UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K/A
(AMENDMENT NO. 1)

CURRENT REPORT

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

Date of Report (Date of earliest event reported): November 18, 2005

INCYTE CORPORATION
(Exact name of registrant as specified in its charter)

Delaware	**0-27488**	**94-3136539**
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification Number)

Experimental Station, Route 141 & Henry Clay Road, Building E336 Wilmington, DE	**19880**
(Address of principal executive offices)	(Zip Code)

(302) 498-6700
(Registrant's telephone number, including area code)

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

- o Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- o Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Incyte Corporation ("Incyte") is filing this Amendment No. 1 to its Current Report on Form 8-K filed with the Securities and Exchange Commission on November 21, 2005 (the "Form 8-K") to update the information set forth in the Form 8-K by amending and restating the disclosure set forth therein.

ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.

On November 18, 2005, Incyte entered into a Collaborative Research and License Agreement (the "License Agreement") with Pfizer Inc. ("Pfizer") for the development, manufacture and marketing of oral CCR2 antagonists. Under the License Agreement, Pfizer received exclusive worldwide development and commercialization rights to Incyte's portfolio of CCR2 antagonist compounds for all indications, excluding multiple sclerosis and one other undisclosed indication, for which Incyte retains exclusive worldwide rights, and certain compounds.

Concurrently with the execution of the License Agreement, Incyte and Pfizer Overseas Pharmaceuticals, a wholly-owned subsidiary of Pfizer ("Pfizer OP"), entered into a Note Purchase Agreement, as described under Items 2.03 and 3.02 below. Pursuant to the Note Purchase Agreement, on February 3, 2006, Incyte issued to Pfizer OP a convertible subordinated promissory note (the "February Note"), as described under Items 2.03 and 3.02 below. The information contained in Items 2.03 and 3.02 with respect to the Note Purchase Agreement and the February Note is hereby incorporated by reference.

The License Agreement was deemed effective on January 5, 2006, following the expiration of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

A copy of the press release dated November 21, 2005 relating to the License Agreement was attached to the Form 8-K as Exhibit 99.1 thereto.

ITEM 2.03 CREATION OF A DIRECT FINANCIAL OBLIGATION OR AN OBLIGATION UNDER AN OFF-BALANCE SHEET ARRANGEMENT OF A REGISTRANT.

In connection with the execution of the License Agreement discussed in Item 1.01 above, on November 18, 2005, Incyte also entered into a Note Purchase Agreement pursuant to which it agreed to sell to Pfizer OP up to $20 million of convertible subordinated promissory notes (the "Notes"). On February 3, 2006, Incyte issued to Pfizer OP the first of the these Notes, the February Note, with a principal amount of $10 million. Pursuant to the Note Purchase Agreement, an additional Note with a principal amount of $10 million will be issued, at Incyte's sole election, if Incyte files an Investigational New Drug Application in an indication retained by Incyte under the License Agreement. Incyte will not pay interest on the principal amount of the Notes and the Notes will mature and be payable in full seven years following the applicable date of issuance. Incyte may not prepay the Notes until after the third anniversary of the date of issuance, at which time Incyte may prepay the Notes without penalty.

Prior to maturity, Pfizer OP may convert all or any portion of the Notes into shares of common stock of Incyte as discussed in more detail in Item 3.02 below. Under the terms of the Note Purchase Agreement and subject to certain limitations, Incyte granted Pfizer OP demand and piggyback registration rights under the Securities Act of 1933 for the shares of Incyte common stock issued upon conversion of the Notes.

If there is an event of default under the terms of the Notes, not cured by Incyte, Pfizer OP can require Incyte immediately to pay the entire unpaid principal amount then outstanding under the Notes. Events of default include Incyte's failure to pay any portion of the principal of the Notes when due or to comply in any material respect with the terms of the Note Purchase Agreement or the License Agreement, the acceleration of an aggregate of $10 million or more in principal amount of Incyte indebtedness or the commencement of a voluntary or involuntary liquidation, reorganization or other relief with respect to Incyte or its debts under a bankruptcy, insolvency or other similar law.

The foregoing summary descriptions of the Note Purchase Agreement and the February Note do not purport to be complete and are qualified in their entirety by reference to the Note Purchase Agreement and the form of Note, which are attached as Exhibits 10.1 and 4.1 hereto, respectively, and incorporated herein by reference.

ITEM 3.02 UNREGISTERED SALES OF EQUITY SECURITIES.

In connection with the License Agreement discussed in Item 1.01 above, on November 18, 2005, Incyte also entered into a Note Purchase Agreement pursuant to which it agreed to sell to Pfizer OP up to $20 million of convertible subordinated notes subject to certain conditions described in Item 2.03 above. On February 3, 2006, Incyte issued to Pfizer OP the February Note, as described in Item 2.03 above. At any time prior to maturity, Pfizer OP may convert all or any portion of outstanding Notes into shares of common stock of Incyte at a conversion price representing a premium to Incyte's common stock price immediately preceding the issuance of the applicable Note. The initial conversion price for the February Note is $6.8423 per share. The conversion prices of the Notes will be appropriately adjusted for stock splits, stock dividends or combinations.

The Notes and any shares of common stock of Incyte issued upon conversion of the Notes (the "Shares") that may be issued to Pfizer OP will be issued in reliance on the exemption from the registration provisions of the Securities Act of 1933 (the "Act") set forth in Section 4(2) promulgated thereunder relating to sales by an issuer not involving a public offering. There was no general solicitation or general advertising of the sale of the Notes or the Shares, Incyte made a reasonable inquiry to determine that the Notes and Shares were being acquired by an "accredited investor" as defined under the Act for investment and not distribution and, prior to the execution of the Note Purchase Agreement, Incyte disclosed that the Notes and the Shares have not been registered under the Act and may not be resold unless they are registered or an exemption from such registration is available. Any Notes or Shares issued pursuant to the Note Purchase Agreement will bear appropriate restrictive legends.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.

(d) **Exhibits**

Exhibit No.	Description
4.1†	Form of Convertible Subordinated Promissory Note.
10.1	Note Purchase Agreement, dated as of November 18, 2005, by and between Incyte Corporation and Pfizer Overseas Pharmaceuticals.
99.1*	Press release dated November 21, 2005.

* Previously filed.
† Confidential treatment has been requested for portions of this exhibit.

SIGNATURE

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

Dated: February 6, 2006

INCYTE CORPORATION

By: /s/ Patricia A. Schreck
Patricia A. Schreck
Executive Vice President and
General Counsel

Confidential Treatment Requested. Confidential portions of this document have been redacted and have been separately filed with the Commission.

THIS SECURITY AND THE SECURITIES ISSUABLE UPON ITS CONVERSION HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY STATE SECURITIES LAWS. THEY MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT AND SUCH LAWS OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION AND, IF REQUESTED BY THE COMPANY, UPON DELIVERY OF AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED. THE TRANSFER OF THIS SECURITY AND THE SECURITIES ISSUABLE UPON ITS CONVERSION ARE ALSO SUBJECT TO CERTAIN TRANSFER RESTRICTIONS CONTAINED IN THAT CERTAIN NOTE PURCHASE AGREEMENT, DATED AS OF NOVEMBER 18, 2005, BETWEEN THE COMPANY AND THE HOLDER.

INCYTE CORPORATION

CONVERTIBLE SUBORDINATED PROMISSORY NOTE

$10,000,000 Wilmington, Delaware
[ ]

INCYTE CORPORATION, a Delaware corporation (the "Company"), for value received, hereby promises to pay to the order of Pfizer Overseas Pharmaceuticals (the "Holder"), or its permitted assigns, the principal sum of Ten Million dollars ($10,000,000), on [ ] (the "Maturity Date"), subject to prior prepayment in accordance with the provisions hereof. The Company will not pay interest on the principal amount of this Note. Payment for all amounts due under this Note shall be made upon the surrender of this Note to the Company at its principal executive offices (or such other office within the United States as shall be designated by the Company to the Holder), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. All amounts payable in cash with respect to this Note shall be made by wire transfer to the Holder; provided that if the Holder shall not have furnished wire instructions in writing to the Company on or prior to the third Business Day immediately prior to the date on which the Company shall make such payment, such payment may be made by U.S. dollar check mailed to the address of the Holder as such address shall appear in the Company's note register. This Note is issued pursuant to that certain Note Purchase Agreement between the Company and the Holder, dated as of November 18, 2005 (the "Purchase Agreement") and in connection with a Collaborative Research and License Agreement dated as of November 18, 2005 by and between the Company and Pfizer Inc. (the "License Agreement"). The Holder of this Note is entitled to the benefits of the registration rights provisions set forth in the Purchase Agreement.

The following is a statement of the rights of the Holder of this Note and the conditions to which this Note is subject, and to which the Holder hereof, by the acceptance of this Note, agrees:

1. Definitions. As used in this Note, the following terms, unless the context otherwise requires, have the following meanings:

(a) "Adjustment Event" has the meaning specified in Section 5.5(k).

(b) "Affiliate" of any specified Person means any other Person that controls, is controlled by or is under common control with such specified Person. For the purposes of this definition, "control", when used with respect to any specified Person, means the actual power, either directly or indirectly through one or more intermediaries, to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlled by" and "under common control with" have meanings correlative to the foregoing.

(c) "Board of Directors" means the Board of Directors of the Company or a committee of such Board duly authorized to act for it hereunder.

(d) "Business Day" means any day except a Saturday, Sunday or legal holiday on which banking institutions in The City of New York are authorized or obligated by law, regulation or executive order to close.

(e) "Closing Sale Price" of the shares of Common Stock or other equity securities on any date means the closing sale price per share (or, if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported in composite transactions for the principal United States securities exchange on which shares of Common Stock or other equity securities are traded or, if the shares of Common Stock or other equity securities are not listed on a United States national or regional securities exchange, as reported by the Nasdaq or by the National Quotation Bureau Incorporated. In the absence of such quotations, the Company shall be entitled to determine the Closing Sale Price on the basis it considers appropriate, which pricing shall be consistent with any price determined under the outstanding 3½% Convertible Subordinated Notes due 2011 of the Company and in any case shall be determined by a method approved by the Holder (which approval shall not be unreasonably withheld). The Closing Sale Price shall be determined without reference to extended or after hours trading.

(f) "Commission" means the United States Securities and Exchange Commission or any successor agency.

(g) "Company" includes any corporation that shall succeed to or assume the obligations of the Company under this Note.

(h) "Common Stock" means any stock of any class of the Company that has no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company and that is not subject to

---

*** Confidential material redacted and filed separately with the Commission.

redemption by the Company. Subject to the provisions of Section 5.6, however, shares issuable on conversion of Notes shall include only shares of the class designated as common stock of the Company at the date of the Purchase Agreement (namely, the Common Stock, $.001 par value) or shares of any class or

classes resulting from any reclassification or reclassifications thereof and that have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company and that are not subject to redemption by the Company; *provided*, that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable on conversion shall be substantially in the proportion that the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

(i) "Conversion Notice" has the meaning specified in Section 5.2.

(j) "Conversion Price" has the meaning specified in Section 5.4.

(k) "Current Market Price" has the meaning specified in Section 5.5(g).

(l) "Designated Event" means that any of the following has occurred:

(i) any Person or group that is a *** becomes the beneficial owner, directly or indirectly, of fifty percent (50%) or more of the outstanding Voting Securities or voting power over Voting Securities of (x) the Company or (y) any one or more Persons which are direct or indirect parent holding companies of the Company or Affiliates controlling the Company (the Company, together with the Persons described in clause (y), each hereinafter referred to, individually, as an "Incyte Group Company" and, collectively, as the "Incyte Group Companies"); or

(ii) any Incyte Group Company enters into an agreement with any Person or group that is a *** providing for the sale or disposition of all or substantially all of the assets of the Incyte Group Companies, on a consolidated basis; or

(iii) any Incyte Group Company enters into an agreement with any Person or group providing for a merger, reorganization, consolidation or other similar transaction (or series of related transactions) of any Incyte Group Company with such Person or any Affiliate of such Person, in each case, that is a *** (other than with any of the Incyte Group Company's Wholly-Owned Subsidiaries) or with such group that contains a ***, that results in the stockholders of the applicable Incyte Group Company immediately before the occurrence of such transaction (or series of transactions) beneficially owning less than a majority of the outstanding Voting Securities or voting power over Voting Securities of the surviving or newly-created entity in such transaction (or series of transactions); or

(iv) any Incyte Group Company, or any Subsidiary thereof or Affiliate controlling any Incyte Group Company, purchases, repays, redeems or otherwise acquires, in each case for cash, at any time or from time to time on or after the date of the Purchase Agreement, beneficial ownership (or enters into any agreement to do the same) of any Indebtedness (other than (x) the 5.5% Convertible Subordinated Notes Due 2007

of the Company currently outstanding or (y) Senior Indebtedness) in an aggregate cumulative principal amount equal to or greater than $188,000,000; or

(v) any Incyte Group Company enters into an agreement with any Person providing for the matters described in subsection (i) or (ii) above; or

(vi) the Common Stock (or other common stock into which this Note is then convertible) is neither listed for trading on a United States national or regional securities exchange nor approved for trading on the Nasdaq National Market.

For purposes of this Section 1(l) only: (A) references to any Incyte Group Company shall be deemed to include all successors in any merger, consolidation, reorganization or similar transaction (or series of related transactions) preceding any transaction (or series of related transactions) described above; (B) "beneficial ownership" (and other correlative terms) means beneficial ownership as defined in Rule 13d-3 under the United States Securities and Exchange Act of 1934, as amended; it being understood and agreed that "beneficial ownership" shall also include any securities which any Person or any of such Person's Affiliates has the right to acquire (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise; (C) "group" means group as defined in the Securities Exchange Act of 1934, as amended, and the rules of the Securities and Exchange Commission thereunder as in effect on the date hereof; (D) "control" (including, with correlative meanings, "controlled by", "controlling" and "under common control with") of an entity means possession, direct or indirect, of (I) the power to direct or cause direction of the management and policies of such entity (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise), or (II) at least fifty percent (50%) of the Voting Securities (whether directly or pursuant to any option, warrant or other similar arrangement) or other comparable equity interests of such entity; and (E) "***" means (x) any *** that had ***, (y) any one or more Persons that are direct or indirect parent holding companies of subsidiaries of the *** described in clause (x) above, or (z) any Affiliate of the *** described in clause (x) above.

(m) "Designated Event Expiration Time" has the meaning specified in Section 4.3(b).

(n) "Designated Event Notice" has the meaning specified in Section 4.3(b).

(o) "Designated Event Prepayment Amount" has the meaning specified in Section 4.3(a).

(p) "Designated Event Prepayment Date" has the meaning specified in Section 4.3(a).

(q) "Designated Event Prepayment Notice" has the meaning specified in Section 4.3(a).

(r) "Determination Date" has the meaning specified in Section 5.5(k)

(s) "Distributed Property" has the meaning specified in Section 5.5(d).

(t) "Ex-Dividend Date" has the meaning specified in Section 5.5(d).

(u) "Expiration Time" has the meaning specified in Section 5.5(f).

(v) "Fair Market Value" has the meaning specified in Section 5.5(g).

(w) "FTC" has the meaning specified in Section 5.10.

(x) "Governmental Authority" means any court, agency, department or other instrumentality of any foreign, federal, state, county, city or other political subdivision.

(y) "HSR Act" has the meaning specified in Section 5.10.

(z) "Holder" has the meaning specified in the preamble of this Note.

(aa) "Indebtedness" means, with respect to any Person, and without duplication, (i) all indebtedness, obligations and other liabilities (contingent or otherwise) of such Person for borrowed money (including obligations of the Person in respect of overdrafts, foreign exchange contracts, commodity contracts, currency exchange agreements, interest rate protection agreements and any loans or advances from banks, whether or not evidenced by notes or similar instruments) or evidenced by bonds, debentures, notes or similar instruments (whether or not the recourse of the lender is to the whole of the assets of such Person or to only a portion thereof), other than any account payable or other accrued current liability or obligation incurred in the ordinary course of business in connection with the obtaining of materials or services; (ii) all reimbursement obligations and other liabilities (contingent or otherwise) of such Person with respect to letters of credit, bank guarantees or bankers' acceptances; (iii) all obligations and liabilities (contingent or otherwise) in respect of leases of such Person required, in conformity with generally accepted accounting principles, to be accounted for as capital lease obligations on the balance sheet of such Person and all obligations and other liabilities (contingent or otherwise) under any lease or related document (including a purchase agreement) in connection with the lease of real property or personal property or assets which provides that such Person is contractually obligated to purchase or cause a third party to purchase the leased property or assets and thereby guarantee a minimum residual value of the leased property or assets to the lessor and the obligations of such Person under such lease or related document to purchase or to cause a third party to purchase such leased property or assets; (iv) all obligations of such Person (contingent or otherwise) with respect to an interest rate or other swap, cap or collar agreement or other similar instrument or agreement or foreign currency hedge, exchange, purchase or similar instrument or agreement; (v) all direct or indirect guarantees or similar agreements by such Person in respect of, and obligations or liabilities (contingent or otherwise) of such Person to purchase or otherwise acquire or otherwise assure a creditor against loss in respect of, indebtedness, obligations or liabilities of another Person of the kind described in clauses (i) through (iv); (vi) any indebtedness or other obligations described in clauses (i) through (v) secured by any mortgage, pledge, lien or other encumbrance existing on property that is owned or held by such Person, regardless of whether the indebtedness or other obligation secured thereby shall have been assumed by such Person; and (vii) any and all deferrals, renewals,

extensions and refundings of, or amendments, modifications or supplements to, any indebtedness, obligation or liability of the kind or type described in clauses (i) through (vi).

(bb) "Maturity Date" has the meaning specified in the preamble of this Note.

(cc) "Non-Payment Default" has the meaning specified in Section 3.2(a).

(dd) "Notes" means this Note and any other note issued pursuant to the Purchase Agreement and held by the Holder or one of its Affiliates or permitted assignees thereunder.

(ee) "Payment Blockage Notice" has the meaning specified in Section 3.2(a).

(ff) "Payment Default" has the meaning specified in Section 3.2(a).

(gg) "Person" means a corporation, an association, a partnership, a limited liability company, an individual, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

(hh) "Prepayment Election Amount" has the meaning specified in Section 4.2.

(ii) "Prepayment Election Date" has the meaning specified in Section 4.2.

(jj) "Prepayment Election Notice" has the meaning specified in Section 4.2.

(kk) "Purchase Agreement" has the meaning specified in the preamble of this Note.

(ll) "Purchased Shares" has the meaning specified in Section 5.5(f).

(mm) "Record Date" has the meaning specified in Section 5.5(g).

(nn) "Representative" means (i) the indenture trustee or other trustee, agent or representative for holders of Senior Indebtedness or (ii) with respect to any Senior Indebtedness that does not have any such trustee, agent or other representative, (A) in the case of such Senior Indebtedness issued pursuant to an agreement providing for voting arrangements as among the holders or owners of such Senior Indebtedness, any holder or owner of such Senior

Indebtedness acting with the consent of the required persons necessary to bind such holders or owners of such Senior Indebtedness and (B) in the case of all other such Senior Indebtedness, the holder or owner of such Senior Indebtedness.

(oo) "Rights" has the meaning specified in Section 5.5(d).

(pp) "Rights Plan" has the meaning specified in Section 5.5(d).

(qq) "Senior Indebtedness" means (i) the principal of, premium, if any, interest (including all interest accruing subsequent to the commencement of any bankruptcy or similar proceeding, whether or not a claim for post-petition interest is allowable as a claim in any such proceeding), and rent payable on or in connection with, and all fees, costs, enforcement expenses, collateral protection expenses and other reimbursement or indemnity obligations in respect of all of the Indebtedness or obligations of the Company to any Person for money

borrowed that is evidenced by a note, bond, debenture, loan agreement, or similar instrument or agreement; (ii) commitment or standby fees due and payable to lending institutions with respect to credit facilities available to the Company; (iii) all of the Company's noncontingent obligations (A) for the reimbursement of any obligator on any letter of credit, banker's acceptance, or similar credit transaction, (B) under interest rate swaps, caps, collars, options and similar arrangements, and (C) under any foreign exchange contract, currency swap arrangement, futures contract, currency option contract, or other foreign currency hedge; (iv) all of the obligations of the Company for the payment of money relating to capital lease obligations; (v) any liabilities of others described in clauses (i) through (iv) that the Company has guaranteed or which are otherwise the Company's legal liability; and (vi) renewals, extensions, refundings, refinancings, restructurings, amendments, and modifications of any such indebtedness or guarantee, other than indebtedness or other obligation of the Company that by its terms is not superior in rights to the payment to this Note; provided that Senior Indebtedness shall not include (1) the Notes, (2) any Indebtedness the instrument creating or evidencing the same or the assumption or guarantee thereof expressly provides that such Indebtedness is "*pari passu*" with or "junior" to the Notes, (3) any obligation of the Company to any Subsidiary, (4) the outstanding 5.5% Convertible Subordinated Notes Due 2007 of the Company and all obligations thereunder, and (5) the outstanding 3½% Convertible Subordinated Notes due 2011 of the Company and all obligations thereunder.

(rr) "Subsidiary" means, with respect to any Person, (i) any corporation, association or other business entity of which more than 50% of the total voting power of shares of capital stock or other equity interest entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of that Person (or a combination thereof) and (ii) any partnership (A) the sole general partner or managing general partner of which is such Person or a subsidiary of such Person or (B) the only general partners of which are such Person or of one or more subsidiaries of such Person (or any combination thereof).

(ss) "Trading Day" has the meaning specified in Section 5.5(g).

(tt) "Trigger Event" has the meaning specified in Section 5.5(d).

(uu) "Voting Securities" means securities of any class or series of a corporation, association or other entity, the holders of which are ordinarily, in the absence of contingencies, entitled to vote generally in matters put before the shareholders or members of such corporation, association or other entity.

(vv) "Wholly-Owned Subsidiary" means, with respect to any entity, a Subsidiary, all of the outstanding Voting Securities of which are owned, directly or indirectly, by such entity.

2. Default and Remedies.

2.1 Events of Default. An "Event of Default" shall occur if one of the following shall have occurred and be continuing:

(a) default in the payment of the principal of this Note when the same shall become due and payable (either at maturity or in connection with any prepayment, by acceleration or otherwise), whether or not such payment is permitted under Section 3; or

(b) default in the payment of the principal of any other Note when the same shall become due and payable (either at maturity or in connection with any prepayment, by acceleration or otherwise), whether or not such payment is permitted under Section 3; or

(c) subject to Section 2.2(a), failure on the part of the Company to comply with any of its obligations in this Note or any other Note, in each case other than any obligation a default in whose performance or breach is elsewhere in this Section 2.1 specifically dealt with; or

(d) subject to Section 2.2(b), failure on the part of the Company to comply (i) in any material respect under the Purchase Agreement, (ii) in any material respect under the License Agreement, or (iii) in any material respect under the Security Agreement; or

(e) default in the Company's obligation to provide a Designated Event Notice upon a Designated Event as provided in Section 4.3(b) or failure by the Company to deliver shares of Common Stock upon conversion of this Note within the time period specified in Section 5.2, and such failure continues for a period of five (5) days; or

(f) default in payments or default in other obligations causing acceleration of Indebtedness (including without limitation the outstanding 5.5% Convertible Subordinated Notes Due 2007 of the Company and the outstanding 3½% Convertible Subordinated Notes due 2011 of the Company) prior to maturity, where the aggregate amount of principal, premium, if any, and accrued interest subject to such default is $10 million or more, unless such Indebtedness is discharged or such acceleration is withdrawn, cancelled or annulled within 10 days of such acceleration; or

(g) the Company shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to the Company or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver,

liquidator, custodian or other similar official of the Company or any substantial part of the property of the Company, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against the Company, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due; or

(h) an involuntary case or other proceeding shall be commenced against the Company seeking liquidation, reorganization or other relief with respect to the Company or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company

or any substantial part of the property of the Company, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) consecutive days.

2.2 Notice and Cure.

(a) A default under Section 2.1(c) above is not an Event of Default until the Holder notifies the Company in writing of the default and the Company does not cure the default within sixty (60) days after receipt of such notice. The notice given pursuant to this Section 2.2 must specify the default, demand that it be remedied and state that the notice is a "Notice of Default."

(b) A default under Section 2.1(d) above is not an Event of Default until the Holder notifies the Company in writing of the default and the Company does not cure the default within thirty (30) days (or such other time period specifically provided for in the applicable agreement) after receipt of such notice. The notice given pursuant to this Section 2.2 must specify the default, demand that it be remedied and state that the notice is a "Notice of Default."

(c) The Company shall promptly notify Holder upon becoming aware of any Event of Default.

2.3 Acceleration. If an Event of Default (other than an Event of Default specified in Section 2.1(g) or (h)) occurs and is continuing, the Holder may, by notice in writing to the Company, declare all unpaid principal to the date of acceleration on this Note then outstanding (if not then due and payable) to be due and payable upon any such declaration, and the same shall become and be immediately due and payable. If an Event of Default specified in Section 2.1(g) or (h) occurs, all unpaid principal of this Note then outstanding shall be immediately and automatically due and payable without necessity of further action. The Holder may at any time, by notice to the Company, rescind an acceleration and its consequences. No such rescission shall affect any subsequent default or impair any right consequent thereto.

2.4 Other Remedies.

(a) Available Remedies. If an Event of Default occurs and is continuing, the Holder may, but shall not be obligated to, pursue any available remedy by proceeding at law or in equity to collect the payment of the principal on this Note or to enforce the performance of any provision of this Note.

(b) Remedies Not Exclusive. A delay or omission by the Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

3. Subordination.

3.1 Agreement of Subordination.

(a) The Company covenants and agrees, and the Holder by its acceptance thereof likewise covenants and agrees, that this Note shall be issued subject to the provisions of this

Section 3, and each Person holding this Note, whether upon original issue or upon registration of transfer, assignment or exchange thereof, accepts and agrees to be bound by such provisions.

(b) The payment of the principal of this Note (including, but not limited to, the Prepayment Election Amount or the Designated Event Prepayment Amount) shall, to the extent and in the manner hereinafter set forth, be subordinated and subject in right of payment to the prior payment in full of all Senior Indebtedness, whether outstanding at the date of this Note or thereafter incurred.

(c) No provision of this Section 3 shall prevent the occurrence of any default or Event of Default hereunder or have any effect on the rights of the Holder to accelerate the maturity of this Note. Notwithstanding anything to the contrary contained herein, the provisions of this Section 3 shall only apply with respect to principal payments under this Note and, for the avoidance of doubt, shall not apply in any respect to any other payments by the Company or its Affiliates in any other manner or circumstance (whether under the License Agreement or otherwise).

3.2 No Payments to the Holder Upon Defaults Relating to Senior Indebtedness.

(a) No payment shall be made with respect to the principal of this Note (including, but not limited to, the Prepayment Election Amount or the Designated Event Prepayment Amount or any other payment payable in respect of this Note), if:

(i) a default in the payment of principal (including any letter of credit reimbursement obligations), premium, if any, interest, rent, commissions or other obligations in respect of Senior Indebtedness occurs and is continuing (or, in the case of Senior Indebtedness for which there is a period of grace, in the event of such a default that continues beyond the period of grace, if any, specified in the instrument or lease evidencing such Senior Indebtedness) (a "Payment Default"); or

(ii) a default, other than a Payment Default, on any Senior Indebtedness occurs and is continuing that permits holders of such Senior Indebtedness to accelerate its maturity without further notice (except such notice as may be required to effect such acceleration) (or in the case of any lease that is Senior Indebtedness, a default occurs and is continuing that permits the lessor to either terminate the lease or require the Company to make an irrevocable offer to terminate the lease following an event of default thereunder) and the Holder receives a notice of the default (a "Payment Blockage Notice") from a holder of Senior Indebtedness or a Representative of Senior Indebtedness (a "Non-Payment Default").

If the Holder receives any Payment Blockage Notice pursuant to clause (ii) above, no subsequent Payment Blockage Notice shall be effective for purposes of this Section 3.2 unless and until at least 365 days shall have elapsed since the initial effectiveness of the immediately prior Payment Blockage Notice. No Non-Payment Default that existed

or was continuing on the date of delivery of any Payment Blockage Notice to the Holder shall be, or be made, the basis for a subsequent Payment Blockage Notice.

(b) The Company may and shall resume payments on and distributions in respect of this Note (including, but not limited to, the Prepayment Election Amount or the Designated Event Prepayment Amount):

(i) in the case of a Payment Default, the date upon which any such Payment Default is cured or waived or ceases to exist, or

(ii) in the case of a Non-Payment Default, the earlier of (A) the date upon which such default is cured or waived or ceases to exist or (B) 179 days after the applicable Payment Blockage Notice is received by the Holder if the maturity of such Senior Indebtedness has not been accelerated and there is no Payment Default (or in the case of any lease, 179 days after notice is received if the Company and the Holder have not received notice that the lessor under such lease has exercised its right to terminate the lease or require the Company to make an irrevocable offer to terminate the lease following an event of default thereunder and there is no Payment Default), unless this Section 3 otherwise prohibits the payment or distribution at the time of such payment or distribution.

3.3 Payments Over To Senior Indebtedness Upon Dissolution. Upon any payment by the Company, or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to creditors upon any dissolution or winding up or liquidation or reorganization of the Company, whether voluntary or involuntary or in bankruptcy, insolvency, receivership or other proceedings, all amounts due or to become due upon all Senior Indebtedness shall first be paid in full before any payment is made on account of the principal of this Note, and upon any such dissolution or winding up or liquidation or reorganization of the Company or bankruptcy, insolvency, receivership or other similar proceeding, any payment by the Company, or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to which the Holder would be entitled in respect of the principal of this Note, except for the provisions of this Section 3, shall (except as aforesaid) be paid by the Company or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other Person making such payment or distribution, or by the Holder if received by it, directly to the holders of Senior Indebtedness (pro rata to such holders on the basis of the respective amounts of Senior Indebtedness held by such holders, or as otherwise required by law or a court order) or their Representative or Representatives, as their respective interests may appear, to the extent necessary to pay all Senior Indebtedness in full, after giving effect to any concurrent payment or distribution to or for the holders of Senior Indebtedness, before any payment or distribution is made to the Holder.

For purposes of this Section 3, the words, "Cash, Property or Securities" shall not be deemed to include shares of Common Stock of the Company as reorganized or readjusted, or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment, the payment of which is subordinated at least to the extent provided in this Section 3 with respect to this Note to the payment of all Senior Indebtedness which may at the time be outstanding; *provided* that (i) the Senior Indebtedness is assumed by the new corporation, if any,

resulting from any reorganization or readjustment, and (ii) the rights of the holders of Senior Indebtedness (other than leases which are not assumed by the Company or the new corporation, as the case may be) are not, without the consent of such holders, altered by such reorganization or readjustment. The consolidation of the Company with, or the merger of the Company into, another corporation or the liquidation or dissolution of the Company following the conveyance or transfer of its property as an entirety, or substantially as an entirety, to another Person upon the terms and conditions provided for in Section 6 shall not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of this Section 3.3 if such other Person shall, as a part of such consolidation, merger, conveyance or transfer, comply with the conditions stated in Section 6.

3.4 Prior Payment of Senior Indebtedness Upon Acceleration of Notes. If the maturity of this Note has been accelerated because of an Event of Default, no payment or distribution shall be made to the Holder in respect of the principal of this Note (including, but not limited to, the Prepayment Election Amount or the Designated Event Prepayment Amount), until all Senior Indebtedness has been paid in full or such acceleration is rescinded in accordance with the terms of this Note. If payment of this Note is accelerated because of an Event of Default, the Company shall promptly notify holders of Senior Indebtedness of the acceleration. The Company shall promptly notify the Holder of notice of acceleration received in respect of the repayment of any Senior Indebtedness or any other Indebtedness.

3.5 Payment Over To Senior Indebtedness. In the event that, notwithstanding Sections 3.2, 3.3 or 3.4, any payment or distribution of assets of the Company of any kind or character in respect of the principal of this Note, whether in cash, property or securities (including, without limitation, by way of setoff or otherwise), prohibited by Section 3.2, 3.3 or 3.4 shall be received by the Holder before all Senior Indebtedness is paid in full or provision is made for such payment thereof in accordance with its terms to the extent that the Holder has acquired notice, by whatever means, that all Senior Indebtedness has not been paid in full, such payment or distribution shall be held in trust for the benefit of and shall be paid over or delivered to the holders of Senior Indebtedness or their Representative or Representatives, as their respective interests may appear, as calculated by the Company, for application to the payment of any Senior Indebtedness remaining unpaid to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution to or for the holders of such Senior Indebtedness.

3.6 Subrogation. Subject to the payment in full of all Senior Indebtedness, the rights of the Holder with respect to principal payments under this Note shall be subrogated to the extent of the payments or distributions made to the holders of such Senior Indebtedness pursuant to the provisions of this Section 3 (equally and ratably with the holders of all Indebtedness of the Company which by its express terms is subordinated to other Indebtedness of the Company to substantially the same extent as the Note is subordinated and is entitled to like rights of subrogation) to the rights of the holders of Senior Indebtedness to receive payments or distributions of cash, property or securities of the Company applicable to the Senior Indebtedness until the principal of this Note shall be paid in full, and, for the purposes of such subrogation, no payments or distributions to the holders of the Senior Indebtedness of any cash, property or securities to which the Holder would be entitled except for the provisions of this Section 3, and no payment pursuant to the provisions of this Section 3, to or for the benefit of the holders of

Senior Indebtedness by Holder, shall, as among the Company, its creditors other than holders of Senior Indebtedness, and the Holder, be deemed to be a payment by the Company to or on account of the Senior Indebtedness, and no payments or distributions of cash, property or securities to or for the benefit of the Holder pursuant to the subrogation provisions of this Section 3, which would otherwise have been paid to the holders of Senior Indebtedness, shall, as among the Company and its creditors other than the Holder, be deemed to be a payment by the Company to or for the account of the Note. It is understood that the provisions of this Section 3 are intended solely for the purposes of defining the relative rights of the Holder, on the one hand, and the holders of the Senior Indebtedness, on the other hand.

3.7 Payment Obligations Unconditional. Nothing contained in this Section 3 or elsewhere in this Note is intended to or shall impair, as among the Company, its creditors other than the holders of Senior Indebtedness, and the Holder, the obligation of the Company, which is absolute and unconditional, to pay to the Holder the principal of this Note as and when the same shall become due and payable in accordance with its terms, or is intended to or shall affect the relative rights of the Holder and creditors of the Company other than the holders of the Senior Indebtedness, nor shall anything herein prevent the Holder from exercising all remedies otherwise permitted by applicable law upon default under this Note, subject to the rights, if any, under this Section 3 of the holders of Senior Indebtedness in respect of cash, property or securities of the Company received upon the exercise of any such remedy.

3.8 No Impairment of Subordination. No right of any present or future holder of any Senior Indebtedness to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms, provisions and covenants of this Note, regardless of any knowledge thereof which any such holder may have or otherwise be charged with. Senior Indebtedness may be created, renewed or extended and holders of Senior Indebtedness may exercise any rights under any instrument creating or evidencing such Senior Indebtedness, including, without limitation, any waiver of default thereunder, without any notice to or consent from the Holder. No compromise, alteration, amendment, modification, extension, renewal or other change of, or waiver, consent or other action in respect of, any liability or obligation under or in respect of the Senior Indebtedness or any terms or conditions of any instrument creating or evidencing such Senior Indebtedness shall in any way alter or affect any of the provisions of this Section 3 or the subordination of the Note provided hereby.

3.9 Certain Conversions Not Deemed Payment. For the purposes of this Section 3 only, (a) the issuance and delivery of Junior Securities upon conversion of this Note in accordance with Section 5 and (b) the payment, issuance or delivery of cash, property or securities upon conversion of this Note as a result of any transaction specified in Section 5.6 shall not be deemed to constitute a payment or distribution on account of the principal of this Note. For the purposes of this Section 3.9, the term “Junior Securities” means (a) Common Stock of the Company or (b) securities of the Company that are subordinated in right of payment to all Senior Indebtedness that may be outstanding at the time of issuance or delivery of such securities to substantially the same extent as, or to a greater extent than, this Note is so subordinated as provided in this Section 3. Nothing contained in this Section 3 or elsewhere in this Note is intended to or shall impair, as among the Company, its creditors (other than holders

of Senior Indebtedness) and the Holder, the right, which is absolute and unconditional, of the Holder to convert this Note in accordance with Section 5.

3.10 Senior Indebtedness Entitled to Rely. The holders of Senior Indebtedness shall have the right to rely upon the provisions of this Section 3, and no amendment or modification of the provisions contained herein shall diminish the rights of such holders unless such holders shall have agreed in writing thereto.

3.11 Reliance on Judicial Order or Certificate of Liquidating Agent. Upon any payment or distribution of assets of the Company referred to in this Section 3, the Holder shall be entitled to rely upon any order or decree entered by any court of competent jurisdiction in which such insolvency, bankruptcy, receivership, liquidation, reorganization, dissolution, winding up or similar case or proceeding is pending, or a certificate of the trustee in bankruptcy, liquidating trustee, custodian, receiver, assignee for the benefit of creditors, agent or other Person making such payment or distribution, delivered to the Holder, for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the holders of Senior Indebtedness and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Section 3.

4. Prepayment.

4.1 Prepayment at Option of the Company. The Company may not prepay this Note prior to [ ]. At any time on or after [ ] and prior to maturity, this Note may be prepaid at the option of the Company, in whole or in part (in increments of at least $500,000 and multiples of $10,000 thereafter in any one payment (or, if the principal amount of this Note then outstanding is less than $500,000, such principal amount then outstanding)), at any time and from time to time, upon notice as set forth in Section 4.2 at a price equal to 100% of the principal amount thereof.

4.2 Notice of Prepayment. In case the Company shall desire to exercise the right to prepay all or, as the case may be, any part of this Note pursuant to Section 4.1, it shall fix a date for prepayment (the “Prepayment Election Date”) and it shall mail or cause to be mailed a notice of such prepayment (a “Prepayment Election Notice”) not fewer than twenty (20) nor more than sixty (60) days prior to the Prepayment Election Date to the Holder. Such mailing shall be by first class mail or overnight courier service. The Prepayment Election Notice shall state:

(i) the Prepayment Election Date;

(ii) the amount of the prepayment (the "Prepayment Election Amount");

(iii) that payment will be made upon presentation and surrender of this Note;

(iv) the current Conversion Price;

(v) the date on which the right to convert this Note into Common Stock will expire;

(vi) in case this Note is to be prepaid in part only, that, on and after the Prepayment Election Date, upon surrender of this Note, a new Note in principal amount equal to the portion of this Note not prepaid will be issued; and

(vii) that, unless the Company defaults in paying the Prepayment Election Amount on the Prepayment Election Date, the only remaining right of the Holder in respect of the Prepayment Election Amount shall be to receive payment of the Prepayment Election Amount.

4.3 Prepayment at Option of Holder Upon a Designated Event.

(a) If there shall occur a Designated Event at any time prior to maturity of this Note, then the Holder shall have the right, at the Holder's option, to require the Company to prepay this Note, or any portion thereof that is at least $500,000 and multiples of $10,000 thereafter (or, if the principal amount of this Note then outstanding is less than $500,000, such principal amount then outstanding) (such amount to be prepaid, the "Designated Event Prepayment Amount"), on the date (the "Designated Event Prepayment Date") specified by the Company that is not less than twenty (20) Business Days and not more than thirty-five (35) Business Days after the date of the Designated Event Notice (as defined in Section 4.3(b)) of such Designated Event at a price equal to 100% of the principal amount thereof. Prepayment of this Note under this Section 4.3 shall be made, at the option of the Holder, upon:

(i) delivery to the Company by the Holder of a duly completed notice (the "Designated Event Prepayment Notice") in the form attached to this Note prior to the close of business on the Designated Event Prepayment Date; and

(ii) delivery of this Note to the Company at any time after delivery of the Designated Event Prepayment Notice, such delivery being a condition to receipt by the Holder of the Designated Event Prepayment Amount therefor.

Notwithstanding anything herein to the contrary, the Holder shall have the right to withdraw any Designated Event Prepayment Notice at any time prior to the close of business on the Designated Event Prepayment Date by delivery of a written notice of withdrawal to the Company.

(b) Within ten (10) days after the occurrence of a Designated Event, the Company shall mail or cause to be mailed to the Holder a notice (the "Designated Event Notice") of the occurrence of such Designated Event and of the prepayment right at the option of the Holder arising as a result thereof. Such mailing shall be by first class mail. The Designated Event Notice shall state:

(i) the date of the Designated Event;

(ii) the circumstances constituting the Designated Event;

(iii) that the Holder has the right, at the Holder's option, to require the Company to prepay this Note, or any portion thereof that is a minimum of $500,000 and multiples of $10,000 thereafter (or, if the principal amount of this

Note then outstanding is less than $500,000, such principal amount then outstanding);

(iv) that the Holder must exercise the prepayment right on or prior to the close of business on the Designated Event Prepayment Date (the "Designated Event Expiration Time");

(v) that the holder shall have the right to withdraw any Designated Event Prepayment Notice prior to the Designated Event Expiration Time;

(vi) a description of the procedure which the Holder must follow to exercise such prepayment right and to withdraw any Designated Event Prepayment Notice; and

(vii) the place where the Holder is to surrender this Note and deliver its Designated Event Prepayment Notice.

(c) Upon receipt by the Company of the Designated Event Prepayment Notice specified in Section 4.3(a), the Holder shall (unless such Designated Event Prepayment Notice is withdrawn as specified in this Section 4.3) thereafter be entitled to receive on the Designated Event Prepayment Date the Designated Event Prepayment Amount with respect to this Note. Any principal amount of this Note in respect of which a Designated Event Prepayment Notice has been given by the Holder may not be converted into shares of Common Stock pursuant to Section 5 on or after the date of the delivery of such Designated Event Prepayment Notice unless such Designated Event Prepayment Notice has first been validly withdrawn. No failure of the Company to give the foregoing notices and no defect therein shall limit the Holder's repurchase rights or affect the validity of the proceedings for the repurchase of the Note pursuant to this Section 4.3.

5. Conversion.

5.1 Right To Convert. Subject to and upon compliance with the provisions of this Note, the Holder shall have the right, at any time and from time to time prior to the Maturity Date, at the Holder's option, to convert the principal amount of this Note, or any portion of such principal amount that is a multiple of $1,000, into fully paid and non-assessable shares of Common Stock (as such shares shall then be constituted) at the Conversion Price in effect at such time, by surrender of this Note so converted in the manner provided in Section 5.2.

If all or any part of this Note is to be prepaid pursuant to Section 4.1, the conversion right specified in this Section 5.1 shall terminate as to the principal amount to be prepaid at the close of business on the Business Day immediately preceding the Prepayment Election Date (unless the Company shall default in paying the Prepayment Election Amount specified in the Prepayment Election Notice with respect thereto when due, in which case such conversion right shall terminate at the close of business on the date such default is cured in full).

If the Holder elects to exercise its option to require the Company to prepay this Note upon a Designated Event pursuant to Section 4.3, this Note may be converted only if the Holder withdraws its election in accordance with Section 4.3. The Holder shall not be entitled to any

rights of a holder of Common Stock until the Holder has converted this Note into Common Stock, and only to the extent this Note is deemed to have been converted into Common Stock under this Section 5.

5.2 Exercise Of Conversion Right; Issuance Of Common Stock On Conversion. In order to exercise the conversion right with respect to this Note, the Company must receive this Note with the original or facsimile of the form entitled "Conversion Notice" attached hereto, duly completed and manually signed. Such notice shall also state the name or names (with address or addresses) in which the certificate or certificates for shares of Common Stock that shall be issuable on such conversion shall be issued, and shall be accompanied by transfer or similar taxes, if required pursuant to Section 5.7.

As promptly as practicable after satisfaction of the requirements for conversion set forth above, subject to compliance with any restrictions on transfer if shares issuable on conversion are to be issued in a name other than that of the Holder (as if such transfer were a transfer of this Note (or portion thereof so converted)), the Company shall issue and shall deliver to the Holder a certificate or certificates for the number of full shares of Common Stock issuable upon the conversion of such Security or portion thereof as determined by the Company in accordance with the provisions of this Section 5 and a check or cash in respect of any fractional interest in respect of a share of Common Stock arising upon such conversion, calculated by the Company as provided in Section 5.3. In case this Note shall be surrendered for partial conversion, the Company shall execute and deliver to the Holder a new note in an aggregate principal amount equal to the unconverted portion of this Note.

Each conversion shall be deemed to have been effected as to this Note (or portion thereof) on the date on which the requirements set forth above in this Section 5.2 have been satisfied as to this Note (or portion thereof), and the Person in whose name any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become on said date the holder of record of the shares represented thereby; *provided* that any surrender for conversion of this Note on any date when the stock transfer books of the Company shall be closed shall constitute the Person in whose name the certificates are to be issued as the record holder thereof for all purposes on the next succeeding day on which such stock transfer books are open, but such conversion shall be at the Conversion Price in effect on the date upon which this Note shall be surrendered.

5.3 Cash Payments in Lieu of Fractional Shares. No fractional shares of Common Stock or scrip certificates representing fractional shares shall be issued upon conversion of this Note. If more than one Note shall be surrendered for conversion at one time by the Holder, the number of full shares that shall be issuable upon conversion shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted hereby) so surrendered. If any fractional share of stock would be issuable upon the conversion of this Note, the Company shall make an adjustment and payment therefor in cash at the current market price thereof to the Holder. For purposes of this Section 5.3 only, the current market price of a share of Common Stock shall be the Closing Sale Price on the last Trading Day immediately preceding the day on which this Note (or the specified portion thereof) is deemed to have been converted.

5.4 Conversion Price. Subject to Section 5, the price at which shares of Common Stock shall be delivered upon conversion of this Note (the "Conversion Price") shall be initially $[ ]per share. The Conversion Price shall be adjusted in certain instances as provided in this Section 5. Accordingly, subject to the provisions of this Note, at any time prior to the Maturity Date, the Holder shall have the right, at its option, to convert each $1,000 principal amount of this Note into a number of shares of Common Stock equal to the quotient obtained by dividing (a) 1,000 by (b) the Conversion Price.

5.5 Adjustment Of Conversion Price. The Conversion Price shall be adjusted from time to time by the Company as follows:

(a) In case the Company shall hereafter pay a dividend or make a distribution to all holders of the outstanding shares of Common Stock in shares of Common Stock, the Conversion Price shall be reduced so that the same shall equal the price determined by dividing the Conversion Price in effect at the opening of business on the date following the Record Date for such dividend or distribution by a fraction,

(i) the numerator of which shall be the sum of the number of shares of Common Stock outstanding at the close of business on such Record Date plus the total number of shares of Common Stock constituting such dividend or other distribution; and

(ii) the denominator of which shall be the number of shares of Common Stock outstanding at the close of business on such Record Date,

such decrease to become effective immediately after the opening of business on the day following such Record Date. If any dividend or distribution of the type described in this Section 5.5(a) is declared but ultimately not so paid or made, the Conversion Price shall again be adjusted to the Conversion Price that would then be in effect if such dividend or distribution had not been declared.

(b) In case the Company shall issue rights or warrants to all holders of its outstanding shares of Common Stock entitling them (for a period expiring within forty-five (45) days after the Record Date for the issuance of such rights and warrants) to subscribe for or purchase shares of Common Stock at a price per share less than the average of the Closing Sale Prices of the Common Stock for the ten (10) Trading Days immediately preceding the date such

distribution is first publicly announced by the Company (other than any rights or warrants referred to in Section 5.5(d) or Rights (as defined in Section 5.5(d)) distributed pursuant to a Rights Plan (as defined in Section 5.5(d))), the Conversion Price shall be reduced so that the same shall equal the price determined by dividing the Conversion Price in effect immediately prior to such Record Date by a fraction,

(i) the numerator of which shall be the number of shares of Common Stock outstanding on such Record Date plus the total number of additional shares of Common Stock offered for subscription or purchase, and

(ii) the denominator of which shall be the sum of the number of shares of Common Stock outstanding at the close of business on such Record Date plus

the number of shares that the aggregate offering price of the total number of shares so offered would purchase at a price equal to the average of the Closing Sale Prices of the Common Stock for the ten (10) Trading Days immediately preceding the date such distribution is first publicly announced by the Company.

Such adjustment shall be successively made whenever any such rights or warrants are issued, and shall become effective immediately after the opening of business on the day following the Record Date for the issuance of such rights or warrants. To the extent that shares of Common Stock ultimately are not delivered after the expiration of such rights or warrants, the Conversion Price shall be readjusted to the Conversion Price that would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights or warrants ultimately are not so issued, the Conversion Price shall again be adjusted to be the Conversion Price that would then be in effect if such Record Date had not been fixed. In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at a price less than the average of the Closing Sale Prices of the Common Stock for the ten (10) Trading Days immediately preceding the date such distribution is first publicly announced by the Company, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors with the consent of the Holder (not to be unreasonably withheld).

(c) In case outstanding shares of Common Stock shall be subdivided into a greater number of shares of Common Stock, the Conversion Price in effect at the opening of business on the day following the day upon which such subdivision becomes effective shall be proportionately reduced, and conversely, in case outstanding shares of Common Stock shall be combined into a smaller number of shares of Common Stock, the Conversion Price in effect at the opening of business on the day following the day upon which such combination becomes effective shall be proportionately increased, such reduction or increase, as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision or combination becomes effective.

(d) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock shares of any class of capital stock of the Company or evidences of its indebtedness or assets (including cash or securities, but excluding any rights or warrants referred to in Section 5.5(b) and also excluding the distribution of rights to all holders of Common Stock pursuant to a Rights Plan (as defined below) adopted before or after the date of this Note, and excluding any dividend or distribution (x) paid exclusively in cash or (y) referred to in Section 5.5(a) (any of the foregoing hereinafter in this Section 5.5(d) called the "Distributed Property"), then, in each such case (unless the Company elects to reserve such Distributed Property for distribution to the Holder upon the conversion of this Note so that the Holder will receive upon conversion, in addition to the shares of Common Stock to which the Holder is entitled, the amount and kind of such Distributed Property which the Holder would have received if the Holder had converted this Note into Common Stock immediately prior to the Record Date for

such distribution of the Distributed Property) the Conversion Price shall be reduced so that the same shall be equal to the price determined by dividing the Conversion Price in effect on the Record Date with respect to such distribution by a fraction,

(i) the numerator of which shall be the Current Market Price on such Record Date; and

(ii) the denominator of which shall be the Current Market Price on such Record Date less the Fair Market Value (in each case, for purposes of this Note, as determined by the Board of Directors with the consent of the Holder (which shall not be unreasonably withheld), whose determination in the case of the Company shall be described in a resolution of the Board of Directors) on such Record Date of the portion of the Distributed Property so distributed applicable to one share of Common Stock,

such adjustment to become effective immediately prior to the opening of business on the day following such Record Date; *provided* that if the then Fair Market Value (as so determined) of the portion of the Distributed Property so distributed applicable to one share of Common Stock is equal to or greater than the Current Market Price on such Record Date, in lieu of the foregoing adjustment, adequate provision shall be made so that the Holder shall have the right to receive upon conversion the amount of Distributed Property the Holder would have received had the Holder converted this Note on the Record Date for such distribution. If such dividend or distribution ultimately is not so paid or made, the Conversion Price shall again be adjusted to be the Conversion Price that would then be in effect if such dividend or distribution had not been declared. If the Board of Directors determines the Fair Market Value of any distribution for purposes of this Section 5.5(d) by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the Current Market Price on the applicable Record Date for such distribution. Notwithstanding the foregoing, if the Distributed Property distributed by the Company to all holders of its Common Stock consist of capital stock of, or similar equity interests in, a Subsidiary or other business unit of the Company or a Subsidiary, the Conversion Price shall be reduced so that the same shall be equal to the price determined by dividing the Conversion Price in effect on the Record Date with respect to such distribution by a fraction,

(i) the numerator of which shall be the sum of (A) the average of the Closing Sale Prices of the Common Stock for the ten (10) Trading Days commencing on and including the fifth Trading Day after the date on which "ex-dividend trading" commences for such dividend or distribution on the Nasdaq National Market or such other national or regional exchange or market on which such securities are

then listed or quoted (the "Ex-Dividend Date") plus (B) the Fair Market Value of the securities distributed in respect of each share of Common Stock for which this Section 5.5(d) applies, which shall equal the number of securities distributed in respect of each share of Common Stock multiplied by the average of the Closing Sale Prices of those securities distributed

for the ten (10) Trading Days commencing on and including the fifth Trading Day after the Ex-Dividend Date; and

(ii) the denominator of which shall be the average of the Closing Sale Prices of the Common Stock for the ten (10) Trading Days commencing on and including the fifth Trading Day after the Ex-Dividend Date,

such adjustment to become effective immediately prior to the opening of business on the day following such Record Date; *provided* that the Company may in lieu of the foregoing adjustment make adequate provision so that the Holder shall have the right to receive upon conversion the amount of Distributed Property the Holder would have received had the Holder converted this Note on the Record Date with respect to such distribution.

With respect to any rights (the "Rights") that may be issued or distributed pursuant to the Company's existing preferred stock rights plan and any similar rights plan that the Company implements after the date of this Note (any existing or future preferred shares rights plan or similar rights plan, a "Rights Plan"), upon conversion of this Note into Common Stock, to the extent that such Rights Plan has been implemented and is still in effect upon such conversion, the Holder will receive, in addition to the Common Stock, the Rights described therein (whether or not the Rights have separated from the Common Stock at the time of conversion), subject to the limitations set forth in any such Rights Plan. Any distribution of Rights pursuant to a Rights Plan complying with the requirements set forth in the immediately preceding sentence of this paragraph shall not constitute a distribution of rights or warrants pursuant to this Section 5.5(d) but, if not so compliant, shall constitute such a distribution. Other than as specified in this paragraph, there will not be any adjustment to the Conversion Price as the result of the issuance of any Rights, the distribution of separate certificates representing such Rights, the exercise or redemption of such Rights in accordance with any Rights Plan or the termination or invalidation of any Rights.

Rights or warrants (other than rights issued pursuant to a Rights Plan) distributed by the Company to all holders of Common Stock entitling the holders thereof to subscribe for or purchase shares of the Company's capital stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events ("Trigger Event"): (i) are deemed to be transferred with such shares of Common Stock, (ii) are not exercisable, and (iii) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 5.5 (and no adjustment to the Conversion Price under this Section 5.5 will be required) until the occurrence of the earliest Trigger Event, whereupon such rights and warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Price shall be made under this Section 5.5(d). If any such right or warrant, including any such existing rights or warrants distributed prior to the date of this Note, are subject to events, upon the occurrence of which such rights or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Record Date with respect to new rights or warrants with such rights (and a termination or expiration of the existing rights or warrants without exercise by any of the holders thereof). In addition, in the event of any

distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Price under this Section 5.5 was made, (1) in the case of any such rights or warrants that shall all have been redeemed or repurchased without exercise by any holders thereof, the Conversion Price shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or repurchase price received by a holder or holders of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or repurchase, and (2) in the case of such rights or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Price shall be readjusted as if such rights and warrants had not been issued.

No adjustment of the Conversion Price shall be made pursuant to this Section 5.5(d) in respect of rights or warrants distributed or deemed distributed on any Trigger Event to the extent that such rights or warrants are actually distributed or reserved by the Company for distribution to the Holder upon conversion by the Holder of this Note into Common Stock.

For purposes of this Section 5.5(d) and Section 5.5(a) and (b), any dividend or distribution to which this Section 5.5(d) is applicable that also includes shares of Common Stock, or rights or warrants to subscribe for or purchase shares of Common Stock (or both), shall be deemed instead to be (1) a dividend or distribution of the evidences of indebtedness, assets or shares of capital stock other than such shares of Common Stock or rights or warrants (and any Conversion Price adjustment required by this Section 5.5(d) with respect to such dividend or distribution shall then be made) immediately followed by (2) a dividend or distribution of such shares of Common Stock or such rights or warrants (and any further Conversion Price adjustment required by Sections 5.5(a) and 5.5(b) with respect to such dividend or distribution shall then be made), except any shares of Common Stock included in such dividend or distribution shall not be deemed "outstanding at the close of business on such Record Date" within the meaning of Section 5.5(a).

(e) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock cash (excluding any dividend or distribution in connection with the liquidation, dissolution or winding up of the Company, whether voluntary or involuntary), then, in such case, the Conversion Price shall be reduced so that the same shall equal the price determined by dividing the Conversion Price in effect immediately prior to the close of business on the Record Date for such dividend or distribution by a fraction,

(i) the numerator of which shall be the Current Market Price on such Record Date; and

(ii) the denominator of which shall be the Current Market Price on such Record Date less the amount of cash so distributed applicable to one share of Common Stock,

such adjustment to be effective immediately prior to the opening of business on the day following such Record Date; *provided* that if the portion of the cash so distributed applicable to one share of Common Stock is equal to or greater than the Current Market Price on such Record Date, in lieu of the foregoing adjustment, adequate provision shall be made so that the Holder shall have the right to receive upon conversion the amount of cash the Holder would have received had the Holder converted this Note on the Record Date. If such dividend or distribution is not so paid or made, such Conversion Price shall again be adjusted to be the Conversion Price that would then be in effect if such dividend or distribution had not been declared.

(f) In case a tender or exchange offer made by the Company or any Subsidiary for all or any portion of the Common Stock shall expire and such tender or exchange offer (as amended upon the expiration thereof) shall require the payment to stockholders of consideration per share of Common Stock having a Fair Market Value (as determined as aforesaid) that as of the last time (the "Expiration Time") tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended) exceeds the Closing Sale Price of a share of Common Stock on the Trading Day next succeeding the Expiration Time, the Conversion Price shall be reduced so that the same shall equal the price determined by dividing the Conversion Price in effect immediately prior to the Expiration Time by a fraction,

(i) the numerator of which shall be the sum of (x) the Fair Market Value (determined as aforesaid) of the aggregate consideration payable to stockholders based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of all shares validly tendered or exchanged and not withdrawn as of the Expiration Time (the shares deemed so accepted up to any such maximum, being referred to as the "Purchased Shares") and (y) the product of the number of shares of Common Stock outstanding (less any Purchased Shares) at the Expiration Time and the Closing Sale Price of a share of Common Stock on the Trading Day next succeeding the Expiration Time, and

(ii) the denominator of which shall be the number of shares of Common Stock outstanding (including any Purchased Shares) at the Expiration Time multiplied by the Closing Sale Price of a share of Common Stock on the Trading Day next succeeding the Expiration Time.

such adjustment to become effective immediately prior to the opening of business on the day following the Expiration Time. If the Company is obligated to purchase shares pursuant to any such tender or exchange offer, but the Company is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Price shall again be adjusted to be the Conversion Price that would then be in effect if such tender or exchange offer had not been made.

(g) For purposes of this Section 5.5, the following terms shall have the meaning indicated:

(i) "Current Market Price" shall mean the average of the daily Closing Sale Prices per share of Common Stock for the ten consecutive Trading Days ending not later than the earlier of such date of determination and the day before the "ex" date with respect to the issuance, distribution, subdivision or combination requiring such computation immediately prior to the date in question. For purposes of this paragraph, the term "ex" date, (1) when used with respect to any issuance or distribution, means the first date on which the Common Stock trades, regular way, on the relevant exchange or in the relevant market from which the Closing Sale Price was obtained without the right to receive such issuance or distribution, and (2) when used with respect to any subdivision or combination of shares of Common Stock, means the first date on which the Common Stock trades, regular way, on such exchange or in such market after the time at which such subdivision or combination becomes effective.

If another issuance, distribution, subdivision or combination to which Section 5.5 applies occurs during the period applicable for calculating "Current Market Price" pursuant to the definition in the preceding paragraph, "Current Market Price" shall be calculated for such period in a manner determined by the Board of Directors to reflect the impact of such issuance, distribution, subdivision or combination on the Closing Sale Price of the Common Stock during such period with the consent of the Holder (which shall not be unreasonably withheld).

(ii) "Fair Market Value" shall mean the amount which a willing buyer would pay a willing seller in an arm's-length transaction.

(iii) "Record Date" shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(iv) "Trading Day" shall mean (x) if the applicable security is quoted on The Nasdaq Stock Market, a day on which trades may be made thereon or (y) if the applicable security is listed or admitted for trading on the American Stock Exchange, New York Stock Exchange or another national securities exchange, a day on which the American Stock Exchange, New York Stock Exchange or another national securities exchange is open for business or (z) if the applicable security is not so listed, admitted for trading or quoted, any day other than a Saturday or Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

(h) The Company may make such reductions in the Conversion Price, in addition to those required by Section 5.5(a), (b), (c), (d), (e) or (f) as the Board of Directors considers to be advisable to avoid or diminish any income tax to holders of Common Stock or rights to purchase

Common Stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes.

To the extent permitted by applicable law, the Company from time to time may reduce the Conversion Price by any amount for any period of time if the Board of Directors shall have made a determination that such decrease would be in the best interests of the Company, which determination shall be conclusive. Whenever the Conversion Price is reduced pursuant to the preceding sentence, the Company shall notify the Holder of such reduction, and such notice shall state the reduced Conversion Price and the period during which it will be in effect.

(i) No adjustment in the Conversion Price shall be required unless such adjustment would require an increase or decrease of at least one percent (1%) in such price; *provided* that any adjustments that by reason of this Section 5.5(i) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 5 shall be made by the Company and shall be made to the nearest cent or to the nearest one-ten thousandth (1/10,000) of a share, as the case may be. No adjustment need be made for rights to purchase Common Stock pursuant to a Company plan for reinvestment of dividends or interest or for any issuance of Common Stock or convertible or exchangeable securities or rights to purchase Common Stock or convertible or exchangeable securities. To the extent this Note becomes convertible into cash, assets, property or securities (other than capital stock of the Company), no adjustment need be made thereafter as to the cash, assets, property or such securities. Interest will not accrue on any cash into which this Note is convertible.

(j) Whenever the Conversion Price is adjusted as herein provided, the Company shall promptly notify the Holder of the adjustment and provide the Holder with a notice setting forth the Conversion Price after such adjustment, the date of such adjustment, and a brief statement of the facts requiring such adjustment. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(k) In any case in which this Section 5.5 provides that an adjustment shall become effective immediately after (1) a Record Date for an event, (2) the Record Date for a dividend or distribution described in Section 5.5(a), (3) the Record Date for the issuance of rights or warrants as described in Section 5.5(b) or (4) the Expiration Time for any tender or exchange offer pursuant to Section 5.5(f) (each a "Determination Date"), the Company may elect to defer until the occurrence of the applicable Adjustment Event (as hereinafter defined) (x) issuing to the Holder if this Note is converted after such Determination Date and before the occurrence of such Adjustment Event, the additional shares of Common Stock or other securities issuable upon such conversion by reason of the adjustment required by such Adjustment Event over and above the Common Stock issuable upon such conversion before giving effect to such adjustment and (y) paying to the Holder any amount in cash in lieu of any fraction pursuant to Section 5.3. For purposes of this Section 5.5(k), the term "Adjustment Event" shall mean:

(i) in any case referred to in clause (1) hereof, the occurrence of such event,

(ii) in any case referred to in clause (2) hereof, the date any such dividend or distribution is paid or made,

(iii) in any case referred to in clause (3) hereof, the date of expiration of such rights or warrants, and

(iv) in any case referred to in clause (4) hereof, the date a sale or exchange of Common Stock pursuant to such tender or exchange offer is consummated and becomes irrevocable.

(l) For purposes of this Section 5.5, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock. The Company will not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company.

5.6 Effect Of Reclassification, Consolidation, Merger or Sale. If any of the following events occur, namely (i) any reclassification or change of the outstanding shares of Common Stock (other than a subdivision or combination to which Section 5.5(c) applies), (ii) any consolidation, merger or combination of the Company with another Person as a result of which holders of Common Stock shall be entitled to receive stock, other securities or other property or assets (including cash) with respect to or in exchange for such Common Stock, or (iii) any sale or conveyance of all or substantially all of the properties and assets of the Company to any other Person as a result of which holders of Common Stock shall be entitled to receive stock, other securities or other property or assets (including cash) with respect to or in exchange for such Common Stock, then the Company or the successor or purchasing Person, as the case may be, shall execute and deliver to the Holder a supplemental instrument providing that this Note shall be convertible into the kind and amount of shares of stock, other securities or other property or assets (including cash) receivable upon such reclassification, change, consolidation, merger, combination, sale or conveyance by a holder of a number of shares of Common Stock issuable upon conversion of this Note (assuming, for such purposes, a sufficient number of authorized shares of Common Stock are available to convert this Note) immediately prior to such reclassification, change, consolidation, merger, combination, sale or conveyance assuming such holder of Common Stock did not exercise his rights of election, if any, as to the kind or amount of stock, other securities or other property or assets (including cash) receivable upon such reclassification, change, consolidation, merger, combination, sale or conveyance (*provided* that, if the kind or amount of stock, other securities or other property or assets (including cash) receivable upon such reclassification, change, consolidation, merger, combination, sale or conveyance is not the same for each share of Common Stock in respect of which such rights of election shall not have been exercised ("non-electing share"), then for the purposes of this Section 5.6 the kind and amount of stock, other securities or other property or assets (including cash) receivable upon such reclassification, change, consolidation, merger, combination, sale or conveyance for each non-electing share shall be deemed to be the kind and amount so receivable per share by a plurality of the non-electing shares). Such supplemental instrument shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 5.

The above provisions of this Section 5.6 shall similarly apply to successive reclassifications, changes, consolidations, mergers, combinations, sales and conveyances.

If this Section 5.6 applies to any event or occurrence, Section 5.5 shall not apply.

5.7 Taxes On Shares Issued. The issuance of stock certificates on conversion of this Note shall be made without charge to the Holder for any documentary, stamp or similar issue or transfer tax in respect of the issue thereof. The Company shall not, however, be required to pay any such tax which may be payable in respect of any transfer involved in the issue and delivery of stock in any name other than that of the Holder, and the Company shall not be required to issue or deliver any such stock certificate unless and until the Person or Persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

5.8 Reservation of Shares, Shares to Be Fully Paid; Compliance With Governmental Requirements; Listing of Common Stock. The Company shall provide, free from preemptive rights, out of its authorized but unissued shares or shares held in treasury, sufficient shares of Common Stock to provide for the conversion of this Note from time to time.

Before taking any action that would cause an adjustment reducing the Conversion Price to an amount below the then par value, if any, of the shares of Common Stock issuable upon conversion of this Note, the Company will take all corporate action that may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue shares of such Common Stock at such adjusted Conversion Price.

The Company covenants that all shares of Common Stock which may be issued upon conversion of this Note will be newly issued shares or treasury shares and will upon issue be duly authorized, fully paid and non-assessable by the Company and free from all pre-emptive rights, taxes, adverse claims, liens and charges with respect to the issue thereof.

The Company covenants that, if any shares of Common Stock to be provided for the purpose of conversion of this Note hereunder require registration with or approval of any Governmental Authority before such shares may be validly issued upon conversion, the Company will in good faith and as expeditiously as possible, to the extent then permitted by the rules and interpretations of the Commission (or any successor thereto), endeavor to secure such registration or approval, as the case may be.

The Company covenants that, if at any time the Common Stock shall be listed on The Nasdaq Stock Market or any other national securities exchange or automated quotation system, the Company will, if permitted by the rules of such exchange or automated quotation system, list and keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, all Common Stock issuable upon conversion of this Note; *provided* that if the rules of such exchange or automated quotation system permit the Company to defer the listing of such Common Stock until the first conversion of this Note into Common Stock in accordance with the provisions hereof, the Company covenants to list such Common Stock issuable upon conversion of this Note in accordance with the requirements of such exchange or automated quotation system at such time.

5.9 Notice To Holder Prior To Certain Actions. In case:

(a) the Company shall declare a dividend (or any other distribution) on its Common Stock that would require an adjustment in the Conversion Price pursuant to Section 5.5; or

(b) the Company shall authorize the granting to the holders of all or substantially all of its Common Stock of rights or warrants to subscribe for or purchase any share of any class or any other rights or warrants; or

(c) of any reclassification or reorganization of the Common Stock of the Company (other than a subdivision or combination of its outstanding Common Stock, or a change in par value, or from par value to no par value, or from no par value to par value), or of any consolidation or merger to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or transfer of all or substantially all of the assets of the Company; or

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

the Company shall cause to be mailed to the Holder, as promptly as possible but in any event at least ten (10) days prior to the applicable date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or rights or warrants, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or rights are to be determined, or (y) the date on which such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up.

5.10 Requisite Antitrust Approvals For Conversion. In the event that the conversion of this Security into shares of Common Stock would require the Company and the Holder to file notification and report forms with the Federal Trade Commission and Antitrust Division of the Department of Justice (the "FTC") pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), then the Holder and the Company agree (a) to use their commercially reasonable efforts to complete promptly all applicable filings and provide all necessary information as required pursuant to the HSR Act, with each party bearing their own expenses in connection therewith, and (b) such conversion of this Note into shares of Common Stock shall not occur until such time as the required filings are made pursuant to the HSR Act and the required waiting periods have expired or early termination notifications have been granted by the FTC.

6. Consolidation, Merger, Sale, Conveyance And Lease.

6.1 Company May Consolidate On Certain Terms. Subject to the provisions of Section 6.2, the Company shall not consolidate with or merge into any other Person or Persons (whether or not affiliated with the Company), nor shall the Company or its successor or

successors be a party or parties to successive consolidations or mergers, nor shall the Company sell, convey, transfer or lease all or substantially all of the property and assets of the Company to any other Person (whether or not affiliated with the Company), unless: (i) the Company is the surviving Person, or the resulting, surviving or transferee Person is a corporation organized and existing under the laws of the United States of America, any state thereof or the District of Columbia; (ii) upon any such consolidation, merger, sale, conveyance, transfer or lease, the due and punctual payment of the principal of this Note, and the due and punctual performance and observance of all of the covenants and conditions of this Note to be performed by the Company, shall (unless the Company is the surviving Person or unless the surviving Person is a successor to the Company's obligations hereunder and under this Note by operation of law) be expressly assumed, by supplemental instrument reasonably satisfactory in form and substance to the Holder, executed and delivered to the Holder by the Person formed by such consolidation, or into which the Company shall have been merged, or by the Person that shall have acquired or leased such property, and such supplemental instrument shall provide for the applicable conversion rights set forth in Section 5.6; and (iii) immediately after giving effect to the transaction described above, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing.

6.2 Successor To Be Substituted. In case of any such consolidation, merger, sale, conveyance, transfer or lease and upon the assumption by the successor Person, by supplemental instrument, executed and delivered to the Holder and reasonably satisfactory in form to the Holder, of the due and punctual payment of the principal of this Note and the due and punctual performance of all of the covenants and conditions of this Note to be performed by the Company, such successor Person shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the party of this first part. In the event of any such consolidation, merger, sale, conveyance, transfer or lease, the Person named as the "Company" in the first paragraph of this Note or any successor that shall thereafter have become such in the manner prescribed in this Section 6 may be dissolved, wound up and liquidated at any time thereafter and such Person shall be released from its liabilities as obligor and maker of this Note and from its obligations under this Note.

7. Miscellaneous.

7.1 General. Unless otherwise specified, references in this Note to any section are references to such section of this Note and, unless otherwise specified, references in any section or definition to any clause are references to such clause of such section or definition. Terms for which meanings are defined in this Note shall apply equally to the singular and plural forms of the terms defined. Whenever the context may permit or require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The term "including" means including, without limiting the generality of any description preceding such term. Each reference herein to any Person shall include a reference to such Person's successors and permitted assigns. Unless otherwise specified, references to any agreement, instrument or other document in this Note refer to such agreement, instrument or other document as originally executed or, if subsequently varied, replaced or supplemented from time to time, as so varied, replaced or supplemented and in effect at the relevant time of reference thereto.

7.2 Amendment. None of the terms or provisions of this Note may be excluded, modified or amended except by a written instrument duly executed by the Holder and the Company expressly referring to this Note and setting forth the provision so excluded, modified or amended.

7.3 Headings. The headings of the sections of this Note have been inserted for convenience of reference only, are not intended to be considered part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

7.4 Notices. All notices hereunder shall be given to a party in writing and shall be deemed received by the other party hereto, in each case in accordance with the terms of Section 7.4 of the Purchase Agreement as if any such notice were a notice thereunder.

7.5 Governing Law. This Note shall be deemed to be a contract made under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of the State of New York, without regard to conflicts of laws principles thereof.

7.6 Transferability. This Note may not be transferred or assigned by the Holder except as permitted by Section 6.3 of the Purchase Agreement. Any such transfer may be made upon surrender of this Note for transfer at the principal executive offices of the Company duly endorsed by or accompanied by a written instrument of transfer in form satisfactory to the Company and duly executed by the Holder and thereupon a new note in the outstanding principal amount of the Note so surrendered will be issued to the designated transferee or transferees. No service charge will be made for any such transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith. This Note is issuable only in registered form. The shares of Common Stock issuable upon conversion of this Note may not be transferred or assigned by the Holder except as permitted by Sections 4.6 of the Purchase Agreement.

7.7 Legal Holidays. In any case in which the date of maturity of principal of this Note or the prepayment date of this Note will not be a Business Day, then payment of such principal of this Note need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the prepayment date.

7.8 No Security Interest Created. Nothing in this Note, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction in which property of the Company or its subsidiaries is located.

7.9 This Note Solely A Corporate Obligation; No Right of Set-Off. No recourse for the payment of the principal of this Note, or for any claim based hereon or otherwise in respect hereof, and no recourse under or upon any obligation, covenant or agreement of the Company in this Note or any instrument supplemental hereto, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, employee, agent, officer or director or subsidiary, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, whether by

virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released. The Company hereby covenants and agrees that it shall not have any

right, whether at law or otherwise, to reduce or otherwise set-off (a) any obligations that Holder or any Affiliate may owe to the Company or any Affiliate, whether under the Purchase Agreement or the License Agreement or otherwise, against (b) any amounts which the Company may owe under this Note.

7.10 No Stockholder Rights. Nothing contained in this Note shall be construed as conferring upon the Holder or any other person the right to vote or to consent or to receive notice as a stockholder in respect of meetings of stockholders for the election of directors of the Company or any other matters or any rights whatsoever as a stockholder of the Company.

7.11 Binding Effect. Subject to the restrictions on transfer described in Section 7.6, the rights and obligations of the Company and the Holder shall be binding upon and benefit the successors and assigns of the parties.

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by its duly authorized officer as of the date first set forth above.

INCYTE CORPORATION

By _____

Name _____

Title _____

CONVERSION NOTICE

TO: INCYTE CORPORATION

The undersigned Holder of this Note hereby irrevocably exercises the option to convert this Note, or the portion thereof (which is $1,000 or a multiple thereof) below designated, into shares of Common Stock of Incyte Corporation in accordance with the terms of this Note, and directs that the shares issuable and deliverable upon such conversion, together with any check in payment for fractional shares and any Note representing any unconverted principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If shares or any portion of this Note not converted are to be issued in the name of a person other than the undersigned, the undersigned will provide the appropriate information below and pay all transfer taxes payable with respect thereto.

Dated:

Principal amount to be converted (if less than all): $

_____
(Print or Type Name of Holder)

By _____

Name _____

Title _____

Complete the following if shares of Common Stock and/or Note for any unconverted principal amount to be issued and delivered to any Person other than in the name of the registered Holder:

[ ] Please issue the certificate for shares of Common Stock to and/or
[ ] Please issue the Note for any unconverted principal amount to:

_____
(Name) Social Security or Other Taxpayer Identification No.

_____
(Street Address)

_____
(City, State and Zip Code)

Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Security Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Company in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

_____
Signature Guarantee

DESIGNATED EVENT REPURCHASE NOTICE

TO: INCYTE CORPORATION

The undersigned Holder of this Note hereby irrevocably acknowledges receipt of a notice from Incyte Corporation (the "Company") regarding right of the Holder to elect to require the Company to prepay this Note upon the occurrence of a Designated Event with respect to the Company and requests and instructs the Company to prepay the entire principal amount of this Note, or the portion thereof (which is at least $500,000 and a multiple of $10,000 thereafter (or, if the principal amount of this Note then outstanding is less than $500,000, such principal amount then outstanding)) below designated, in accordance with the terms of this Note.

Dated:

Principal amount to be prepaid (if less than all): $

_____
(Print or Type Name of Holder)

By _____

Name _____

Title _____

NOTICE: The above signature(s) of the Holder must correspond with the name as written upon the first page of this Note in every particular without alteration or enlargement or any change whatever.

_____
Taxpayer Identification Number

NOTE PURCHASE AGREEMENT

THIS NOTE PURCHASE AGREEMENT (the "Agreement") is made as of the 18th day of November, 2005 by and between INCYTE CORPORATION, a Delaware corporation (the "Company"), and PFIZER OVERSEAS PHARMACEUTICALS, an Irish unlimited liability company and Wholly-Owned Subsidiary of Pfizer Inc. (the "Investor").

WHEREAS, the Company and Pfizer Inc., the parent company of the Investor, are, simultaneously herewith, entering into a Collaborative Research and License Agreement, of even date herewith (the "License Agreement"), and, in connection with the transactions contemplated thereby, the Company desires to issue and sell to the Investor, and the Investor desires to purchase from the Company, convertible subordinated promissory notes of the Company, upon the terms and subject to the conditions set forth herein.

NOW, THEREFORE, the parties hereby agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following respective meanings:

(a) "Additional Note" has the meaning specified in Section 2.1(b).

(b) "Affiliate" means, with respect to any entity, an affiliate of that entity as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended to date.

(c) **"**Business Day**"** means a day other than a Saturday, Sunday, bank or other public holiday in the state of New York.

(d) "Closing" has the meaning specified in Section 2.2(b).

(e) "Common Stock" shall mean the common stock, $.001 par value, of the Company.

(f) "Company" has the meaning specified in the preamble to this Agreement.

(g) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

(h) "FDA" shall mean the United States Food and Drug Administration or any successor federal agency thereto.

(i) "5.5% Notes" has the meaning specified in Section 3.3.

(j) "Financial Statements" has the meaning specified in Section 3.9.

(k) "Form 10-K" has the meaning specified in Section 3.8.

(l) "Governmental Authority" means any court, agency, department or other instrumentality of any foreign, federal, state, county, city or other political subdivision.

(m) "HSR Act" means the United States Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

(n) "Incyte Change in Control" means that any of the following has occurred:

(i) any Person or group becomes the beneficial owner, directly or indirectly, of fifty percent (50%) or more of the outstanding Voting Securities or voting power over Voting Securities of (x) the Company or (y) any one or more Persons which are direct or indirect parent holding companies of the Company or Affiliates controlling the Company (the Company, together with the Persons described in clause (y), each hereinafter referred to, individually, as an "Incyte Group Company" and, collectively, as the "Incyte Group Companies"); or

(ii) any Incyte Group Company enters into an agreement with any Person or group providing for the sale or disposition of all or substantially all of the assets of the Incyte Group Companies, on a consolidated basis; or

(iii) any Incyte Group Company enters into an agreement with any Person or group providing for a merger, reorganization, consolidation or other similar transaction (or series of related transactions) of any Incyte Group Company with such Person or any Affiliate of such Person (other than with any of the Incyte Group Company's Wholly-Owned Subsidiaries), that results in the shareholders of the applicable Incyte Group Company immediately before the occurrence of such transaction (or series of transactions) beneficially owning less than a majority of the outstanding Voting Securities or voting power over Voting Securities of the surviving or newly-created entity in such transaction (or series of transactions); or

(iv) a change in the board of directors of any Incyte Group Company in which the individuals who constituted the board of directors of such Incyte Group Company at the beginning of the two (2)-year period immediately preceding such change (together with any other director whose election by the board of directors of such Incyte Group Company or whose nomination for election by the stockholders of such Incyte Group Company was approved by a vote of at least a majority of the directors then in office either who were directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the directors then in office; or

(v) any Incyte Group Company enters into an agreement with any Person providing for the matters described in subsection (i), (ii) or (iv) above.

For purposes of this definition of "Incyte Change in Control" only: (A) references to any Incyte Group Company shall be deemed to include all successors in any merger, consolidation, reorganization or similar transaction (or series of related transactions) preceding any transaction (or series of related transactions) described above; (B) "beneficial ownership" (and other correlative terms) means beneficial ownership as defined in Rule 13d-3 under the Exchange

Act; it being understood and agreed that "beneficial ownership" shall also include any securities which any Person or any of such Person's Affiliates has the right to acquire (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement,

arrangement or understanding, or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise; (C) "group" means group as defined in the Exchange Act and the rules of the SEC thereunder as in effect on the date hereof; and (D) "control" (including, with correlative meanings, "controlled by", "controlling" and "under common control with") of an entity means possession, direct or indirect, of (I) the power to direct or cause direction of the management and policies of such entity (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise), or (II) at least fifty percent (50%) of the voting securities (whether directly or pursuant to any option, warrant or other similar arrangement) or other comparable equity interests of such entity.

(o) "Incyte Compound" has the meaning specified in Section 1.25 of the License Agreement.

(p) "IND" shall mean an Investigational New Drug Application filed with the FDA or the analogous application or filing filed with any analogous agency or Government Authority outside of the United States (including any supra-national agency such as in the European Union) necessary to Commence human clinical trials in such jurisdiction, and including all regulations at 21 CFR § 312 et. seq. and analogous foreign regulations. For purposes of this definition, "Commence" means the first dosing of the first patient for such trial.

(q) "Initial Closing Date" has the meaning specified in Section 2.2(a).

(r) "Initial Note" has the meaning specified in Section 2.1(a).

(s) "Investor" has the meaning specified in the preamble to this Agreement.

(t) "Law" or "Laws" means all laws, statutes, rules, regulations, orders, judgments and/or ordinances of any Governmental Authority.

(u) "License Agreement" has the meaning specified in the preamble of this Agreement.

(v) "License Agreement Effective Date" shall mean the date that the applicable waiting period under the HSR Act shall have expired or been terminated with respect to the License Agreement.

(w) "Lien" means, with respect to any asset, any mortgage, pledge, security interest, encumbrance, lien or charge of any kind in respect of such asset.

(x) "Material Adverse Effect" shall mean individually or collectively, a material adverse effect on, or a material adverse change in, or group of such effects on or changes in, (i) the business, financial condition, results of operations, assets or liabilities of the Company and its Subsidiaries, taken as a whole, or (ii) the ability of the Company to perform its obligations under or with respect to this Agreement or any Note.

(y) "Note" or "Notes" shall mean, as the context requires, the Initial Note and/or the Additional Note.

(z) "Person" means a corporation, an association, a partnership, a limited liability company, an individual, a joint venture, a joint stock company, a trust, an unincorporated organization or a Governmental Authority.

(aa) "Plans" has the meaning specified in Section 3.3.

(bb) "Preferred Stock" shall mean the preferred stock, $.001 par value, of the Company.

(cc) "Purchase Price" has the meaning specified in Section 2.1(a).

(dd) "Research Plan" shall have the meaning set forth in the License Agreement.

(ee) "Restricted Securities" means (1) the Shares and (2) any other securities of the Company issued as a dividend or other distribution with respect to, or in exchange for or in replacement of, such Shares.

(ff) "SEC" has the meaning specified in Section 3.8.

(gg) "Second Tranche Trigger Date" has the meaning specified in Section 2.1(b).

(hh) "Securities Act" means the Securities Act of 1933, as amended

(ii) "Security Agreement" shall mean the Security Agreement dated as of the date hereof by and between Pfizer Inc. and the Company.

(jj) "Shares" shall mean the Common Stock issuable upon conversion of the Notes.

(kk) "Subsequent Closing" has the meaning specified in Section 2.2(b).

(ll) "Subsequent Closing Date" has the meaning specified in Section 2.2(b).

(mm) "Subsidiary" means, with respect to any entity, any other entity of which securities or other ownership interest having ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions are owned directly or indirectly by such entity.

(nn) "3½% Notes" has the meaning specified in Section 3.3.

(oo) "Transition Plan" shall have the meaning set forth in the License Agreement.

(pp) "2005 Forms 10-Q" has the meaning specified in Section 3.8.

(qq) "Voting Securities" means securities of any class or series of a corporation, association or other entity the holders of which are ordinarily, in the absence of contingencies, entitled to vote generally in matters put before the shareholders or members of such corporation, association or other entity.

(rr) "Voting Security Equivalents" means securities convertible into or exchangeable for Voting Securities or options to purchase such securities or Voting Securities.

(ss) "Wholly-Owned Subsidiary" shall mean, with respect to any entity, a Subsidiary, all of the outstanding Voting Securities of which are owned, directly or indirectly, by such entity.

2. Purchase and Sale of Notes.

2.1 Sale and Issuance of Notes.

(a) Purchase and Sale of Initial Note. Subject to and upon the terms and conditions of this Agreement, at the Initial Closing, the Company agrees to issue and sell to the Investor, and the Investor agrees to purchase from the Company, a convertible subordinated promissory note (the "Initial Note"), in the aggregate principal amount of Ten Million Dollars ($10,000,000) (the "Purchase Price"), and to pay the Purchase Price therefor. The Initial Note shall have a maturity date seven years from the date of its original issuance, shall be in substantially the form attached hereto as Exhibit A, and shall be convertible into Common Stock of the Company at the conversion price determined in accordance with, and subject to adjustment pursuant to, the terms of such Initial Note.

(b) Purchase and Sale of Additional Note. Subject to and upon the terms and conditions of this Agreement, at the Subsequent Closing, the Company shall have the option (but shall not be obligated) to issue and sell to the Investor, and upon exercise by the Company of such option, the Investor agrees to purchase from the Company, a convertible subordinated promissory note (the "Additional Note"), in the aggregate principal amount of Ten Million Dollars ($10,000,000), and to pay the Purchase Price therefor. The Additional Note shall have a maturity date seven years from the date of its original issuance, shall be in substantially the form attached hereto as Exhibit A, and shall be convertible into Common Stock of the Company at the conversion price determined in accordance with, and subject to adjustment pursuant to, the terms of such Additional Note. The Company shall have the right to exercise its option pursuant to this Section 2.1(b) at any time within ten (10) business days following (x) the first date on which the Company can lawfully test a given indication in humans pursuant to the filing of the first IND for an Incyte Compound under the License Agreement and (y) the delivery by the Company to the Investor of written confirmation that the Company will use commercially reasonable efforts to continue clinical development of the Incyte Compound referred to in clause (x) (the satisfaction of the matters specified in clauses (x) and (y), the "Second Tranche Trigger Date") by delivering to the Investor written notice of its election to issue the Additional Note on or prior to the third anniversary of the Initial Closing Date (as defined below).

2.2 Closing(s).

(a) The closing of the purchase and sale of the Initial Note (the "Initial Closing") shall take place at the offices of Pillsbury Winthrop Shaw Pittman LLP, 1540 Broadway, New York, New York, at 10:00 a.m. local time, or at such other time and place as the Company and the Investor mutually agree upon. The Initial Closing shall occur on such date (the "Initial Closing Date") that the Company and the Investor mutually agree upon, but in any event within twenty (20) business days after the License Agreement Effective Date.

(b) If the Company chooses to exercise its option pursuant to Section 2.1(b), the closing of the purchase and sale of the Additional Note (the "Subsequent Closing") shall take place at the offices of Pillsbury Winthrop Shaw Pittman LLP, 1540 Broadway, New York, New York, at 10:00 a.m. local time, or at such other time and place as the Company and the Investor mutually agree upon. The Subsequent Closing shall occur on such date (the "Subsequent Closing Date") that the Company and the Investor mutually agree upon, but in any event within twenty (20) business days after the Second Tranche Trigger Date. The Initial Closing and the Subsequent Closing are sometimes referred to herein as a "Closing."

(c) At each Closing, the Company shall deliver to the Investor the Initial Note or the Additional Note, as the case may be, against payment of the Purchase Price, by wire transfer in immediately available funds to the account set forth in Schedule 2.2(c) (or such other account designated in writing by the Company at least three Business Days prior to any applicable payment date).

3. Representations, Warranties and Agreements of the Company. The Company hereby represents and warrants to, and agrees with, the Investor that:

3.1 Organization. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, has the corporate power and authority to own, lease and operate its properties and to carry on its business as currently conducted, and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified would not have a Material Adverse Effect. The Company has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as currently conducted.

3.2 Subsidiaries. Each Subsidiary of the Company has been duly incorporated or formed or organized, is validly existing and in good standing under the laws of the jurisdiction of its incorporation or other formation, has the corporate or other power and authority to own, lease and operate its properties and to carry on its business as currently conducted, and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not have a Material Adverse Effect.

3.3 Capitalization. The authorized capital of the Company consists of 5,000,000 shares of Preferred Stock and 200,000,000 shares of Common Stock. As of November 4, 2005, (a) there were outstanding no shares of Preferred Stock, 83,540,699 shares of Common Stock, and options and restricted stock units to purchase or acquire an aggregate of 7,836,438 shares of Common Stock, (b) 6,811,516 shares of Common Stock were reserved for future issuance pursuant to the Company's 1991 Stock Plan, 1993 Directors' Stock Option Plan, and 1997 Employee Stock Purchase Plan (collectively, the "Plans"), (c) 1,470,109 shares of Common Stock were reserved for issuance pursuant to the Company's 5.5% Convertible Subordinated Notes Due 2007 (the "5.5% Notes"), and (d) 22,284,625 shares of Common Stock were reserved for issuance pursuant to the Company's 3½% Convertible Subordinated Notes due 2011 (the "3½% Notes"). Associated with each outstanding share of Common Stock are Series A

Participating Preferred Stock Purchase Rights (the "Rights") issued pursuant to a Rights Agreement dated as of September 25, 1998 between the Company and ChaseMellon Shareholder Services, L.L.C. Except for options and other rights to acquire shares issued pursuant to the Plans, the 5.5% Notes, the 3½% Notes, and the Rights, and for the potential issuance of additional shares of Common Stock pursuant to the Agreement and Plan of Merger dated as of November 11, 2002 among the Company, Maxia Pharmaceuticals, Inc. and the other parties signatory thereto, as of November 4, 2005, the Company had outstanding no other securities convertible into or exchangeable for its capital stock, and there were no other 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.

3.4 Authorization. All corporate action on the part of the Company necessary for the authorization, execution and delivery of this Agreement and the Initial Note, the performance of all obligations of the Company hereunder and thereunder, and the issuance and delivery of the Shares upon conversion of the Initial Note, has been taken. All corporate action on the part of the Company necessary for the authorization, execution and delivery of the Additional Note, the performance of all obligations of the Company thereunder, and the issuance and delivery of the Shares upon conversion of the Additional Note, has been taken or will be taken on or prior to the Additional Closing. This Agreement constitutes a legal, valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except for the effect of bankruptcy, insolvency, reorganization, moratorium and other similar laws relating to or affecting the rights of creditors generally and by equitable principles of general applicability. At or prior to the Initial Closing, the Company will have reserved for issuance the Shares initially issuable upon conversion of the Initial Note and at or prior to the Subsequent Closing, the Company will have reserved for issuance the Shares initially issuable upon conversion of the Additional Note.

3.5 Valid Issuance. When delivered to and paid for by the Investor in accordance with the terms of this Agreement, each Note will be a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except for the effect of bankruptcy, insolvency, reorganization, moratorium and other similar laws relating to or affecting the rights of creditors generally and by equitable principles of general applicability. Upon their issuance in accordance with the terms of the Notes, the Shares will be duly authorized and validly issued, fully paid and nonassessable. Based in part upon the representations of the Investor in this Agreement, the Notes, and the Shares issuable upon conversion thereof, will be issued in compliance with all applicable federal and state securities laws.

3.6 Non-Contravention. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and thereby will not (a) conflict with, or result in any breach or violation of the Certificate of Incorporation or the Bylaws of the Company or (b) conflict with or constitute a breach of, or default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of a Lien on any property or asset of the Company or any of its Subsidiaries pursuant to any contract, indenture, mortgage, loan agreement, note, lease or other instrument to which the Company or any of its Subsidiaries is a party or by which it or any of its properties may be bound, or (c) to the Company's knowledge violate any law, administrative regulation or court decree, except in the

case of clauses (b) and (c) for conflicts, breaches, defaults, violations or Liens which, either individually or in the aggregate, would not have a Material Adverse Effect.

3.7 Governmental Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any Governmental Authority on the part of the Company is required in connection with the consummation of the transactions contemplated by this Agreement, except for such filings as may be required to be made pursuant to applicable federal or state securities laws or with any stock exchange or market on which the Shares will be listed, and except for such consents, approvals, authorizations or orders the absence of which, either individually or in the aggregate, would not have a Material Adverse Effect and except for any consent required under the HSR Act with respect to the License Agreement Effective Date.

3.8 Litigation. Except as disclosed in the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission ("SEC") for the year ended December 31, 2004 (the "Form 10-K"), the Company's Quarterly Reports on Form 10-Q for the quarters ended March 31, 2005 and June 30, 2005 (the "2005 Forms 10-Q"), or any subsequent period 10-Q or 10-K report or other filings by the Company with the SEC (the "Subsequent Filings"), there is no action, suit or proceeding before or by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Company, threatened, against or adversely affecting the Company and its Subsidiaries that would, if determined adversely to the Company or any Subsidiary, have a Material Adverse Effect.

3.9 SEC Filings and Financial Statements. The Company has previously made available to the Investor true and complete copies of the Form 10-K and the 2005 Forms 10-Q. The financial statements included in such reports and any Subsequent Filings are hereafter collectively referred to as the "Financial Statements." Each of the balance sheets included in the Financial Statements (including any related notes and schedules) presents fairly the financial position of the Company as of its date, and the other financial statements included in the Financial Statements (including any related notes and schedules) present fairly the results of operations or other information included therein of the Company for the periods or as of the dates therein set forth (subject, in the case of interim financial statements, to changes resulting from audits and year-end adjustments), and each of the Financial Statements was

prepared in accordance with generally accepted accounting principles consistently applied during the periods involved (except as otherwise stated therein and except, in the case of interim financial statements, to the extent they may not include footnotes or may be condensed or summary statements). None of the documents filed with the SEC and referred to in this Section 3.9 contained, as of its date, any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

3.10 No Material Adverse Change. Since December 31, 2004, except as otherwise disclosed by the Company in writing to the Investor or as set forth in the Company's SEC filings, in each case on or prior to the date hereof or thereafter in any Subsequent Filings, (a) there has been no change or development that individually or in the aggregate would have a Material Adverse Effect, (b) there have been no material transactions entered into by the Company, and

(c) there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock.

3.11 General Solicitation. Neither the Company nor any other person or entity authorized by the Company to act on its behalf has engaged in a general solicitation or general advertising (within the meaning of Regulation D of the Securities Act) of investors with respect to offers or sales of the Notes.

4. Representations and Warranties of the Investor. The Investor hereby represents and warrants to, and agrees with, the Company that:

4.1 Organization. The Investor is an unlimited liability company duly organized under the laws of Ireland. The Investor has all requisite power and authority to own, lease and operate its properties and to carry on its business as currently conducted.

4.2 Authorization. All action on the part of the Investor necessary for the authorization, execution and delivery of this Agreement and for the performance of all obligations of the Investor hereunder has been taken. This Agreement constitutes a legal, valid and binding agreement of the Investor, enforceable against the Investor in accordance with its terms, except for the effect of bankruptcy, insolvency, reorganization, moratorium and other similar laws relating to or affecting the rights of creditors generally and by equitable principles of general applicability.

4.3 Non-Contravention. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and thereby will not (a) conflict with, or result in any breach or violation of the organizational documents of the Investor or (b) conflict with or constitute a breach of, or default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of a Lien on any property or asset of the Investor pursuant to any contract, indenture, mortgage, loan agreement, note, lease or other instrument to which the Investor or any of its Subsidiaries is a party or by which it or any of its properties may be bound, or (c) to the Investor's knowledge, violate any Irish law, administrative regulation or court decree, except in the case of clauses (b) and (c) for conflicts, breaches, defaults, violations or Liens which, either individually or in the aggregate, would not be reasonably expected to materially and adversely impair or restrict the Investor's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby.

4.4 Governmental Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any Governmental Authority on the part of the Investor is required in connection with the consummation of the transactions contemplated by this Agreement, except for such filings as may be required to be made pursuant to applicable federal or state securities laws or with any stock exchange or market on which the Shares will be listed, and except for such consents, approvals, authorizations or orders the absence of which, either individually or in the aggregate, would not reasonably be expected to materially and adversely impair the Investor's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby and except for any consent required under the HSR Act with respect to the License Agreement Effective Date.

4.5 Purchase Entirely for Own Account. This Agreement is made with the Investor in reliance upon the Investor's representation to the Company, which by the Investor's execution of this Agreement the Investor hereby confirms, that each Note, and the Shares issuable upon conversion thereof, will be acquired for investment for the 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 the Investor has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, the Investor further represents that the Investor does not 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 the Notes or any of the Shares.

4.6 Restricted Securities.

(a) The Investor understands that each Note, and the Shares issuable upon conversion thereof, it is or may be purchasing 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 may be resold without registration under the Securities Act only in certain limited circumstances. In addition to the restrictions on transfer or assignment set forth in the Notes, the Investor agrees that it will not sell or otherwise dispose of the Note(s) or any of the Shares unless such sale or other disposition has been registered or is exempt from registration under the Securities Act and has been registered or qualified or is exempt from registration or qualification under applicable state securities laws.

(b) Legends. The Investor understands and agrees that the Note(s), and any securities issued in respect thereof or exchange therefor, including without limitation, the Shares, may bear one or all of the following legends (appropriately modified in the case of a legend on a certificate representing any Shares):

(i) "THIS SECURITY AND THE SECURITIES ISSUABLE UPON ITS CONVERSION HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY STATE SECURITIES LAWS. THEY MAY NOT BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT AND SUCH LAWS OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION AND, IF REQUESTED BY THE COMPANY, UPON DELIVERY OF AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED. THE TRANSFER OF THIS SECURITY AND THE SECURITIES ISSUABLE UPON ITS CONVERSION ARE ALSO

SUBJECT TO CERTAIN TRANSFER RESTRICTIONS CONTAINED IN THAT CERTAIN NOTE PURCHASE AGREEMENT, DATED AS OF NOVEMBER 18, 2005, BETWEEN THE COMPANY AND THE HOLDER."

(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.

4.7 Investor Status. The Investor certifies and represents to the Company that, as of the date hereof and at the time the Investor acquires any Note, the Investor is and will be an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act. The Investor's financial condition is such that it is able to bear the risk of holding the Notes and Shares for an indefinite period of time and the risk of loss of its entire investment. The Investor has been afforded the opportunity to ask questions of and receive answers from the management of the Company concerning this investment and is able to evaluate the risks and merits of its investment in the Company.

5. Conditions to Closing.

5.1 Conditions of the Investor's Obligations at the Initial Closing. The obligations of the Investor to purchase from the Company the Initial Note and to consummate the transactions to be consummated at the Initial Closing are subject to the fulfillment on or before the Initial Closing of each of the following conditions, any of which may be waived in writing in whole or in part by the Investor:

(a) The Company and the Investor shall have executed and delivered the License Agreement and the Security Agreement.

(b) The representations and warranties of the Company contained herein shall be true and correct on and as of the Initial Closing Date with the same force and effect as though made on and as of the Initial Closing Date (it being understood and agreed that, in the case of any representation and warranty of the Company contained herein that is made as of a specific date, such representation and warranty need be true and correct only as of such specific date and it being further understood and agreed that, in the case of any representation and warranty of the Company contained herein that is not hereinabove qualified by application thereto of a materiality standard, such representation and warranty need be true and correct only in all material respects in order to satisfy as to such representation and warranty the condition precedent set forth in the foregoing provision of this Section 5.1(b)).

(c) The Company shall have performed in all material respects all obligations, agreements, covenants and conditions herein required to be performed or observed by the Company under this Agreement, the License Agreement and the Security Agreement on or prior to the Initial Closing Date. No event shall have occurred that (with or without the delivery of notice or passage of time) may result in the termination of this Agreement or the License Agreement or an Event of Default (as defined in the Security Agreement) under the Security Agreement, which event shall not have been cured (if capable of being cured) within the time period specified in the applicable agreement.

(d) The Investor shall have received a certificate, dated the Initial Closing Date, signed by an executive officer of the Company, certifying on behalf of the Company that the conditions specified in the foregoing Sections 5.1(b) and (c) have been fulfilled.

(e) No order enjoining or restraining the transactions contemplated by this Agreement or the License Agreement shall be in effect and no action or proceeding before any Governmental Authority shall have been instituted or pending that challenges the acquisition of,

or payment for, the Initial Note by the Investor or otherwise seeks to restrain or prohibit consummation of the transactions contemplated by this Agreement or the License Agreement or seeking to impose any limitations on any provisions of this Agreement or the License Agreement.

(f) The Investor shall have received from Pillsbury Winthrop Shaw Pittman LLP, counsel for the Company, an opinion, dated as of the Initial Closing Date, in form and substance reasonably satisfactory to counsel for the Investor, to substantially the effect set forth in Exhibit B hereto.

(g) The License Agreement Effective Date shall have occurred.

5.2 Conditions of the Company's Obligations at the Initial Closing. The obligations of the Company to issue and sell to the Investor the Initial Note and to consummate the transactions to be consummated at the Initial Closing are subject to the fulfillment on or before the Initial Closing of each of the following conditions by the Investor, any of which may be waived in writing in whole or in part by the Company:

(a) The Company and the Investor shall have executed and delivered the License Agreement and Security Agreement.

(b) The representations and warranties of the Investor contained herein shall be true and correct on and as of the Initial Closing Date with the same force and effect as though made on and as of the Initial Closing Date (it being understood and agreed that, in the case of any representation and warranty of the Investor contained herein that is made as of a specific date, such representation and warranty need be true and correct only as of such specific date and it being further understood and agreed that, in the case of any representation and warranty of the Investor contained herein that is not hereinabove qualified by application thereto of a materiality standard, such representation and warranty need be true and correct only in all material respects in order to satisfy as to such representation and warranty the condition precedent set forth in the foregoing provision of this Section 5.2(b)).

(c) The Investor shall have performed in all material respects all obligations, agreements, covenants and conditions herein required to be performed or observed by the Investor under this Agreement, the License Agreement and the Security Agreement on or prior to the Initial Closing Date. No event shall have occurred that (with or without the delivery of notice or passage of time) may result in the termination of this Agreement or the License Agreement or an Event of Default (as defined in the Security Agreement) under the Security Agreement, which event shall not have been cured (if capable of being cured) within the time period specified in the applicable agreement.

(d) The Company shall have received a certificate, dated the Initial Closing Date, signed by an authorized representative of the Investor, certifying on behalf of the Investor that the conditions specified in the foregoing Sections 5.2(b) and (c) have been fulfilled.

(e) No order enjoining or restraining the transactions contemplated by this Agreement or the License Agreement shall be in effect and no action or proceeding before any Governmental Authority shall have been instituted or pending that challenges the acquisition of,

or payment for, the Initial Note by the Investor or otherwise seeks to restrain or prohibit consummation of the transactions contemplated by this Agreement or the License Agreement or seeking to impose any limitations on any provisions of this Agreement or the License Agreement.

(f) The Investor shall have delivered to the Company the Purchase Price for the Initial Note specified in Section 2.1(a) by check or by wire transfer in immediately available funds in accordance with the provisions of Section 2.2.

(g) The License Agreement Effective Date shall have occurred.

5.3 Conditions of the Investor's Obligations at the Subsequent Closing. The obligations of the Investor to purchase from the Company the Additional Note and to consummate the transactions to be consummated at the Subsequent Closing, if any, are subject to the fulfillment on or before the Subsequent Closing of each of the following conditions, any of which may be waived in writing in whole or in part by the Investor:

(a) The representations and warranties of the Company contained herein shall be true and correct on and as of the Subsequent Closing Date with the same force and effect as though made on and as of the Subsequent Closing Date (it being understood and agreed that, in the case of any representation and warranty of the Company contained herein that is made as of a specific date, such representation and warranty need be true and correct only as of such specific date and it being further understood and agreed that, in the case of any representation and warranty of the Company contained herein that is not hereinabove qualified by application thereto of a materiality standard, such representation and warranty need be true and correct only in all material respects in order to satisfy as to such representation and warranty the condition precedent set forth in the foregoing provision of this Section 5.3(a)).

(b) The Company shall have performed in all material respects all obligations, agreements, covenants and conditions herein required to be performed or observed by the Company under this Agreement, the License Agreement, the Security Agreement, the Research Plan and the Transition Plan on or prior to the Subsequent Closing Date. No event shall have occurred that (with or without the delivery of notice or passage of time) may result or has resulted in the termination of this Agreement or the License Agreement or an Event of Default (as defined in the Security Agreement) under the Security Agreement, which event shall not have been cured (if capable of being cured) within the time period specified in the applicable agreement.

(c) The Investor shall have received a certificate, dated the Subsequent Closing Date, signed by an executive officer of the Company, certifying on behalf of the Company that the conditions specified in the foregoing Sections 5.3(a) and (b) have been fulfilled.

(d) No order enjoining or restraining the transactions contemplated by this Agreement or the License Agreement shall be in effect and no action or proceeding before any Governmental Authority shall have been instituted or pending that challenges the acquisition of, or payment for, the Additional Note by the Investor or otherwise seeks to restrain or prohibit consummation of the transactions contemplated by this Agreement or the License Agreement or

seeking to impose any limitations on any provisions of this Agreement or the License Agreement.

(e) The Investor shall have received from Pillsbury Winthrop Shaw Pittman LLP, counsel for the Company, an opinion, dated as of the Subsequent Closing Date, in form and substance reasonably satisfactory to counsel for the Investor, to substantially the effect set forth in Exhibit B hereto.

(f) The Investor shall have received the written notice of the Company to issue an Additional Note to the Investor pursuant to Section 2.1(b) on or prior to the third anniversary of the Initial Closing Date.

5.4 Conditions of the Company's Obligations at the Subsequent Closing. The obligations of the Company to issue and sell to the Investor the Additional Note and to consummate the transactions to be consummated at the Subsequent Closing, if any, are subject to the fulfillment on or before the Subsequent Closing of each of the following conditions by the Investor, any of which may be waived in writing in whole or in part by the Company:

(a) The representations and warranties of the Investor contained herein shall be true and correct on and as of the Subsequent Closing Date with the same force and effect as though made on and as of the Subsequent Closing Date (it being understood and agreed that, in the case of any representation and warranty of the Investor contained herein that is made as of a specific date, such representation and warranty need be true and correct only as of such specific date and it being further understood and agreed that, in the case of any representation and warranty of the Investor contained herein that is not hereinabove qualified by application thereto of a materiality standard, such representation and warranty need be true and correct only in all material respects in order to satisfy as to such representation and warranty the condition precedent set forth in the foregoing provision of this Section 5.4(a)).

(b) The Investor shall have performed in all material respects all obligations, agreements, covenants and conditions herein required to be performed or observed by the Investor under this Agreement, the License Agreement, the Security Agreement, the Research Plan and the Transition Plan on or prior to the Subsequent Closing Date. No event shall have occurred that (with or without the delivery of notice or passage of time) may result or has resulted in the termination of this Agreement or the License Agreement or an Event of Default (as defined in the Security Agreement) under the Security Agreement, which event shall not have been cured (if capable of being cured) within the time period specified in the applicable agreement.

(c) The Company shall have received a certificate, dated the Subsequent Closing Date, signed by an executive officer of the Investor, certifying on behalf of the Investor that the conditions specified in the foregoing Sections 5.4(a) and (b) have been fulfilled.

(d) No order enjoining or restraining the transactions contemplated by this Agreement or the License Agreement shall be in effect and no action or proceeding before any Governmental Authority shall have been instituted or pending that challenges the acquisition of, or payment for, the Additional Note by the Investor or otherwise seeks to restrain or prohibit

consummation of the transactions contemplated by this Agreement or the License Agreement or seeking to impose any limitations on any provisions of this Agreement or the License Agreement.

(e) The Investor shall have delivered to the Company the Purchase Price for the Additional Note specified in Section 2.1(b) by check or by wire transfer in immediately available funds in accordance with the provisions of Section 2.2.

6. Covenants of the Investor. The Investor covenants and agrees as follows:

6.1 Lockup Provisions. For so long as Pfizer Inc. owns beneficially two percent (2%) or more of the outstanding Common Stock (within the meaning of and as calculated in accordance with Rule 13d-3 under the Exchange Act), the Investor hereby agrees that it will not, without prior written consent of the Company or its designated managing underwriter(s) or initial purchaser(s) and except in connection with any tender offer or exchange offer made generally to the Company's holders of Common Stock or in connection with any commitment then in effect, to the extent applicable, during the period commencing on the date of the final prospectus or offering memorandum relating to a public underwritten offering by the Company and ending on the date specified by the Company and such managing underwriter or initial purchaser (such period not to exceed ninety (90) days) (i) lend, offer, pledge, sell, contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock issued upon conversion of the Notes or any securities convertible into or exercisable or exchangeable for Common Stock issued upon conversion of the Notes held immediately prior to the effectiveness of the registration statement for such offering, or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Common Stock issued upon conversion of the Notes, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash or otherwise, and will enter into an agreement in a form satisfactory to the Company and such managing underwriter(s) or initial purchaser(s) to evidence the foregoing; *provided* that all of the directors and executive officers of the Company, together with all stockholders who have been granted registration rights by the Company with respect to their shares of Common Stock after the date of this Agreement, enter into and remain subject to similar agreements and restrictions. In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to the securities subject to such covenant until the end of such period.

6.2 Note Transfer Restrictions. The Investor agrees that the Note(s) may not be transferred or assigned by the Investor, except to any Wholly-Owned Subsidiary of Pfizer Inc. or the Investor.

7. Registration Rights.

7.1 Definitions. For purposes of this Section 7:

(a) "Register," "registered," and "registration" refer to a registration effected by preparing and filing a registration statement or similar document in compliance with the

Securities Act, and the declaration or ordering of effectiveness of such registration statement or document.

(b) "Registrable Securities" means (i) the Common Stock issuable or issued upon conversion of the Notes, and (ii) any Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of the shares referenced in (i) above, excluding in all cases, however, any Registrable Securities sold by a Person in a transaction in which its rights under this Section 7 are not assigned.

7.2 Request for Registration.

(a) Subject to the conditions of this Section 7.2, if the Company shall receive at any time a written request from the Investor that the Company file a registration statement under the Securities Act covering the registration of Registrable Securities with an expected aggregate offering price to the public of at least $12,500,000 (before deduction of underwriting discounts and commissions), then the Company shall prepare and file as soon as practicable, and in any event within seventy-five (75) days of the receipt of such request, a registration statement under the Securities Act covering all Registrable Securities that the Investor requests to be registered, subject to the limitations of Section 7.2(b).

(b) If the Investor intends to distribute the Registrable Securities covered by its request by means of an underwriting, it shall so advise the Company as a part of its request made pursuant to Section 7.2(a). The underwriter or underwriters shall be selected by the Company and shall be reasonably acceptable to the Investor. In such event, the right of the Investor to include Registrable Securities in such registration shall be conditioned upon the Investor's participation in such underwriting and the inclusion of Registrable Securities in the underwriting to the extent provided herein. The Investor shall (together with the Company as provided in Section 7.5(g)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting. If the underwriter advises the Investor in writing that marketing factors require a limitation of the number of shares to be underwritten, the number of shares of Registrable Securities to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting.

(c) The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to this Section 7.2:

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

(ii) after the Company has effected one (1) registration pursuant to this Section 7.2 and such registration has been declared or ordered effective (it being understood that the Investor may still have a right to request registration pursuant to Section 7.4 below);

(iii) during the period starting with the date sixty (60) days prior to the Company's good faith estimate of the date of filing of, and ending on the date that is one

hundred twenty (120) days after the effective date of a Company-initiated registration subject to Section 7.3 hereof; provided that (a) the Company is actively employing in good faith all reasonable efforts to cause such registration statement to become effective, (b) the period referenced in this Section 7.2(c)(iii) may not exceed two hundred and ten (210) days, and (c) a request by the Company may only be made once; or

(iv) if the Company shall furnish to the Investor a certificate signed by the Chief Executive Officer 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 registration to be effected at such time, in which event the Company shall have the right to defer such filing for a period of not more than sixty (60) days after receipt of the request of the Investor; provided, however, that the Company may not utilize this right more than once in any twelve (12) month period.

7.3 Company Registration.

(a) If (but without any obligation to do so) the Company proposes to register (including for this purpose a registration effected by the Company for stockholders other than the Investor) any of its Common Stock under the Act in connection with a firm commitment underwritten public offering solely of Common Stock and solely for cash (other than a registration relating solely to the sale of securities to participants in a Company stock plan, 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, or a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered), the Company shall, at such time, promptly give the Investor written notice of such registration. Upon the written request of the Investor given within fifteen (15) days after mailing of such notice by the Company in accordance with Section 8.4, the Company shall, subject to the provisions of Section 7.3(b), cause to be registered under the Securities Act all of the Registrable Securities that the Investor has requested to be registered.

(b) In connection with any offering involving an underwriting of shares being issued by the Company, the Company shall not be required under Section 7.3(a) to include any of the Investor's securities in such underwriting unless it accepts the terms of the underwriting as agreed upon between the Company and the underwriters selected by the Company (or by other persons entitled to select the underwriters), and then only in such quantity as the underwriters determine in their sole discretion will not jeopardize the success of the offering by the Company. If the total amount of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the amount of securities sold other than by the Company that the underwriters determine in their sole discretion is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters determine in their sole discretion 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 *provided, however*, that the number of shares of (i) Registrable Securities, and (ii) securities of the Company (i.e., primary shares) to be included

in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting; *provided, further*, that in no event shall the amount of securities of the Investor included in the offering be reduced below (x) three percent (3%) of the total amount of securities included in such offering, if such offering occurs on or prior to the third anniversary of the date of this Agreement, or (y) thirty percent (30%) of the total amount of securities included in such offering, if such offering occurs after the third anniversary of the date of this Agreement.

7.4 Form S-3 Registration. If the Company shall receive at any time a written request from the Investor that the Company file a registration statement under the Securities Act covering the registration of Registrable Securities (which request shall state the number of shares of Registrable Securities to be disposed of and the intended methods of disposition of such shares, which shall not require the Company to participate in an underwritten offering), then the Company shall prepare and file as soon as practicable, and in any event within seventy-five (75) days of the receipt of such request, a registration statement on Form S-3 under the Securities Act covering such Registrable Securities; *provided, however*, that the Company shall not be obligated to effect any such registration pursuant to this Section 7.4: (i) if Form S-3 is not available for such offering by the Investor; (ii) if the Company shall furnish to the Investor a certificate signed by the Chief Executive Officer 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 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 sixty (60) days after receipt of the request of the Investor under this Section 7.4; *provided, however*, that the Company shall not utilize this right more than once in any twelve (12) month period; or (iii) after the Company has effected one (1) registration pursuant to this Section 7.4 and such registration has been declared or ordered effective.

7.5 Obligations of the Company. Whenever required under this Section 7 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the SEC a registration statement with respect to such Registrable Securities and use all reasonable efforts to cause such registration statement to become effective, and keep such registration statement effective for a period of up to ninety (90) days or until the distribution contemplated in the Registration Statement has been completed (such period, as may be extended hereunder, the "Effectiveness Period"); *provided, however*, that the Effectiveness Period shall be extended for a period of time equal to the period the Investor refrains from selling any securities included in such registration at the request of an underwriter of Common Stock (or other securities) of the Company. In the event that, in the reasonable judgment of the Company, it is advisable to suspend use of the prospectus relating to such registration statement for a discrete period of time (a "Deferral Period") due to pending material corporate developments or similar material events that have not yet been publicly disclosed and as to which the Company believes public disclosure will be prejudicial to the Company, the Company shall deliver written notice to the Investor to the effect of the foregoing and, upon receipt of such notice, the Investor agrees not to dispose of Registrable Securities covered by such registration statement (other than in transactions exempt from the registration requirements under the Securities Act); *provided, however*, that such Deferral Period for all registration statements under this Section 7 shall be no longer than forty-five (45) days in any three-month

period or ninety (90) days in any 12-month period; *provided*, that in the case of a pending material corporate development or similar material event relating to an acquisition or a probable acquisition or financing, recapitalization, business combination or other similar transaction, the Company may, without incurring any obligation to pay liquidated damages pursuant to Section 7.10, deliver to the Investor a second written notice to the effect set forth above, which shall have the effect of extending the Deferral Period by up to an additional fifteen (15) days in any three-month period, or such shorter period of time as is specified in such second notice. The Effectiveness Period shall be extended for a period of time equal to such Deferral Period.

(b) Furnish, at least five (5) days before filing a registration statement that registers such Registrable Securities, a draft prospectus relating thereto and any amendments or supplements (if any) relating to such registration statement or prospectus, to one (1) counsel selected by the Investor ("Investor Counsel") copies of all such documents proposed to be filed (it being understood that such five (5) day period need not apply to successive drafts of the same document proposed to be filed so long as such successive drafts are supplied to Investor Counsel in advance of the proposed filing by a period of time that is customary under the circumstances).

(c) Notify Investor Counsel promptly in writing (i) of any comments by the SEC with respect to such registration statement or prospectus, or any request by the SEC for the amending or supplementing thereof or for additional information with respect thereto, (ii) of the issuance by the SEC of any stop order suspending the effectiveness of such registration statement or prospectus or any amendment or supplement thereto or the initiation of any proceedings for that purpose, and (iii) of the receipt by the Company of any notification with respect to the suspension of the qualification of such Registrable Securities for sale in any jurisdiction.

(d) 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 Securities Act with respect to the disposition of all securities covered by such registration statement.

(e) Furnish to the Investor such numbers of copies of a prospectus, including a preliminary prospectus, and any amendment or supplement thereto, all in conformity with the requirements of the Securities Act, and such other documents as the Investor may reasonably request in order to facilitate the disposition of such Registrable Securities.

(f) Use all reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or blue sky laws of such jurisdictions as shall be reasonably requested by the Investor; *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, unless the Company is already subject to service in such jurisdiction and except as may be required under the Securities Act.

(g) 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(s) of such offering. If the Investor participates in such underwriting, it shall also enter into and perform the Investor's obligations under such an agreement.

(h) Promptly notify the Investor at any time when a prospectus relating thereto is required to be delivered under the Securities 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, in the light of the circumstances under which they were made, not misleading or, if for any reason it shall be necessary during such time period to amend or supplement the registration statement or the prospectus in order to comply with the Securities Act, whereupon, in either case, the Investor shall immediately cease to use such registration statement or prospectus for any purpose and, as promptly as practicable thereafter, the Company shall prepare and file with the SEC, and furnish without charge to the Investor and managing underwriters, if any, a supplement or amendment to such registration statement or prospectus that will correct such statement or omission or effect such compliance and such copies thereof as the Investor and any underwriters may reasonably request.

(i) Cause all such Registrable Securities registered pursuant hereunder to be listed on each securities exchange, stock market or automated quotation system on which similar securities issued by the Company are then listed.

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

(k) Use its reasonable efforts to furnish, at the request of the underwriter pursuant to an underwriting agreement, on the date that such Registrable Securities are delivered to the underwriters for sale in connection with a registration pursuant to Section 7.2, (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, and (ii) a letter, dated such date, from the independent registered public accounting firm of the Company, in form and substance as is customarily given by independent registered public accounting firm to underwriters in an underwritten public offering, addressed to the underwriters.

7.6 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 7 with respect to the Registrable Securities of the Investor that the Investor 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 the Investor's Registrable Securities.

7.7 Expenses of Registration.

(a) Except as set forth in Section 7.7(b), 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 Sections 7.2, 7.3 and 7.4 hereof, including (without limitation) all registration, filing, and qualification fees, printers' and accounting fees, blue sky fees and expenses, including fees and disbursements of counsel related to all blue sky matters, fees and expenses of listing any Registrable Securities on any securities exchange, stock market or automated quotation system on which shares of Common Stock are then listed, fees and

disbursements of counsel for the Company, and the reasonable fees and disbursements of Investor Counsel, but excluding stock transfer taxes that may be payable by the Investor and underwriting discounts and commissions relating to Registrable Securities covered by such registration, which shall be borne by the Investor.

(b) Notwithstanding Section 7.7(a), the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 7.2 if the registration request is subsequently withdrawn at the request of the Investor, unless the Investor agrees to forfeit its right to one demand registration pursuant to Section 7.2; *provided, however*, that if such withdrawal occurs prior to the date the registration statement shall have become effective and at the time of such withdrawal, the Investor has learned of a material adverse change in the financial condition, business, properties or results of operations of the Company from that known to the Investor at the time of its request and have withdrawn the request with reasonable promptness following disclosure by the Company of such material adverse change, then the Investor shall not be required to pay any of such expenses and shall retain its rights pursuant to Sections 7.2 and 7.4.

7.8 Delay of Registration. The Investor shall have no right to obtain or seek an injunction restraining or otherwise delaying any Company-initiated registration subject to Section 7.3 as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 7.

7.9 Indemnification. In the event any Registrable Securities are included in a registration statement under this Section 7:

(a) To the extent permitted by law, the Company will indemnify and hold harmless the Investor, the officers and directors of the Investor, any underwriter (as defined in the Securities Act) of such Registrable Securities and each person. if any, who controls the Investor or such underwriter within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Securities Act, the Exchange Act or other federal or state securities 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 Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law; and the Company will reimburse, as incurred, the Investor and each such officer, director, underwriter or controlling person, for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability, or action; *provided, however*, that the indemnity agreement contained in this Section 7.9(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 that occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by the Investor or any such officer, director, underwriter or controlling person.

(b) To the extent permitted by law, the Investor 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 Securities Act, and any underwriter, against any losses, claims, damages, or liabilities (joint or several) to which any of the foregoing persons may become subject, under the Securities Act, the Exchange Act or other federal or state securities 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 the Investor expressly for use in connection with such registration; and the Investor will reimburse any legal or other expenses reasonably incurred by any person intended to be indemnified pursuant to this Section 7.9(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 7.9(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 Investor, which consent shall not be unreasonably withheld; *provided further*, that, in no event shall any indemnity under this Section 7.9(b) exceed the aggregate gross proceeds from the sale of the Registrable Securities received by the Investor from the shares sold by the Investor in the offering in question, except in the case of willful fraud by the Investor.

(c) Promptly after receipt by an indemnified party under this Section 7.9 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 7.9, 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 (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if prejudicial to its ability to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this Section 7.9, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 7.9. An indemnifying party shall not, without the prior written consent of the indemnified parties, settle, compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification may be sought hereunder by such indemnified parties (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes a release of such indemnified party reasonably acceptable to such indemnified party from all liability arising out of such claim, action, suit or proceeding.

(d) If the indemnification provided for in this Section 7.9 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; provided, that in no event shall any contribution by the Investor under this Section 7.9(d) exceed the net proceeds from the offering received by the Investor, except in the case of willful fraud by the Investor. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(f) The obligations of the Company and the Investor under this Section 7.9 shall survive the completion of any offering of Registrable Securities in a registration statement under this Section 7, and otherwise.

7.10 Liquidated Damages.

(a) The parties hereto agree that the Investor will suffer damages, and that it would not be feasible to ascertain the extent of such damages with precision, if:

(i) the registration statement pursuant to Section 7.2 has not been filed within the time period required therein;

(ii) the registration statement pursuant to Section 7.4 has not been filed within the time period required therein;

(iii) the aggregate duration of Deferral Periods in any period exceeds the number of days permitted in respect of such period pursuant to Section 7.5(a) hereof; or

(iv) the number of Deferral Periods in any period exceeds the number permitted in respect of such period pursuant to Section 7.5(a) hereof.

Each event described in any of the foregoing clauses (i) through (iv) is individually referred to herein as a "Registration Default." For purposes of this Agreement, each Registration Default set forth above shall begin and end on the dates set forth in the table set forth below:

Type of Registration Default by Clause	Beginning Date	Ending Date
(i)	filing deadline pursuant to Section 7.2	the date the initial registration statement is filed
(ii)	filing deadline pursuant to Section 7.4	the date the initial registration statement is filed
(iii)	the date on which the aggregate duration of Deferral Periods in any period exceeds the number of days permitted by Section 7.5(a)	termination of the Deferral Period that caused the limit on the aggregate duration of Deferral Periods to be exceeded
(iv)	the date of commencement of a Deferral Period that causes the number of Deferral Periods to exceed the number permitted by Section 7.5(a)	termination of the Deferral Period that caused the number of Deferral Periods to exceed the number permitted by Section 7.5(a)

For purposes of this Agreement, Registration Defaults shall begin on the dates set forth in the table above and shall continue until the ending dates set forth in the table above.

(b) Commencing on (and including) any date that a Registration Default has begun and ending on (but excluding) the next date on which there are no Registration Defaults that have occurred and are continuing (a "Registration Default Period"), the Company shall pay, as liquidated damages and not as a penalty, to the Investor in respect of each day in the Registration Default Period, liquidated damages in respect of each share of Registrable Securities at a rate per annum equal to 0.25% of the Conversion Price (as defined in the Notes) on such date (the "Initial Liquidated Damages Amount") for the first 90 days starting on the date that a Registrable Default begins, and at a rate per annum equal to 0.5% on the Conversion Price on such date (the "Subsequent Liquidated Damages Amount", and together with the Subsequent Liquidated Damages Amount, the "Liquidated Damages Amount") after the first 90 days of such Registration Default Period, as the case may be. In calculating the Liquidated Damages Amount on shares of Registrable Securities on any date on which no Notes are outstanding, the Conversion Price used shall be based on the Conversion Price that would be in effect if the Notes were still outstanding. Notwithstanding the foregoing, no Liquidated Damages Amount shall accrue as to any Registrable Security from and after the earlier of (x) the date such security is no longer a Registrable Security and (y) termination of the registration rights applicable to such Registrable Security pursuant to Section 7.11. The rates of accrual of the Liquidated Damages Amount with respect to any period shall not exceed the rates provided for in this paragraph notwithstanding the occurrence of multiple concurrent Registration Defaults.

(c) The Liquidated Damages Amount shall be payable on each six-month anniversary of the Initial Closing or the Subsequent Closing, as applicable, during the Registration Default Period (and on such applicable six-month anniversary next succeeding the end of the Registration Default Period if

the Registration Default Period does not end on such applicable six-month anniversary) to the Investor as provided in wire transfer instructions provided in writing by the Investor to the Company pursuant to the provisions of Section 8.4. Notwithstanding the foregoing, the parties agree that the sole damages payable for a violation of the terms of this Agreement with respect to which liquidated damages are expressly provided shall be such liquidated damages. Nothing shall preclude the Investor from pursuing or obtaining specific performance or other equitable relief with respect to this Agreement.

(d) All of the Company's payment obligations set forth in this 7.10 that have accrued with respect to any Registrable Security at the time such security ceases to be a Registrable Security shall survive until such time as all such payment obligations with respect to such security have been satisfied in full (notwithstanding termination of this Agreement pursuant to Section 8.1).

(e) The parties hereto agree that the liquidated damages provided for in this Section 7.10 constitute a reasonable estimate of the damages that may be incurred by the Investor as a holder of Registrable Securities by reason of the failure of a registration statement to be filed or available for effecting resales of Registrable Securities in accordance with the provisions of this Section 7.

7.11 Termination of Registration Rights. The right of the Investor to request registration or inclusion in any registration pursuant to Section 7.2, Section 7.3 or Section 7.4 shall terminate (a) as to Registrable Securities relating to the Initial Note, on the seventh anniversary of the Initial Closing and (b) as to Registrable Securities relating to the Additional Note, on the seventh anniversary of the Subsequent Closing.

8. Miscellaneous.

8.1 Termination; Term of Agreement.

(a) This Agreement may be terminated by either party by written notice to the other party in the event that the Initial Closing Date does not occur on or before the date six months from the date of this Agreement or such other date as the Company and the Investor shall mutually agree in writing. This Agreement may be terminated by the Investor by written notice to the Company in the event that the Company does not exercise its option to issue an Additional Note to the Investor pursuant to Section 2.1(b) by the third anniversary of the Initial Closing Date. Unless otherwise agreed to by the parties in writing, this Agreement will automatically terminate upon the occurrence of any of the following: (i) termination of the License Agreement, or (ii) an Incyte Change in Control, or (iii) an Event of Default under the Security Agreement.

(b) Nothing herein shall relieve any party from liability for any breach hereof.

8.2 Public Announcements. Each party agrees to cooperate with the other in the preparation of any governmental filing relating to the transactions contemplated hereby. Each

party may make a public statement (written or oral), including in analyst meetings, concerning this Agreement where such statement (x) is required by Law or legal proceeding, (y) is contained in Pfizer Inc.'s or Incyte's financial statements prepared in accordance with generally accepted accounting principles in the United States of America, or (z) has been previously announced under this Section 8.2 so long as such statement is consistent with any previous announcement permitted hereunder. In all cases, the party required to or proposing to make such statement shall (i) endeavor to obtain confidential treatment of economic and trade secret information and (ii) give the other party sufficient advance notice of the text of any proposed statement (written or oral) so that the other party will have the opportunity to comment upon the statement and such comments will be taken into account in the final statement.

8.3 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. Except as provided in Section 6.2, neither the Company nor the Investor shall assign this Agreement or any rights hereunder or delegate any duties hereunder without the prior written consent of the other (which consent may be withheld for any reason in the sole discretion of the party from whom consent is sought).

8.4 Notices. Unless otherwise provided, any notice, request, demand or other communication required or permitted under this Agreement shall be given in writing and shall be deemed effectively given upon personal delivery to the party to be notified, or when sent by telecopier (with receipt confirmed), or overnight courier service, or upon deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed as follows (or at such other address as a party may designate by notice to the other):

If to the Company:

Incyte Corporation
Experimental Station
Route 141 & Henry Clay Road
Building E336
Wilmington, DE 19880
Attention: General Counsel
Telecopier: (302) 425-2707

with a copy to:

Pillsbury Winthrop Shaw Pittman LLP
50 Fremont Street
San Francisco, CA 94105
Attention: Stanton D. Wong, Esq.
Telecopier: (415) 983-1200

and

Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway
New York, New York 10036
Attention: Babak Yaghmaie, Esq.
Telecopier: (212) 858-1500

If to the Investor:

Pfizer Inc.
235 East 42nd Street
New York, New York 10017

Attention: Treasurer
Telecopier: (212) 338-1558

with a copy to:

Attention: Executive Vice President and General Counsel
Telecopier: 212-808-8924

8.5 Survival. Notwithstanding any investigation made by any party to this Agreement and except as set forth in Section 8.1, all covenants, agreements, representations and warranties made by the Company and the Investor herein shall survive without limitation the execution hereof, the delivery to the Investor of the Initial Note, Additional Note and/or shares of Common Stock being purchased, and the payments therefor.

8.6 Finders or Brokers. The Investor represents that it has not engaged any investment banker, finder or broker, and neither is nor will be obligated for any finder's fee or commission, in connection with the transactions contemplated hereby. The Company represents that it has not engaged any investment banker, finder or broker, and neither is nor will be obligated for any finder's fee or commission, in connection with the transactions contemplated hereby. Each party agrees to indemnify and hold harmless the other from the liability for any fees, commissions and other payments (and the costs and expenses of defending against such liability or asserted liability) that may be owing as a result of such party's breach of its representation made in this Section 8.6.

8.7 Expenses. Each party hereto shall pay all of its own costs and expenses incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the transactions contemplated herein, whether or not such transactions are consummated.

8.8 Waivers. 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 Investor. No waiver by either party of any default with respect to any provision, condition or requirement hereof shall be deemed to be a continuing waiver in the future thereof or a waiver of any other provision, condition or requirement hereof;

nor shall any delay or omission of either party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter. Any waiver effected in accordance with this paragraph shall be binding upon each holder of any securities purchased under this Agreement at the time outstanding, each future holder of all such securities, and the Company.

8.9 Severability. If one or more provisions of this Agreement are held to be unenforceable, invalid or void by a court of competent jurisdiction, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

8.10 Specific Enforcement. The Company and the Investor acknowledge and agree that if any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, irreparable damage would occur and it would be extremely impracticable and difficult to measure damages. Accordingly, in addition to any other rights and remedies to which the parties may be entitled by law or equity, the parties shall be entitled to an injunction or injunctions to prevent or cure breaches of the provisions of this agreement and to enforce specifically the terms and provisions hereof, and the parties expressly waive any defense that a remedy in damages will be adequate.

8.11 Entire Agreement; Amendments.

(a) Except as otherwise provided herein or in the License Agreement, this Agreement contains the entire understanding of the parties with respect to the matters covered herein and supersedes all prior agreements and understandings, written or oral, between the parties relating to the subject matter hereof.

(b) Any term of this Agreement may be amended only with the written consent of the Company and the Investor. Any amendment effected in accordance with this paragraph shall be binding upon each holder of any securities purchased under this Agreement at the time outstanding, each future holder of all such securities, and the Company.

8.12 Governing Law. This Agreement shall be governed by and construed under the laws of the State of New York (irrespective of its choice of law principles).

8.13 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.

8.14 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. Any reference in this Agreement to a statutory provision or rule or regulation promulgated thereunder shall be deemed to include any similar successor statutory provision or rule or regulation promulgated thereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

INCYTE CORPORATION

By /s/ Paul A. Friedman
Name Paul A. Friedman
Title President & CEO

PFIZER OVERSEAS PHARMACEUTICALS

By /s/ Ciarán Keaney
Name Ciarán Keaney
Title Company Secretary

By /s/ Paul Duffy
Name Paul Duffy
Title Director