional Regulatory Services for [**]**

15.1 **Objectives**

15.1.1 Respond to the FDA questions received by LB regarding [**] 02nd April 2003.

15.1.2 Prepare and submit the [**] for [**].

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

15.2 **Activities**

15.2.1 Prepare and submit a draft of the responses to the FDA questions received on 02nd April 2003 to the Customer.

15.2.2 Agree any Customer comments and incorporate them into the responses.

15.2.3 Submit the responses to the FDA and provide a copy of the responses to the Customer.

15.2.4 Prepare and submit a draft of the [**] update for [**] to the Customer.

15.2.5 Agree any Customer comments and incorporate them into the update.

15.2.6 Submit the [**] update to the relevant authorities.

15.2 **Timescale**

Stage 20 shall be completed on submission of the responses to the FDA and submission of the [**] update to the relevant authorities"

2. Schedule 3, Part 1 shall be amended as follows:

Stage	Description	Cost Price (UK £ sterling)
15	Additional Regulatory Services for [**]	£ [**]

3. Schedule 3, Part 2 Price shall be amended as follows:

Stage	Payment
For Stage 15	[**] upon completion of Stage 15

[*] Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

As witness the hands of the duly authorized representatives of the parties hereto, the day and year first before written.

Signed by
for and on behalf of Xcyte Therapies Inc. /s/ Ronald J. Berenson

Signed by
for and on behalf of Lonza Biologics plc /s/ Judith Symes

Exhibit 10.39

XCYTE THERAPIES, INC.

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is dated as of August 27, 2001 (the "Effective Date"), by and between **Mark Frohlich, MD** ("Employee") and **Xcyte Therapies, Inc.**, a Delaware corporation (the "Company"), and sets forth the terms and conditions with respect to Employee's employment with the Company as of and after the date of this Agreement.

1. **Duties.**

(a) **Position Responsibilities.** Employee shall be employed as Medical Director of Company commencing October 1, 2001 (the "Start Date"). The duties and responsibilities of Employee shall include the duties and responsibilities as attached hereto as *Attachment A* and such other duties and responsibilities as the Chief Executive Officer may from time to time reasonably assign to Employee, in all cases to be consistent with Employee's corporate office and position.

(b) **Obligations to the Company.** Employee agrees to the best of his ability and experience that he will at all times faithfully perform all of the duties and obligations required of and from Employee, consistent and commensurate with Employee's position, pursuant to the terms hereof. During the term of Employee's employment relationship with Company, Employee will not directly or indirectly engage or participate in any business that is competitive in any manner with the TCell therapy business of Company, as a director, officer, advisor or contractor or in any other capacity with respect to any such competitive business. Nothing in this Agreement will prevent Employee from (i) making personal investments in, and sitting on the board of directors or board of advisors of, businesses that are not competitive with the TCell therapy business of Company, or (ii) accepting speaking or presentation engagements in exchange for honoraria or from serving on boards of charitable organizations, provided that such activities listed in (i) and (ii) do not materially interfere with Employee's obligations to Company as described above. Nothing in this Agreement will require Employee to divest of passive investments made prior to this Agreement in a business that is or may be competitive with the TCell therapy business of the Company or from making similar investments in the future provided that Employee is no longer employed by the Company. Employee will comply with and be bound by Company's operating policies, procedures and practices from time to time in effect during the term of Employee's employment.

2. **Confidentiality Agreement.** On or prior to the Start Date, Employee shall sign a Proprietary Information and Invention Assignment Agreement (the "Confidentiality Agreement") substantially in the form attached hereto as *Attachment B*. Employee hereby represents and warrants to Company that he has complied with all obligations under the Confidentiality Agreement since the commencement of discussions with the Company regarding employment and agrees to continue to abide by the terms of the Confidentiality Agreement and further agrees that the provisions of the Confidentiality Agreement shall survive any termination of this Agreement or of Employee's employment relationship with Company.

3. **Compensation.**

(a) **Salary.** Employee shall receive a monthly salary of $14,166.67 (subject to applicable withholding taxes), which is equivalent to $170,000 on an annualized basis (the "Base Salary"). Employee's monthly salary will be payable pursuant to the Company's normal payroll practices.

(b) **Signing Bonus.** Employee shall receive a signing bonus in the amount of $40,000 (subject to applicable withholding) to be paid as soon as practicable following the Effective Date of this Agreement an no later than ten business days after Employee has signed this agreement.

(c) **Home Loan.** The Company will provide you with a loan of $50,000 for use for a down payment on your purchase of a principal residence in the Seattle, Washington area within a reasonable commute to the Company's Seattle facilities, subject to your execution of a full recourse promissory note secured by a security interest in the residence purchased with the proceeds of the loan. The loan will be payable in quarterly installments over a four-year period, and subject to the minimum interest rate determined by the Company's accountants at the time of the loan necessary to avoid adverse accounting charges and the imputation of income. The loan will be payable in full upon your termination of employment. However, within 30 days from the due date of each quarterly installment, provided you remain an employee in good standing on such date, the Company will provide you with a retention bonus equal (on an after-tax basis) to the installment payment then due, which bonus will be subject to and used to offset the amount then due on the loan.

(d) **Stock Options.** The Company will recommend to the Board of Directors of the Company that, at the next Board meeting, following the Employee's Start Date, Employee be granted an option to purchase 40,000 shares of the Company's Common Stock ("Shares") with an exercise price equal to the fair market value on the date of the grant and a vesting schedule as follows: subject to Employee's continued active full-time employment with the Company, 25% of the Shares shall vest on the date that is the one year anniversary of the Vesting Commencement Date (defined by reference to the Employee's Start Date) and an additional 1/48th of the Shares shall vest monthly thereafter until all Shares have vested (total vesting in 48 months), with such additional vesting on Change of Control, as that term is defined in the Company's 2000 Stock Option Plan (the "Stock Option Plan") as is determined by the Board at the time of grant. The option will be an incentive stock option to the maximum extent allowed by the Internal Revenue Code of 1986, as amended, and will be subject to the terms of the Stock Option Plan and the Stock Option Agreement between Employee and the Company.

4. **Benefits.**

(a) **General Benefits.** Employee will be eligible to participate in the Company's employee benefit plans of general application in accordance with the rules established for individual participation in any such plan and under applicable law. Employee will be eligible for such other benefits as the Company generally provides to its other employees of comparable position.

(b) **Vacation.** Employee will be eligible to accrue up to 12 days paid vacation in the first year of service, and 1 additional day per year of service for a maximum accrual of 17 days paid vacation per year, on a pro-rated accrual basis throughout each calendar year, which accrued vacation may be used in the year in which accrued or in a subsequent year, subject to the Company's policies with respect to maximum accrual of unused vacation.

5. **Term; At-Will Employment.** The employment of Employee under this Agreement shall be for an unspecified term. The Company and Employee acknowledge and agree that Employee's employment is and shall continue to be at-will, as defined under applicable law, and that Employee's employment with the Company may be terminated by either party at any time for any or no reason, and with or without notice. If Employee's employment terminates for any reason, Employee shall not be entitled to any payments, benefits, damages award or compensation other than as provided in this Agreement.

6. **Separation Benefits.** Employee shall be entitled to receive separation benefits upon termination of employment only as set forth in this Section 6; provided, however, that in the event Employee is entitled to any severance pay under a Company-sponsored severance pay plan, any such severance pay to which Employee is entitled under such severance pay plan shall reduce the amount of severance pay to which Employee is entitled pursuant to this Section 6. In all cases, upon termination of employment Employee will receive payment for all salary and unused vacation accrued as of the date of Employee's termination of employment and Employee's benefits will be continued under the Company's then existing benefit plans and policies in accordance with such plans and policies in effect on the date of termination and in accordance with applicable law.

(a) **Voluntary Resignation.** If Employee voluntarily elects to terminate Employee's employment with the Company, Employee shall not be entitled to any severance benefits.

(b) **Termination for Cause.** If the Company or its successor terminates Employee's employment for Cause, then Employee shall not be entitled to receive any separation benefits.

(c) **Involuntary Termination.** If Employee's employment is terminated by the Company or its successor under circumstances that constitute an Involuntary Termination, provided Employee signs a general release of claims in the form attached hereto as *Attachment C*, he shall receive (i) continued payment of his base salary until the date that is three (3) months from Employee's Involuntary Termination, subject to applicable withholding taxes, and paid in accordance with the Company's normal payroll schedule commencing after Employee's execution of the general release of claims, (ii) reimbursement for his expenses incurred in continuing his medical insurance for himself and his dependents under the Consolidated Omnibus Budget Reconciliation Act of 1984, as amended ("COBRA"), as applicable, for a period of three (3) months following the commencement of such COBRA continuation coverage, provided Employee makes a timely election for and continues to be eligible for such continued coverage, and (iii) if such termination occurs at any time prior to the date the home loan described in Section 3(c) above would otherwise be offset by the retention bonus payments

described Section 3(c), the Company will provide Employee with a severance payment equal (on an after-tax basis) to the remaining principal then due on the loan together with accrued interest, which severance payment will be subject to and used to offset the total amount then due on the loan.

(d) **Termination by Reason of Death or Disability.** In the event that Employee's employment with the Company terminates as a result of Employee's death or his inability to perform the essential functions of his position with or without reasonable accommodation on account of a mental or physical disability, Employee or Employee's estate or representative, as applicable, will receive all salary and unpaid vacation accrued as of the date of Employee's employment termination and any other benefits payable under the Company's then existing benefit plans and policies in accordance with such plans and policies in effect on the date of termination and in accordance with applicable law.

(e) **Definition of "Involuntary Termination".** For purposes of this Agreement, Employee shall be considered to have been terminated under circumstances that constitute Involuntary Termination if he is terminated by the Company or its successor without Cause (other than on account of death or disability).

(f) **Definition of "Cause".** For purposes of this Agreement, "Cause" for Employee's termination will exist at any time after the happening of one or more of the following events:

(i) Employee's failure to cure, within 30 days after written notice thereof from the Company, his failure to substantially perform his duties hereunder or gross negligence in the performance thereof, or failure to follow Company policy as set forth from time to time or to follow the legal directives of the Company's Chief Executive Officer, so long as such directives are not inconsistent with the Employee's position and duties and this Agreement;

(ii) Employee's act of fraud or embezzlement, or of dishonesty or other misconduct that materially damages the Company, including conviction of a felony;

(iii) Employee's incurable willful breach of any material provision of the Confidentiality Agreement (as defined in Section 2 above), including without limitation, Employee's theft or other misappropriation of the Company's proprietary information.

7. **Conflicts.** Employee represents that his or his performance of all the terms of this Agreement will not breach any other agreement to which Employee is a party. Employee has not, and will not during the term of this Agreement, enter into any oral or written agreement in conflict with any of the provisions of this Agreement.

8. **Successors and Assigns.** The rights and obligations under this Agreement shall benefit and be binding on any successor and/or assign of the Company, and the Company shall cause such successor and/or assign to agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. The terms of this Agreement and all of Employee's rights hereunder shall inure to the benefit of, and be enforceable by, Employee's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. Employee's obligations under this Agreement may not be assigned.

9. **Miscellaneous Provisions.**

(a) **No Duty to Mitigate.** Employee shall not be required to mitigate the amount of any payment contemplated by this Agreement (whether by seeking new employment or in any other manner), nor, except as otherwise provided in this Agreement, shall any such payment be reduced by any earnings that Employee may receive from any other source.

(b) **Amendments and Waivers.** Any term of this Agreement may be amended or waived only with the written consent of the parties.

(c) **Sole Agreement.** This Agreement, including any Attachments hereto, constitutes the sole agreement of the parties and supersedes all oral negotiations and prior writings with respect to the subject matter hereof.

(d) **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by a nationally-recognized delivery service (such as Federal Express or UPS), or 48 hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, if such notice is addressed to the party to be notified at such party's address as set forth below or as subsequently modified by written notice.

(e) **Choice of Law.** The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Washington, without giving effect to the principles of conflict of laws.

(f) **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

(g) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

(h) **Advice of Counsel.** EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES THAT, IN EXECUTING THIS AGREEMENT, SUCH PARTY HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL, AND HAS READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION HEREOF.

The parties have executed this Agreement the date first written above.

XCYTE THERAPIES, INC.

By: /s/ Ronald J. Berenson

Title: President & CEO

Address: 1124 Columbia Street, Suite 130
Seattle, Washington 98104

MARK FROHLICH

Signature: /s/ Mark Frohlich

Address: _____

_____

ATTACHMENT A

XCYTE THERAPIES, INC.
POSITION DESCRIPTION

Date: April 3, 2001

Position Title:	Medical Director
Position Status:	Full-time; Exempt
Reports to:	Chief Executive Officer

This organization believes that each employee makes a significant contribution to our success. That contribution should not be limited by the assigned responsibilities. Therefore, this position description is designed to outline primary duties, qualifications and job scope, but not limit the incumbent nor the organization to just the work identified

Qualifications:

- ***M.D. (oncology, infectious disease experience preferred).***
- ***Pharmaceutical drug development experience a must (4+ years of industry preferred).***
- ***Proven track record in management, product development, and bringing a product to market.***
- ***Outstanding leadership and team skills required.***
- ***Outstanding presentation skills, written and oral, a must.***

Primary Responsibilities:

- Responsible for managing the direction, planning, execution and interpretation of clinical trials/research and the data collection activities.
- Establishes and approves scientific methods for design and implementation of clinical protocols, data collection systems and final reports.
- May recruit clinical investigators and negotiate study design and costs.
- Responsible for directing human clinical trials phases I-IV for Company products under development.
- Responsibilities also include adverse event reporting and safety responsibilities monitoring.
- Coordinates and develops reporting information for reports submitted to the FDA.
- Monitors adherence to protocols and determines study completion.
- May act as consultant/liaison with other corporations when working under licensing agreements.
- Have the ability to develop and co-promote products with strategic partners.
- Represent the Company at scientific, industry and financial community meetings and presentations, as well as other public relations opportunities.
- Will be the Medical Safety Officer for the Company.
- Other duties as assigned.

Supervisory Responsibilities

- Clinical Affairs
- Data Management

Exhibit 10.40

XCYTE THERAPIES, INC.

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is dated as of December 31, 2001 (the "Effective Date"), by and between **Joanna S.L. Black** ("Employee") and **Xcyte Therapies, Inc.**, a Delaware corporation (the "Company"), and sets forth the terms and conditions with respect to Employee's employment with the Company as of and after the date of this Agreement.

1. **Duties.**

(a) **Position Responsibilities.** Employee shall be employed as General Counsel and Director of Business Development of the Company commencing January 28, 2002 (the "Start Date"). The duties and responsibilities of Employee shall include the duties and responsibilities as attached hereto as *Attachment A* and such other duties and responsibilities as the Chief Executive Officer or the Chief Business Officer may from time to time reasonably assign to Employee, in all cases to be consistent with Employee's corporate office and position.

(b) **Obligations to the Company.** Employee agrees to the best of her ability and experience that she will at all times faithfully perform all of the duties and obligations required of and from Employee, consistent and commensurate with Employee's position, pursuant to the terms hereof. During the term of Employee's employment relationship with Company, Employee will not directly or indirectly engage or participate in any business that is competitive in any manner with the business of Company, as a director, officer, advisor or contractor or in any other capacity with respect to any such competitive business. Nothing in this Agreement will prevent Employee from (i) making personal investments in, and sitting on the board of directors or board of advisors of, businesses that are not competitive with the business of Company, or (ii) accepting speaking or presentation engagements in exchange for honoraria or from serving on boards of charitable organizations, provided that such activities listed in (i) and (ii) do not materially interfere with Employee's obligations to Company as described above. Nothing in this Agreement will require Employee to divest of passive investments made prior to this Agreement in a business that is or may be competitive with the business of the Company or from making similar investments in the future provided that Employee is no longer employed by the Company. Employee will comply with and be bound by Company's operating policies, procedures and practices from time to time in effect during the term of Employee's employment.

2. **Confidentiality Agreement.** On or prior to the Start Date, Employee shall sign a Proprietary Information and Invention Assignment Agreement (the "Confidentiality Agreement") substantially in the form attached hereto as *Attachment B*. Employee hereby represents and warrants to Company that she has complied with all obligations under the Confidentiality Agreement since the commencement of discussions with the Company regarding employment and agrees to continue to abide by the terms of the Confidentiality Agreement and further agrees that the provisions of the Confidentiality Agreement shall survive any termination of this Agreement or of Employee's employment relationship with Company.

3. **Compensation.**

(a) **Salary.** Employee shall receive a monthly salary of $12,500 (subject to applicable withholding taxes), which is equivalent to $150,000 on an annualized basis (the "Base Salary"). Employee's monthly salary will be payable pursuant to the Company's normal payroll practices.

(b) **Stock Options.** The Company will recommend to the Board of Directors of the Company that, at the next Board meeting, following the Employee's Start Date, Employee be granted an option to purchase 50,000 shares of the Company's Common Stock ("Shares") with an exercise price equal to the fair market value on the date of the grant and a vesting schedule as follows: subject to Employee's continued active full-time employment with the Company, 25% of the Shares shall vest on the date that is the one year anniversary of the Vesting Commencement Date (defined by reference to the Employee's Start Date) and an additional 1/48th of the Shares shall vest monthly thereafter until all Shares have vested (total vesting in 48 months), with such additional vesting on Change of Control, as that term is defined in the Company's 2000 Stock Option Plan (the "Stock Option Plan") as is determined by the Board at the time of grant. The option will be an incentive stock option to the maximum extent allowed by the Internal Revenue Code of 1986, as amended, and will be subject to the terms of the Stock Option Plan and the Stock Option Agreement between Employee and the Company.

4. **Benefits.**

(a) **General Benefits.** Employee will be eligible to participate in the Company's employee benefit plans of general application in accordance with the rules established for individual participation in any such plan and under applicable law. Employee will be eligible for such other benefits as the Company generally provides to its other employees of comparable position.

(b) **Vacation.** Employee will be eligible to accrue up to 12 days paid vacation in the first year of service, and 1 additional day per year of service for a maximum accrual of 17 days paid vacation per year, on a pro-rated accrual basis throughout each calendar year, which accrued vacation may be used in the year in which accrued or in a subsequent year, subject to the Company's policies with respect to maximum accrual of unused vacation.

5. **Term; At-Will Employment.** The employment of Employee under this Agreement shall be for an unspecified term. The Company and Employee acknowledge and agree that Employee's employment is and shall continue to be at-will, as defined under applicable law, and that Employee's employment with the Company may be terminated by either party at any time for any or no reason, and with or without notice. If Employee's employment terminates for any reason, Employee shall not be entitled to any payments, benefits, damages award or compensation other than as provided in this Agreement.

6. **Separation Benefits.** Employee shall be entitled to receive separation benefits upon termination of employment only as set forth in this Section 6; provided, however, that in the event Employee is entitled to any severance pay under a Company-sponsored severance pay plan, any such severance pay to which Employee is entitled under such severance pay plan shall reduce the amount of severance pay to which Employee is entitled pursuant to this Section 6. In

all cases, upon termination of employment Employee will receive payment for all salary and unused vacation accrued as of the date of Employee's termination of employment and Employee's benefits will be continued under the Company's then existing benefit plans and policies in accordance with such plans and policies in effect on the date of termination and in accordance with applicable law.

(a) **Voluntary Resignation.** If Employee voluntarily elects to terminate Employee's employment with the Company, Employee shall not be entitled to any severance benefits.

(b) **Termination for Cause.** If the Company or its successor terminates Employee's employment for Cause, then Employee shall not be entitled to receive any separation benefits.

(c) **Involuntary Termination.** If Employee's employment is terminated by the Company or its successor under circumstances that constitute an Involuntary Termination, provided Employee signs a general release of claims in the form attached hereto as *Attachment C*, she shall receive (i) continued payment of her base salary until the date that is three (3) months from Employee's Involuntary Termination, subject to applicable withholding taxes, and paid in accordance with the Company's normal payroll schedule commencing after Employee's execution of the general release of claims, and (ii) reimbursement for her expenses incurred in continuing her medical insurance for herself and her dependents under the Consolidated Omnibus Budget Reconciliation Act of 1984, as amended ("COBRA"), as applicable, for a period of three (3) months following the commencement of such COBRA continuation coverage, provided Employee makes a timely election for and continues to be eligible for such continued coverage.

(d) **Termination by Reason of Death or Disability.** In the event that Employee's employment with the Company terminates as a result of Employee's death or her inability to perform the essential functions of her position with or without reasonable accommodation on account of a mental or physical disability, Employee or Employee's estate or representative, as applicable, will receive all salary and unpaid vacation accrued as of the date of Employee's employment termination and any other benefits payable under the Company's then existing benefit plans and policies in accordance with such plans and policies in effect on the date of termination and in accordance with applicable law.

(e) **Definition of "Involuntary Termination".** For purposes of this Agreement, Employee shall be considered to have been terminated under circumstances that constitute Involuntary Termination if she is terminated by the Company or its successor without Cause (other than on account of death or disability).

(f) **Definition of "Cause".** For purposes of this Agreement, "Cause" for Employee's termination will exist at any time after the happening of one or more of the following events:

(i) Employee's failure to cure, within 30 days after written notice thereof from the Company, her failure to substantially perform her duties hereunder or gross negligence in the performance thereof, or failure to follow Company policy as set forth from time to time or to follow the legal directives of the Company's Chief Executive Officer, so long as such directives are not inconsistent with the Employee's position and duties and this Agreement;

(ii) Employee's act of fraud or embezzlement, or of dishonesty or other misconduct that materially damages the Company, including conviction of a felony;

(iii) Employee's incurable willful breach of any material provision of the Confidentiality Agreement (as defined in Section 2 above), including without limitation, Employee's theft or other misappropriation of the Company's proprietary information.

7. **Conflicts.** Employee represents that her performance of all the terms of this Agreement will not breach any other agreement to which Employee is a party. Employee has not, and will not during the term of this Agreement, enter into any oral or written agreement in conflict with any of the provisions of this Agreement.

8. **Successors and Assigns.** The rights and obligations under this Agreement shall benefit and be binding on any successor and/or assign of the Company, and the Company shall cause such successor and/or assign to agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. The terms of this Agreement and all of Employee's rights hereunder shall inure to the benefit of, and be enforceable by, Employee's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. Employee's obligations under this Agreement may not be assigned.

9. **Miscellaneous Provisions.**

(a) **No Duty to Mitigate.** Employee shall not be required to mitigate the amount of any payment contemplated by this Agreement (whether by seeking new employment or in any other manner), nor, except as otherwise provided in this Agreement, shall any such payment be reduced by any earnings that Employee may receive from any other source.

(b) **Amendments and Waivers.** Any term of this Agreement may be amended or waived only with the written consent of the parties.

(c) **Sole Agreement.** This Agreement, including any Attachments hereto, constitutes the sole agreement of the parties and supersedes all oral negotiations and prior writings with respect to the subject matter hereof.

(d) **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by a nationally-recognized delivery service (such as Federal Express or UPS), or 48 hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, if such notice is addressed to the party to be notified at such party's address as set forth below or as subsequently modified by written notice.

(e) **Choice of Law.** The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Washington, without giving effect to the principles of conflict of laws.

(f) **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

(g) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

(h) **Advice of Counsel.** EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES THAT, IN EXECUTING THIS AGREEMENT, SUCH PARTY HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL, AND HAS READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION HEREOF.

The parties have executed this Agreement the date first written above.

XCYTE THERAPIES, INC.

By: /S/ Ronald J. Berenson

Title: President & CEO

Address: 1124 Columbia Street, Suite 130
Seattle, Washington 98104

JOANNA S. L. BLACK

Signature: /S/ Joanna S. L. Black

Address: 1222 Kirkland Avenue
Kirkland, Washington 98033

ATTACHMENT A

XCYTE THERAPIES, INC.
POSITION DESCRIPTION

Date: December 31, 2001

Position Title:	General Counsel and Director Business Development
Position Status:	Full-time; Exempt
Reports to:	Chief Business Officer

This organization believes that each employee makes a significant contribution to our success. That contribution should not be limited by the assigned responsibilities. Therefore, this position description is designed to outline primary duties, qualifications and job scope, but not limit the incumbent nor the organization to just the work identified

Primary Responsibilities:

- Establish the Company's legal department, including developing procedures for review and filing of contracts and other legal documents.
- Manage outside patent counsel and all intellectual property, licensing, patent filing and prosecution related matters.
- Manage outside regulatory counsel and all regulatory and clinical legal matters.
- Manage outside corporate counsel and all legal issues relating to corporate securities, employment, stockholders, the board of directors, and litigation.
- Draft, negotiate and act as a strategic advocate on behalf of the Company in its business development endeavors.
- Take an active role in any initial public offering activities of the Company.
- Other reasonable duties assigned by the Chief Business Officer.

ATTACHMENT C

GENERAL RELEASE OF CLAIMS

This General Release of Claims is made by and between _____ ("Employee") and **Xcyte Therapies, Inc.**, a Delaware corporation (the "Company").

Whereas, in consideration for and contingent upon Employee's release of claims as set forth below, the Company has agreed to provide certain separation benefits to Employee in connection with her termination of employment as set forth in the Employment Agreement between Employee and the Company dated _____, 2001 (the "Separation Benefits"); and

Whereas, Employee acknowledges and agrees that she is not entitled to any severance payment or separation benefits from the Company other than the Separation Benefits and that she is entitled to the Separation Benefits only upon the Release Effective Date of this General Release of Claims; and

Whereas, Employee desires to mutually release the Company and related parties from claims as set forth below;

Employee agrees that the Separation Benefits represents settlement in full of all outstanding obligations owed to Employee by the Company with respect to Employee's employment relationship with the Company and the termination of such relationship. Employee, on behalf of himself and her heirs, executors, representatives, agents, attorneys, successors and assigns, hereby fully and forever releases the Company and its officers, directors, employees, shareholders, agents, attorneys, subscribers, investors, affiliates, predecessors, successors and assigns (hereinafter, "Xcyte Therapies") from any claim, duty, obligation or cause of action relating to any matters of any kind, whether known or unknown, suspected or unsuspected, that she may possess arising from any omissions, acts or facts that have occurred up until and including the date Employee signs this Agreement including, without limitation:

(a) any and all claims relating to or arising from Employee's employment with the Company or its successor and termination of that employment;

(b) any and all claims under Title VII of the Civil Rights Act of 1964, as amended, the Fair Labor Standards Act, the Equal Pay Act of 1963, the Americans With Disabilities Act, the Civil Rights Act of 1991, and Chapter 49.60 of the Revised Code of Washington or any other state and federal laws and regulations relating to employment or employment discrimination;

(c) any and all claims for wrongful termination of employment, breach of contract, breach of a covenant of good faith and fair dealing, violation of public policy, misrepresentation, emotional distress, interference with contract or prospective economic advantage, and defamation;

(d) any and all claims relating to, or arising from, Employee's right to purchase, or actual purchase of shares of stock of the Company;

(e) any and all claims, including, but not limited to, the Employee Retirement Income Security Act of 1974, as amended ("ERISA") related to severance benefits; and

(f) any and all claims for attorney's fees and costs.

Employee and the Company agree that the release set forth herein shall be and remain in effect in all respects as a complete and general release as to the matters released. This release does not extend to Employee's right to vested benefits (other than severance pay) under any Company-sponsored benefit plan covered by ERISA.

Employee agree that she will not assist, encourage, institute or cause to be instituted the filing of any administrative charge or legal proceeding against the Company relating to employment discrimination.

Employee and the Company agree that nothing contained in this Release shall constitute or be treated as an admission of wrongdoing by Employee or the Company.

Employee agrees that at all times in the future she will continue to be bound by the terms and conditions set forth in the Proprietary Information and Invention Assignment Agreement between Employee and the Company executed in connection with the commencement and continuation of her employment, dated _____, 2001 (the "Confidentiality Agreement").

If Employee is forty (40) years of age or older as of the Separation Date, Employee acknowledges that she is knowingly and voluntarily waiving and releasing any rights she may have under the federal Age Discrimination in Employment Act of 1967, as amended ("ADEA"). Employee also acknowledges that the consideration given for the Release above is in addition to anything of value to which she was already entitled. Employee further acknowledges that she has been advised by this writing, as required by the ADEA and as provided under the Older Workers Benefit Protection Act of 1990, that (a) she has the right to consult with an attorney before signing this Release; (b) her Release does not apply to any rights or claims that may arise after the date she signs this Release; (c) she has twenty-one (21) days after receipt of notice of her termination and a copy of this Release in final form within which she may review and consider this Release, discuss it with an attorney of her own choosing, and decide to execute or not execute it (although she may choose to voluntarily execute this Release earlier); (d) she has a period of seven (7) days after she signs this Release to revoke the Release; and (e) this Release will not be effective (the "Release Effective Date") until the eighth day after this Release has been signed by Employee, and only then if Employee does not revoke it. In order to revoke this Release, Employee must deliver to the Company, within seven (7) days after she has signed this Release, a letter stating that she is revoking it. Employee understands that if she chooses to revoke this Release within seven (7) days after she signs it, she will not receive any severance benefits and the Release will have no effect.

If Employee is not forty (40) years of age or older as of the Separation Date, the Release Effective Date will be the date that both parties have signed this Release.

Voluntary Execution of Agreement. This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the parties hereto, with the full intent of releasing all claims. The parties acknowledge that:

(a) They have read this Agreement;

(b) They have been represented in the preparation, negotiation and execution of this Agreement by legal counsel of their own choice or that they have voluntarily declined to seek such counsel;

(c) They understand the terms and consequences of this Agreement and of the releases it contains; and

(d) They are fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates set forth below.

JOANNA S.L. BLACK, an individual

_____

Dated: _____

XCYTE THERAPIES, INC.

By: _____

Its: _____

Dated: _____

Exhibit 23.1

Consent of Ernst & Young LLP, Independent Auditors

We consent to the reference to our firm under the caption “Experts” and to the use of our report dated April 25, 2003, except for the second and fourth paragraphs of Note 1 and Note 13, as to which the date is October 9, 2003, in the Registration Statement (Form S-1) and related Prospectus of Xcyte Therapies, Inc. for the registration of its common stock.

/s/ Ernst & Young LLP

Seattle, Washington
October 10, 2003