

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934
(Amendment No. 1)

Access Pharmaceuticals, Inc.*

(Name of Issuer)

Common Stock, \$0.01 par value

(Title of Class of Securities)

00431M209

(CUSIP Number)

Larry N. Feinberg
c/o Oracle Partners, L.P.
200 Greenwich Avenue, 3rd Floor
Greenwich, CT 06830
(203) 862-7900

Copies to:

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Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019-6099
(212) 728-8000

(Name, Address and Telephone Number of Person Authorized to
Receive Notices and Communications)

December 31, 2005

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. []

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See §240.13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter the disclosures provided in a prior cover page.

The information required in the remainder of this cover page shall not be deemed to be 'filed' for the purpose of Section 18 of the Securities Exchange Act of 1934 ('Act') or

otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP No. 00431M209

Person 1

1. (a) Names of Reporting Persons.

Larry N. Feinberg

(b) I.R.S. Identification Nos. of above persons (entities only).

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)

(b)

3. SEC Use Only

4. Source of Funds (See Instructions) AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization United States

Number of 7. Sole Voting Power 3,660

Shares

Beneficially

Owned by

Each

Reporting

Person With

8. Shared Voting Power 2,479,380

9. Sole Dispositive Power 3,660

10. Shared Dispositive Power 2,479,380

11. Aggregate Amount Beneficially Owned by Each Reporting Person 2,483,040

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)

13. Percent of Class Represented by Amount in Row (11) 31.8 %

14. Type of Reporting Person (See Instructions)

IN

Person 2

1. (a) Names of Reporting Persons.

Oracle Associates, LLC

(b) I.R.S. Identification Nos. of above persons (entities only).

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)

(b)

3. SEC Use Only

4. Source of Funds (See Instructions) AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization Delaware

Number of 7. Sole Voting Power 0

Shares

Beneficially 8. Shared Voting Power 2,402,486

Owned by

Each 9. Sole Dispositive Power 0

Reporting

Person With

10. Shared Dispositive Power 2,402,486

11. Aggregate Amount Beneficially Owned by Each Reporting Person 2,402,486

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)

13. Percent of Class Represented by Amount in Row (11) 31.0 %

14. Type of Reporting Person (See Instructions)

OO

Person 3

1. (a) Names of Reporting Persons.

Oracle Partners, L.P.

(b) I.R.S. Identification Nos. of above persons (entities only).

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)

(b)

3. SEC Use Only

4. Source of Funds (See Instructions) WC

5 Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) []

6. Citizenship or Place of Organization Delaware

Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With

7. Sole Voting Power 0

8. Shared Voting Power 1,622,488

9. Sole Dispositive Power 0

10. Shared Dispositive Power 1,622,488

11. Aggregate Amount Beneficially Owned by Each Reporting Person 1,622,488

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) []

13. Percent of Class Represented by Amount in Row (11) 23.2 %

14. Type of Reporting Person (See Instructions)

PN

Person 4

1. (a) Names of Reporting Persons.

Oracle Institutional Partners, L.P.

(b) I.R.S. Identification Nos. of above persons (entities only).

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) []

(b)

[X]

3. SEC Use Only

4. Source of Funds (See Instructions) WC

5 Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) []

6. Citizenship or Place of Organization Delaware

Number of Shares Beneficially Owned by Each Reporting Person With

7. Sole Voting Power 0

8. Shared Voting Power 779,998

9. Sole Dispositive Power 0

10. Shared Dispositive Power 779,998

11. Aggregate Amount Beneficially Owned by Each Reporting Person 779,998

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) []

13. Percent of Class Represented by Amount in Row (11) 12.3 %

14. Type of Reporting Person (See Instructions)

PN

Person 5

1. (a) Names of Reporting Persons.
Oracle Investment Management, Inc.
(b) I.R.S. Identification Nos. of above persons (entities only).

2. Check the Appropriate Box if a Member of a Group (See Instructions)
(a) []
(b) [X]

3. SEC Use Only

4. Source of Funds (See Instructions) AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) []

6. Citizenship or Place of Organization Delaware

Number of Shares Beneficially Owned by Each Reporting Person With

7. Sole Voting Power 0

8. Shared Voting Power 76,893

9. Sole Dispositive Power 0

10. Shared Dispositive Power 76,893

11. Aggregate Amount Beneficially Owned by Each Reporting Person 76,893

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) []

13. Percent of Class Represented by Amount in Row (11) 1.4 %

14. Type of Reporting Person (See Instructions)

CO

Person 6

1. (a) Names of Reporting Persons.

SAM Oracle Investments Inc.

(b) I.R.S. Identification Nos. of above persons (entities only).

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) []

(b) [X]

3. SEC Use Only

4. Source of Funds (See Instructions) WC

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) []

6. Citizenship or Place of Organization British Virgin Islands

Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With

7. Sole Voting Power 0

8. Shared Voting Power 0

9. Sole Dispositive Power 0

10. Shared Dispositive Power 0

11. Aggregate Amount Beneficially Owned by Each Reporting Person 0

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) []

13. Percent of Class Represented by Amount in Row (11) 0 %

14. Type of Reporting Person (See Instructions)

Item 1. Security and Issuer**Item 2. Identity and Background**

(a) Item 2 of the Schedule 13D is hereby amended by the deletion of the text thereof in its entirety and its replacement with the following:

(a) This Schedule 13D is being filed by:

(i) Oracle Partners, L.P., a Delaware limited partnership ("Oracle Partners"), with respect to shares of Common Stock directly owned by it;

(ii) Oracle Institutional Partners, L.P., a Delaware limited partnership ("Oracle Institutional" and together with Oracle Partners, the "Partnerships"), with respect to shares of Common Stock directly owned by it;

(iii) Oracle Associates, LLC, a Delaware limited liability company ("Oracle Associates"), which serves as the general partner of Oracle Partners and Oracle Institutional, with respect to shares of Common Stock directly owned by Oracle Partners and Oracle Institutional;

(iv) SAM Oracle Investments Inc., a British Virgin Islands corporation ("SAM Oracle"), with respect to shares of Common Stock directly owned by it;

(v) Oracle Investment Management, Inc., a Delaware corporation (the "Investment Manager"), which serves as investment manager to and has investment discretion over the securities held by (A) SAM Oracle, (B) Oracle Offshore Limited, a Cayman Islands corporation (together with SAM Oracle, the "Foreign Funds") and (C) Oracle Management, Inc. Employees Retirement Plan (together with the Foreign Funds, the "Managed Funds"), with respect to shares of Common Stock directly owned by the Managed Funds; and

(vi) Mr. Larry N. Feinberg ("Mr. Feinberg"), who serves as the senior managing member of Oracle Associates, is the trustee of The Feinberg Family Foundation (the "Foundation") and is the sole shareholder and president of the Investment Manager, with respect to the shares of Common Stock directly owned by the Foundation and the shares of Common Stock directly owned by the Partnerships and the Managed Funds, which he may be deemed to beneficially own by virtue of the foregoing relationships.

Oracle Partners, Oracle Institutional, Oracle Associates, SAM Oracle, the Investment Manager and Mr. Feinberg are hereinafter sometimes collectively referred to as the "Reporting Persons." Any disclosures herein with respect to persons other than the Reporting Persons are made on information and belief after making inquiry to the appropriate party.

(b) (b) The business address of each of the Reporting Persons is 200 Greenwich Avenue, Greenwich, Connecticut, 06830.

(c) (c) The principal business of Oracle Partners, Oracle Institutional and SAM Oracle is to invest in securities. The principal business of Oracle Associates is to serve as general partner to and exercise investment discretion over securities held by the Partnerships. The principal business of the Investment Manager is to serve as investment manager to and exercise investment discretion over securities held by the Managed Funds. The principal business of Mr. Feinberg is to invest in securities through Oracle Associates, Oracle Investment Management and certain other entities.

(d) (d) None of the Reporting Persons, nor, to the best of their knowledge, any of their directors, executive officers, general partners or members, has, during the last five years, been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors).

- (e) (e) None of the Reporting Persons, nor, to the best of their knowledge, any of their directors, executive officers, general partners or members has, during the last five years, been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.
- (f) (f) Oracle Partners is organized under the laws of the State of Delaware. Oracle Institutional is organized under the laws of the State of Delaware. Oracle Associates is organized under the laws of the State of Delaware. SAM Oracle is organized under the laws of the a British Virgin Islands. The Investment Manager is organized under the laws of the State of Delaware. Mr. Feinberg is a citizen of the United States of America.

Item 3. Source and Amount of Funds or Other Consideration

Item 3 of the Schedule 13D is hereby amended by the deletion of the text thereof in its entirety and its replacement with the following:

Between February 1, 2005 and March 11, 2008, Oracle Associates, the Partnerships and the Managed Funds acquired and disposed of shares of Common Stock in the ordinary course of business, which transactions are set forth on Exhibit 99.1 hereto. In addition, on June 5, 2006, the Company effected a five-to-one reverse stock split of the Company's Common Stock.

A series of transactions involving the Company were described in the Company's Current Report on Form 8-K, filed on November 14, 2007 (the "Form 8-K"). In connection with these transactions, existing convertible notes (the "Notes") held by the Partnerships and the Foreign Funds having an aggregate value of \$4,373,104.54 (principal amount of \$4,015,000 plus interest accrued thereon of \$358,104.54), were exchanged into 437 shares of Series A Cumulative Convertible Preferred Stock, par value \$0.01 per share (the "Preferred Stock") of the Company and Common Stock Purchase Warrants (the "Warrants") to purchase 728,850 shares of Common Stock. Each share of Preferred Stock is convertible in whole or in part, at any time or from time to time, at the option of the holder into 3,333.33 shares of Common Stock. The Warrants are exercisable in whole or in part, at any time or from time to time, at the option of the holder until November 10, 2013, at an exercise price of \$3.50 per share, subject to adjustment. Following the exchange and as of the date hereof, Mr. Feinberg may be deemed to beneficially own 2,483,040 shares of Common Stock, consisting of 296,483 shares of Common Stock (the "Shares"), 437 shares of Preferred Stock convertible into 1,457,707 shares of Common Stock and Warrants to purchase 728,850 shares of Common Stock directly owned by the Partnerships, the Foreign Funds and the Foundation.

The Shares were purchased for an aggregate purchase price of \$6,425,451 (not including the amount corresponding to the note conversion). The funds for the purchase of those Shares held by the Partnerships came from capital contributions to the Partnerships by their general and limited partners. The funds for the purchase of those Shares held by the Foreign Funds came from capital contributions to the Foreign Funds by the investors in such funds. The funds for the purchase of those Shares held by the Foundation came from the Foundation's capital.

The Partnerships and the Foreign Funds effect purchases of securities primarily through margin accounts maintained for them with Morgan Stanley & Co., which may extend margin credit to the Partnerships and Foreign Funds as and when required to open or carry positions in the margin accounts, subject to applicable Federal margin regulations, stock exchange rules and the firm's credit policies. In such instances, the positions held in the margin accounts are pledged as collateral security for the repayment of debit balances in the accounts.

Item 4. Purpose of Transaction

Item 4 of the Schedule 13D is hereby amended by the deletion of the entirety of the text thereof and its replacement with the following:

The shares of Common Stock deemed to be beneficially owned by the Reporting Persons were acquired for, and are being held for, investment purposes. Such shares were acquired in the ordinary course of business

and not for the purpose of acquiring control of the Company.

The Reporting Persons may in the future directly acquire shares of Common Stock in open market or private transactions, block purchases or otherwise. The Reporting Persons may continue to hold or dispose of all or some of the securities reported herein from time to time, in each case in open market or private transactions, block sales or purchases or otherwise, subject to compliance with applicable law.

Other than as set forth herein, none of the Reporting Persons has any plans or proposals which relate to, or could result in, any of the matters referred to in paragraphs (b) through (j), inclusive, of Item 4 of Schedule 13D. Each of the Reporting Persons may, at any time and from time to time, review or reconsider his or its position and formulate plans or proposals with respect thereto, but has no present intention of doing so.

Item 5. Interest in Securities of the Issuer

(a) Item 5 of the Schedule 13D is hereby amended by the deletion of the text thereof in its entirety and its replacement with the following:

(a) & (b) Ownership and power over disposition:

A. Mr. Larry N. Feinberg

1. As of the date hereof, Mr. Feinberg's holdings are as follows:

(a) Amount beneficially owned: 2,483,040, consisting of (i) 296,483 shares of Common Stock, (ii) 1,457,706 shares of Common Stock that would be received upon the conversion of 437 shares of Preferred Stock beneficially owned by Mr. Feinberg and (iii) 728,850 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Mr. Feinberg.

(b) Percent of class: 31.8% This percentage is calculated based upon a total of 7,810,338 outstanding shares of Common Stock, equal to the sum of (i) 5,623,781 shares of Common Stock outstanding as of March 31, 2008, as reported in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, (ii) 1,457,706 shares of Common Stock which would be received upon conversion of 437 shares of Preferred Stock beneficially owned by Mr. Feinberg and (iii) 728,850 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Mr. Feinberg.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

3,660

(ii) Shared power to vote or direct the vote:

2,479,380

(iii) Sole power to dispose or direct the disposition:

3,660

(iv) Shared power to dispose or direct the disposition:

2,479,380

2. As of November 9, 2007 when Mr. Feinberg experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Mr. Feinberg's holdings were as follows:

(a) Amount beneficially owned: 2,483,040, consisting of (i) 296,483 shares of Common Stock, (ii) 1,457,706 shares of Common Stock that would be received upon the conversion of 437 shares of Preferred Stock beneficially owned by Mr. Feinberg and (iii) 728,850 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Mr. Feinberg.

(b) Percent of class: 43.2% This percentage is calculated based upon a total of 5,752,950 outstanding shares of Common Stock, equal to the sum of (i) 3,566,394 shares of Common Stock

outstanding as of August 14, 2007, as reported on the Company's Quarterly Report on Form 10-QSB for the quarterly period ended June 30, 2007, (ii) 1,457,706 shares of Common Stock which would be received upon conversion of 437 shares of Preferred Stock beneficially owned by Mr. Feinberg and (iii) 728,850 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Mr. Feinberg.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

3,660

(ii) Shared power to vote or direct the vote:

2,479,380

(iii) Sole power to dispose or direct the disposition:

3,660

(iv) Shared power to dispose or direct the disposition:

2,479,380

3. As of February 28, 2007 when Mr. Feinberg experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Mr. Feinberg's holdings were as follows:

(a) Amount beneficially owned: 448,523, consisting of (i) 302,523 shares of Common Stock, and (ii) 146,000 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Mr. Feinberg.

(b) Percent of class: 12.2% This percentage is calculated based upon a total of 3,681,108 outstanding shares of Common Stock, equal to the sum of (i) 3,535,108 shares of Common Stock outstanding as of November 20, 2006, as reported on the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2006 and (ii) 146,000 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Mr. Feinberg.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

3,660

(ii) Shared power to vote or direct the vote:

444,863

(iii) Sole power to dispose or direct the disposition:

3,660

(iv) Shared power to dispose or direct the disposition:

444,863

4. As of December 31, 2005 when Mr. Feinberg experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Mr. Feinberg's holdings were as follows:

(a) Amount beneficially owned: 2,448,121, consisting of (i) 1,718,121 shares of Common Stock, and (ii) 586,000 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Mr. Feinberg.

(b) Percent of class: 13.3% This percentage is calculated based upon a total of 18,360,040 outstanding shares of Common Stock, equal to the sum of (i) 17,630,040 shares of Common Stock outstanding as of November 14, 2005, as reported on the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2005 and (ii) 730,000 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Mr. Feinberg.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

18,300

(ii) Shared power to vote or direct the vote:

2,429,821

(iii) Sole power to dispose or direct the disposition:

18,300

(iv) Shared power to dispose or direct the disposition:

2,429,821

B. Oracle Associates, LLC.

1. As of the date hereof, Oracle Associate's holdings are as follows:

(a) Amount beneficially owned: 2,402,486, consisting of (i) 287,816 shares of Common Stock, (ii) 1,409,782 shares of Common Stock which would be received upon conversion of 423 shares of Preferred Stock beneficially owned by Oracle Associates and (iii) 704,888 shares which would be received upon the exercise of the Warrants beneficially owned by Oracle Associates.

(b) Percent of class: 31.0% This percentage is calculated based upon a total of 7,738,451 outstanding shares of Common Stock, equal to the sum of (i) 5,623,781 shares of Common Stock outstanding as of March 31, 2008, as reported in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, (ii) 1,409,782 shares of Common Stock which would be received upon conversion of 423 shares of Preferred Stock beneficially owned by Oracle Associates and (iii) 704,888 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Associates.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

2,402,486

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

2,402,486

2. As of March 11, 2008 when Oracle Associates experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Oracle Associate's holdings were as follows:

(a) Amount beneficially owned: 2,402,486, consisting of (i) 287,816 shares of Common Stock, (ii) 1,409,782 shares of Common Stock which would be received upon conversion of 423 shares of Preferred Stock beneficially owned by Oracle Associates and (iii) 704,888 shares which would be received upon the exercise of the Warrants beneficially owned by Oracle Associates.

(b) Percent of class: 31.0% This percentage is calculated based upon a total of 7,738,451 outstanding shares of Common Stock, equal to the sum of (i) 5,623,781 shares of Common Stock outstanding as per a private communication from the Company, (ii) 1,409,782 shares of Common Stock which would be received upon conversion of 423 shares of Preferred Stock beneficially owned by Oracle Associates and (iii) 704,888 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Associates.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

2,402,486

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

2,402,486

3. As of November 9, 2007 when Oracle Associates experienced a change in beneficial ownership

in excess of 1% based on the total shares outstanding at such time, Oracle Associate's holdings were as follows:

(a) Amount beneficially owned: 2,013,317, consisting of (i) 258,080 shares of Common Stock, (ii) 1,170,160 shares of Common Stock which would be received upon conversion of 351 shares of Preferred Stock beneficially owned by Oracle Associates and (iii) 585,077 shares which would be received upon the exercise of the Warrants beneficially owned by Oracle Associates.

(b) Percent of class: 37.8% This percentage is calculated based upon a total of 5,330,351 outstanding shares of Common Stock, equal to the sum of, (i) 3,575,114 shares of Common Stock outstanding as of August 14, 2007, as reported on the Company's Quarterly Report on Form 10-QSB for the quarterly period ended June 30, 2007, (ii) 1,170,160 shares of Common Stock which would be received upon conversion of 351 shares of Preferred Stock beneficially owned by Oracle Associates and (iii) 585,077 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Associates.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

2,013,317

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

2,013,317

4. As of December 31, 2005 when Oracle Associates experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Oracle Associate's holdings were as follows:

(a) Amount beneficially owned: 1,868,201 consisting of (i) 1,282,201 shares of Common Stock and (ii) 586,000 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Oracle Associates.

(b) Percent of class: 10.3% This percentage is calculated based upon a total of 18,216,040 outstanding shares of Common Stock, equal to the sum of, (i) 17,630,040 shares of Common Stock outstanding as of November 14, 2005, as reported on the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2005, and (ii) 586,000 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Oracle Associates.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

1,868,201

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

1,868,201

C. Oracle Partners, L.P.

1. As of the date hereof, Oracle Partners' holdings are as follows:

(a) Amount beneficially owned: 1,622,488, consisting of (i) 247,651 shares of Common Stock, (ii) 916,560 shares which would be received upon conversion of 275 shares of Preferred Stock beneficially owned by Oracle Partners and (iii) 458,277 shares which would be received upon exercise of the Warrants beneficially owned by Oracle Partners.

(b) Percent of class: 23.2% This percentage is calculated based upon a total of 6,998,618 outstanding shares of Common Stock, equal to the sum of (i) 5,623,781 shares of Common Stock outstanding as of March 31, 2008, as reported in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, (ii) 916,560 shares of Common Stock which would be received upon conversion of 275 shares of Preferred Stock beneficially owned by Oracle Partners and (iii) 458,277 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Partners.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

1,622,488

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

1,622,488

2. As of November 9, 2007 when Oracle Partners experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Oracle Partners' holdings were as follows:

(a) Amount beneficially owned: 1,622,488, consisting of (i) 247,651 shares of Common Stock, (ii) 916,560 shares which would be received upon conversion of 275 shares of Preferred Stock beneficially owned by Oracle Partners and (iii) 458,277 shares which would be received upon exercise of the Warrants beneficially owned by Oracle Partners.

(b) Percent of class: 32.8% This percentage is calculated based upon a total of 4,949,951 outstanding shares of Common Stock, equal to the sum of (i) 3,575,114 shares of Common Stock outstanding as of August 14, 2007, as reported on the Company's Quarterly Report on Form 10-QSB for the quarterly period ended June 30, 2007, (ii) 916,560 shares of Common Stock which would be received upon conversion of 275 shares of Preferred Stock beneficially owned by Oracle Partners and (iii) 485,277 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Partners.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

1,622,488

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

1,622,488

3. As of June 19, 2007 when Oracle Partners experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Oracle Associate's holdings were as follows:

(a) Amount beneficially owned: 339,451 consisting of (i) 247,651 shares of Common Stock and (ii) 91,800 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Oracle Partners.

(b) Percent of class: 9.4% This percentage is calculated based upon a total of 3,627,158 outstanding shares of Common Stock, equal to the sum of, (i) 3,535,358 shares of Common Stock outstanding as of May 14, 2007 as reported on the Company's Quarterly Report on Form 10-QSB for the quarterly period ended March 31, 2007, and (ii) 91,800 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Oracle Associates.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

339,451

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

339,451

4. As of December 31, 2005 when Oracle Partners experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Oracle Associate's holdings were as follows:

(a) Amount beneficially owned: 1,463,556 consisting of (i) 1,004,556 shares of Common Stock and (ii) 459,000 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Oracle Partners.

(b) Percent of class: 8.1% This percentage is calculated based upon a total of 18,089,040 outstanding shares of Common Stock, equal to the sum of, (i) 17,630,040 shares of Common Stock outstanding as of November 14, 2005, as reported on the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2005, and (ii) 459,000 shares of Common Stock which would be received upon the conversion of the 7% Convertible Subordinated Notes beneficially owned by Oracle Associates.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

1,463,556

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

1,463,556

D. Oracle Institutional Partners, L.P.

1. As of the date hereof, Oracle Institutional's holdings are as follows:

(a) Amount beneficially owned: 779,998, consisting of (i) 40,165 shares of Common Stock, (ii) 493,221 shares which would be received upon conversion of 148 shares of Preferred Stock beneficially owned by Oracle Institutional and (iii) 246,611 shares which would be received upon exercise of the Warrants beneficially owned by Oracle Institutional.

(b) Percent of class: 12.3% This percentage is calculated based upon a total of 6,363,614 outstanding shares of Common Stock, equal to the sum of (i) 5,623,781 shares of Common Stock outstanding as of March 31, 2008, as reported in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, (ii) 493,221 shares of Common Stock which would be received upon conversion of 148 shares of Preferred Stock beneficially owned by Oracle Institutional and (iii) 246,611 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Institutional.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

779,998

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

779,998

2. As of March 11, 2008 when Oracle Institutional experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Oracle Institutional's holdings were as follows:

(a) Amount beneficially owned: 779,998, consisting of (i) 40,165 shares of Common Stock, (ii) 493,221 shares which would be received upon conversion of 148 shares of Preferred Stock beneficially owned by Oracle Institutional and (iii) 246,611 shares which would be received upon exercise of the Warrants beneficially owned by Oracle Institutional.

(b) Percent of class: 12.3% This percentage is calculated based upon a total of 6,363,614 outstanding shares of Common Stock, equal to the sum of (i) 5,623,781 shares of Common Stock outstanding as per a private communication from the Company, (ii) 493,221 shares of Common Stock which would be received upon conversion of 148 shares of Preferred Stock beneficially owned by Oracle Institutional and (iii) 246,611 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Institutional.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

779,998

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

779,998

3. As of November 9, 2007 when Oracle Institutional experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Oracle Institutional's holdings were as follows:

(a) Amount beneficially owned: 3,946,794, consisting of (i) 10,429 shares of Common Stock, (ii) 253,600 shares which would be received upon conversion of 76 shares of Preferred Stock beneficially owned by Oracle Institutional and (iii) 126,800 shares which would be received upon exercise of the Warrants beneficially owned by Oracle Institutional.

(b) Percent of class: 9.9% This percentage is calculated based upon a total of 3,946,794 outstanding shares of Common Stock, equal to the sum of (i) 3,575,114 shares of Common Stock outstanding as of August 14, 2007, as reported on the Company's Quarterly Report on Form 10-QSB for the quarterly period ended June 30, 2007, (ii) 253,600 shares of Common Stock which would be received upon conversion of 76 shares of Preferred Stock beneficially owned by Oracle Institutional and (iii) 126,800 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Institutional.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

390,829

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

390,829

E. Oracle Investment Management, Inc.

1. As of the date hereof, the Investment Manager's holdings are as follows:

(a) Amount beneficially owned: 76,893, consisting of (i) 5,007 shares of Common Stock, (ii)

47,924 shares which would be received upon conversion of 14 shares of Preferred Stock beneficially owned by Oracle Investment Management and (iii) 23,962 shares which would be received upon exercise of the Warrants beneficially owned by Oracle Investment Management.

(b) Percent of class: 1.4% This percentage is calculated based upon a total of 5,695,667 outstanding shares of Common Stock, equal to the sum of (i) 5,623,781 shares of Common Stock outstanding as of March 31, 2008, as reported in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, (ii) 47,924 shares of Common Stock which would be received upon conversion of 14 shares of Preferred Stock beneficially owned by Oracle Investment Management and (iii) 23,962 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Investment Management.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

76,893

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

76,893

2. As of March 11, 2008 when the Investment Manager experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Oracle Investment Management's holdings were as follows:

(a) Amount beneficially owned: 76,893, consisting of (i) 5,007 shares of Common Stock, (ii) 47,924 shares which would be received upon conversion of 14 shares of Preferred Stock beneficially owned by Oracle Investment Management and (iii) 23,962 shares which would be received upon exercise of the Warrants beneficially owned by the Investment Manager.

(b) Percent of class: 1.4% This percentage is calculated based upon a total of 5,695,667 outstanding shares of Common Stock, equal to the sum of (i) 5,623,781 shares of Common Stock outstanding as per a private communication from the Company, (ii) 47,924 shares of Common Stock which would be received upon conversion of 14 shares of Preferred Stock beneficially owned by Oracle Investment Management and (iii) 23,962 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Investment Management.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

76,893

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

76,893

3. As of November 9, 2007 when the Investment Manager experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, Oracle Investment Management's holdings were as follows:

(a) Amount beneficially owned: 466,062, consisting of (i) 34,743 shares of Common Stock, (ii) 287,546 shares which would be received upon conversion of 86 shares of Preferred Stock beneficially owned by Oracle Investment Management and (iii) 143,773 shares which would be received upon exercise of the Warrants beneficially owned by Oracle Investment Management.

(b) Percent of class: 11.7% This percentage is calculated based upon a total of 3,997,713 outstanding shares of Common Stock, equal to the sum of (i) 3,566,394 shares of Common Stock

outstanding as of August 14, 2007, as reported on the Company's Quarterly Report on Form 10-QSB for the quarterly period ended June 30, 2007, (ii) 287,546 shares of Common Stock which would be received upon conversion of 86 shares of Preferred Stock beneficially owned by Oracle Investment Management and (iii) 143,773 shares of Common Stock which would be received upon the exercise of the Warrants beneficially owned by Oracle Investment Management.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

466,062

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

466,062

F. SAM Oracle Investments Inc.

1. As of the date hereof, SAM Oracle's holdings were as follows:

(a) Amount beneficially owned: -0-.

(b) Percent of class: 0% This percentage is calculated based upon a total of 5,623,781 shares outstanding as of March 31, 2008, as reported in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

-0-

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

-0-

2. As of March 11 2008 when SAM Oracle experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, SAM Oracle's holdings were as follows:

(a) Amount beneficially owned: -0-.

(b) Percent of class: 0% This percentage is calculated based upon a total of 5,623,781 shares outstanding as per a private communication from the Company.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

-0-

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

-0-

3. As of November 9, 2007 when SAM Oracle experienced a change in beneficial ownership in excess of 1% based on the total shares outstanding at such time, SAM Oracle's holdings were as follows:

(a) Amount beneficially owned: 389,169, consisting of (i) 29,736 shares of Common Stock, (ii)

239,622 shares which would be received upon conversion of 72 shares of Preferred Stock beneficially owned by SAM Oracle and (iii) 119,811 shares which would be received upon exercise of the Warrants beneficially owned by SAM Oracle.

(b) Percent of class: 9.9% This percentage is calculated based upon a total of 3,934,547 outstanding shares of Common Stock, equal to the sum of (i) 3,575,114 shares of Common Stock outstanding as of August 14, 2007, as reported on the Company's Quarterly Report on Form 10-QSB for the quarterly period ended June 30, 2007, (ii) 239,622 shares of Common Stock which would be received upon conversion of 72 shares of Preferred Stock beneficially owned by SAM Oracle and (iii) 119,811 shares of Common Stock which would be received upon exercise of the Warrants beneficially owned by SAM Oracle.

(c) Number of shares of Common Stock as to which such person has:

(i) Sole power to vote or direct the vote:

-0-

(ii) Shared power to vote or direct the vote:

389,169

(iii) Sole power to dispose or direct the disposition:

-0-

(iv) Shared power to dispose or direct the disposition:

389,169

- (b)
- (c) (c) The transactions in the shares of the Common Stock that may be deemed to be beneficially owned by a Reporting Person, since 60 days prior to the date of the event which required the filing of this Schedule, are set forth on Exhibit 99.1 attached hereto. All such transactions were effected in open market purchases, unless otherwise indicated.
- (d) (d) If the Reporting Persons were to be deemed a group, each Reporting Person may be deemed to have beneficial ownership over the entire number of shares of Common Stock directly owned by the Partnerships, the Foreign Funds and the Foundation. Each of the Reporting Persons expressly disclaims beneficial ownership of such shares of Common Stock except to the extent otherwise reported herein. Other than as set forth herein, no other person is known to have the right to receive or the power to direct the receipt of dividends from, and proceeds from the sale of, the securities reported in this Amendment No. 1.
- (e) (e) SAM Oracle Investment ceased to be the beneficial owner of more than five percent of Common Stock on March 11, 2008. Oracle Investment Management ceased to be the beneficial owner of more than five percent of Common Stock on March 11, 2008.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

Item 6 of the Schedule 13D is hereby amended by the deletion of the text thereof in its entirety and its replacement with the following:

The Partnerships and the Foreign Funds hold Warrants to purchase 728,850 shares of Common Stock. The Warrants are exercisable in whole or in part, at any time or from time to time, at the option of the holder until November 10, 2013, at an exercise price of \$3.50 per share, subject to adjustment under certain circumstances. The Warrants can also be exercised on a cashless basis. The foregoing description of the Warrants does not purport to be complete and is qualified in its entirety by reference to the terms and conditions of such Warrants as set forth in the Form of Common Stock Purchase Warrant filed as Exhibit 99.3 hereto and incorporated herein by reference. In addition, the Reporting Persons are not aware of any finder's fees related to their acquisition of securities described herein, except as may be set forth in the Preferred Stock and Warrant Purchase Agreement attached hereto as Exhibit 99.4.

For the terms and conditions of the Notes, see Exhibit 99.5.

Except as otherwise set forth herein, the Reporting Persons do not have any contract, arrangement, understanding or relationship with any person with respect to securities of the Company.

Item 7. Material to Be Filed as Exhibits

99.1 Transactions in the Company's Common Stock

99.2 Joint Filing Agreement by and among the Reporting Persons, dated as of _____, 2008

99.3 Form of Common Stock Purchase Warrant

99.4 Preferred Stock and Warrant Purchase Agreement

99.5 Convertible Promissory Notes

Signature

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

May 20, 2008

Date

/s/ Larry N. Feinberg
ORACLE ASSOCIATES, LLC
ORACLE PARTNERS, L.P.
ORACLE INSTITUTIONAL PARTNERS, L.P.
ORACLE INVESTMENT MANAGEMENT, INC.
SAM ORACLE INVESTMENTS INC.

Signature

Larry N. Feinberg

ORACLE ASSOCIATES, LLC

By:

Name: Larry N. Feinberg
Title: Managing Member

ORACLE PARTNERS, L.P.

By: Oracle Associates, LLC,
its General Partner

By:

Name: Larry N. Feinberg
Title: Managing Member

ORACLE INSTITUTIONAL PARTNERS, L.P.

By: Oracle Associates, LLC, its General Partner

By:

Name: Larry N. Feinberg
Title: Managing Member

ORACLE INVESTMENT MANAGEMENT, INC.

By:
Name: Larry N. Feinberg
Title: President

SAM ORACLE INVESTMENTS INC.

By: Oracle Investment Management Inc., its investment manager

By: Name: Larry N. Feinberg
Title: President

Name/Title

**Attention: Intentional misstatements or omissions of fact constitute Federal criminal violations
(See 18 U.S.C. 1001)**

Exhibit A

* This Amendment No. 1 (this "Amendment No. 1") amends the Schedule 13D filed on November 14, 2002 (the "Schedule 13D") by Oracle Partners, L.P. ("Oracle Partners"), Oracle Associates, LLC ("Oracle Associates") and Mr. Larry Feinberg ("Mr. Feinberg"). This Amendment No. 1 relates to the Common Stock, par value \$0.01 per share, of Access Pharmaceuticals, Inc., a Delaware corporation (the "Company"). Unless the context otherwise requires, references herein to the "Common Stock" are to such Common Stock of the Company. This Amendment No. 1 is being filed to report changes in beneficial ownership in excess of 1% of the total amount of Common Stock outstanding and to update ownership information not previously reported through filings on Schedule 13D. Capitalized terms used but not defined herein have the meaning ascribed thereto in the Schedule 13D.

Exhibit 99.1
Transactions in the Company's Common Stock

Trade Date	Transaction Type	Price	Quantity	Note
2/1/2005	BUY	\$2.69	30,200	(2)
2/1/2005	SELL	\$2.69	30,200	(2)
12/31/2005	BUY	\$0.65	15,636	(2)
12/31/2005	BUY	\$0.65	82,745	(3)
12/31/2005	BUY	\$0.65	299,056	(1)
12/31/2005	BUY	\$0.65	78,184	(4)
9/1/2006	SELL	(5)	0.8	(4)
9/1/2006	SELL	(5)	0.2	(2)
9/1/2006	SELL	(5)	0.2	(1)
1/22/2007	SELL	\$2.53	6,040	(2)
1/22/2007	BUY	\$2.53	6,040	(1)
2/26/2007	SELL	\$7.314	19,000	(1)
2/26/2007	SELL	\$7.314	5,000	(3)
2/26/2007	SELL	\$7.314	1,000	(2)
2/27/2007	SELL	\$7.00	300	(1)
2/27/2007	SELL	\$7.00	100	(3)
2/28/2007	SELL	\$7.10	10,000	(2)
2/28/2007	SELL	\$7.10	4,500	(4)
3/1/2007	SELL	\$7.125	1,200	(4)
6/19/2007	SELL	\$5.17	40,000	(3)

Notes

1 - Trade by Oracle Partners
2 - Trade by a Managed Fund other than SAM Oracle
3 - Trade by Oracle Institutional
4 - Trade by SAM Oracle
5 - This transaction involved an administrative adjustment for accounting purposes and not an actual transfer of funds.

In addition to the above transactions, the following transactions occurred:

a. On June 5, 2006 the Company engaged in a five-to-one reverse stock split.

b. A series of transactions involving the Company were described in the Company's Current Report

6/19/2007	SELL	\$5.17	20,000	(2)	on Form 8-K, filed on November 14, 2007. In connection with these transactions, existing convertible notes held by the Funds having an aggregate value of \$4,373,104.54 (principal amount of \$4,015,000 plus interest accrued thereon of \$358,104.54), were exchanged into 437 shares of Preferred Stock and Warrants to purchase 728,850 shares of Common Stock. Oracle Associates received 351 shares of Preferred Stock and
6/19/2007	BUY	\$5.17	60,000	(1)	
7/23/2007	SELL	\$4.3563	4,000	(2)	
7/24/2007	SELL	\$4.35	2,040	(2)	
2/12/2008	BUY	\$3.15	29,736	(3)	
2/12/2008	SELL	\$3.15	29,736	(4)	

Warrants to purchase 585,077 shares of Common Stock. Oracle Partners received 275 shares of Preferred Stock and Warrants to purchase 458,277 shares of Common Stock. Oracle Institutional received 76 shares of Preferred Stock and Warrants to purchase 126,800 shares of Common Stock. SAM Oracle received 72 shares of Preferred Stock and Warrants to purchase 119,811 shares of Common Stock. In addition, in connection with the liquidation of the portfolio of SAM Oracle, on March 11, 2008, Oracle Institutional acquired from SAM Oracle 72 shares of Preferred Stock and Warrants to purchase 119,811 shares of Common Stock. Such Preferred Stock acquired by Oracle Institutional was at that time valued by Oracle Institutional at \$495,720 and no value was accorded to such acquired Warrants.

The undersigned hereby agree that this statement on Schedule 13D with respect to the securities of Access Pharmaceuticals, Inc. is, and any amendment thereto signed by each of the undersigned shall be, filed on behalf of each undersigned pursuant to and in accordance with the provisions of 13d-1(k) under the Securities Exchange Act of 1934, as amended and that all subsequent amendments to this statement on Schedule 13D shall be filed on behalf of each of the undersigned without the necessity of filing additional joint filing agreements. The undersigned acknowledge that each shall be responsible for the timely filing of such amendments, and for the completeness and accuracy of the information concerning it contained therein, but shall not be responsible for the completeness and accuracy of the information concerning the others, except to the extent that it knows or has reason to believe that such information is inaccurate.

Dated: _____, 2008

Larry N. Feinberg

ORACLE ASSOCIATES, LLC

ORACLE PARTNERS, L.P.
By: Oracle Associates, LLC,
its General Partner

By: _____
Name: Larry N. Feinberg
Title: Managing Member

By: _____
Name: Larry N. Feinberg
Title: Managing Member

ORACLE INSTITUTIONAL PARTNERS,
L.P.

ORACLE INVESTMENT MANAGEMENT,
INC.

By: Oracle Associates, LLC, its General
Partner

By: _____
Name: Larry N. Feinberg
Title: President

By: _____
Name: Larry N. Feinberg
Title: Managing Member

SAM ORACLE INVESTMENTS INC.

By: Oracle Investment
Management Inc.,
its investment manager

By: _____
Name: Larry N. Feinberg
Title: President

FORM OF COMMON STOCK PURCHASE WARRANT

Form of Warrant

THIS WARRANT AND THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE OFFERED, SOLD, ASSIGNED OR TRANSFERRED, IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER SAID ACT OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY THAT REGISTRATION UNDER SAID ACT IS NOT REQUIRED.

Warrant No. _____

COMMON STOCK PURCHASE WARRANT

To Purchase _____ Shares of Common Stock of
ACCESS PHARMACEUTICALS, INC.

THIS IS TO CERTIFY THAT _____, or registered assigns (the “Holder”), is entitled, during the Exercise Period (as hereinafter defined), to purchase from Access Pharmaceuticals, Inc., a Delaware corporation (the “Company”), the Warrant Stock (as hereinafter defined and subject to adjustment as provided herein), in whole or in part, at a purchase price of \$3.50 per share (as adjusted herein), all on and subject to the terms and additions hereinafter set forth.

Definitions. As used in this Warrant, the following terms have the respective meanings set forth below:

“Additional Shares of Common Stock” means any shares of Common Stock issued by the Company after the Closing Date other than: (A) shares of Common Stock issued upon the Conversion of the Preferred Stock, the exercise of the warrants issued pursuant to the Purchase Agreement or payment of dividends on the Preferred Stock, (B) shares of Common Stock issued upon the exercise or any warrants or options (collectively, the “Existing Warrants”) outstanding on the date hereof; provided that such securities have not been amended since the date of the Purchase Agreement to increase the number of such securities or to decrease the exercise, exchange or conversion price of such securities, (C) shares or Common Stock issued, stock awards or options under, or the exercise of any options granted pursuant to, any stock-based compensation plans of the Company duly adopted by a majority of the non-employee members of the Board of Directors of the Company or a majority of the members of a committee of non-employee directors established for such purpose (in each case, at issuance or exercise prices at or above fair market value), (D) shares of Common Stock pursuant to a stock split, combination or subdivision of the outstanding shares of Common Stock, (E) shares of Common Stock or Common Stock Equivalents issued in connection with a bona-fide strategic transaction approved by the Board of Directors of the Company, the primary purpose of which is not to provide financing to the Company or (F) shares of Preferred Stock and warrants to purchase Common Stock, in each case, issued pursuant to the Purchase Agreement.

“Affiliate” means any person or entity that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a person or entity, as such terms are used in and construed under Rule 144 under the Securities Act. With respect to a Holder of Warrants, any investment fund or managed account that is managed on a discretionary basis by the same investment manager as such Holder will be deemed to be an Affiliate of such Holder.

“Appraised Value” means, in respect of any share of Common Stock on any date herein specified, the fair saleable value of such share of Common Stock (determined without giving effect to the discount for (i) a minority interest or (ii) any lack of liquidity of the Common Stock or to the fact that the Company may have no class of equity registered under the Exchange Act) as of the last day of the most recent fiscal month ending prior to such date specified, based on the value of the Company on a fully-diluted basis, as determined by a nationally recognized investment banking firm selected by the Company’s Board of Directors and having no prior relationship with the Company.

“Business Day” means any day except Saturday, Sunday and any day which shall be a legal holiday or a day on which banking institutions in the State of Texas generally are authorized or required by law or other government actions to close.

“Change of Control” means the (i) acquisition by an individual or legal entity or group (as set forth in Section 13(d) of the Exchange Act), other than SCO Capital Partners LLC and its Affiliates, of more than one-half of the voting rights or equity interests in the Company other than in connection with the exercise or conversion of currently outstanding

warrants or convertible securities; or (ii) sale, conveyance, or other disposition of all or substantially all of the assets, property or business of the Company or the merger into or consolidation with any other corporation (other than a wholly owned subsidiary corporation) or effectuation of any transaction or series of related transactions where holders of the Company's voting securities prior to such transaction or series of transactions fail to continue to hold at least 50% of the voting power of the Company (or, if other than the Company, the successor or acquiring entity) immediately following such transaction; or (iii) any tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to tender or exchange their shares for other securities, cash or property; or (iv) the Company effects any reclassification of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property.

“Closing Date” means November 10, 2007.

“Commission” means the Securities and Exchange Commission or any other federal agency then administering the Securities Act and other federal securities laws.

“Common Stock” means (except where the context otherwise indicates) the Common Stock, \$0.01 par value per share, of the Company as constituted on the Closing Date, and any capital stock into which such Common Stock may thereafter be changed or converted, and shall also include (i) capital stock of the Company of any other class (regardless of how denominated) issued to the holders of shares of Common Stock upon any reclassification thereof which is also not preferred as to dividends or assets on liquidation over any other class of stock of the Company and which is not subject to redemption and (ii) shares of common stock of any successor or acquiring corporation received by or distributed to the holders of Common Stock of the Company in the circumstances contemplated by Section 4.6.

“Common Stock Equivalents” has the meaning set forth in Section 4.3.

“Current Market Price” means, in respect of any share of Common Stock on any date herein specified.

- (1) if there shall not then be a public market for the Common Stock, the higher of
 - (a) the book value per share of Common Stock at such date, and
 - (b) the Appraised Value per share of Common Stock at such date,

or

- (2) if there shall then be a public market for the Common Stock, the average of the daily market prices for the trading day immediately before such date. The daily market price for each such trading day shall be (i) the closing bid price on such day on the principal stock exchange (including Nasdaq) on which such Common Stock is then listed or admitted to trading, or quoted, as applicable, (ii) if no sale takes place on such day on any such exchange, the last reported closing bid price on such day as officially quoted on any such exchange (including Nasdaq), (iii) if the Common Stock is not then listed or admitted to trading on any stock exchange, the last reported closing bid price on such day in the over-the-counter market, as furnished by the National Association of Securities Dealers Automatic Quotation System or the Pink Sheets LLC, (iv) if neither such corporation at the time is engaged in the business of reporting such prices, as furnished by any similar firm then engaged in such business, or (v) if there is no such firm, as furnished by any member of FINRA selected in good faith by the Holder and reasonably acceptable to the Company.

“Current Warrant Price” means, in respect of a share of Common Stock at any date herein specified, the price at which a share of Common Stock may be purchased pursuant in this Warrant on such date. Unless and until the Current Warrant Price is adjusted pursuant to the terms herein, the initial Current Warrant Price shall be \$3.50 per share of Common Stock.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, or any similar federal statute, and the rules and regulations of the Commission thereunder, all as the same shall be in effect from time to time.

“Exercise Period” means the period during which this Warrant is exercisable pursuant to Section 2.1.

“Expiration Date” means November 10, 2013.

“GAAP” means generally accepted accounting principles in the United States of America as from time to time in effect.

“FINRA” means the Financial Industry Regulatory Authority, or any successor entity thereto.

“Other Property” has the meaning set forth in Section 4.6.

“Person” means any individual, sole proprietorship, partnership, joint venture, trust, incorporated organization, association, corporation, limited liability company, institution, public benefit corporation, entity or government (whether federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof).

“Preferred Stock” shall mean the Company's Series A Cumulative Convertible Preferred Stock, par value \$0.01 per share, issued pursuant to the Purchase Agreement.

“Purchase Agreement” means that certain Preferred Stock and Warrant Purchase Agreement dated as of November 7, 2007 among the Company and the other parties named therein, pursuant to which this Warrant was originally issued.

“Restricted Common Stock” means shares of Common Stock which are, or which upon their issuance upon the exercise of any Warrant would be required to be, evidenced by a certificate bearing the restrictive legend set forth in Section 3.2.

“Securities Act” means the Securities Act of 1933, as amended, or any similar federal statute, and the rules and

regulations of the Commission thereunder, all as the same shall be in effect at the time.

“Trading Day” means any day on which the primary market on which shares of Comma Stock are listed or quoted is open for trading, or, if the Common Stock is not then listed or quoted for trading on any public market, Trading Day shall mean a Business Day.

“Transfer” means any disposition of any Warrant or Warrant Stock or of any interest in either thereof, which would constitute a sale thereof within the meaning of the Securities Act.

“Warrants” means this Warrant and all warrants issued upon transfer, division or combination of, or in substitution for, any thereof. All Warrants shall at all times be identical as to terms and conditions and date, except as to the number of shares of Common Stock for which they may be exercised.

“Warrant Price” means an amount equal to (i) the number of shares of Common Stock being purchased upon exercise of this Warrant pursuant to Section 2.1, multiplied by (ii) the Current Warrant Price.

“Warrant Stock” means the _____ shares of Common Stock to be purchased upon the exercise hereof, subject to adjustment as provided herein.

Exercise of Warrant.

Manner of Exercise. From and after the Closing Date, and until 5:00 P.M., New York time, on the Expiration Date (the “Exercise Period”), the Holder may exercise this Warrant, on any Business Day, for all or any part of the number of shares of Warrant Stock purchasable hereunder. The exercise price per share of the Common Stock under this Warrant shall be the Current Warrant Price, subject to adjustment hereunder.

In order to exercise this Warrant, in whole or in part, the Holder shall deliver to the Company, at its principal office or at the office or agency designated by the Company pursuant to Section 12, (i) a written notice of holder’s election to exercise this Warrant, which notice shall specify the number of shares of Warrant Stock to be purchased, and (ii) payment of the Warrant Price as provided herein. Such notice shall be substantially in the form of the subscription form appearing at the end of this Warrant as Exhibit A, duly executed by the Holder or its agent or attorney.

Upon receipt thereof, the Company shall, as promptly as practicable, and in any event within three Business Days thereafter, execute or cause to be executed and deliver or cause to be delivered to the Holder a certificate or other certificates representing the aggregate number of full shares of Warrant Stock issuable upon such exercise, together with cash in lieu of any fraction of a share, as hereinafter provided. The stock certificate or certificates so delivered shall be, to the extent possible, in such denomination or denominations as the Holder shall request in the notice and shall be registered in the name of the Holder or if permitted pursuant to the terms of this Warrant such other name as shall be designated in the notice. Certificates for shares purchased hereunder shall be transmitted by the transfer agent of the Company to the Holder by crediting the account of the Holder’s prime broker with the Depository Trust Company through its Deposit Withdrawal Agent Commission (“DWAC”) system if the Company is a participant in such system and there is an effective Registration Statement permitting the resale of the Warrant Stocks by the Holder, and otherwise by physical delivery to the address specified by the Holder in the exercise notice within 3 Trading Days from the delivery to the Company of the exercise notice, surrender of this Warrant (if required) and payment of the aggregate Exercise Price as set forth above (“Warrant Share Delivery Date”). This Warrant shall be deemed to have been exercised and such certificate or certificates shall be deemed to have been issued, and the Holder or any other Person so designated to be named therein shall be deemed to have become a Holder of

record of such shares for all purposes, as of the date when the notice, together with the payment of the Warrant Price and this Warrant, is received by the Company as described above. If the Company fails for any reason to deliver to the Holder certificates evidencing the Warrant Stock subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Stock subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the fifth Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such certificates are delivered.

If the Company fails to cause its transfer agent to transmit to the Holder a certificate or certificates representing the Warrant Stock pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Stock which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (1) pay in cash to the Holder the amount by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (A) the number of Warrant Stock that the Company was required to deliver to the Holder in connection with the exercise at issue times (B) the price at which the sell order giving rise to such purchase obligation was executed, and (2) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Stock for which such exercise was not honored or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (1) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

Notwithstanding anything herein to the contrary, the holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Stock available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within 3 Trading Days of the date the final exercise notice is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Stock available hereunder shall have the effect of lowering the outstanding number of Warrant Stock purchased hereunder in an amount equal to the applicable number of Warrant Stock purchased. If this Warrant shall have been exercised in part, the Company shall, at request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the certificate or certificates representing Warrant Stock, deliver to Holder a new Warrant evidencing the rights of Holder to purchase the unpurchased Warrant Stock called for by this Warrant, which new Warrant shall in all other respects be identical with this

Warrant.

Payment of the Warrant Price may be made at the option of the Holder by: (i) certified or official bank check payable to the order of the Company, (ii) wire transfer of immediately available funds to the account of the Company or (iii) the surrender and cancellation of a portion of shares of Common Stock then held by the Holder or issuable upon such exercise of this Warrant, which shall be valued and credited toward the total Warrant Price due the Company for the exercise of the Warrant based upon the Current Market Price of the Common Stock. All shares of Common Stock issuable upon the exercise of this Warrant pursuant to the terms hereof shall be validly issued and, upon payment of the Warrant Price, shall be fully paid and nonassessable and not subject to any preemptive rights.

If the Company fails to cause its transfer agent to transmit to the Holder a certificate or certificates representing the Warrant Stock pursuant to Section 2.1(ii) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

The Holder and the Company shall maintain records showing the number of Warrant Stock purchased and the date of such purchases. The Company shall deliver any objection to any exercise notice within 1 Business Day of receipt of such notice. In the event of any dispute or discrepancy, the records of the Holder shall be controlling and determinative in the absence of manifest error. The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Stock hereunder, the number of Warrant Stock available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

Fractional Shares. The Company shall not be required to issue a fractional share of Common Stock upon exercise of any Warrant. As to any fraction of a share which the Holder of one or more Warrants, the rights under which are exercised in the same transaction, would otherwise be entitled to purchase upon such exercise, the Company shall pay an amount in cash equal to the Current Market price per share of Common Stock on the date of exercise multiplied by such fraction.

Continued Validity. A Holder of shares of Common Stock issued upon the exercise of this Warrant, in whole or in part (other than a holder who acquires such shares after the same have been publicly sold pursuant to a Registration Statement under the Securities Act or sold pursuant to Rule 144 thereunder), shall continue to be entitled with respect to such shares to all rights to which it would have been entitled as the Holder under Sections 10 and 13 of this Warrant.

Restrictions on Exercise Amount.

Unless a Holder delivers to the Company irrevocable written notice prior to the date of issuance hereof or sixty-one days prior to the effective date of such notice that this Section 2.4(i) shall not apply to such Holder, the Holder may not acquire a number of shares

of Warrant Stock to the extent that, upon such exercise, the number of shares of Common Stock then beneficially owned by such holder and its Affiliates and any other persons or entities whose beneficial ownership of Common Stock would be aggregated with the Holder's for purposes of Section 13(d) of the Exchange Act (including shares held by any "group" of which the holder is a member, but excluding shares beneficially owned by virtue of the ownership of securities or rights to acquire securities that have limitations on the right to convert, exercise or purchase similar to the limitation set forth herein) exceeds 4.99% of the total number of shares of Common Stock of the Company then issued and outstanding. For purposes hereof, "group" has the meaning set forth in Section 13(d) of the Exchange Act and applicable regulations of the Commission, and the percentage held by the holder shall be determined in a manner consistent with the provisions of Section 13(d) of the Exchange Act. Except as set forth in the preceding sentence, for purposes of this Section, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (A) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates and (B) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any the Preferred Stock) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its affiliates. For purposes of this Section, in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company's most recent Form 10-QSB or Form 10-KSB, as the case may be, (y) a more recent public announcement by the Company or (z) any other notice by the Company or the Company's Transfer Agent setting forth the number of shares of Common Stock outstanding. Each delivery of a notice of exercise by a Holder will constitute a representation by such Holder that it has evaluated the limitation set forth in this paragraph and determined, based on the most recent public filings by the Company with the Commission, that the issuance of the full number of shares of Warrant Stock requested in such notice of exercise is permitted under this paragraph.

In the event the Company is prohibited from issuing shares of Warrant Stock as a result of any restrictions or prohibitions under applicable law or the rules or regulations of any stock exchange, interdealer quotation system or other self-regulatory organization, the Company shall as soon as possible seek the approval of its stockholders and take such other action to authorize the issuance of the full number of shares of Common Stock issuable upon exercise of this Warrant.

Transfer, Division and Combination.

Transfer. The Warrants and the Warrant Stock shall be freely transferable, subject to compliance with this Section 3.1 and all applicable laws, including, but not limited to the Securities Act. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant or the resale of the Warrant Stock, this Warrant or the Warrant Stock, as applicable, shall not be registered under the Securities Act, the Company may require, as a condition of allowing such transfer (i) that the Holder or transferee of this Warrant

or the Warrant Stock as the case may be, furnish to the Company a written opinion of counsel that is reasonably acceptable to the Company to the effect that such transfer may be made without registration under the Securities Act, (ii) that the Holder or transferee execute and deliver to the Company an investment representation letter in form and substance acceptable to the Company and substantially in the form attached as Exhibit C hereto and (iii) that the transferee be an “accredited investor” as defined in Rule 501(a) promulgated under the Securities Act. Transfer of this Warrant and all rights hereunder, in whole or in part, in accordance with the foregoing provisions, shall be registered on the books of the Company to be maintained for such purpose, upon surrender of this Warrant at the principal office of the Company referred to in Section 2.1 or the office or agency designated by the Company pursuant to Section 12, together with a written assignment of this Warrant substantially in the form of Exhibit B hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Following a transfer that complies with the requirements of this Section 3.1, the Warrant may be exercised by a new Holder for the purchase of shares of Common Stock regardless of whether the Company issued or registered a new Warrant on the books of the Company.

Restrictive Legends. Each certificate for Warrant Stock initially issued upon the exercise of this Warrant, and each certificate for Warrant Stock issued to any subsequent transfer of any such certificate, unless, in each case, such Warrant Stock is eligible for resale without registration pursuant to Rule 144(k) under the Exchange Act or such Warrant Stock is registered for sale under an effective registration statement filed under the Securities Act, shall bear the following legend:

“THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AS AMENDED, AND MAY NOT BE OFFERED OR SOLD IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER SAID ACT UNLESS, IN THE OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY, SUCH REGISTRATION IS NOT REQUIRED.”

In addition, the legend set forth above shall be removed and the Company shall issue a certificate without such legend to the holder of any Warrant Stock upon which it is stamped, if, unless otherwise required by applicable state securities

laws, such Warrant Stock is registered for sale under an effective registration statement filed under the Securities Act.

Division and Combination; Expenses; Books. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office or agency of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 3.1 as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. The Company shall prepare, issue and deliver at its own expense the new Warrant or Warrants under this Section 3. The Company agrees to maintain, at its aforesaid office or agency, books for the registration and the registration of transfer of the Warrants.

Adjustments. The number of shares of Common Stock for which this Warrant is exercisable, and the price at which such shares may be purchased upon exercise of this Warrant, shall be subject to adjustment from time to time as set forth in this Section 4. The Company shall give the Holder notice of any event described below which requires an adjustment pursuant to this Section 4 in accordance with Sections 5.1 and 5.2.

Stock Dividends, Subdivisions and Combinations. If at any time while this Warrant is outstanding the Company shall:

declare a dividend or make a distribution on its outstanding shares of Common Stock in shares of Common Stock,

subdivide its outstanding shares of Common Stock into a larger number of shares of Common Stock, or

combine its outstanding shares of Common Stock into a smaller number of shares of Common Stock, then:

(1) the number of shares of Common Stock acquirable upon exercise of this Warrant immediately after the occurrence of any such event shall be adjusted to equal the number of shares of Common Stock which a record holder of the same number of shares of Common Stock that would have been acquirable under this Warrant immediately prior to the record date for such dividend or distribution or the effective date of such subdivision or combination would own or be entitled to receive after such record date or the effective date of such subdivision or combination, as applicable,

and

(2) the Current Warrant Price shall be adjusted to equal:

(A) the Current Warrant Price in effect at the time of the record date for such dividend or distribution or of the effective date of such subdivision or combination, multiplied by the number of shares of Common Stock into which this Warrant is exercisable immediately prior to the adjustment, divided by

(B) the number of shares of Common Stock into which this Warrant is exercisable immediately after such adjustment.

Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to clauses (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination.

Issuance of Additional Shares of Common Stock.

If, at any time while this Warrant is outstanding, the Company shall issue or sell any Additional Shares of Common Stock in exchange for consideration in an amount per Additional Share of Common Stock less than the Current Warrant Price at the time the Additional Shares of Common Stock are issued or sold, then the Current Warrant Price immediately prior to such issue or sale shall be reduced to a price equal to the lowest price per share of the Additional Shares of Common Stock received by or to be received by the Company upon such issue or sale of such Additional Shares of Common Stock.

The provisions of paragraph 4.2(i) shall not apply to any issuance of Additional Shares of Common Stock for which an adjustment is provided under Section 4.1.

Issuance of Common Stock Equivalents. If, at any time while this Warrant is outstanding, the Company shall issue or sell any warrants or rights to subscribe for or purchase any Additional Shares of Common Stock or any securities exchangeable or convertible into Additional Shares of Common Stock (regardless of the number of shares of Common Stock that the Company is then authorized to issue) (collectively, “Common Stock Equivalents”), whether or not the rights to exchange or convert thereunder are immediately exercisable, and the effective price per share for which Common Stock is issuable upon the exercise, exchange or conversion of such Common Stock Equivalents shall be less than the Current Warrant Price in effect immediately prior to the time of such issue or sale, then the Current Warrant Price shall be adjusted as provided in Section 4.2 on the basis that the Additional Shares of Common Stock issuable pursuant to such Common Stock Equivalents shall be deemed to have been issued and the Company shall be deemed to have received all of the consideration payable therefor, if any, as of the date of the actual issuance of such Common Stock Equivalents. No further adjustments to the Current Warrant Price shall be made under this Section 4.3 upon the actual issue of such Common Stock upon the exercise, conversion or exchange of such Common Stock Equivalents.

Superseding Adjustment.

If, at any time after any adjustment of the Current Warrant Price shall have been made pursuant to Section 4.3 as the result of any issuance of Common Stock Equivalents, (x) the right to exercise, convert or exchange all of such Common Stock Equivalents shall expire unexercised, or (y) the conversion rate or consideration per share for which shares of Common Stock are issuable pursuant to such Common Stock Equivalents shall be increased solely by virtue of provisions therein contained for an automatic increase in such conversion rate or consideration per share upon the occurrence of a specified date or event, then, unless any of such Common Stock Equivalents have previously been converted or exercised at the original price, any such previous adjustments to the Current Warrant Price shall be rescinded and annulled and the Additional Shares of Common Stock which were deemed to have been issued by virtue of the computation made in connection with the adjustment so rescinded and annulled shall no longer be deemed to have been issued by virtue of such computation, provided, however, such readjustment to the Current Warrant Price described in this Section shall not effect any exercises of this Warrant effected at any time prior to such readjustment.

Upon the occurrence of an event set forth in Section 4.4(i) above there shall be a recomputation made of the effect of such Common Stock Equivalents on the basis of treating any such Common Stock Equivalents which then remain outstanding as having been granted or issued immediately after the time of such increase of the conversion rate or consideration per share for which shares of Common Stock or other property are issuable under such Common Stock Equivalents; whereupon a new adjustment to the Current Warrant Price shall be made, which new adjustment shall supersede the previous adjustment so rescinded and annulled.

Other Provisions Applicable to Adjustments. The following provisions shall be applicable to the making of adjustments of the number of shares of Common Stock into which this Warrant is exercisable and the Current Warrant Price provided for in Section 4:

When Adjustments to Be Made. The adjustments required by Section 4 shall be made whenever and as often as any specified event requiring an adjustment shall occur, except that any that would otherwise be required may be postponed (except in the case of a subdivision or combination of shares of the Common Stock, as provided for in Section 4.1) up to, but not beyond the date of exercise if such adjustment either by itself or with other adjustments not previously made adds or subtracts less than 1% of the shares of Common Stock into which this Warrant is exercisable immediately prior to the making of such adjustment. Any adjustment representing a change of less than such minimum amount (except as aforesaid) which is postponed shall be carried forward and made as soon as such adjustment, together with other adjustments required by this Section 4 and not previously made, would result in a minimum adjustment or on the date of exercise. For the purpose of any adjustment, any specified event shall be deemed to have occurred at the close of business on the date of its occurrence.

Fractional Interest. In computing adjustments under this Section 4, fractional interests in Common Stock shall be taken into account to the nearest 1/100th of a share.

When Adjustment Not Required. If the Company undertakes a transaction contemplated under this Section 4 and as a result takes a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or distribution or subscription or purchase rights or other benefits contemplated under this Section 4 and shall, thereafter and before the distribution to stockholders thereof, legally abandon its plan to pay or deliver such dividend, distribution, subscription or purchase rights or other benefits contemplated under this Section 4, then thereafter no adjustment shall be required by reason of the taking of such record and any such adjustment previously made in respect thereof shall be rescinded and annulled.

Escrow of Stock. If after any property becomes distributable pursuant to Section 4 by reason of the taking of any record of the holders of Common Stock, but prior to the occurrence of the event for which such record is taken, a holder of this Warrant exercises the Warrant during such time, then such holder shall continue to be entitled to receive any shares of Common Stock issuable upon exercise hereunder by reason of such adjustment and such shares or other property shall be held in escrow for the holder of this Warrant by the Company to be issued to holder of this Warrant upon and to the extent that the event actually takes place. Notwithstanding any other provision to the contrary herein, if the event for which such record was taken fails to occur or is rescinded, then such escrowed shares shall be canceled by the Company and escrowed property returned to the Company.

Reorganization, Reclassification, Merger, Consolidation or Disposition of Assets.

If there shall occur a Change of Control and, pursuant to the terms of such Change of Control, shares of common stock of the successor or acquiring corporation, or any cash, shares of stock or other securities or property of any nature whatsoever (including warrants or other subscription or purchase rights) in addition to or in lieu of common stock of the successor or acquiring corporation (“**Other Property**”), are to be received by or distributed to the holders of Common Stock of the Company, then the Holder of this Warrant shall have the right thereafter to receive, upon the exercise of the Warrant, the number of shares of common stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and the Other Property receivable upon or as a result of such Change of Control by a holder of the number of shares of Common Stock into which this Warrant is exercisable immediately prior to such event. The Company shall not effect any Change of Control without the prior written consent of the holders of a majority in interest of the Warrants (as defined in the Purchase Agreement) (in addition to any other consent or voting rights with respect to such Change of Control that such holders may have pursuant to this Warrant or applicable law) unless the resulting successor or acquiring entity (if not the Company) and, if an entity different from the successor or acquiring entity, the entity whose capital stock or assets the holders of the Common Stock are entitled to receive as a result of such Change of Control, assumes by written instrument all of the obligations of this Warrant and the Transaction Documents (as defined in the Purchase Agreement). Notwithstanding anything to the contrary, in the event of a Change of Control that is (1) an all cash transaction, (2) a “Rule 13e-3 transaction” as defined in Rule 13e-3 under the Exchange Act, or (3) a Change of Control involving a person or entity not traded on a national securities exchange, the Nasdaq Global Select Market, the Nasdaq Global Market, or the Nasdaq Capital Market, the Company or any successor entity shall pay at the Holder’s option, exercisable at any time concurrently with or within 30 days after the consummation of the Change of Control, an amount of cash equal to the value of this Warrant as determined in accordance with the Black Scholes Option Pricing Model obtained from the “OV” function on Bloomberg L.P. using (i) a price per share of Common Stock equal to the VWAP of the Common Stock for the Trading Day immediately preceding the date of consummation of the applicable Change of Control, (ii) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of this Warrant as of the date of consummation of the applicable Change of Control and (iii) an expected volatility equal to the 100 day volatility obtained from the “HVT” function on Bloomberg L.P. determined as of the Trading Day immediately following the public announcement of the applicable Change of Control.

In case of any such Change of Control described in Section 4.6(a) above, the resulting, successor or acquiring entity (if not the Company) and, if an entity different from the successor or acquiring entity, the entity whose capital stock or assets the holders of the Common Stock are entitled to receive as a result of such Change of Control, shall assume by written instrument all of the obligations of this Warrant and the Transaction Documents (as defined in the Purchase Agreement), subject to such modifications as may be deemed appropriate (as determined by resolution of the Board of Directors of the Company) in order to provide for adjustments of shares of the Common Stock into which this Warrant is exercisable which shall be as nearly equivalent as practicable to the adjustments provided for in Section 4. For purposes of Section 4, common stock of the successor or acquiring corporation shall include stock of such corporation of any class which is not preferred as to dividend or assets on liquidation over any other class of stock of such corporation and which is not subject to redemption and shall also include any evidences of indebtedness, shares of stock or other securities which are convertible into or exchangeable for any such stock, either immediately or upon the arrival of a specified date or the happening of a specified event and any warrants or other rights to subscribe for or purchase any such stock. The foregoing provisions of this Section 4 shall similarly apply to successive Change of Control transactions.

Other Action Affecting Common Stock. In case at any time or from time to time the Company shall take any action in respect of its Common Stock, other than the payment of dividends permitted by Section 4 or any other action described in Section 4, then, unless such action will not have a materially adverse effect upon the rights of the holder of this Warrant, the number of shares of Common Stock or other stock into which this Warrant is exercisable and/or the purchase price thereof shall be adjusted in such manner as may be equitable in the circumstances.

Certain Limitations. Notwithstanding anything herein to the contrary, the Company agrees not to enter into any transaction which, by reason of any adjustment hereunder, would cause the Current Warrant Price to be less than the par value per share of Common Stock.

Stock Transfer Taxes. The issue of stock certificates upon exercise of this Warrant shall be made without charge to the holder for any tax in respect of such issue. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares in any name other than that of the holder of this Warrant, 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.

Notices to Warrant Holders.

Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Current Warrant Price, the Company, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to the Holder of this Warrant a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon the written request at any time of the Holder of this Warrant, furnish or cause to be furnished to such Holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Current Warrant Price at the time in effect and (iii) the number of shares of Common Stock and the amount, if any, or other property which at the time would be received upon the exercise of Warrants owned by such Holder.

Notice of Corporate Action. If at any time:

the Company shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend (other than a cash dividend payable out of earnings or earned surplus legally available for the payment of dividends under the laws of the jurisdiction of incorporation of the Company) or other distribution, or any right to subscribe for or purchase any evidences of its indebtedness, any shares of stock of any class or any other securities or property, or to receive any other right, or

there shall be any capital reorganization of the Company, any reclassification or recapitalization or the capital stock of the Company or any consolidation or merger of the Company with, or any sale, transfer or other disposition of all or substantially all the property, assets or business of the Company to, another corporation, or

there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Company, or

the Company shall cause the holders of its Common Stock to be entitled to receive (i) any dividend or other distribution of cash, (ii) any evidences of its indebtedness, or (iii) any shares of stock of any class or any other securities or property or assets of any nature whatsoever (other than cash or additional shares of Common Stock as provided in Section 4.1 hereof and the rights under the Company's Rights Agreement, dated as of October 31, 2001, by and between the Company and American Stock Transfer & Trust Company as Rights Agent (the "**Rights Agreement**")), or (iv) any warrants or other rights to subscribe for or purchase any evidences of its indebtedness any shares of stock of any class or any other securities or property or assets of any nature whatsoever;

then, in any one or more of such cases, the Company shall give to the Holder (i) at least 15 days' prior written notice of the date on which a record date shall be selected for such dividend, distribution or right or for determining rights to vote in respect of any such reorganization, reclassification, merger, consolidation, sale, transfer, disposition, dissolution, liquidation or winding up, and (ii) in the case of any such reorganization, reclassification, merger, consolidation, sale, transfer, disposition, dissolution, liquidation or winding up, at least 15 days' prior written notice of the date when the same shall take place. Such notice in accordance with the foregoing clause also shall specify (i) the date on which any such record is to be taken for the purpose or such dividend, distribution or right, the date on which the holders of Common Stock shall be entitled to any such dividend, distribution or right, and the amount and character thereof, and (ii) the date on which any such reorganization, reclassification, merger, consolidation, sale, transfer, disposition, dissolution, liquidation or winding up is to take place and the time, if any such time is to be fixed, as of which the holders of Common Stock shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reorganization, reclassification, merger, consolidation, sale, transfer, disposition, dissolution, liquidation or winding up. Each such written notice shall be sufficiently given if addressed to the Holder at the last address of the Holder appearing on the books of the Company and delivered in accordance with Section 15.2. Notwithstanding the foregoing provisions of this Section 5.2, the Company shall give to the Holder at least seven (7) Business Days prior written notice of the occurrence of any Distribution Date (as defined in the Rights Agreement).

No Rights as Stockholder. This Warrant does not entitle the Holder to any voting or other rights as a stockholder of the Company prior to exercise and payment for the Warrant Price in accordance with the terms hereof.

No Impairment. The Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the

observance or performance orally of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of the Holder against impairment. Without limiting the generality of the foregoing, the Company will (a) not increase the par value of any shares of Common Stock receivable upon the exercise of this Warrant above the amount payable therefor upon such exercise immediately prior to such increase in par value, (b) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock upon the exercise of this Warrant and (c) use its best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof as may be necessary to enable the Company to perform its obligations under this Warrant. Upon the request of the Holder, the Company will at any time during the period this Warrant is outstanding acknowledge in writing, in form satisfactory to the Holder, the continuing validity of this Warrant and the obligations of the Company hereunder.

Reservation and Authorization of Common Stock; Registration With Approval of Any Governmental Authority. From and after the Closing Date, the Company shall at all times reserve and keep available for issue upon the exercise of Warrants such number of its authorized but unissued shares of Common

Stock as will be sufficient to permit the exercise in full of all outstanding Warrants (without regard to any ownership limitations provided in Section 2.4(i)). All shares of Common Stock which shall be so issuable, when issued upon exercise of any Warrant and payment therefor in accordance with the terms of such Warrant, shall be duly and validly issued and fully paid and nonassessable, and not subject to preemptive rights. Before taking any action which would cause an adjustment reducing the Current Warrant Price below the then par value, if any, of the shares of Common Stock issuable upon exercise of the Warrants, the Company shall take any corporate action which may be necessary in order that the Company may validly and legally issue fully paid and non-assessable shares of such Common Stock at such adjusted Current Warrant Price. Before taking any action which would result in an adjustment in the number shares of Common Stock for which this Warrant is exercisable or in the Current Warrant Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof. If any shares of Common Stock required to be reserved for issuance upon exercise of Warrants require registration or qualification with any governmental authority under any federal or state law before such shares may be so issued (other than as a result of a prior or contemplated distribution by the

Holder of this Warrant), the Company will in good faith and as expeditiously as possible and at its expense endeavor to cause such shares to be duly registered.

Taking of Record; Stock and Warrant Transfer Books. In the case of all dividends or other distributions by the Company to the holders of its Common Stock with respect to which any provision of Section 4 refers to the taking of a record or such holders, the Company will in each such case take such a record and will take such record as of the close of business on a Business Day. The Company will not at any time, except upon dissolution, liquidation or winding up of the Company, close its stock transfer books or Warrant transfer books so as to result in preventing or delaying the exercise or transfer of any Warrant.

Registration Rights. The resale of the Warrant Stock shall be registered in accordance with the terms and conditions contained in that certain Investor Rights Agreement dated of even date hereof, among the Holder, the Company and the other parties named therein (the “Investor Rights Agreement”). The Holder acknowledges that pursuant to the Investor Rights Agreement, the Company has the right to request that the Holder furnish information regarding such Holder and the distribution of the Warrant Stock as is required by law or the Commission to be disclosed in the Registration Statement (as such term

is defined in the Investor Rights Agreement), and the Company may exclude from such registration the shares of Warrant Stock acquirable hereunder if Holder fails to furnish such information within a reasonable time prior to the filing of each Registration Statement, supplemented prospectus included therein and/or amended Registration Statement.

Supplying Information. Upon any default by the Company of its obligations hereunder or under the Investor Rights Agreement, the Company shall cooperate with the Holder in supplying such information as may be reasonably necessary for such Holder to complete and file any information reporting forms presently or hereafter required by the Commission as a condition to the availability of an exemption from the Securities Act for the sale of any Warrant or Restricted Common Stock.

Loss or Mutilation. Upon receipt by the Company from the Holder of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of this Warrant and indemnity or security reasonably satisfactory to it and reimbursement to the Company of all reasonable expenses incidental thereto and in case of mutilation upon surrender and cancellation hereof, the Company will execute and deliver in lieu hereof a new Warrant of like tenor to the Holder; provided, however, that in the case of mutilation, no indemnity shall be required if this Warrant in identifiable form is surrendered to

the Company for cancellation.

Office of the Company. As long as any of the Warrants remain outstanding, the Company shall maintain an office or agency (which may be the principal executive offices of the Company) where the Warrants may be presented for exercise, registration of transfer, division or combination as provided in this Warrant.

Financial and Business Information.

Quarterly Information. The Company will deliver to the Holder, as soon as available and in any event within 45 days after the end of each of the first three quarters of each fiscal year of the Company, one copy of an unaudited consolidated balance sheet of the Company and its subsidiaries as at the end of such quarter, and the related unaudited consolidated statements of income, retained earnings and cash flow of the Company and its subsidiaries for such quarter and, in the case of the second and third quarters, for the portion of the fiscal year ending with such quarter, setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year. Such financial statements shall be prepared by the Company in accordance with GAAP (except as may be indicated thereon or in the notes thereto) and accompanied by the certification of the Company's chief executive officer or chief financial officer that such financial statements present fairly the consolidated financial position, results of operations and cash flow of the Company and its subsidiaries as at the end of such quarter and for such year-to-date period, as the case may be; provided, however, that the Company shall have no obligation to deliver such quarterly information under this Section 13.1 to the extent it is publicly available; and provided further, that if such information contains material non-public information, the Company shall so notify the Holder prior to delivery thereof and the Holder shall have the right to refuse delivery of such information.

Annual Information. The Company will deliver to the Holder as soon as available and in any event within 90 days after the end of each fiscal year of the Company, one copy of an audited consolidated balance

sheet of the Company and its subsidiaries as at the end of such year, and audited consolidated statements of income, retained earnings and cash flow of the Company and its subsidiaries for such year, setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all prepared in accordance with GAAP, and which audited financial statements shall be accompanied by an opinion thereon of the independent certified public accountants regularly retained by the Company, or any other firm of independent certified public accountants of recognized national standing selected by the Company; provided, however, that the Company shall have no obligation to deliver such annual information under this Section 13.2 to the extent it is publicly available; and provided further, that if such information contains material non-public information, the Company shall so notify the Holder prior to delivery thereof and the Holder shall have the right to refuse delivery of such information.

Filings. The Company will file on or before the required date all regular or periodic reports (pursuant to the Exchange Act) with the Commission and will deliver to Holder promptly upon their becoming available one copy of each report, notice or proxy statement sent by the Company to its stockholders generally.

Limitation of Liability. No provision hereof, in the absence of affirmative action by the Holder to purchase shares of Common Stock, and no enumeration herein of the rights or privileges of the Holder hereof, shall give rise to any liability of the Holder for the purchase price of any Common Stock, whether such liability is assorted by the Company or by creditors of the Company.

Miscellaneous.

Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of the Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. If the Company fails to make, when due, any payments provided for hereunder, or fails to comply with any other

material provision of this Warrant, the Company shall pay to the Holder such amounts as shall be sufficient to cover any third party costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

Notice Generally. All notices, requests, demands or other communications provided for herein shall be in writing and shall be given in the manner and to the addresses set forth in the Purchase Agreement.

Successor and Assigns. Subject to compliance with the provisions of Section 3.1, this Warrant and the rights evidenced hereby shall inure to the benefit of and be binding upon the successors of the Company and the successors and assigns of the Holder. The provisions of this Warrant are intended to be for the benefit of all Holders from time to time of this Warrant, and shall be enforceable by any such Holder.

Amendment. This Warrant may be modified or amended or the provisions of this Warrant waived with the written consent of both the Company and the Holder.

Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be modified to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Warrant.

Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

Governing Law. This Warrant and the transactions contemplated hereby shall be deemed to be consummated in the State of New York and shall be governed by and interpreted in accordance with the local laws of the State of New York without regard to the provisions thereof relating to conflicts of laws. The Company hereby irrevocably consents to the exclusive jurisdiction of the State and Federal courts located in New York City, New York in connection with any action or proceeding

arising out of or relating to this Warrant. In any such litigation the Company agrees that the service thereof may be made by certified or registered mail directed to the Company pursuant to Section 15.2.

Remedies. Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

[Signature Page Follows]

Preferred Stock and Warrant Purchase Agreement

PREFERRED STOCK AND WARRANT PURCHASE AGREEMENT
by and among
Access Pharmaceuticals, Inc.
and
the parties named herein on Schedule 1, as Purchasers

November 7, 2007

ARTICLE I

DEFINITIONS AND TERMS OF PREFERRED STOCK AND WARRANTS

1.1 Certain Definitions; Terms of Preferred Stock and Warrants.

In addition to the terms defined elsewhere in this Agreement, for all **purposes** of this Agreement, the following terms have the meanings indicated in this Section 1.1:

“*Action*” shall have the meaning ascribed to such term in Section 3.1(j).

“*Affiliate*” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 144. With respect to a Purchaser, any investment fund or managed account that is managed on a discretionary basis by the same investment manager as such Purchaser will be deemed to be an Affiliate of such Purchaser.

“*Agreement*” shall have the meaning ascribed to such term in the Preamble.

“*Business Day*” means any day except Saturday, Sunday and any day which shall be a federal legal holiday or a day on which banking institutions in the State of Texas are authorized or required by law or other governmental action to close.

“*Certificate of Designation*” shall have the meaning ascribed to such term in Section 1.2. “*Closing*” shall have the meaning ascribed to such term in Section 2.1(a).

“*Closing Date*” shall have the meaning ascribed to such term in Section 2.1(a).

“*Closing Escrow Agreement*” shall have the meaning ascribed to such term in Section 2.1(b).

“*Commission*” means the Securities and Exchange Commission

“*Common Stock*” means the common stock of the Company, \$0.01 par value per share, and any securities into which such common stock may hereafter be reclassified.

“*Common Stock Equivalents*” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“*Company*” shall have the meaning ascribed to such term in the Preamble.

“*Conversion Shares*” means the shares of Common Stock issuable or issued upon conversion of the Preferred Stock. “*Disclosure Schedules*” means the Disclosure Schedules concurrently delivered herewith.

“*Effective Date*” means the date that the Registration Statement is first declared effective by the Commission. “*Environmental Laws*” shall have the meaning ascribed to such term in Section 3.1(y).

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

“*FDC Act*” shall have the meaning ascribed to such term in Section 3.1(m).

“*GAAF*” shall have the meaning ascribed to such term in Section 3.1(h).

“*Governmental Authorizations*” shall have the meaning ascribed to such term in Section 3.1(m).

“*Hazardous Substances*” shall have the meaning ascribed to such term in Section 3.1(y).

“*Indemnified Part*” shall have the meaning ascribed to such term in Section 5.3.

“*Indemnifying Part*” shall have the meaning ascribed to such term in Section 5.3.

“*Intellectual Property*” shall have the meaning ascribed to such term in Section 3.1(o).

“*Investor Rights Agreement*” means the Investor Rights Agreement, dated as of the date of this Agreement, between the Company and each of the Purchasers, in the form of Exhibit A hereto.

“*Lien*” means a lien, charge, security interest, encumbrance, right of first refusal or other restriction, except for a lien for current taxes not yet due and payable and a minor imperfection of title, if any, not material in nature or amount and not materially detracting from the value or impairing the use of the property subject thereto or impairing the operations or proposed operations of the Company.

“*Material Adverse Effect*” shall have the meaning ascribed to such term in Section 3.1(6). Per Share Purchase Price” equals \$10,000.

“*Person*” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“*Placement Agents*” means Rodman & Renshaw, LLC and Dawson James Securities, Inc.

“*Placement Agent Warrants*” shall mean the common stock purchase warrants to be issued to the Placement Agents and/or their designees as compensation for services rendered in connection with the transaction set forth herein as provided on Schedule 1 attached hereto, which warrants shall be in the form of Exhibit D hereto.

“*Preferred Shares*” means the shares of Preferred Stock issued to each Purchaser pursuant to this Agreement.

“*Preferred Stock*” means the Company’s Series A Cumulative Convertible Preferred Stock, par value \$0.01 per share.

“*Premises*” shall have the meaning ascribed to such term in Section 3.1(y).

“*Promissory Notes*” shall have shall have the meaning ascribed to such term in Section 2.1(c).

“*Purchase Price*” means the aggregate purchase price paid by each Purchaser for the shares of Preferred Stock and Warrants purchased by such Purchaser hereunder.

“*Purchaser*” shall have the meaning ascribed to such term in the Preamble

“*Registration Statement*” means a registration statement meeting the requirements set forth in the Investor Rights Agreement and covering the resale by the Purchasers of the Conversion Shares and the Warrant Shares.

“*Required Minimum*” means, as of any date, the maximum aggregate number of shares of Common Stock then issued or potentially issuable in the future pursuant to the Transaction Documents, including any Underlying Shares issuable upon exercise or conversion in full of all Warrants and shares of Preferred Stock, ignoring any conversion or exercise limits set forth therein, and assuming that any previously unconverted shares of Preferred Stock are held until the fifth anniversary of the Closing Date and all dividends are paid in shares of Common Stock until such fifth anniversary

“*Rights*” shall have the meaning ascribed to such term in Section 3.1(o).

“*Rule 144*” means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

“*SEC Reports*” shall have the meaning ascribed to such term in Section 3.1(h).

“*Securities*” means the Preferred Shares, the Conversion Shares, the Warrants and the Warrant Shares. “*Securities Act*” means the Securities Act of 1933, as amended.

“*Short Sales*” means all “short sales” as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

“*Subscription Amount*” means, as to each Purchaser, the amount set forth beside such Purchaser’s name on Schedule 1 hereto, in United States dollars and in immediately available funds.

“*Subsidiary*” means, with respect to any entity, any corporation or other organization of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions, are directly or indirectly owned by such entity or of which such entity is a partner or is, directly or indirectly, the beneficial owner of 50% or more of any class of equity securities or equivalent profit participation interests.

“*Trading Day*” means (i) a day on which the Common Stock is traded on a Trading Market, or (ii) if the Common Stock is not listed on a Trading Market, a day on which the Common Stock is traded on the over-the-counter market, as reported by the OTC Bulletin Board, or (iii) if the Common Stock is not listed on a Trading Market or quoted on the OTC Bulletin Board, a day on which the Common Stock is quoted in the over-the-counter market as reported by Pink Sheets LLC (or any similar organization or agency succeeding to its functions of reporting prices); provided, that in the event that the Common Stock is not listed or quoted as set forth in (i), (ii) and (iii) hereof, then Trading Day shall mean a Business Day.

“*Trading Market*” means the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the American Stock Exchange, the New York Stock Exchange, the Nasdaq National Market, the Nasdaq Capital Market or the OTC Bulletin Board.

“*Transaction Documents*” means this Agreement, the Certificate of Designation, the Investor Rights Agreement, the Warrants and any other documents or agreements executed in connection with the transactions contemplated hereunder.

“*Underlying Shares*” means the shares of Common Stock issued and issuable upon conversion of the Preferred Stock, upon exercise of the Warrants and issued and issuable in lieu of the cash payment of dividends on the Preferred Stock in accordance with the terms of the Certificate of Designation.

“*VWAP*” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)); (v) if the Common Stock is not then quoted for trading on any Trading Market and if prices for the Common Stock are then reported in the “Pink Sheets” published by Pink Sheets, LLC (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported; or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company.

“*Warrants*” shall have the meaning ascribed to such term in the recitals hereto. The Placement Agent Warrants shall also constitute “Warrants” for all purposes hereunder and the Placement Agents and/or their designees and such other persons or entities shall constitute “Purchasers” for all purposes hereunder.

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

1.2 Terms of the Preferred Stock and Warrants

The terms and provisions of the Preferred Stock are set forth in the form of Certificate of Designations of Rights and Preferences of Series A Convertible Preferred Stock, attached hereto as Exhibit B (the “*Certificate of Designation*”). The terms and provisions of the Warrants are as set forth in the form of Common Stock Purchase Warrant, attached hereto as Exhibit C (and Exhibit D in the case of the Placement Agent Warrants).

ARTICLE II

PURCHASE AND SALE

2.1 Closing.

(a) The closing of the transactions contemplated under this Agreement (the “*Closing*”) will take place upon the execution of this Agreement by the Company and the Purchasers immediately following satisfaction or waiver of the conditions set forth in Sections 2.2 and 2.3 (other than those conditions which by their terms are not to be satisfied or waived until the Closing), at the offices of Wiggin and Dana LLP, 400 Atlantic Street, Stamford, CT 06901 (or remotely via exchange of documents and signatures) or at such other place or day as may be mutually acceptable to the Purchasers and the Company. The date on which the Closing occurs is the “*Closing Date*”.

(b) At the Closing, the Purchasers shall purchase, severally and not jointly, and the Company shall issue and sell, in the aggregate, 3,227.3617 shares of Preferred Stock and Warrants to purchase 3,440,882 shares of Common Stock. Each Purchaser shall purchase from the Company, and the Company shall issue and sell to each Purchaser, a number of Preferred Shares equal to such Purchaser’s Subscription Amount divided by the Per Share Purchase Price and a Warrant to purchase 50% of the number of Conversion Shares into which the Preferred Shares purchased by such Purchaser are initially convertible. Except to the extent paid in the form of surrender and cancellation of Promissory Notes (as defined below) pursuant to Section 2.1(c), the Subscription Amount paid by each Purchaser shall be placed in escrow pending the Closing pursuant to a Closing Escrow

Agreement among the Company, SCO Capital Partners LLC and Wiggin and Dana LLP (the “Escrow Agent”), which agreement shall be in the form attached hereto as Exhibit E (the “Closing Escrow Agreement”).

(c) All or a portion of the Subscription Amount payable by certain Purchasers for the Preferred Stock and Warrants purchased pursuant to this Agreement shall be payable by the surrender and cancellation of promissory notes of the Company held by such Purchasers, representing an aggregate principal amount of \$10,015,000 plus accrued and unpaid interest thereon and described next to such Purchaser’s name in Schedule 1 hereto (the “Promissory Notes”), with the value of such Promissory Notes toward such Purchaser’s Subscription Amount also described in Schedule 1. The value of each Promissory Note toward the Subscription Amount shall be determined according to whether the Promissory Note is an “A” Promissory Note (a “Category A Note”) or a “B” Promissory Note (a “Category B Note”), in each case, as set forth on Schedule 1 under the heading “Promissory Note Category”. Category A Notes shall be valued toward each applicable Purchaser’s Subscription Amount at a dollar amount equal to (i) the number of shares of Common Stock into which such Category A Note is convertible immediately prior to the Closing (without giving effect to any limitations on beneficial ownership contained therein) multiplied by (ii) the Conversion Value (as defined in the Certificate of Designation); provided that, notwithstanding any other provision of this Agreement, the Warrants issuable to the Category A Note holders in respect of Category A Notes exchanged by them shall be exercisable for a number of shares of Common Stock determined as if the principal and interest on such Category A Notes were exchanged on a dollar-for-dollar basis and as set forth next to the name of such Category A Note holder on Schedule 1. Category B Notes shall be valued toward each applicable Purchaser’s Subscription Amount at a dollar amount equal to the outstanding principal amount of such Category B Note plus all accrued and unpaid interest thereon. Each Purchaser surrendering Promissory Notes for cancellation in payment of any portion of such Purchaser’s Subscription Amount hereby agrees that such Promissory Notes shall be cancelled and that all liens held by such Purchaser in connection with such Promissory Notes shall be terminated, in each case, as of the Closing.

2.2 Conditions to Obligations of Purchasers to Effect the Closing.

The obligations of each Purchaser to effect the Closing and the transactions contemplated by this Agreement shall be subject to the satisfaction at or prior to the Closing of each of the following conditions, any of which may be waived, in writing, by such Purchaser:

(a) At the Closing (unless otherwise specified below) the Company shall deliver or cause to be delivered to each Purchaser the following:

- (i) this Agreement, duly executed by the Company;
- (ii) a certificate evidencing a number of Preferred Shares equal to such Purchaser’s Subscription Amount divided by the Per Share Purchase Price as set forth on Schedule 1 hereto, registered in the name of such Purchaser;
- (iii) a Warrant, registered in the name of such Purchaser, pursuant to which such Purchaser shall have the right to acquire up to the number of shares of Common Stock equal to 50% of the shares of Common Stock initially issuable upon conversion of the Preferred Shares to be issued to such Purchaser at such Closing (except with respect to Warrants issued upon exchange of Category A Notes, the number of which shall be determined in accordance with Section 2.1(c)), as set forth on Schedule 1 hereto;
- (iv) the Investor Rights Agreement, duly executed by the Company;
- (v) a legal opinion of Bingham McCutchen LLP, counsel to the Company, in the form of Exhibit F hereto;
- (vi) a certificate of the Secretary of the Company (the “Secretary’s Certificate”), attaching a true copy of the Certificate of Incorporation and Bylaws of the Company, as amended to the Closing Date, and attaching true and complete copies of the resolutions of the Board of Directors of the Company authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents; and
- (vii) evidence satisfactory to the Purchasers that the Certificate of Designation was duly filed with, and accepted by, the Secretary of State of the State of Delaware.

(b) The Company shall have entered into the Closing Escrow Agreement.

(c) All representations and warranties of the Company contained herein shall remain true and correct as of the Closing Date as though such representations and warranties were made on such date (except those representations and warranties that address matters only as of a particular date will remain true and correct as of such date).

(d) All of the Promissory Notes shall have been surrendered for cancellation in partial payment of the Subscription Amount for the Purchasers holding such notes;

(e) As of the Closing Date, there shall have been no Material Adverse Effect with respect to the Company since the date hereof.

(f) From the date hereof to the Closing Date, trading in the Common Stock shall not have been suspended by the Commission (except for any suspension of trading of limited duration agreed to by the Company, which suspension

shall be terminated prior to the Closing), and, at any time prior to the Closing Date, trading in securities generally as reported by Bloomberg Financial Markets shall not have been suspended or limited, or minimum prices shall not have been established on securities whose trades are reported by such service, or on any Trading Market, nor shall a banking moratorium have been declared either by the United States or New York State authorities.

(g) All Purchasers surrendering Promissory Notes for cancellation in payment of any portion of their Subscription Amount shall have executed this Agreement.

(h) The minimum aggregate cash Subscription Amount hereunder shall be \$7,500,000.

2.3 Conditions to Obligations of the Company to Effect the Closing.

The obligations of the Company to effect the Closing and the transactions contemplated by this Agreement shall be subject to the satisfaction at or prior to the Closing of each of the following conditions, any of which may be waived, in writing, by the Company.

(a) At the Closing, each Purchaser shall deliver or cause to be delivered to the Company the following:

(i) this Agreement, duly executed by such Purchaser;

(ii) such Purchaser's Subscription Amount, as applicable, (A) by wire transfer of immediately available funds as provided in the Closing Escrow Agreement and/or (B) in the case of Purchasers paying all or a portion of their Subscription Amount by the cancellation of the Promissory Notes held by them, by the cancellation of such Promissory Notes pursuant to Section 2.1(c); and

(iii) the Investor Rights Agreement, duly executed by such Purchaser.

(b) All representations and warranties of each of the Purchasers contained herein shall remain true and correct as of the Closing Date as though such representations and warranties were made on such date.

(c) The Certificate of Designation shall have been duly filed with, and accepted by, the Secretary of State of the State of Delaware.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company.

Except as set forth under the corresponding section of the Disclosure Schedules delivered concurrently herewith, the Company hereby makes the following representations and warranties as of the date hereof and as of the Closing Date to each Purchaser:

(a) **Subsidiaries.** Except as listed in Schedule 3.1(a), the Company has no direct or indirect Subsidiaries.

(b) **Organization and Qualification.** Each of the Company and the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization (as applicable), with the requisite corporate power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, would not have or result in (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the business or financial condition of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "*Material Adverse Effect*").

(c) **Authorization; Enforceability.** The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by each of the Transaction Documents and otherwise to carry out its obligations thereunder. The execution and delivery of each of the Transaction Documents by the Company and the consummation by it of the transactions contemplated thereby (including, but not limited to, the sale and delivery of the Preferred Stock and Warrants) have been duly authorized by all necessary corporate action on the part of the Company and no further corporate action is required by the Company in connection therewith. The issuance and delivery of the Conversion Shares upon conversion of the Preferred Stock and the Warrant Shares upon exercise of

the Warrants have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company in connection therewith. Each Transaction Document has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to laws of general application relating to bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and rules of law governing specific performance, injunctive relief, or other equitable remedies.

(d) **No Conflicts.** The execution, delivery and performance of the Transaction Documents by the Company and the consummation by the Company of the transactions contemplated thereby do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that 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 (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected, except, in the cases of clause (ii), where such conflict, default or violation would not have or result in a Material Adverse Effect.

(e) **Filings, Consents and Approvals.** The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than (i) the filing with the Commission of the Registration Statement, the application(s) to each Trading Market for the listing of the Conversion Shares and Warrant Shares for trading thereon in the time and manner required thereby, Form D and applicable Blue Sky filings, (ii) such as have already been obtained or such exemptive filings as are required to be made under applicable securities laws and (iii) the filing of the Certificate of Designation with the Secretary of State of the State of Delaware.

(f) **Issuance of the Securities.** The Securities are duly authorized and, when issued and paid for in accordance with the Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens, other than any Liens created by or imposed on the holders thereof through no action of the Company. The Company has reserved from its duly authorized capital stock (i) the maximum number of shares of Preferred Stock issuable pursuant to this Agreement and (ii) the maximum number of shares of Common Stock issuable upon conversion of the Preferred Stock and exercise of the Warrants.

(g) **Capitalization.**

(i) The authorized and outstanding capitalization of the Company is set forth on Schedule 3.1(g) hereto. All shares of the Company's issued and outstanding capital stock have been duly authorized, are validly issued and outstanding, and are fully paid and nonassessable. No securities issued by the Company from March 1, 2002 to the date hereof were issued in violation of any statutory or common law preemptive rights. There are no dividends which have accrued or been declared but are unpaid on the capital stock of the Company. All taxes required to be paid by the Company in connection with the issuance and any transfers of the Company's capital stock have been paid. The holders of the Company's Common Stock have certain rights under the company's Rights Agreement dated as of October 31, 2001 by and between the Company and American Stock Transfer as Rights Agent. All outstanding securities of the Company have been issued in all material respects in accordance with the provisions of all applicable securities and other laws.

(ii) No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as a result of the purchase and sale of the Securities and except for employee and director stock options under the Company's equity compensation plans and as set forth on Schedule 3.1(h)(ii) hereto, there are no outstanding options, warrants, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock, or securities or rights convertible or exchangeable into shares of Common Stock. The issue and sale of the Securities will not obligate the Company to issue shares of Common Stock or other securities to any Person (other than the Purchasers) and will not result in a right of any holder of Company securities other than the Purchasers to adjust the exercise, conversion, exchange or reset price under such securities.

(h) SEC Reports; Financial Statements; Liabilities.

(i) The Company has filed all reports required to be filed by it under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) of the Exchange Act, for the 24 months preceding the date hereof (or such shorter period as the Company was required by law to file such material) (the foregoing materials, including the exhibits thereto, being collectively referred to herein as the “SEC Reports”) on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective filing dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as the case may be, and the rules and regulations of the Commission promulgated thereunder, as applicable, and none of the SEC Reports, as of their respective filing dates, contained 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 light of the circumstances under which they were made, not misleading.

(ii) The Company’s (A) audited financial statements for the fiscal years ended December 31, 2006 and 2005 included in the Company’s annual reports on Form 10-KSB and Form 10-K, respectively, filed with the Commission and (B) the financial statements included in the Company’s quarterly reports on Form 10-QSB filed with the Commission for the first two fiscal quarters of 2007 comply with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing of such reports. Such financial statements have been prepared in accordance with generally accepted accounting principles in the United States, applied on a consistent basis during the periods involved (“GAAP”), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, subject to normal year-end audit adjustments. Such financial statements fairly present in all material respects the financial position of the Company and its consolidated subsidiaries, if any, as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal year-end audit adjustments.

(iii) Except for liabilities and obligations incurred since June 30, 2007 in the ordinary course of business, consistent with past practice, as of the date hereof (i) the Company and its Subsidiaries do not have any material liabilities or obligations (absolute, accrued, contingent or otherwise) and (ii) there has not been any aspect of the prior or current conduct of the business of the Company or its Subsidiaries which may form the basis for any material claim by any third party which if asserted could result in a Material Adverse Effect.

(i) Material Changes. Except as set forth on Schedule 3.1(i), since June 30, 2007, the Company has conducted its business only in the ordinary course, consistent with past practice, and since such date there has not occurred:

(i) any event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect on the Company or any of its Subsidiaries;

(ii) any amendments or changes in the charter documents of the Company and its Subsidiaries;

(iii) any:

(A) incurrence, assumption or guarantee by the Company or its Subsidiaries of any debt for borrowed money other than (i) equipment leases made in the ordinary course of business, consistent with past practice and (ii) any such incurrence, assumption or guarantee with respect to an amount of \$25,000 or less that has been disclosed in the SEC Reports;

(B) other than as set forth on Schedule 3.1(i)(iii)(A) hereto, issuance or sale of any securities convertible into or exchangeable for securities of the Company other than to directors, employees and consultants pursuant to existing equity compensation or stock purchase plans of the Company;

(C) issuance or sale of options or other rights to acquire from the Company or its Subsidiaries, directly or indirectly, securities of the Company or any securities convertible into or exchangeable for any such securities, other than options issued to directors, employees and consultants in the ordinary course of business, consistent with past practice;

(D) issuance or sale of any stock, bond or other corporate security other than to directors, employees and consultants pursuant to existing equity compensation or stock purchase plans of the Company;

(E) discharge or satisfaction of any material Lien;

(F) declaration or making any payment or distribution to stockholders or purchase or redemption of any share of its capital stock or other security other than to directors, officers and employees of the Company or its Subsidiaries as compensation for services rendered to the Company or its Subsidiary (as applicable) or for reimbursement of expenses incurred on behalf of the Company or its Subsidiary (as applicable);

(G) sale, assignment or transfer of any of its intangible assets except in the ordinary course of business, consistent with past practice, or cancellation of any debt or claim except in the ordinary course of business, consistent with past practice;

(H) waiver of any right of substantial value whether or not in the ordinary course of business;

(I) material change in officer compensation, except in the ordinary course of business and consistent with past practice; or

(J) other commitment (contingent or otherwise) to do any of the foregoing.

(iv) other than as set forth on Schedule 3(i)(0v) hereto, any creation, sufferance or assumption by the Company or any of its Subsidiaries of any Lien on any asset or any making of any loan, advance or capital contribution to or investment in any Person, in an aggregate amount which exceeds \$25,000 outstanding at any time;

(v) any entry into, amendment of, relinquishment, termination or non-renewal by the Company or its Subsidiaries of any material contract, license, lease, transaction, commitment or other right or obligation, other than in the ordinary course of business, consistent with past practice; or

(vi) other than as set forth on Schedule 3(i)(vi) hereto, any transfer or grant of a right with respect to the patents, trademarks, trade names, service marks, trade secrets, copyrights or other intellectual property rights owned or licensed by the Company or its Subsidiaries, except as among the Company and its Subsidiaries.

(j) **Litigation.** There is no action, suit, inquiry, notice of violation, proceeding or, to the knowledge of the Company, investigation pending nor, to the knowledge of the Company, is any of the above threatened against the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an “*Action*”) which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Securities or (ii) could, if there were an unfavorable decision, have or result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor, to the knowledge of the Company, any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty within the past five (5) years. To the knowledge of the Company, there has not been and there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act within the past eight (8) years.

(k) **Labor Relations.** No material labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company which could have or result in a Material Adverse Effect.

(l) **Compliance.** Neither the Company nor any Subsidiary (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is currently in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any order of any court, arbitrator or governmental body, or (iii) is or has been in violation of any statute, rule or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws applicable to its business, except in the case of clauses (i) and (iii) as would not have or reasonably be expected to result in a Material Adverse Effect.

(m) **Licenses; Compliance With FDA and Other Regulatory Requirements.**

(i) The Company holds all material authorizations, consents, approvals, franchises, licenses and permits required under applicable law or regulation for the operation of the business of the Company and its Subsidiaries as presently operated (the “*Governmental Authorizations*”). All the Governmental Authorizations have been duly issued or obtained and are in full force and effect, and the Company and its Subsidiaries are in material compliance with the terms of all the Governmental Authorizations. The Company and its Subsidiaries have not engaged in any activity that, to their knowledge, would cause

revocation or suspension of any such Governmental Authorizations. Neither the execution, delivery nor performance of this Agreement shall adversely affect the status of any of the Governmental Authorizations.

(ii) Without limiting the generality of the representations and warranties made in sub-paragraph (i) above, the Company represents and warrants that (i) the Company and each of its Subsidiaries is in material compliance with all applicable provisions of the United States Federal Food, Drug, and Cosmetic Act and the rules and regulations promulgated thereunder (the “*FDC Act*”) and equivalent laws, rules and regulations in jurisdictions outside the United States in which the Company or its Subsidiaries do business, (ii) its products and those of each of its Subsidiaries that are in the Company’s control are not adulterated or misbranded and are in lawful distribution, (iii) all of the products marketed by and within the control of the Company comply in all material respects with any conditions of approval and the terms of the application by the Company to the appropriate Regulatory Authorities, (iv) no Regulatory Authority has initiated legal action with respect to the manufacturing of the Company’s products, such as seizures or required recalls, and the Company is in compliance with applicable good manufacturing practice regulations, (v) its products are labeled and promoted by the Company and its representatives in substantial compliance with the applicable terms of the marketing applications submitted by the Company to the Regulatory Authorities and the provisions of the FDC Act and foreign equivalents, (vi) all adverse events that were known to and required to be reported by Company to the Regulatory Authorities have been reported to the Regulatory Authorities in a timely manner, (vii) neither the Company nor any of its Subsidiaries is, to their knowledge, employing or utilizing the services of any individual who has been debarred under the FDC Act or foreign equivalents, (viii) all stability studies required to be performed for products distributed by the Company or any of its Subsidiaries have been completed or are ongoing in material compliance with the applicable Regulatory Authority requirements, (ix) any products exported by the Company or any of its Subsidiaries have been exported in compliance with the FDC Act and (x) the Company and its Subsidiaries are in compliance in all material respects with all applicable provisions of the Controlled Substances Act. For purposes of this Section 3.1(m), “*Regulatory Authority*” means any governmental authority in a country or region that regulates the manufacture or sale of Company’s products, including, but not limited to, the United States Food and Drug Administration.

(n) **Title to Assets.** The Company and the Subsidiaries do not own any real property, and have good and marketable title to all personal property owned by them that is material to the business of the Company and the Subsidiaries, taken as a whole, in each case free and clear of all Liens, except those, if any, reflected in the Company’s financial statements or incurred in the ordinary course of business consistent with past practice or which would not cause a Material Adverse Effect. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases (subject to laws of general application relating to bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors’ rights generally and rules of law governing specific performance, injunctive relief, or other equitable remedies) with which the Company and the Subsidiaries are in material compliance.

(o) Intellectual Property.

(i) The Company or a Subsidiary thereof has the right to use or is the sole and exclusive owner of all right, title and interest in and to all material foreign and domestic patents, patent rights, trademarks, service marks, trade names, brands and copyrights (whether or not registered and, if applicable, including pending applications for registration) owned, used or controlled by the Company and its Subsidiaries (collectively, the “*Rights*”) and in and to each material invention, software, trade secret, technology, product, composition, formula and method of process used by the Company or its Subsidiaries (the *Rights* and such other items, the “*Intellectual Property*”), and, to the Company’s knowledge, has the right to use the same, free and clear of any claim or conflict with the rights of others (subject to the provisions of any applicable license agreement) except as would not cause a Material Adverse Effect;

(ii) other than in the ordinary course of business, no royalties or fees (license or otherwise) are payable by the Company or its Subsidiaries to any Person by reason of the ownership or use of any of the Intellectual Property;

(iii) there have been no written claims made against the Company or its Subsidiaries asserting the invalidity, abuse, misuse, or unenforceability of any of the Intellectual Property, and, to the best of the Company’s knowledge, there are no reasonable grounds for any such claims which would cause a Material Adverse Effect;

(iv) neither the Company nor its Subsidiaries have made any claim of any violation or infringement by others of its rights in the Intellectual Property, and to the best of the Company’s knowledge, no reasonable grounds for such claims exist; and

(v) neither the Company nor its Subsidiaries have received written notice that it is in conflict with or infringing upon the asserted rights of others in connection with the Intellectual Property which would cause a Material Adverse Effect.

(p) **Insurance.** The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged, including, but not limited to, directors and officers insurance coverage in the amount set forth on Schedule 3.1(p) attached hereto. All of the insurance policies of the Company and its Subsidiaries are in full force and effect and are valid and enforceable in accordance with their terms, and the Company and its Subsidiaries have complied with all material terms and conditions thereof. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

(q) **Transactions With Affiliates and Employees.** Except as provided in the SEC Reports, none of the officers or directors of the Company and, to the knowledge of the Company, none of the employees of the Company is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee or partner, other than (a) for payment of salary or consulting fees for services rendered, (b) reimbursement for expenses incurred on behalf of the Company and (c) for other employee benefits, including stock option agreements and other stock awards under any equity compensation plan of the Company.

(r) **Internal Accounting Controls.** The Company is in material compliance with all provisions of the Sarbanes-Oxley Act of 2002 which are applicable to it as of the Closing Date. The Company and each of the Subsidiaries maintains a system of internal accounting controls sufficient in the judgment of the Company's management to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company has established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and designed such disclosure controls and procedures to ensure that the Company is able to collect the information that it is required to disclose in the reports it files with the Commission and to process, summarize and disclose this information in the time periods specified in the Commission's rules. The Company's certifying officers have evaluated the effectiveness of the Company's controls and procedures as of June 30, 2007 (such date, the "Evaluation Date"). The Company presented in its Form 10-QSB for the quarter ended June 30, 2007, the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no significant changes in the Company's internal control over financial reporting (as such term is defined in Exchange Act Rule 13a-15) or, to the Company's knowledge, in other factors that could significantly affect the Company's internal controls.

(s) **Certain Fees.** Except for fees payable to the Placement Agents, no brokerage or finder's fees or commissions are or will be payable by the Company to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by this Agreement. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by this Agreement.

(t) **Private Placement; Integrated Offering.** Assuming the accuracy of the Purchasers representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchasers as contemplated hereby. The issuance and sale of the Securities hereunder does not contravene the rules and regulations of the Trading Market. Neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of the Securities Act and would as a result require registration under the Securities Act or trigger any applicable shareholder approval provisions, including, without limitation, under the rules and regulations of any exchange or automated quotation system on which any of the securities of the Company are listed or designated.

(u) **Charter, Bylaws and Corporate Records.** The minute books of the Company and its Subsidiaries contain in all material respects complete and accurate records of all meetings and other corporate actions of the board of directors, committees of the board of directors, incorporators and stockholders of the Company and its Subsidiaries from the date of incorporation of each such entity to the date hereof. All material corporate decisions and actions

have been validly made or taken. All corporate books, including without limitation the share transfer register, comply in all material respects with applicable laws and regulations and have been regularly updated.

(v) **Registration Rights.** Except as set forth in Schedule 3.1(v), no Person has any right to cause the Company to effect the registration under the Securities Act of any securities of the Company.

(w) **Listing and Maintenance Requirements.** Except as set forth on Schedule 3(w), the Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements.

(x) **Taxes.** All tax returns and tax reports required to be filed with respect to the income, operations, business or assets of the Company and its Subsidiaries have been timely filed (or appropriate extensions have been obtained) with the appropriate governmental agencies in all jurisdictions in which such returns and reports are required to be filed, and all of the foregoing as filed are, in all material respects, correct and complete and, in all material respects, reflect accurately all liability for taxes of the Company and its Subsidiaries for the periods to which such returns relate, and all amounts shown as owing thereon have been paid. All income, profits, franchise, sales, use, value added, occupancy, property, excise, payroll, withholding, FICA, FUTA and other taxes (including interest and penalties), if any, collectible or payable by the Company and its Subsidiaries or relating to or chargeable against any of its material assets, revenues or income or relating to any employee, independent contractor, creditor, stockholder or other third party through the Closing Date, were fully collected and paid by such date if due by such date or provided for by adequate reserves in the financial statements contained in the SEC Reports as of and for the periods ended September 30, 2005 (other than taxes accruing after such date) and all similar items due through the Closing Date will have been fully paid by that date or provided for by adequate reserves, whether or not any such taxes were reported or reflected in any tax returns or filings. No taxation authority has sought to audit the records of the Company or any of its Subsidiaries for the purpose of verifying or disputing any tax returns, reports or related information and disclosures provided to such taxation authority, or for the Company's or any of its Subsidiaries' alleged failure to provide any such tax returns, reports or related information and disclosure. No material claims or deficiencies have been asserted against or inquiries raised with the Company or any of its Subsidiaries with respect to any taxes or other governmental charges or levies which have not been paid or otherwise satisfied, including claims that, or inquiries whether, the Company or any of its Subsidiaries has not filed a tax return that it was required to file, and, to the best of the Company's knowledge, there exists no reasonable basis for the making of any such claims or inquiries. Neither the Company nor any of its Subsidiaries has waived any restrictions on assessment or collection of taxes or consented to the extension of any statute of limitations relating to taxation.

(y) **Environmental Matters.** None of the premises or any properties owned, occupied or leased by the Company or its Subsidiaries (the "*Premises*") has been used by the Company or the Subsidiaries or, to the Company's knowledge, by any other Person, to manufacture, treat, store, or dispose of any substance that has been designated to be a "hazardous substance" under applicable Environmental Laws (hereinafter defined) ("*Hazardous Substances*") in violation of any applicable Environmental Laws. To its knowledge, the Company has not disposed of, discharged, emitted or released any Hazardous Substances which would require, under applicable Environmental Laws, remediation, investigation or similar response activity. No Hazardous Substances are present as a result of the actions of the Company or, to the Company's knowledge, any other Person, in, on or under the Premises which would give rise to any liability or clean-up obligations of the Company under applicable Environmental Laws. The Company and, to the Company's knowledge, any other Person for whose conduct it may be responsible pursuant to an agreement or by operation of law, are in compliance with all laws, regulations and other federal, state or local governmental requirements, and all applicable judgments, orders, writs, notices, decrees, permits, licenses, approvals, consents or injunctions in effect on the date of this Agreement relating to the generation, management, handling, transportation, treatment, disposal, storage, delivery, discharge, release or emission of any Hazardous Substance (the "*Environmental Laws*"). Neither the Company nor, to the Company's knowledge, any other Person for whose conduct it may be responsible pursuant to an agreement or by operation of law has received any written complaint, notice, order, or citation of any actual, threatened or alleged noncompliance with any of the Environmental Laws, and there is no proceeding, suit or investigation pending or, to the Company's knowledge, threatened against the Company or, to the Company's knowledge, any such Person with respect to any violation or alleged violation of the Environmental Laws, and, to the knowledge of the Company, there is no basis for the institution of any such proceeding, suit or investigation.

(z) **Disclosure.** The Company confirms that neither the Company nor any other Person acting on its behalf and at the direction of the Company, has provided any Purchaser or its agents or counsel with any information that in the Company's reasonable judgment, at the time such information was furnished, constitutes or might constitute material, non-public information, other than information relating to the fact that the Company was considering and engaged in the transactions contemplated by the Transaction Documents and unless prior thereto such Purchaser shall have consented in writing to the receipt of such information. The Company understands and confirms that the Purchasers will rely on the foregoing representations and covenants in effecting transactions in securities of the Company. All disclosure provided to the Purchasers regarding the Company, its business and the transactions

contemplated hereby, including the Disclosure Schedules to this Agreement, furnished by or on behalf of the Company are true and correct in all material respects and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(aa) **No Additional Representations.** Each Purchaser acknowledges and agrees that the Company does not make and has not made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in this Section 3.1 or in any Transaction Document.

(bb) **Poison Pill.** The Company and its Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's Certificate of Incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under this Agreement and the Transaction Documents, including without limitation the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

(cc) **Solvency.** Based on the consolidated financial condition of the Company as of the Closing Date after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder, (i) the fair saleable value of the Company's assets exceeds the amount that will be required to be paid on or in respect of the Company's existing debts and other liabilities (including known contingent liabilities) as they mature, (ii) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, and projected capital requirements and capital availability thereof, and (iii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. Schedule 3.1(cc) sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (a) any liabilities for borrowed money or amounts owed in excess of \$50,000 (other than trade accounts payable incurred in the ordinary course of business), (b) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (c) the present value of any lease payments in excess of \$50,000 due under leases required to be capitalized in accordance with GAAP. Neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(dd) **Accountants.** The Company's accounting firm is set forth on Schedule 3.1(dd) of the Disclosure Schedule. To the knowledge and belief of the Company, such accounting firm (i) is a registered public accounting firm as required by the Exchange Act and (ii) shall express its opinion with respect to the financial statements to be included in the Company's Annual Report for the year ending December 31, 2007.

(ee) **Seniority.** As of the Closing Date, no Indebtedness or other claim against the Company is senior to the Preferred Stock in right of payment, whether with respect to interest or upon liquidation or dissolution, or otherwise, other than indebtedness secured by purchase money security interests (which is senior only as to underlying assets covered thereby) and capital lease obligations (which is senior only as to the property covered thereby).

(ff) **No Disagreements with Accountants and Lawyers.** There are no disagreements of any kind presently existing, or reasonably anticipated by the Company to arise, between the Company and the accountants and lawyers formerly or presently employed by the Company and the Company is current with respect to any fees owed to its accountants and lawyers which could affect the Company's ability to perform any of its obligations under any of the Transaction Documents.

(gg) **Acknowledgment Regarding Purchasers' Purchase of Securities.** The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers' purchase of the Securities. The Company further represents to each Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the

Company and its representatives.

(hh) **Acknowledgement Regarding Purchasers' Trading Activity.** Notwithstanding anything in this Agreement or elsewhere herein to the contrary, it is understood and acknowledged by the Company that (i) none of the Purchasers has been asked to agree by the Company, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term, (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities, (iii) any Purchaser, and counter-parties in "derivative" transactions to which any such Purchaser is a party, directly or indirectly, may presently have a "short" position in the Common Stock; and (iv) each Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (a) one or more Purchasers may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Underlying Shares deliverable with respect to Securities are being determined, and (b) such hedging activities Of any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(ii) **Regulation M Compliance.** The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the securities of the Company, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company, other than, in the case of clauses (ii) and (iii), compensation paid to the Company's placement agent in connection with the placement of the Securities.

(jj) **No General Solicitation.** Neither the Company nor any person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered the Securities for sale only to the Purchasers and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(kk) **Investment Company.** The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become subject to the Investment Company Act of 1940, as amended.

3.2 Representations and Warranties of the Purchasers.

Each Purchaser hereby, for itself and for no other Purchaser, represents and warrants as of the date hereof and as of the Closing Date to the Company as follows:

(a) **Organization; Authority; Enforceability.** Such Purchaser (other than individuals) is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with full power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations thereunder. The execution, delivery and performance by such Purchaser of the transactions contemplated by this Agreement has been duly authorized by all necessary corporate or similar action on the part of such Purchaser. Each Transaction Document to which it is a party has been duly executed by such Purchaser, and when delivered by such Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Purchaser, enforceable against it in accordance with its terms, subject to laws of general application relating to bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and rules of law governing specific performance, injunctive relief, or other equitable remedies.

(b) **General Solicitation.** Such Purchaser is not purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or any other general solicitation or general advertisement.

(c) **No Public Sale or Distribution.** Such Purchaser is (i) acquiring the Preferred Shares and Warrants and (ii) upon conversion of the Preferred Stock will acquire the Conversion Shares and upon exercise of the Warrants will acquire the Warrant Shares, as applicable, for its own account and not with a view towards, or for resale in connection with, the public sale or distribution thereof; provided, however, that by making the representations herein, such Purchaser does not agree to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption under the Securities Act. Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business. Such Purchaser does not have any agreement or understanding, directly or indirectly, with any Person to distribute any of

the Securities.

(d) Accredited Investor Status. Such Purchaser is an “accredited investor” as that term is defined in Rule 501(a) of Regulation D.

(e) Residency. Such Purchaser is a resident of the jurisdiction set forth below such Purchaser’s name on Schedule 1 attached hereto.

(f) Reliance on Exemptions. Such Purchaser understands that the Preferred Shares and Warrants are being offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying in part upon the truth and accuracy of, and such Purchaser’s compliance with, the representations, warranties, agreements, acknowledgments and understandings of such Purchaser set forth herein in order to determine the availability of such exemptions and the eligibility of such Purchaser to acquire the Preferred Shares and Warrants.

(g) Information. Such Purchaser and its advisors, if any, have been furnished with all publicly available materials (or such materials have been made available to such Purchaser) relating to the business, finances and operations of the Company and such other publicly available materials relating to the offer and sale of the Preferred Shares and Warrants as have been requested by such Purchaser, including without limitation the Company’s Form 10-KSB for the period ended December 31, 2006, Forms 10-QSB for the periods ended March 31, 2007 and June 30, 2007 and Forms 8-K filed by the Company since January 1, 2007. Each Purchaser acknowledges that it has read and understands the risk factors set forth in such Form 10-KSB, Forms 10-QSB and Forms 8-K. Neither such review nor any other due diligence investigations conducted by such Purchaser or its advisors, if any, or its representatives shall modify, amend or affect such Purchaser’s right to rely on the Company’s representations and warranties contained herein. Such Purchaser understands that its investment in the Preferred Shares and Warrants involves a high degree of risk.

(h) No Governmental Review. Such Purchaser understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Preferred Shares and Warrants or the fairness or suitability of the investment in the Preferred Shares and Warrants, nor have such authorities passed upon or endorsed the merits of the offering of the Preferred Shares and Warrants.

(i) Experience of Such Purchaser. Such Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters, including investing in companies engaged in the business in which the Company is engaged, so as to be capable of evaluating the merits and risks of the prospective investment in the Preferred Shares and Warrants, and has so evaluated the merits and risks of such investment. Such Purchaser is able to bear the economic risk of an investment in the Preferred Shares and Warrants and, at the present time, is able to afford a complete loss of such investment.

The Company acknowledges and agrees that each Purchaser does not make or has not made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in this Section 3.2.

ARTICLE IV

OTHER AGREEMENTS OF THE PARTIES

4.1. Transfer Restrictions.

(a) The Securities may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement, to the Company, to an Affiliate of a Purchaser (who is an accredited investor and executes a customary representation letter) or in connection with a pledge as contemplated in Section 4.1 (b), the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably satisfactory to the Company (it being understood that Wiggin and Dana LLP is reasonably satisfactory), the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act, provided, however, that in the case of a transfer pursuant to Rule 144, no opinion shall be required if the transferor provides the Company with a customary seller’s representation letter, and if such sale is not pursuant to subsection (k) of Rule 144, a customary broker’s representation letter and a Form 144. Any such transferee that agrees in writing to be bound by the terms of this Agreement and the Investor Rights Agreement shall have the rights of a Purchaser under this Agreement and the Investor Rights Agreement. Except as required by federal securities laws and the securities law of any state or other jurisdiction within the United States, the Securities may be transferred, in whole or in part, by any of the Purchasers at any time. The Company shall reissue certificates evidencing the Securities upon surrender of certificates evidencing the Securities being transferred in accordance with this Section 4.1(a).

(b) The Purchasers agree to the imprinting, so long as is required by this Section 4.1(6), of a legend on any of the

Securities in substantially the following form:

THESE SECURITIES HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, SUCH COUNSEL AND THE SUBSTANCE OF SUCH OPINION SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. UNLESS PROHIBITED BY APPLICABLE LAW, RULE OR REGULATION, THESE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN “ACCREDITED INVESTOR” AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT.

The Company acknowledges and agrees that, unless prohibited by applicable law, rule or regulation, a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Securities to a financial institution that is an “accredited investor” as defined in Rule 501(a) under the Securities Act and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Securities to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith; provided, however, that such Purchaser shall provide the Company with such documentation as is reasonably requested by the Company to ensure that the pledge is pursuant to a bona fide margin agreement with a registered broker-dealer or a security interest in some or all of the Securities to a financial institution that is an “accredited investor” as defined in Rule 501(a) under the Securities Act. The Company will execute and deliver such documentation as a pledgee or secured party of Securities may reasonably request in connection with a pledge or transfer of the Securities, including the preparation and filing of any required prospectus supplement under Rule 424(6)(3) under the Securities Act or other applicable provision of the Securities Act to appropriately amend the list of selling stockholders thereunder.

(c) Certificates evidencing the Conversion Shares and the Warrant Shares shall not contain any legend (including the legend set forth in Section 4.1(6) hereof): (i) while a registration statement (including the Registration Statement) covering the resale of such security is effective under the Securities Act, or (ii) following any sale of such Underlying Shares pursuant to Rule 144, or (iii) if such Underlying Shares are eligible for sale under Rule 144(k), or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission). The Company shall cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder. If all or any shares of Preferred Stock or any portion of a Warrant is converted or exercised (as applicable) at a time when there is an effective registration statement to cover the resale of the Underlying Shares, or if such Underlying Shares may be sold under Rule 144(k) or if such legend is not otherwise required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission) then such Underlying Shares shall be issued free of all legends. The Company agrees that following the Effective Date or at such time as such legend is no longer required under this Section 4.1(c), it will, no later than three Trading Days following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing Underlying Shares, as applicable, issued with a restrictive legend (such third Trading Day, the “Legend Removal Date”), deliver or cause to be delivered to such Purchaser a certificate representing such shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section. Certificates for Underlying Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser’s prime broker with the Depository Trust Company System as directed by such Purchaser.

(d) In addition to such Purchaser’s other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, for each \$1,000 of Underlying Shares (based on the VWAP of the Common Stock on the date such Securities are submitted to the Transfer Agent) delivered for removal of the restrictive legend and subject to Section 4.1(c), \$10 per Trading Day (increasing to \$20 per Trading Day 5 Trading Days after such damages have begun to accrue) for each Trading Day after the Legend Removal Date until such certificate is delivered without a legend. Nothing herein shall limit such Purchaser’s right to pursue actual damages for the Company’s failure to deliver certificates representing any Securities as required by the Transaction Documents, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

(e) Each Purchaser, severally and not jointly, agrees that the removal of the restrictive legend from certificates representing Securities as set forth in this Section 4.1 is predicated upon the Company’s reliance on, and the

Purchaser's agreement that, and each Purchaser hereby agrees that, the Purchaser will not sell any Securities except pursuant to either the registration requirements of the Securities Act, including any applicable prospectus delivery requirements, or an exemption therefrom.

4.2. Furnishing of Information.

As long as any Purchaser owns Securities, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act. Upon the request of any such holder of Securities, the Company shall deliver to such holder a written certification of a duly authorized officer as to whether it has complied with the preceding sentence. As long as any Purchaser owns Securities, if the Company is not required to file reports pursuant to the Exchange Act, it will prepare and furnish to the Purchasers and make publicly available in accordance with Rule 144(c), such information as is required for the Purchasers to sell the Securities under Rule 144. The Company further covenants that it will take such further action as any holder of Securities may reasonably request, all to the extent required from time to time to enable such Person to sell such Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144.

4.3. Integration.

The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities to the Purchasers or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market.

4.4. Publicity.

The Company shall, by 8:30 a.m. (New York City time) on the Trading Day immediately following the date hereof, issue a press release disclosing the material terms of the transactions contemplated hereby, and within two Business Days following the Closing Date, file a Current Report on Form 8-K, disclosing the transactions contemplated hereby and make such other filings and notices in the manner and time required by the Commission. The Company and the Placement Agents shall consult with each other in issuing any press releases with respect to the transactions contemplated hereby, and neither the Company nor any Purchaser nor any of the Placement Agents shall issue any such press release or otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Purchaser or any of the Placement Agents, or without the prior consent of the Placement Agents, with respect to any press release of the Company, except if such disclosure is required by applicable law, rule or regulation, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication.

4.5. Non-Public Information.

The Company covenants and agrees that neither it nor any other Person acting on its behalf will provide any Purchaser or its agents or counsel with any information that the Company believes constitutes material non-public information, unless prior thereto such Purchaser shall have executed a written agreement regarding the confidentiality and use of such information. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

4.6. Use of Proceeds.

The Company covenants and agrees that the proceeds from the sale of the Preferred Stock and Warrants shall be used by the Company for working capital and general corporate purposes; under no circumstances shall any portion of the proceeds be applied to:

- (i) accelerated repayment of debt existing on the date hereof (other than payment of trade payables in the ordinary course of the Company's business and consistent with prior practices);
- (ii) the payment of dividends or other distributions on any capital stock of the Company;
- (iii) the purchase of debt or equity securities of any Person for cash, including the Company and its Subsidiaries, except in connection with investment of excess cash in high quality (A1/P1 or better) money market instruments having maturities of one year or less;
- (iv) any expenditure not directly related to the business of the Company; or
- (v) the redemption of any Company equity or equity-equivalent securities.

4.7. Reservation of Preferred Stock and Common Stock.

As of the date hereof, the Company has reserved and the Company shall continue to reserve and keep available at all times, free of preemptive rights, a sufficient number of shares of (a) Preferred Stock for the purpose of enabling the Company to issue Preferred Shares pursuant to this Agreement and (b) Common Stock for the purpose of enabling the Company to issue

Conversion Shares issuable upon conversion of the Preferred Stock and Warrant Shares issuable upon exercise of the Warrants. If, on any date, the number of authorized but unissued (and otherwise unreserved) shares of Common Stock plus the number of shares of authorized but unissued Common Stock reserved for issuance upon conversion of the Preferred Stock and exercise of the Warrants is less than 130% of (i) the Required Minimum on such date, minus (ii) the number of shares of Common Stock previously issued pursuant to the Transaction Documents, then the Board of Directors shall use commercially reasonable efforts to amend the Company's certificate or articles of incorporation to increase the number of authorized but unissued shares of Common Stock to at least the Required Minimum at such time (minus the number of shares of Common Stock previously issued pursuant to the Transaction Documents), as soon as possible and in any event not later than the 75th day after such date; provided that the Company will not be required at any time to authorize a number of shares of Common Stock greater than the maximum remaining number of shares of Common Stock that could possibly be issued after such time pursuant to the Transaction Documents.

4.8. Listing of Common Stock.

The Company hereby agrees that, from time to time, if the Company applies to have the Common Stock traded on any Trading Market, it will include in such application the Conversion Shares and the Warrant Shares, and will take such other action as is necessary to cause the Conversion Shares and Warrant Shares to be listed on such Trading Market as promptly as possible.

4.9. Business Operations.

Until the earlier of (i) the third anniversary of the Closing Date and (ii) the date that the Purchasers own less than 10% of the Preferred Shares originally issued pursuant to this Agreement or Conversion Shares issuable upon conversion thereof, the Company shall comply with the following covenants:

(a) **Insurance.** The Company and its Subsidiaries shall maintain insurance policies such that the representations contained in the first sentence of Section 3.1(p) hereof continue to be true and correct and shall, from time to time upon the written request of the Purchasers, promptly furnish or cause to be furnished to the Purchasers evidence, in form and substance reasonably satisfactory to the Purchasers, of the maintenance of all insurance maintained by it.

(b) **Corporate Existence; Licenses.** The Company shall preserve and maintain and cause its Subsidiaries to preserve and maintain their corporate existence and good standing in the jurisdiction of their incorporation and the rights, privileges and franchises of the Company and its Subsidiaries (except, in each case, in the event of a merger or consolidation in which the Company or its Subsidiaries, as applicable, is not the surviving entity) in each case where the failure to so preserve or maintain could have a Material Adverse Effect on the financial condition, business or operations of the Company and its Subsidiaries taken as a whole. The Company shall, and shall cause its Subsidiaries to, maintain at all times all material licenses or permits necessary to the conduct of its business and as required by any governmental agency or instrumentality thereof, including without limitation all Food and Drug Administration clearances and approvals.

(c) **Taxes and Claims.** The Company and its Subsidiaries shall duly pay and discharge (a) all taxes, assessments and governmental charges upon or against the Company or its properties or assets prior to the date on which penalties attach thereto, unless and to the extent that such taxes are being diligently contested in good faith and by appropriate proceedings, and appropriate reserves therefor have been established, and (b) all lawful claims, whether for labor, materials, supplies, services or anything else which might or could, if unpaid, become a lien or charge upon the properties or assets of the Company or its Subsidiaries, unless and to the extent only that the same are being contested in good faith and by appropriate proceedings and appropriate reserves therefor have been established.

(d) **Affiliate Transactions.** Except for transactions approved by the Company's Audit Committee or a majority of the disinterested members of the board of directors of the Company, neither the Company nor any of its Subsidiaries shall enter into any transaction with any (i) director, officer, employee or holder of more than 5% of the outstanding capital stock of any class or series of capital stock of the Company or any of its Subsidiaries, (ii) member of the immediate family of any such person, or (iii) corporation, partnership, trust or other entity in which any such person, or member of the immediate family of any such person, is a director, officer, trustee, partner or holder of more than 5% of the outstanding capital stock thereof.

4.10. Securities Law Compliance.

(a) **Securities Act.** The Company shall timely prepare and file with the Securities and Exchange Commission the form of notice of the sale of securities pursuant to the requirements of Regulation D regarding the sale of the Preferred Stock and Warrants under this Agreement.

(b) **State Securities Law Compliance — Sale.** The Company shall timely prepare and file such applications, consents to service of process (but not including a general consent to service of process) and similar documents and take such other steps and perform such further acts as shall be required by the state securities law requirements of each jurisdiction where a Purchaser resides, as indicated on Schedule 1, with respect to the sale of the Preferred Stock and Warrants under this Agreement.

(c) **State Securities Law Compliance** — Resale. Beginning no later than 30 days following any date, from time to time, on which the Common Stock is no longer a “covered security” under Section 18(b)(1)(A) of the Securities Act and continuing until either (i) the Purchasers have sold all of their Conversion Shares and Warrant Shares under a registration statement pursuant to the Investor Rights Agreement or (ii) the Common Stock becomes a “covered security” under Section 18(b)(1)(A) of the Securities Act, the Company shall maintain within either Moody’s Industrial Manual or Standard and Poor’s Standard Corporation Descriptions (or any successors to these manuals which are similarly qualified as “recognized securities manuals” under state Blue Sky laws) an updated listing containing (i) the names of the officers and directors of the Company, (ii) a balance sheet of the Company as of a date that is at no time older than eighteen months and (iii) a profit and loss statement of the Company for either the preceding fiscal year or the most recent year of operations.

4.11. Poison Pill.

From time to time, for as long as any Purchaser holds any Securities, the Company and its Board of Directors shall take all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company’s Certificate of Incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under this Agreement and the Transaction Documents, including without limitation the Company’s issuance of the Securities and the Purchasers’ ownership of the Securities.

4.12. Surrender of Promissory Notes.

Each Purchaser surrendering Promissory Notes for cancellation in payment of any portion of such Purchaser’s Subscription Amount that does not deliver such original Promissory Notes to the Company prior to the Closing, hereby covenants to deliver such original Promissory Notes to the Company as soon as practicable following the Closing Date.

4.13. Subsequent Sales.

(a) From the date hereof until 45 days after the Effective Date, neither the Company nor any Subsidiary shall issue shares of Common Stock or Common Stock Equivalents; provided, however, the 45 day period set forth in this Section 4.13 shall be extended for the number of Trading Days during such period in which (i) trading in the Common Stock is suspended by any Trading Market, or (ii) following the Effective Date, the Registration Statement is not effective or the prospectus included in the Registration Statement may not be used by the Purchasers for the resale of the Underlying Shares; provided, however that the Company may issue shares of Common Stock or Common Stock Equivalents, with an aggregate purchase price not to exceed \$15,000,000 (including the purchase price of the Securities sold pursuant to this Agreement) and on terms that are no less favorable to the Company than the terms of the transactions contemplated by this Agreement, at any time from the date hereof until the date that the Initial Registration Statement (as defined in the Investor Rights Agreement) is filed.

(b) From the date hereof until such time as no Purchaser holds any of the Securities, the Company shall be prohibited from effecting or entering into an agreement to effect any Subsequent Financing involving a Variable Rate Transaction. “Variable Rate Transaction” means a transaction in which the Company issues or sells (i) any debtor equity securities that are convertible into, exchangeable or exercisable for, or include the right to receive additional shares of Common Stock either (A) at a conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for the shares of Common Stock at any time after the initial issuance of such debt or equity securities, or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such debtor equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock or (ii) enters into any agreement, including, but not limited to, an equity line of credit, whereby the Company may sell securities at a future determined price.

4.14. Equal Treatment of Purchasers.

No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of any of the Transaction Documents unless the same consideration is also offered to all of the parties to the Transaction Documents. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in anyway be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of Securities or otherwise.

ARTICLE V

INDEMNIFICATION, TERMINATION AND DAMAGES

5.1. Survival of Representations.

Except as otherwise provided herein, the representations and warranties of the Company and the Purchasers contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing Date and shall continue in full force and effect for a period of three (3) years from the Closing Date. The Company's and the Purchasers' warranties and representations shall in no way be affected or diminished in any way by any investigation of (or failure to investigate) the subject matter thereof made by or on behalf of the Company or the Purchasers.

5.2. Indemnification.

The Company agrees to indemnify and hold harmless the Purchasers, their Affiliates, each of their officers, directors, employees and agents and their respective successors and assigns, from and against any losses, damages, or expenses which are caused by or arise out of (i) any breach or default in the performance by the Company of any covenant or agreement made by the Company in this Agreement or in any of the Transaction Documents; (ii) any breach of warranty or representation made by the Company in this Agreement or in any of the Transaction Documents; (iii) any and all third party actions, suits, proceedings, claims, demands, judgments, costs and expenses (including reasonable legal fees and expenses) incident to any of the foregoing; and/or (iv) any action instituted against a Purchaser in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is based upon a breach of such Purchaser's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser may have with any such stockholder or any violations by the Purchaser of state or federal securities laws or any conduct by such Purchaser which constitutes fraud, gross negligence, willful misconduct or malfeasance).

5.3. Indemnity Procedure.

A party or parties hereto agreeing to be responsible for or to indemnify against any matter pursuant to this Agreement is referred to herein as the "Indemnifying Party" and the other party or parties claiming indemnity is referred to as the "Indemnified Party". An Indemnified Party under this Agreement shall, with respect to claims asserted against such party by any third party, give written notice to the Indemnifying Party of any liability which might give rise to a claim for indemnity under this Agreement within sixty (60) Business Days of the receipt of any written claim from any such third party, but not later than twenty (20) days prior to the date any answer or responsive pleading is due, and with respect to other matters for which the Indemnified Party may seek indemnification, give prompt written notice to the Indemnifying Party of any liability which might give rise to a claim for indemnity; provided, however, that any failure to give such notice will not waive any rights of the Indemnified Party except to the extent the rights of the Indemnifying Party are materially prejudiced.

The Indemnifying Party shall have the right, at its election, to take over the defense or settlement of such claim by giving written notice to the Indemnified Party at least fifteen (15) days prior to the time when an answer or other responsive pleading or notice with respect thereto is required. If the Indemnifying Party makes such election, it may conduct the defense of such claim through counsel of its choosing (subject to the Indemnified Party's approval of such counsel, which approval shall not be unreasonably withheld or delayed), shall be solely responsible for the expenses of such defense and shall be bound by the results of its defense or settlement of the claim. The Indemnifying Party shall not settle any such claim without prior notice to and consultation with the Indemnified Party, and no such settlement involving any equitable relief or which might have an adverse effect on the Indemnified Party may be agreed to without the written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed). So long as the Indemnifying Party is diligently contesting any such claim in good faith, the Indemnified Party may pay or settle such claim only at its own expense and the Indemnifying Party will not be responsible for the fees of separate legal counsel to the Indemnified Party, unless the named parties to any proceeding include both parties or representation of both parties by the same counsel would be inappropriate in the reasonable opinion of counsel to the Indemnified Party, due to conflicts of interest or otherwise. If the Indemnifying Party does not make such election, or having made such election does not, in the reasonable opinion of the Indemnified Party proceed diligently to defend such claim, then the Indemnified Party may (after written notice to the Indemnifying Party), at the expense of the Indemnifying Party, elect to take over the defense of and proceed to handle such claim in its discretion and the Indemnifying Party shall be bound by any defense or settlement that the Indemnified Party may make in good faith with respect to such claim. In connection therewith, the Indemnifying Party will fully cooperate with the Indemnified Party should the Indemnified Party elect to take over the defense of any such claim. The parties agree to cooperate in defending such third party claims and the Indemnified Party shall provide such cooperation and such access to its books, records and properties (subject to the execution of appropriate non-disclosure agreements) as the Indemnifying Party shall reasonably request with respect to any matter for which indemnification is sought hereunder; and the parties hereto agree to cooperate with each other in order to ensure the proper and adequate defense thereof.

With regard to claims of third parties for which indemnification is payable hereunder, such indemnification shall be paid by the Indemnifying Party upon the earlier to occur of: (i) the entry of a judgment against the Indemnified Party and the expiration of any applicable appeal period, or if earlier, five (5) days prior to the date that the judgment creditor has the right to execute the judgment; (ii) the entry of an unappealable judgment or final appellate decision against the Indemnified Party; or (iii) a settlement of the claim. Notwithstanding the foregoing, the reasonable expenses of counsel to the Indemnified Party shall be reimbursed on a current basis by the Indemnifying Party. With regard to other claims for which indemnification is payable hereunder, such indemnification shall be paid promptly by the Indemnifying Party upon demand by the Indemnified Party.

MISCELLANEOUS

6.1. Fees and Expenses.

The Company shall be responsible for the payment of the Purchasers' reasonable and documented legal fees and other third-party expenses relating to the preparation, negotiation and execution of this Agreement and the Transaction Documents and the consummation of the transactions contemplated herein.

6.2. Entire Agreement.

The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

6.3. Notices.

Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of (a) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified on the signature pages attached hereto prior to 5:00 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number on the signature pages attached hereto on a day that is not a Trading Day or later than 5:00 p.m. (New York City time) on any Trading Day, (c) the Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as follows:

If to the Purchasers, at each Purchaser's address set forth under its name on Schedule 1 attached hereto, or with respect to the Company, addressed to:

Access Pharmaceuticals, Inc.
2600 Stemmons Freeway, Suite 176
Dallas, Texas 75207
Attention: President
Facsimile No.: (214) 905-5101

or to such other address or addresses or facsimile number or numbers as any such party may most recently have designated in writing to the other parties hereto by such notice. Copies of notices to the Company shall be sent to:

Bingham McCutchen LLP
150 Federal Street
Boston, Massachusetts 02110
Attention: John J. Concannon, III
Facsimile No.: (617) 951-8736

Copies of notices to any Purchaser shall be sent to the addresses, if any, listed on Schedule 1 attached hereto.

6.4. Amendments; Waivers.

No provision of this Agreement may be waived or amended except in a written instrument signed, in the case of an amendment, by the Company and the Purchasers holding 66% in interest of the Securities then outstanding or, in the case of a waiver, by the party against whom enforcement of any such waiver is sought; provided, however that any such amendment or waiver that has a disproportionately adverse effect on any Purchaser shall require the consent of such Purchaser. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default 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.

6.5. Construction.

The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

6.6. Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser. Any Purchaser may assign any or all of its rights under this Agreement to any Person, provided such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions hereof that apply to the Purchasers.

6.7. No Third-Party Beneficiaries.

This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Article V.

6.8. Governing Law.

All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof

6.9. Jurisdiction; Venue; Service of Process.

This Agreement shall be subject to the exclusive jurisdiction of the Federal District Court, Southern District of New York and if such court does not have proper jurisdiction, the State Courts of New York County, New York. The parties to this Agreement agree that any breach of any term or condition of this Agreement shall be deemed to be a breach occurring in the State of New York by virtue of a failure to perform an act required to be performed in the State of New York and irrevocably and expressly agree to submit to the jurisdiction of the Federal District Court, Southern District of New York and if such court does not have proper jurisdiction, the State Courts of New York County, New York for the purpose of resolving any disputes among the parties relating to this Agreement or the transactions contemplated hereby. The parties irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement, or any judgment entered by any court in respect hereof brought in New York County, New York, and further irrevocably waive any claim that any suit, action or proceeding brought in Federal District Court, Southern District of New York and if such court does not have proper jurisdiction, the State Courts of New York County, New York has been brought in an inconvenient forum. Each of the parties hereto consents to process being served in any such suit, action or proceeding, by mailing a copy thereof to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing in this Section 6.9 shall affect or limit any right to serve process in any other manner permitted by law.

6.10. Execution.

This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile signature page were an original thereof.

6.11. Severability.

If any provision of this Agreement is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Agreement shall not in anyway be affected or impaired thereby and the parties will attempt to agree upon a valid and enforceable provision that is a reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Agreement.

6.12. Replacement of Securities.

If any certificate or instrument evidencing any of the Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof, or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and customary and reasonable indemnity (but no bond shall be required), if requested by the Company.

6.13. Remedies.

In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations described in the foregoing sentence and hereby agrees to waive in any action for specific performance of any such obligation the defense that a remedy at law would be adequate.

6.14. Payment Set Aside.

To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall, to the extent

permissible under applicable law, be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

6.15. Independent Nature of Purchasers' Obligations and Rights.

The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any Transaction Document, and no action taken by any Purchaser pursuant thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Document. Each Purchaser shall be entitled to independently protect and enforce its rights, including without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in their review and negotiation of the Transaction Documents. For reasons of administrative convenience only, Purchasers and their respective counsel have chosen to communicate with the Company through Wiggin and Dana LLP, but such counsel does not represent any of the Purchasers in this transaction other than SCO Capital Partners LLC. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by the Purchasers.

6.16. Waiver of Trial by Jury.

THE PARTIES HERETO IRREVOCABLY WAIVE TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

6.17. Further Assurances.

Each party agrees to cooperate fully with the other parties and to execute such further instruments, documents and agreements and to give such further written assurances as may be reasonably requested by any other party to better evidence and reflect the transactions described herein and contemplated hereby and to carry into effect the intents and purposes of this Agreement, and further agrees to take promptly, or cause to be taken, all actions, and to do promptly, or cause to be done, all things necessary, proper or advisable under applicable law to consummate and make effective the transactions contemplated hereby, to obtain all necessary waivers, consents and approvals, to effect all necessary registrations and filings, and to remove any injunctions or other impediments or delays, legal or otherwise, in order to consummate and make effective the transactions contemplated by this Agreement for the purpose of securing to the parties hereto the benefits contemplated by this Agreement.

6.18. Termination.

This Agreement may be terminated by any Purchaser, as to such Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, by written notice to the other parties, if the Closing has not been consummated on or before the fifth business day following the date hereof; provided, however, that such termination will not affect the right of any party to sue for any breach by the other party (or parties).

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

ACCESS PHARMACEUTICALS, INC.

By: /S/ Stephen R. Seiler
Name: Stephen R. Seiler
Title: President and CEO

PURCHASERS:

Print Exact Name:	Beach Capital LLC
By:	/s/ Steven H. Rouhandeh
Name:	Steven H. Rouhandeh
Title:	Managing Member

Address:	1285 Avenue of the Americas 35th Floor New York, NY 10019
Telephone:	212-554-4158
Facsimile:	212-554-4058
Email:	souhandeh@scogroup.com
SSN/EIN:	
Amount of Investment:	7.5 % secured promissary note
# PN-2006-2 for \$500,000.00 + accrued interest	

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Brio Capital L.P.
By:	/s/ Shaye Hirsch
Name:	Shaye Hirsch
Title:	Manager of the General Partner
Address:	401 E 34th St. Suite South 33C New York, NY 10016
Telephone:	212-842-0733
Facsimile:	646-390-2158
Email:	shaye@briocapital.com
SSN/EIN:	
Amount of Investment:	\$ 150,000.00

[Omnibus Access Pharmaceuticals, Inc.
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PURCHASERS:

Print Exact Name:	Catalytix Life Sciences Hedge AC
By:	/s/ Ken Sorensen
Name:	Ken Sorensen
Title:	PM, DIR
Address:	c/o Array Capital Management 425 Fifth Ave Ste 28D NY, NY 10016
Telephone:	212-481-1394
Facsimile:	212-481-1396
Email:	ksorensen@arraycap.com
SSN/EIN:	
Amount of Investment:	50,000.00 US

PURCHASERS:

Print Exact Name:	Cobblestone Asset Management LLC
By:	/s/ Michael J. Palazzi
Name:	Michael J. Palazzi
Title:	Managing Member
Address:	11 Lakeview Ave Sleepy Hollow, NY 10591
Telephone:	914-631-8087
Facsimile:	212-259-2093
Email:	mpalazzi@palicapital.com
SSN/EIN:	
Amount of Investment:	\$ 250,000

PURCHASERS:

Print Exact Name:	Cranshire Capita, L.P.
By:	/s/ Lawrence A. Prosser
Name:	Lawrence A. Prosser
Title:	CFO-Downsview Capital, Inc. The General Partner
Address:	3100 Dundee Road, Suite 703 Northbrook, IL 60062
Telephone:	847-562-9030
Facsimile:	847-562-9031
Email:	mkopm@aanshwecamtal.com
SSN/EIN:	
Amount of Investment:	\$ 500,001.00

PURCHASERS:

Print Exact Name:	Credit Suisse Securities (USA) LLC
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By:	/s/ Jeffrey B. Andreski
Name:	Jeffrey B. Andreski
Title:	Managing Director
Address:	c/o Greg Grimaldi 11 Madison Ave 3rd Floor New York, NY 10010
Telephone:	212-325-7408
Facsimile:	646-935-7716
Email:	gregory.grimaldi@aedit-suisse.com
SSN/EIN:	
Amount of Investment:	\$ 1,000,000.00

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Enable Growth Partners LP
By:	/s/ Brendan O'Neil
Name:	Brendan O'Neil
Title:	Principial and Portfolio Manager
Address:	One Ferry Building, Suite 255 San Francisco, CA 94111
Telephone:	415-677-1578
Facsimile:	415-677-1580
Email:	boneil@enablecapital.com
SSN/EIN:	
Amount of Investment:	\$ 500,000 Common
Common Shares:	166,666
Warrants:	83,333

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Lake End Capital LLC
By:	/s/ Jeffrey B. Davis
Name:	Jeffrey B. Davis
Title:	Managing Member
Address:	33 Tall Oaks Dr. Summitt, NJ 07901
Telephone:	212-554-4158
Facsimile:	
Email:	jdavis@scogroup.com

SSN/EIN:	
Amount of Investment:	\$ 700,000.00 +
* Conversion of Outstanding notes into convertible preferred stock _____	
+ To include Acumulated Interest _____	

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Dennis LaValle
By:	/s/ Dennis LaValle
Name:	
Title:	
Address:	1201 Yale Place #1409 Minneapolis, MN 55403
Telephone:	612-455-5776 612-455-5600
Facsimile:	dlavalle@_____
Email:	
SSN/EIN:	
Amount of Investment:	\$ 90,000.00

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Midsummer Investment, Ltd.
By:	/s/ Michel Amsalem
Name:	Michel Amsalem
Title:	Director
Address:	295 Madison Avenue, 38th Floor New York, NY 10017
Telephone:	212-624-5030 212-624-5040
Facsimile:	MA@midsummercapital.com
Email:	
SSN/EIN:	
Amount of Investment:	\$ 1,500,000

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Oracle Institutional Partners L.P.
By:	/s/ Joel Liffmann
Name:	Joel Liffmann
Title:	Authorized Agent
Address:	200 Greenwich Ave Greenwich, CT 06830
Telephone:	203-862-7900
Facsimile:	
Email:	
SSN/EIN:	
Amount of Investment:	\$ 698,500.00

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Oracle Offshore LTD
By:	/s/ Joel Liffmann
Name:	Joel Liffmann
Title:	Authorized Agent
Address:	200 Greenwich Ave Greenwich, CT 06830
Telephone:	203-862-7900
Facsimile:	
Email:	
SSN/EIN:	
Amount of Investment:	\$ 132,000

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Oracle Partners, LP
By:	/s/ Joel Liffmann
Name:	Joel Liffmann
Title:	Authorized Agent

Address:	200 Greenwich Ave Greenwich, CT 06830
Telephone:	203-286-7900
Facsimile:	
Email:	
SSN/EIN:	
Amount of Investment:	\$2,524,500

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Perceptive Life Sciences Master Fund LTD
By:	/s/ _____
Name:	
Title:	
Address:	499 Park Ave, 25th Fl New York, NY 10022
Telephone:	646-205-5342
Facsimile:	646-205-5301
Email:	BERGER@perceptivelife.com
SSN/EIN:	
Amount of Investment:	2,000,000

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	Rockmore Investment Master Fund Ltd.
By:	/s/ Michael Clateman
Name:	Michael Clateman
Title:	Managing Director
Address:	c/o Rockmore Capital LLC 150 E 58th St. New York, NY 10155
Telephone:	212-258-2300
Facsimile:	212-258-2315
Email:	as@rockmorecapital.com
SSN/EIN:	
Amount of Investment:	500,000.00

Amount of Investment:	
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[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	SCO Capital Partners LLC
By: Name: Title:	/s/ Steve H. Rouhandeh
Address:	1285 Avenue of the Americas 35th Floor New York, NY 10019 212-554-4158
Telephone:	212-554-4058
Facsimile:	souhandeh@scogroup.com
Email:	
SSN/EIN:	
Amount of Investment:	\$ 1,000,000.00

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

PURCHASERS:

Print Exact Name:	SCO Capital Partners, L.P.
By: Name: Title:	Steven H. Rouhandeh
Address:	1285 Avenue of the Americas 35th Floor New York, NY 10019 212-554-4158
Telephone:	212-554-4058
Facsimile:	souhandeh@scogroup.com
Email:	
SSN/EIN:	
Amount of Investment:	\$2,000,000.00

[Omnibus Access Pharmaceuticals, Inc.
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PURCHASERS:

Print Exact Name:	SAM Oracle Investments, Inc.
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By:	/s/ Joel Liffmann
Name:	Joel Liffmann
Title:	Authorized Agent
Address:	200 Greenwich Ave Greenwich, CT 06830
Telephone:	203-862-7900
Facsimile:	
Email:	
SSN/EIN:	
Amount of Investment:	\$ 660,000.00

[Omnibus Access Pharmaceuticals, Inc.
Preferred Stock and Warrant Purchase Agreement Signature Page]

Schedule 1

to Preferred Stock and Warrant Purchase Agreement

Purchasers, Shares of Preferred Stock and Warrants

<u>Name, Address and Fax Number of Purchaser</u>	<u>Shares of Preferred Stock Purchased</u>	<u>Common Stock Underlying Warrants</u>	<u>Description of Promissory Notes to be Cancelled including Actual Principal Amount</u>	<u>Promissory Note Category [Deemed Value of Notes for Purposes of Exchange for Preferred Stock</u>	<u>Purchase Price and Value of Promissory Notes Cancelled as Applicable</u>
Beach Capital LLC 1285 Avenue of the Americas, 35th Fl. New York, NY 10019 Fax: 212-554-4058	154.2898	94,288	Amended and Restated 7.5% Secured Convertible Promissory Note Due November 15, 2007, Dated March 30, 2007 (No. PN- 2006-2-1AR) (Original Principal Amt \$500,000.00) (Interest Amt \$65,729.17)	A [\$1,542,897.73]	\$565,729.17
Brio Capital L.P. 401 E. 34th St. Suite South 33C New York, NY 10016 Fax: 646-390-2158	15	25,000	n/a	n/a	\$150,000.00
Catalytix LDC Life Science Hedge AC CIBC Bank and Trust Company (Cayman) Ltd. CIBC Financial Centre 11 Roy's Drive P.O. Box 694 GT Grand Cayman Cayman Islands B.W.I. Attn: Martin Laidlaw	5	8,333	n/a	n/a	\$50,000.00

With a copy to: Theodore E. Kalem Array Capital Management LLC 425 5th Ave, Ste. 28D New York, NY 10016					
Cobblestone Asset Management LLC 11 Lakeview Ave. Sleepy Hollow, NY 10591 Fax: 212-259-2093	25	41,667	n/a	n/a	\$250,000.00
Cranshire Capital, L.P. 3100 Dundee Rd., #703 Northbrook, IL 60062 Fax: 847-562-9031	50.0001	83,333	n/a	n/a	\$500,001.00
Credit Suisse Securities (USA) LLC c/o Greg Grimaldi 11 Madison Ave., 3d Fl. New York, NY 10010 Fax: 212-935-7716	100	166,667	n/a	n/a	\$1,000,000.00
Enable Growth Partners LP One Ferry Building, Suite 255 San Francisco, CA 94111 Fax: 415-677-1580	50	83,333	n/a	n/a	\$500,000.00
Lake End Capital LLC 33 Tall Oaks Dr. Summit, NJ 07901 Fax:	154.2898	94,288	Amended and Restated 7.5% Secured Convertible Promissory Note Due November 15, 2007, Dated March 30, 2007 (No. PN 2006-3-1AR) (Original Principal Amt.: \$500,000.00) (Interest Amt: \$ 65,729.17)	A [\$1,542,897.73]	\$565,729.17
	29.4375	17,990	Amended and Restated 7.5% Secured Convertible Promissory Note Due November 15, 2007, Dated March 30, 2007 (No. PN 2006-FO2-1AR) (Original Principal Amt: \$100,000.00) Interest Amt: \$7937.50)	A [\$294,375.00]	107,937.50
	29.1932	17,840	Amended and Restated 7.5% Secured Convertible Promissory Note Due November 15, 2007, Dated March 30, 2007 (No. PN 2006-DEC-2-1AR) (Original Principal Amt.: \$100,000.00) Interest Amt: \$7,041.67)	A [\$291,931.83]	107,041.67
Dennis Lavallo 1201 Yale Place #1409 Minneapolis, MN 55403	9	15,000	n/a	n/a	\$90,000.00

Fax: 612-455-5600					
Midsummer Investment, Ltd. 295 Madison Ave., 38th Fl. New York, NY 10017 Fax: 212-624-5040	150	250,000	n/a	n/a	\$1,500,000.00
Oracle Institutional Partners LP Oracle Partners, LP 200 Greenwich Ave. Greenwich, CT 06830 Fax:	76.0800	126,800	7.0% (Subject to Adjustment) Convertible Promissory Note Due November 16, 2007 (Original Principal Amt.: \$698,500.00) Interest Amt: \$62,300.38)	B	\$760,800.38
Oracle Offshore Ltd. Oracle Partners, LP 200 Greenwich Ave. Greenwich, CT 06830 Fax:	14.3773	23,962	7.0% (Subject to Adjustment) Convertible Promissory Note Due November 16, 2007 (Original Principal Amt: \$132,000.00) Interest Amt.: \$11,773.50)	B	\$143,773.30
Oracle Partners, LP 200 Greenwich Ave. Greenwich, CT 06830 Fax:	274.9664	458,277	7.0% (Subject to Adjustment) Convertible Promissory Note Due November 16, 2007 (Original Principal Amt.: \$2,524,500.00) Interest Amt.: \$225,164.36)	B	\$2,749,664.36
Perceptive Life Sciences Master Fund Ltd. 499 Park Ave., 25th Fl. New York, NY 10022 Fax: 646-205-5301	200	333,333	n/a	n/a	\$2,000,000.00
Rockmore Investment Master Fund Ltd. c/o Rockmore Capital LLC 150 E. 58th St. New York, NY 10155 Fax: 212-258-2315	50	83,333	n/a	n/a	\$500,000.00
SAM Oracle Investments, Inc. Oracle Partners, LP 200 Greenwich Ave. Greenwich, CT 06830 Fax:	71.8867	119,811	7.0% (Subject to Adjustment) Convertible Promissory Note Due November 16, 2007 (Original Principal Amt.: \$660,000.00) Interest Amt.: \$58,866.50)	B	\$718,866.50
	1,234.3182	754,306	Amended and Restated 7.5% Secured Convertible Promissory Note Due November 15, 2007, Dated March 30, 2007 (No. PN-2006-1-1AR) (Original Principal Amt.: \$4,000,000.00) (Interest Amt.: \$525,833.33)	A [\$12,343,181.81]	\$4,525,833.33
SCO Capital Partners LLC 1285 Avenue of the			Amended and Restated 7.5% Secured Convertible Promissory		

Americas 35th Fl. New York, NY 10019 Fax: 212-554-4058 With a copy to: Michael Grundei, Esq. 400 Atlantic St. P.O. Box 110325 Stamford, CT 06911-0325	117.7500	71,958	Note Due November 15, 2007, Dated March 30, 2007 (No. PN 2006-FO1-1AR) (Original Principal Amt.: \$400,000.00) Interest Amt.: \$31,750.00)	A [\$1,177,500.00]	\$431,750.00
	116.7727	71,361	Amended and Restated 7.5% Secured Convertible Promissory Note Due November 15, 2007, Dated March 30, 2007 (No. PN 2006-DEC -1-1AR) (Original Principal Amt.: \$400,000.00) Interest Amt.: \$28,166.67)	A [\$1,167,727.28]	428,166.67
	100	166,667	n/a	n/a	\$1,000,000.00
SCO Capital Partners, L.P. 1285 Avenue of the Americas 35th Fl. New York, NY 10019 Fax: 212-554-4058 With a copy to: Michael Grundei, Esq. 400 Atlantic St. P.O. Box 110325 Stamford, CT 06911-0325	200	333,333	n/a	n/a	\$2,000,000.00
Totals:	3,227.3617	3,440,880			\$20,645,293.05

Placement Agent Warrants				
Name, Address and Fax Number	Copies of Notice to		Common Stock Underlying Placement Agent Warrants	
Totals:				

Convertible Promissory Notes

THIS SECURITY AND ANY SECURITIES ISSUABLE PURSUANT HERETO HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAW, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT AND IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

7.0% (SUBJECT TO ADJUSTMENT) CONVERTIBLE SUBORDINATED NOTE DUE
SEPTEMBER 13, 2005

No. R-1

\$2,524,500.00

Access Pharmaceuticals, Inc., a corporation duly organized and existing under the laws of Delaware (the "Company") for value received, hereby promises to pay to Oracle Partners LP, or registered assigns, the principal sum of Two Million Five Hundred Twenty Four Thousand Five Hundred Dollars (\$2,524,500.00) on September 13, 2005, and to pay interest thereon, from September 13, 2000, or from the most recent interest payment date to which interest has been paid or duly provided for, annually on September 13 in each year, commencing September 13, 2001, at the rate of 7.0% per annum provided, that if the holder elects to extend the Redemption Commencement Date and the Conversion Commencement Date as provided in Sections 1 and 2 below, the rate shall adjust to 7.7% per annum commencing September 13, 2001 and continuing for the balance of the term of this Note, until the principal hereof is due, and at the rate of 10% per annum on any overdue principal and premium, if any, and, to the extent permitted by law, on any overdue interest. The interest so payable, and punctually paid or duly provided for, on any interest payment date will be paid to the person in whose name this Security (or one or more predecessor Securities) is registered at the close of business on the regular record date for such interest, which shall be September 1 (whether or not a business day), as the case may be, next preceding such interest payment date. Payment of the principal of this Security shall be made upon the surrender of this Security to the Company, at its office at 2600 N. Stemmons Freeway, Suite 176, Dallas, Texas 75207-2107 (or such other office within the United States as shall be notified by the Company to the holder hereof) (the "Designated Office"), 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, by transfer to a U.S. dollar account maintained by the payee with a bank in the United States of America. Payment of interest on this Security shall be made, at the election of the holder, either (a) by transfer of cash to a U.S. dollar account (such a transfer to be made only if the holder shall have furnished wire instructions in writing to the Company no later than 15 days prior to the relevant payment date) maintained by the payee with a bank in the United States of America, provided that if the holder shall not have timely furnished wire instructions in writing to the Company, payment of interest on this Security shall be made by a check mailed to the address of the person entitled thereto as such address shall appear in the Company security register, or (b) by delivery of shares of Common Stock with a fair market value equal to 100% of the average Closing Prices for the five consecutive Trading Days ending on and including the third Trading Day immediately preceding the interest payment date.

1. **Redemption.** This Security is subject to redemption upon not less than 30 nor more than 60 days' notice by mail, at any time on or after September 30, 2001 (the "Redemption Commencement Date"), as a whole or in part, (in any amount that is an integral multiple of \$5,500) at the election of the Company, at a redemption price of 100% of the principal amount thereof, together with accrued interest to the redemption date, but interest installments whose stated maturity is on or prior to such redemption date will be payable to the holder of this Security, or one or more predecessor Securities, of record at the close of business on the relevant record dates referred to on the face hereof; provided that this Security may not be redeemed on or after September 30, 2001 unless the Closing Price of the Company Stock exceeds 1.5 times the Conversion Price for any period of 10 consecutive Trading Days commencing on or after August 30, 2001 and ending not less than two Trading Days prior to the Company's giving notice of such redemption to the holder hereof; further provided, that the holder of this Security may extend the Redemption Commencement Date to December 31, 2002 by giving written notice to the Company on or before July 1, 2001 of its election to so extend the Redemption Commencement Date and the Conversion Commencement Date (as defined below).

2. **Conversion.**

(a) The holder of this Security is entitled at any time on or after September 13, 2001 (the "Conversion Commencement Date") and before the close of business on September 13, 2005 (or, in case this Security or a portion hereof is called for redemption or the holder hereof has exercised his right to require the Company to repurchase this Security or a portion hereof, then in respect of this Security or such portion hereof, as the case may be, until and including, but (unless the Company defaults in making the payment due upon redemption or repurchase, as the case may be) not after, the close of business on the redemption date or the Repurchase Date, as the case may be) to convert this Security (or any portion of the principal amount hereof that is an integral multiple of \$5,500), into fully paid and nonassessable shares (calculated as to each conversion to the nearest 1/100 of a share) of Common Stock of the Company at the rate of 1,000 shares of Common Stock (the "Conversion Rate") for each \$5,500 principal amount of Security by surrender of this Security, duly endorsed or assigned to the Company or in blank to the Company at the Designated Office, accompanied by written notice to the Company that the holder hereof elects to convert this Security (or if less than the entire principal amount hereof is to be converted, specifying the portion hereof to be converted) provided, that the holder of this Security may extend the Conversion Commencement Date to December 13, 2002 by giving written notice to the Company on or before July 1, 2001 of its election to so extend the Conversion Commencement Date and Redemption Commencement Date. Upon surrender of this Security for conversion, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being converted from the interest payment date next preceding the date of such conversion to such date of conversion. No payment or adjustment is to be made on conversion for dividends on the Common Stock issued on conversion hereof. No fractions of shares or scrip representing fractions of shares will be issued on conversion, but instead of any fractional interest, the Company shall pay a cash adjustment, computed on the basis of the Closing Price of the Common Stock on the date of conversion, or, at its option, the Company shall round up to the next higher whole share.

(b) The Conversion Rate shall be subject to adjustments from time to time as follows:

(1) In case the Company shall pay or make a dividend or other distribution on any class of capital stock of the Company payable in shares of Common Stock, the Conversion Rate in effect at the opening of business on the day following the Determination Date for such dividend or other distribution shall be increased by dividing such Conversion Rate by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such increase to become effective immediately after the opening of business on the day following such Determination Date. For the purposes of this paragraph (1), 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.

(2) Subject to the last sentence of paragraph (7) of this Section 2(b), in case the Company shall issue rights, options or warrants to all holders of its Common Stock entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on the Determination Date for such distribution, the Conversion Rate in effect at the opening of business on the day following such Determination Date shall be increased by dividing such Conversion Rate by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date plus the number of shares of Common Stock which the aggregate of the offering price of the total number of shares of Common Stock so offered for subscription or purchase would purchase at such current market price and the denominator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date plus the number of shares of Common Stock so offered for subscription or purchase, such increase to become effective immediately after the opening of business on the day following such Determination Date. For the purposes of this paragraph (2), 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.

(3) In case outstanding shares of Common Stock shall be subdivided into a greater number of shares of Common Stock, the Conversion Rate in effect at the opening of business on the day

following the day upon which such subdivision becomes effective shall be proportionately increased, and, conversely, in case outstanding shares of Common Stock shall each be combined into a smaller number of shares of Common Stock, the Conversion Rate in effect at the opening of business on the day following the day upon which such combination becomes effective shall be proportionately reduced, such increase or reduction, 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.

(4) Subject to the last sentence of paragraph (7) of this Section 2(b), in case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock evidences of its indebtedness, shares of any class of capital stock, or other property (including securities, but excluding (i) any rights, options or warrants referred to in paragraph (2) of this Section 2(b), (ii) any dividend or distribution paid exclusively in cash, (iii) any dividend or distribution referred to in paragraph (1) of this Section 2(b) and (iv) any merger or consolidation to which Section 2(h) applies), the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on the Determination Date for such distribution by a fraction of which the numerator shall be the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date less the then fair market value (as determined in good faith by the Board of Directors of the Company) of the portion of the assets, shares or evidences of indebtedness so distributed applicable to one share of Common Stock and the denominator shall be such current market price per share of the Common Stock, such adjustment to become effective immediately prior to the opening of business on the day following such Determination Date. If the Board of Directors determines the fair market value of any distribution for purposes of this paragraph (4) by reference to the actual or when issued trading market for any securities comprising such distribution, it must in doing so consider the prices in such market over the same period used in computing the current market price per share pursuant to paragraph (8) of this Section 2(b).

(5) In case the Company shall, by dividend or otherwise, make a Cash Distribution, then, and in each such case, immediately after the close of business on the Determination Date for such Cash Distribution, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on such Determination Date by a fraction (a) the numerator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date less an amount equal to the quotient of (1) the amount of such Cash Distribution divided by (2) the number of shares of Common Stock outstanding on such Determination Date and (b) the denominator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date.

(6) In case the Company or any Subsidiary shall make an Excess Purchase Payment, then, and in each such case, immediately prior to the opening of business on the day after the tender offer in respect of which such Excess Purchase Payment is to be made expires, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on the Determination Date for such tender offer by a fraction (a) the numerator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock at such Determination Date less the amount of such Excess Purchase Payment and (b) the denominator of which shall be equal to the current market price per share of the Common Stock (determined as provided in paragraph (8) of this Section 2(b)) as of such Determination Date.

(7) The reclassification of Common Stock into securities other than Common Stock (other than any reclassification upon a consolidation or merger to which Section 2(h) applies) shall be deemed to involve (a) a distribution of such securities other than Common Stock to all holders of Common Stock (and the effective date of such reclassification shall be deemed to be the Determination Date), and (b) a subdivision or combination, as the case may be, of the number of shares of Common Stock outstanding immediately prior to such reclassification into the number of shares of Common Stock outstanding immediately thereafter (and the

effective date of such reclassification shall be deemed to be “the day upon which such subdivision becomes effective” or “the day upon which such combination becomes effective”, as the case may be, and “the day upon which such subdivision or combination becomes effective” within the meaning of paragraph (3) of this Section 2(b)). Rights or warrants issued by the Company to all holders of its Common Stock entitling the holders thereof to subscribe for or purchase shares of Common Stock, which rights or warrants (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, in each case in clauses (i) through (iii) until the occurrence of a specified event or events (“Trigger Event”), shall for purposes of this Section 2(b) not be deemed issued until the occurrence of the earliest Trigger Event.

(8) For the purpose of any computation under paragraphs (2), (4), (5) or (6) of this Section 2(b) the current market price per share of Common Stock on any date shall be calculated by the Company and be deemed to be the average of the daily Closing Prices for the five consecutive Trading Days selected by the Company commencing not more than 10 Trading Days before, and ending not later than, the earlier of the day in question and the day before the “ex” date with respect to the issuance or distribution requiring such computation. For purposes of this paragraph, the term “ex date”, when used with respect to any issuance or distribution, means the first date on which the Common Stock trades regular way in the applicable securities market or on the applicable securities exchange without the right to receive such issuance or distribution.

(9) No adjustment in the Conversion Rate shall be required unless such adjustment (plus any adjustments not previously made by reason of this paragraph (9)) would require an increase or decrease of at least one percent in such rate; provided, however, that any adjustments which by reason of this paragraph (9) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 2 shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be.

(10) The Company may make such increases in the Conversion Rate, for the remaining term of the Securities or any shorter term, in addition to those required by paragraphs (1), (2), (3), (4), (5) and (6) of this Section 2(b) as it considers to be advisable in order to avoid or diminish any income tax to any holders of shares of Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to purchase or subscribe for stock or from any event treated as such for income tax purposes.

(c) Whenever the Conversion Rate is adjusted as provided in Section 2(b), the Company shall compute the adjusted Conversion Rate in accordance with Section 2(b) and shall prepare a certificate signed by the chief financial officer of the Company setting forth the adjusted Conversion Rate and showing in reasonable detail the facts upon which such adjustment is based, and shall promptly deliver such certificate to the holder of Security.

(d) In case:

(1) the Company shall declare a dividend or other distribution on its Common Stock payable (i) otherwise than exclusively in cash or (ii) exclusively in cash in an amount that would require any adjustment pursuant to Section 2(b); or

(2) the Company shall authorize the granting to the holders of its Common Stock of rights, options or warrants to subscribe for or purchase any shares of capital stock of any class or of any other rights; or

(3) of any reclassification of the Common Stock of the Company, or of any consolidation, merger or share exchange to which the Company is a party and for which approval of any shareholders of the Company is required, or of the conveyance, sale, transfer or lease of all or substantially all of the assets of the Company; or

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

(5) the Company or any Subsidiary shall commence a tender offer for all or a portion of the Company’s outstanding shares of Common Stock (or shall amend any such tender offer);

then the Company shall cause to be delivered to the holder of this Security, at least 10 days prior to the applicable record, expiration or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, rights, options 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, rights, options or warrants are to be determined, (y) the date on which the right to make tenders under such tender offer expires or (z) the date on which such reclassification, consolidation, merger, conveyance, transfer, sale, lease, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, conveyance, transfer, sale, lease, dissolution, liquidation or winding up. Neither the failure to give such notice nor any defect therein shall affect the legality or validity of the proceedings described in clauses (1) through (5) of this Section 2(d).

(e) The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of the Security, the full number of shares of Common Stock then issuable upon the conversion of this Security.

(f) Except as provided in the next sentence, the Company will pay any and all stamp or transfer taxes and duties that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of the Security. The Company shall not, however, be required to pay any tax or duty which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the holder of this Security, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

(g) The Company agrees that all shares of Common Stock which may be delivered upon conversion of the Security, upon such delivery, will have been duly authorized and validly issued and will be fully paid and nonassessable (and shall be issued out of the Company's authorized but unissued Common Stock) and, except as provided in Section 2(1), the Company will pay all stamp or transfer taxes, liens and charges with respect to the issue thereof.

(h) In case of any consolidation of the Company with any other person, any merger of the Company into another person or of another person into the Company (other than a merger which does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock of the Company) or any conveyance, sale, transfer or lease of all or substantially all of the properties and assets of the Company, the person formed by such consolidation or resulting from such merger or which acquires such properties and assets, as the case may be, shall execute and deliver to the holder of this Security a supplemental agreement providing that such holder have the right there-after, during the period this Security shall be convertible as specified in Section 2(a), to convert this Security only into the kind and amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease (including any Common Stock retainable) by a holder of the number of shares of Common Stock of the Company into which this Security might have been converted immediately prior to such consolidation, merger, conveyance, sale, transfer or lease, assuming such holder of Common Stock of the Company (i) is not a person with which the Company consolidated, into which the Company merged or which merged into the Company or to which such conveyance, sale, transfer or lease was made, as the case may be (a "Constituent Person"), or an Affiliate of a Constituent Person and (ii) failed to exercise his rights of election, if any, as to the kind or amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease (provided that if the kind or amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer, or lease is not the same for each share of Common Stock of the Company held immediately prior to such consolidation, merger, conveyance, sale, transfer or lease by others than a Constituent Person or an Affiliate thereof and in respect of which such rights of election shall not have been exercised ("Non-electing Share"), then for the purpose of this Section 2(h) the kind and amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease by the holders of 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 agreement shall provide for adjustments which, for events subsequent to the effective date of such supplemental agreement, shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 2. The above provisions of this Section 2(h) shall similarly apply to successive consolidations, mergers, conveyances, sales, transfers or leases. In this paragraph, "securities of the kind receivable" upon such consolidation, merger, conveyance, transfer, sale

or lease by a holder of Common Stock means securities that, among other things, are registered and transferable under the Securities Act, and listed and approved for quotation in all securities markets, in each case to the same extent as such securities so receivable by a holder of Common Stock.

(i) The Company (a) will effect all registrations with, and obtain all approvals by, all governmental authorities that may be necessary under any United States Federal or state law (including the Securities Act of 1933, as amended (the “Securities Act”), the Securities Exchange Act of 1934, as amended, and state securities and Blue Sky laws) for the shares of Common Stock issuable upon conversion of this Security to be lawfully issued and delivered as provided herein, and thereafter publicly traded (if permissible under such Securities Act) and qualified or listed as contemplated by clause (b) below (it being understood that the Company shall not be required to register the Common Stock issuable on conversion hereof under the Securities Act, except pursuant to the Registration Rights Agreement between the Company and the initial holder of this Security); and (b) will list the shares of Common Stock required to be issued and delivered upon conversion of Securities, prior to such issuance or delivery, on each national securities exchange on which outstanding Common Stock is listed or quoted at the time of such delivery, or if the Common Stock is not then listed on any securities exchange, to qualify the Common Stock for quotation on the Nasdaq National Market or such other inter-dealer quotation system, if any, on which the Common Stock is then quoted.

(j) For purposes hereof:

“Affiliate” of any specified person means any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, “control”, when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Cash Distribution” means the distribution by the Company to all holders of its Common Stock of cash, other than any cash that is distributed upon a merger or consolidation to which Section 2(h) applies or as part of a distribution referred to in paragraph (4) of Section 2(b).

“Closing Price” means, with respect to the Common Stock of the Company, for any day, the reported last sale price per share on the American Stock Exchange, or, if the Common Stock is not admitted to trading on the American Stock Exchange, on the principal national securities exchange or inter-dealer quotation system on which the Common Stock is listed or admitted to trading, or if not admitted to trading on the Nasdaq National Market, or listed or admitted to trading on any national securities exchange or inter-dealer quotation system, the average of the closing bid and asked prices per share in the over-the-counter market as furnished by any New York Stock Exchange member firm selected from time to time by the Company for that purpose.

“Common Stock” means the Common Stock, par value \$.01 per share, of the Company authorized at the date of this instrument as originally executed. Subject to the provisions of Section 2(h), shares issuable on conversion or repurchase of this Security shall include only shares of Common Stock or shares of any class or classes of common stock resulting from any reclassification or reclassifications thereof; provided, however, that if at any time there shall be more than one such resulting class, the shares so issuable on conversion of this Security shall include shares of all such classes, and the shares of each such class then so issuable shall be substantially in the proportion which 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.

“Conversion Price” on any day means an amount equal to \$5,500 divided by the Conversion Rate in effect on such day.

“Determination Date” means, in the case of a dividend or other distribution, including the issuance of rights, options or warrants, to shareholders, the date fixed for the determination of shareholders entitled to receive such dividend or other distribution and, in the case of a tender offer, the last time that tenders could have been made pursuant to such tender offer.

“Excess Purchase Payment” means the excess, if any, of (i) the amount of cash plus the fair market value (as determined in good faith by the Company’s Board of Directors) of any non-cash consideration required

to be paid with respect to one share of Common Stock acquired or to be acquired in a tender offer made by the Company or any subsidiary of the Company for all or any portion of the Common Stock over (ii) the current market price per share as of the last time that tenders could have been made pursuant to such tender offer.

“Trading Day” means (i) if the Common Stock is listed or admitted for trading on the New York or American Stock Exchange or any other national securities exchange, a day on which such exchange is open for business; (ii) if the Common Stock is admitted to trading on the Nasdaq National Market or any other system of automated dissemination of quotations of securities prices, a day on which trades may be effected through such system; or (iii) if the Common Stock is not admitted to trading on the Nasdaq National Market or listed or admitted for trading on any national securities exchange or any other system of automated dissemination of quotation of securities prices, a day on which the Common Stock is traded regular way in the over-the-counter market and for which a closing bid and a closing asked price for the Common Stock are available.

3. Right to Require Repurchase.

(a) In the event that a Change in Control (as hereinafter defined) shall occur, then the holder of this Security shall have the right, at such holder’s option, subject to the rights of holders of Senior Indebtedness, to require the Company to repurchase, and upon the exercise of such right the Company shall repurchase, this Security, or any portion of the principal amount hereof that is equal to \$5,500 or any integral multiple thereof, on the date (the “Repurchase Date”) that is ten Trading Days after the date on which the Company gives notice thereof to the holder of this Security, at a purchase price equal to 105% of the principal amount of this Security to be repurchased, plus interest accrued to the Repurchase Date (the “Repurchase Price”); provided, however, that installments of interest on this Security whose stated maturity is on or prior to the Repurchase Date shall be payable to the holder of this Security, or one or more predecessor Securities, registered as such on the relevant Record Date according to their terms. Upon surrender of this Security for repurchase, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being repurchased from the interest payment date next preceding the date of such repurchase to such date of repurchase. At the option of the Company, the Repurchase Price may be paid in cash or, subject to the fulfillment by the Company of the conditions set forth in Section 3(b), by delivery of shares of Common Stock having a fair market value equal to the Repurchase Price as described in Section 3(b). The Company agrees to give the holder of this Security notice of any Change in Control, by facsimile transmission confirmed in writing by overnight courier service, promptly and in any event within two Trading Days of the occurrence thereof.

(b) The Company may elect to pay the Repurchase Price by delivery of shares of Common Stock pursuant to Section 3(a), if and only if the following conditions have been satisfied:

(1) The shares of Common Stock deliverable in payment of the Repurchase Price shall have a fair market value as of the Repurchase Date of not less than the Repurchase Price. For purposes of this Section 3(b), the fair market value of shares of Common Stock shall be equal to 95% of the average of the Closing Prices for the five consecutive Trading Days ending on and including the third Trading Day immediately preceding the Repurchase Date;

(2) In the event any shares of Common Stock to be issued upon repurchase of this Security require registration under any Federal securities law before such shares may be freely transferable without being subject to any transfer restrictions under the Securities Act of 1933 upon issuance, such registration shall have been completed and shall have become effective prior to the Repurchase Date;

(3) In the event any shares of Common Stock to be issued upon repurchase of this Security require registration with or approval of any governmental authority under any State law or any other Federal law before such shares may be validly issued or delivered upon repurchase, such registration shall have been completed, have become effective and such approval shall have been obtained, in each case, prior to the Repurchase Date;

(4) Immediately prior to the Repurchase Date the shares of Common Stock deliverable in payment of the Repurchase Price shall have been approved for trading or listed on the American Stock Exchange or the principal national securities exchange or interdealer quotation system on which the Common Stock is then admitted to trading or listed; and

(5) All shares of Common Stock deliverable in payment of the Repurchase Price shall be issued out of the Company's authorized but unissued Common Stock and will, upon issue, be duly and validly issued and fully paid and non-assessable and free of any preemptive rights.

If all of the conditions set forth in this Section 3(b) are not satisfied in accordance with the terms thereof, the Repurchase Price shall be paid by the Company only in cash.

(c) To exercise a repurchase right, the holder shall deliver to the Company on or before the 5th day prior to the Repurchase Date, together with this Security, written notice of the holder's exercise of such right, which notice shall set forth the name of the holder, the principal amount of this Security to be repurchased (and, if this Security is to be repurchased in part, the portion of the principal amount thereof to be repurchased and the name of the person in which the portion thereof to remain outstanding after such repurchase is to be registered) and a statement that an election to exercise the repurchase right is being made thereby, and, in the event that the Repurchase Price shall be paid in shares of Common Stock, the name or names (with addresses) in which the certificate or certificates for shares of Common Stock shall be issued. Such written notice shall be irrevocable, except that the right of the holder to convert this Security (or the portion hereof with respect to which the repurchase right is being exercised) shall continue until the close of business on the Repurchase Date.

(d) In the event a repurchase right shall be exercised in accordance with the terms hereof, the Company shall pay or cause to be paid to the holder the Repurchase Price in cash or shares of Common Stock, as provided above, or, if shares of Common Stock are to be paid, as promptly after the Repurchase Date as practicable, together with accrued and unpaid interest to the Repurchase Date; provided, however, that installments of interest that mature on or prior to the Repurchase Date shall be payable in cash, to the holders of this Security, or one or more predecessor Securities, registered as such at the close of business on the relevant regular record date.

(e) If this Security (or portion thereof) is surrendered for repurchase and is not so paid on the Repurchase Date, the principal amount of this Security (or such portion hereof, as the case may be) shall, until paid, bear interest to the extent permitted by applicable law from the Repurchase Date at the rate per annum borne by this Security, and shall remain convertible into Common Stock until the principal of this Security (or portion thereof, as the case may be) shall have been paid or duly provided for.

(f) If this Security is to be repurchased only in part, it shall be surrendered to the Company at the Designated Office (with, if the Company so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company duly executed by, the holder hereof or his attorney duly authorized in writing), and the Company shall execute and make available for delivery to the holder without service charge, a new Security or Securities, containing identical terms and conditions, each in an authorized denomination in aggregate principal amount equal to and in exchange for the unrepurchased portion of the principal of the Security so surrendered.

(g) Any issuance of shares of Common Stock in respect of the Repurchase Price shall be deemed to have been effected immediately prior to the close of business on the Repurchase Date and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such repurchase shall be deemed to have become on the Repurchase Date the holder or holders of record of the shares represented thereby; provided, however, that any surrender for repurchase on a date when the stock transfer books of the Company shall be closed shall constitute the person or persons in whose name or names the certificate or certificates for such shares are to be issued as the record holder or holders thereof for all purposes at the opening of business on the next succeeding day on which such stock transfer books are open. No payment or adjustment shall be made for dividends or distributions on any Common Stock issued upon repurchase of this Security declared prior to the Repurchase Date.

(h) No fractions of shares shall be issued upon repurchase of this Security. Instead of any fractional share of Common Stock which would otherwise be issuable on the repurchase of this Security, the Company will deliver to the holder its check for the current market value of such fractional share. The current market value of a fraction of a share shall be determined by multiplying the current market price of a full share by the fraction, and rounding the result to the nearest cent. For purposes of this Section 3 the current market price of a share of Common Stock shall be the Closing Price of the Common Stock on the Trading Day immediately preceding the Repurchase Date.

(i) Any issuance and delivery of certificates for shares of Common Stock on repurchase of this Security shall be made without charge to the holder of this Security for such certificates or for any stamp or transfer tax or duty in respect of the issuance or delivery of such certificates or the securities represented thereby;

provided, however, that the Company shall not be required to pay any tax or duty which may be payable in respect of any transfer involved in the issuance or delivery of certificates for shares of Common Stock in a name other than that of the holder of this Security, and no such issuance or delivery shall be made unless and until the person requesting such issuance or delivery has paid to the Company the amount of any such tax or duty or has established, to the satisfaction of the Company, that such tax or duty has been paid.

(j) For purposes of this Section 3;

(1) the term “beneficial owner” shall be determined in accordance with Rule 13d-3 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934; and

(2) a “Change in Control” shall be deemed to have occurred at the time, after the original issuance of this Security, of:

(i) the acquisition by any person of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, of shares of capital stock of the Company entitling such person to exercise 50% or more of the total voting power of all shares of capital stock of the Company entitled to vote generally in the election of directors (any shares of voting stock of which such person is the beneficial owner that are not then outstanding being deemed outstanding for purposes of calculating such percentage) other than any such acquisition by the Company or any employee benefit plan of the Company;

(ii) any consolidation or merger of the Company with or into, any other person, any merger of another person with or into the Company, or any conveyance, transfer, sale, lease or other disposition of all or substantially all of the assets of the Company to another person (other than (a) any such transaction (x) which does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock and (y) pursuant to which holders of Common Stock immediately prior to such transaction have the entitlement to exercise, directly or indirectly, 50% or more of the total voting power of all shares of capital stock entitled to vote generally in the election of directors of the continuing or surviving person immediately after such transaction and (b) any merger which is effected solely to change the jurisdiction of incorporation of the Company and results in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into shares of common stock);

provided, however, that a Change in Control shall not be deemed to have occurred if the Closing Price for any five Trading Days within the period of 10 consecutive Trading Days (x) ending immediately after the later of the date of the Change in Control or the date of the public announcement of the Change in Control (in the case of a Change in Control under Clause (i) above) or (y) ending immediately prior to the date of the Change in Control (in the case of a Change in Control under Clause (ii) above) shall equal or exceed 105% of the Conversion Price in effect on each such Trading Day.

4. Events of Default.

(a) “Event of Default”, wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be occasioned by the provisions of Section 6 or be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of any interest upon this Security when it becomes due and payable, and continuance of such default for a period of 30 days; or

(2) default by the Company in the performance of its obligations in respect of any conversion of this Security (or any portion hereof) in accordance with Section 2; or

(3) failure by the Company to give any notice of a Change of Control required to be delivered in accordance with Section 3(a); or

(4) default in the performance, or breach, of any material covenant or warranty of the Company herein (other than a covenant or warranty a default in the performance or breach of which is specifically dealt with elsewhere in this Section 4(a)) and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Company by the holder of this Security a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder; or

(5) a default under any bond, debenture, note or other evidence of indebtedness for money borrowed by the Company, or under any agreement, mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any indebtedness for money borrowed by the Company, with a principal amount then outstanding in excess of \$1,000,000, whether such indebtedness now exists or shall hereafter be created, which default shall constitute a failure to pay the principal of such indebtedness (in whole or in any part greater than \$1,000,000) when due and payable or shall have resulted in such indebtedness (in whole or in any part greater than \$1,000,000) becoming or being declared due and payable prior to the date on which it would otherwise have become due and payable, without such indebtedness having been discharged, or such acceleration having been rescinded or annulled, within a period of 30 days after there shall have been given, by registered or certified mail, to the Company by the holder of this Security a written notice specifying such default and requiring the Company to cause such indebtedness to be discharged or cause such acceleration to be rescinded or annulled and stating that such notice is a “Notice of Default” hereunder; or

(6) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization or other similar law or (ii) a decree or order adjudging the Company bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days; or

(7) the commencement by the Company of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or similar relief under any applicable Federal or State law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action.

(b) If an Event of Default (other than an Event of Default specified in Section 4(a)(6) or 4(a)(7)) occurs and is continuing, then in every such case the holder of this Security may declare the principal hereof to be due and payable immediately, by a notice in writing to the Company, and upon any such declaration such principal and all accrued interest thereon shall become immediately due and payable. If an Event of Default specified in Section 4(a)(6) or 4(a)(7) occurs and is continuing, the principal of, and accrued interest on, this Security shall ipso facto become immediately due and payable without any declaration or other act of the holders.

5. Consolidation, Merger, Etc.

(a) The Company shall not consolidate with or merge into any other person or, directly or indirectly, convey, transfer, sell or lease all or substantially all of its properties and assets to any person, and the

Company shall not permit any person to consolidate with or merge into the Company or, directly or indirectly, convey, transfer, sell or lease all or substantially all of its properties and assets to the Company, unless:

(1) in case the Company shall consolidate with or merge into another person or convey, transfer, sell or lease all or substantially all of its properties and assets to any person, the person formed by such consolidation or into which the Company is merged or the person which acquires by conveyance, transfer or sale, or which leases, all or substantially all the properties and assets of the Company shall be a corporation, limited liability company, partnership or trust, shall be organized and validly existing and shall expressly assume, by an agreement supplemental hereto, executed and delivered to the holder of this Security, the due and punctual payment of the principal of and interest on this Security and the performance or observance of every covenant of this Security on the part of the Company to be performed or observed, including the conversion rights provided herein;

(2) immediately after giving effect to such transaction and treating any indebtedness which becomes an obligation of the Company or a subsidiary of the Company as a result of such transaction as having been incurred by the Company or such subsidiary of the Company at the time of such transaction, 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; and

(3) the Company has delivered to the holder of this Security an officers' certificate stating that such consolidation, merger, conveyance, transfer, sale or lease and, if a supplemental agreement is required in connection with such transaction, such supplemental agreement, comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

(b) Upon any consolidation of the Company with, or merger of the Company into, any other person or any conveyance, transfer, sale or lease of all or substantially all of the properties and assets of the Company in accordance with Section 5(a), the successor person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer, sale or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Security with the same effect as if such successor person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor person shall be relieved of all obligations and covenants under this Security.

6. Subordination. The Company agrees, and the holder of this Security by accepting a Security agrees, that the indebtedness evidenced by this Security is subordinated in right of payment to the prior payment in full of all Senior Indebtedness, and that the subordination is for the benefit of the holders of Senior Indebtedness.

“Senior Indebtedness” means:

(a) the principal of, interest (including, to the extent permitted by applicable law, interest on or after the commencement of any bankruptcy or similar proceeding whether or not representing an allowed claim in such proceeding) on and any other amounts owing with respect to (i) any indebtedness of the Company, now or hereafter outstanding, in respect of borrowed money (other than the Securities), (ii) any indebtedness of the Company, now or hereafter outstanding, evidenced by a bond, note, debenture, capitalized lease, letter of credit or other similar instrument, (iii) any other written obligation of the Company, now or hereafter outstanding, to pay money issued or assumed as all or part of the consideration for the acquisition of property, assets or securities and (iv) any guaranty or endorsement (other than for collection or deposit in the ordinary course of business) or discount with recourse of, or other agreement (contingent or otherwise) to purchase, repurchase or otherwise acquire, to supply or advance funds or to become liable with respect to (directly or indirectly), any indebtedness or obligation of any person of the type referred to in the preceding subclauses (i), (ii) and (iii) now or hereafter outstanding; and

(b) any refundings, renewals or extensions of any indebtedness or other obligation described in clause (a) above.

Notwithstanding the foregoing, if, by the terms of the instrument creating or evidencing any indebtedness or obligation referred to in clauses (a) and (b) above, it is expressly provided that such indebtedness or obligation is not senior in right of payment to this Security, such indebtedness or obligation shall not be

included as Senior Indebtedness.

7. Other.

(a) No provision of this Security shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, and interest on this Security at the times, places and rate, and in the coin or currency, herein prescribed or to convert this Security as herein provided.

(b) The Company will give prompt written notice to the holder of this Security of any change in the location of the Designated Office.

(c) The transfer of this Security is registrable on the Security Register of the Company upon surrender of this Security for registration of transfer at the Designated Office, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees. Such Securities are issuable only in registered form without coupons in denominations of \$5,500 and any integral multiple thereof. No service charge shall be made for any such registration of transfer, but the Company may require payment of a sum sufficient to recover any tax or other governmental charge payable in connection therewith. Prior to due presentation of this Security for registration of transfer, the Company and any agent of the Company may treat the person in whose name this Security is registered, as the owner thereof for all purposes, whether or not this Security be overdue, and neither the Company, nor any such agent shall be affected by notice to the contrary.

Notwithstanding any other provision of this Security, this Security and the shares of Common Stock issuable upon conversion hereof may only be transferred by the holder of this Security (a) in the case of the Common Stock only, in a public offering registered under the Securities Act of 1933, as amend; (b) to one or more investors, in one or more transactions, any one of whom, after such purchase, would hold not more than 5% of the shares of Common Stock then outstanding (assuming conversion of any portion of this Security so transferred); (c) to any person or entity that already controls more than 50% of the voting securities of the Company prior to such transfer; (d) in a transaction that complies with the manner of sale restrictions of Rule 144 under the Securities Act; or (e) in a transaction approved in advance by the Federal Reserve Board. The holder of this Security, by acceptance thereof, shall be deemed to have agreed to the foregoing restriction on transfers.

(d) The holder agrees that, at the written request of the Company or any managing underwriter of any underwritten public offering of securities of the Company, such holder shall not, without the prior written consent of the Company or such managing underwriter, sell, make any short sale of, loan, grant any option for the purchase of, pledge, encumber, or otherwise dispose of, or exercise any registration rights with respect to, any Securities or Common Stock of the Company during the 180-day period commencing on the effective date of the registration statement relating to such underwritten public offering of the Company's securities; provided, that each officer and director of the Company shall have entered into a similar agreement.

(e) This Security shall be governed by and construed in accordance with the laws of the State of Texas, United States of America.

IN WITNESS WHEREOF, the Company has caused this Security to be duly executed under its corporate seal.

Dated: September 13, 2000

By: /s/Kerry P.

Gray

Name: Kerry P.

Gray

Title: Chief

Executive Officer

Attest:

/s/Stephen B. Thompson

Name: Stephen B. Thompson

Title: Vice President and CFO

ELECTION OF HOLDER TO REQUIRE REPURCHASE

1. Pursuant to Section 3(a) of this Security, the undersigned hereby elects to have all or a portion of this Security repurchased by the Company

2. The undersigned hereby directs the Company to pay [choose one] (a) it or (b)

Name: _____; address: _____; Social Security or Other Taxpayer Identification Number, if any: _____, an amount in cash or, at the Company's election, Common Stock valued as set forth in the Security, equal to 100% of the principal amount to be repurchased (as set forth below), plus interest accrued to the Repurchase Date, as provided herein.

Dated: _____

Signature

Principal amount to be repurchased
(an integral multiple of \$5,500): _____

Remaining principal amount following such repurchase
(not less than \$5,500): _____

NOTICE: The signature to the foregoing Election must correspond to the name as written upon the face of this Security in every particular, without alteration or any change whatsoever.

CONVERSION NOTICE

The undersigned holder of this Security hereby irrevocably exercises the option to convert this Security, or any portion of the principal amount hereof (which is an integral multiple of \$5,500) below designated, into shares of Common Stock in accordance with the terms of this Security, and directs that such shares, together with a check in payment for any fractional share and any Security representing any unconverted principal amount hereof, be delivered to and be registered in the name of the undersigned unless a different name has been indicated below. If shares of Common Stock or Securities are to be registered in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Dated: _____

Signature

If only a portion of the Securities is to be converted, please indicate:

If shares or Securities are to be registered in the name of a person other than the holder, please print such person's name and address:

1. Principal amount to be converted:

\$ _____

Name

2. Principal amount and denomination of Security representing unconverted principal amount to be issued:

Address

Amount: \$ _____

Social Security or other Taxpayer Identification Number, if any

Denominations: \$ _____
(any integral multiple of \$5,500)

THIS SECURITY AND ANY SECURITIES ISSUABLE PURSUANT HERETO HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAW, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT AND IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

7.0% (SUBJECT TO ADJUSTMENT) CONVERTIBLE SUBORDINATED NOTE DUE
SEPTEMBER 13, 2005

No. R-1

\$660,000.00

Access Pharmaceuticals, Inc., a corporation duly organized and existing under the laws of Delaware (the "Company") for value received, hereby promises to pay to SAM Oracle Investments Inc., or registered assigns, the principal sum of Six Hundred Sixty Thousand Dollars (\$660,000.00) on September 13, 2005, and to pay interest thereon, from September 13, 2000, or from the most recent interest payment date to which interest has been paid or duly provided for, annually on September 13 in each year, commencing September 13, 2001, at the rate of 7.0% per annum provided, that if the holder elects to extend the Redemption Commencement Date and the Conversion Commencement Date as provided in Sections 1 and 2 below, the rate shall adjust to 7.7% per annum commencing September 13, 2001 and continuing for the balance of the term of this Note, until the principal hereof is due, and at the rate of 10% per annum on any overdue principal and premium, if any, and, to the extent permitted by law, on any overdue interest. The interest so payable, and punctually paid or duly provided for, on any interest payment date will be paid to the person in whose name this Security (or one or more predecessor Securities) is registered at the close of business on the regular record date for such interest, which shall be September 1 (whether or not a business day), as the case may be, next preceding such interest payment date. Payment of the principal of this Security shall be made upon the surrender of this Security to the Company, at its office at 2600 N. Stemmons Freeway, Suite 176, Dallas, Texas 75207-2107 (or such other office within the United States as shall be notified by the Company to the holder hereof) (the "Designated Office"), 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, by transfer to a U.S. dollar account maintained by the payee with a bank in the United States of America. Payment of interest on this Security shall be made, at the election of the holder, either (a) by transfer of cash to a U.S. dollar account (such a transfer to be made only if the holder shall have furnished wire instructions in writing to the Company no later than 15 days prior to the relevant payment date) maintained by the payee with a bank in the United States of America, provided that if the holder shall not have timely furnished wire instructions in writing to the Company, payment of interest on this Security shall be made by a check mailed to the address of the person entitled thereto as such address shall appear in the Company security register, or (b) by delivery of shares of Common Stock with a fair market value equal to 100% of the average Closing Prices for the five consecutive Trading Days ending on and including the third Trading Day immediately preceding the interest payment date.

1. Redemption. This Security is subject to redemption upon not less than 30 nor more than 60 days' notice by mail, at any time on or after September 30, 2001 (the "Redemption Commencement Date"), as a whole or in part, (in any

amount that is an integral multiple of \$5,500) at the election of the Company, at a redemption price of 100% of the principal amount thereof, together with accrued interest to the redemption date, but interest installments whose stated maturity is on or prior to such redemption date will be payable to the holder of this Security, or one or more predecessor Securities, of record at the close of business on the relevant record dates referred to on the face hereof; provided that this Security may not be redeemed on or after September 30, 2001 unless the Closing Price of the Company Stock exceeds 1.5 times the Conversion Price for any period of 10 consecutive Trading Days commencing on or after August 30, 2001 and ending not less than two Trading Days prior to the Company's giving notice of such redemption to the holder hereof; further provided, that the holder of this Security may extend the Redemption Commencement Date to December 31, 2002 by giving written notice to the Company on or before July 1, 2001 of its election to so extend the Redemption Commencement Date and the Conversion Commencement Date (as defined below).

2. Conversion.

(a) The holder of this Security is entitled at any time on or after September 13, 2001 (the "Conversion Commencement Date") and before the close of business on September 13, 2005 (or, in case this Security or a portion hereof is called for redemption or the holder hereof has exercised his right to require the Company to repurchase this Security or a portion hereof, then in respect of this Security or such portion hereof, as the case may be, until and including, but (unless the Company defaults in making the payment due upon redemption or repurchase, as the case may be) not after, the close of business on the redemption date or the Repurchase Date, as the case may be) to convert this Security (or any portion of the principal amount hereof that is an integral multiple of \$5,500), into fully paid and nonassessable shares (calculated as to each conversion to the nearest 1/100 of a share) of Common Stock of the Company at the rate of 1,000 shares of Common Stock (the "Conversion Rate") for each \$5,500 principal amount of Security by surrender of this Security, duly endorsed or assigned to the Company or in blank to the Company at the Designated Office, accompanied by written notice to the Company that the holder hereof elects to convert this Security (or if less than the entire principal amount hereof is to be converted, specifying the portion hereof to be converted) provided, that the holder of this Security may extend the Conversion Commencement Date to December 13, 2002 by giving written notice to the Company on or before July 1, 2001 of its election to so extend the Conversion Commencement Date and Redemption Commencement Date. Upon surrender of this Security for conversion, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being converted from the interest payment date next preceding the date of such conversion to such date of conversion. No payment or adjustment is to be made on conversion for dividends on the Common Stock issued on conversion hereof. No fractions of shares or scrip representing fractions of shares will be issued on conversion, but instead of any fractional interest, the Company shall pay a cash adjustment, computed on the basis of the Closing Price of the Common Stock on the date of conversion, or, at its option, the Company shall round up to the next higher whole share.

(b) The Conversion Rate shall be subject to adjustments from time to time as follows:

(1) In case the Company shall pay or make a dividend or other distribution on any class of capital stock of the Company payable in shares of Common Stock, the Conversion Rate in effect at the opening of business on the day following the Determination Date for such dividend or other distribution shall be increased by dividing such Conversion Rate by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such increase to become effective immediately after the opening of business on the day following such Determination Date. For the purposes of this paragraph (I), 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.

(2) Subject to the last sentence of paragraph (7) of this Section 2(b), in case the Company shall issue rights, options or warrants to all holders of its Common Stock entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on the Determination Date for such distribution, the Conversion Rate in effect at the opening of business on the day following such Determination Date shall be increased by dividing such Conversion Rate by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date

plus the number of shares of Common Stock which the aggregate of the offering price of the total number of shares of Common Stock so offered for subscription or purchase would purchase at such current market price and the denominator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date plus the number of shares of Common Stock so offered for subscription or purchase, such increase to become effective immediately after the opening of business on the day following such Determination Date. For the purposes of this paragraph (2), 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.

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

(4) Subject to the last sentence of paragraph (7) of this Section 2(b), in case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock evidences of its indebtedness, shares of any class of capital stock, or other property (including securities, but excluding (i) any rights, options or warrants referred to in paragraph (2) of this Section 2(b), (ii) any dividend or distribution paid exclusively in cash, (iii) any dividend or distribution referred to in paragraph (1) of this Section 2(b) and (iv) any merger or consolidation to which Section 2(h) applies), the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on the Determination Date for such distribution by a fraction of which the numerator shall be the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date less the then fair market value (as determined in good faith by the Board of Directors of the Company) of the portion of the assets, shares or evidences of indebtedness so distributed applicable to one share of Common Stock and the denominator shall be such current market price per share of the Common Stock, such adjustment to become effective immediately prior to the opening of business on the day following such Determination Date. If the Board of Directors determines the fair market value of any distribution for purposes of this paragraph (4) by reference to the actual or when issued trading market for any securities comprising such distribution, it must in doing so consider the prices in such market over the same period used in computing the current market price per share pursuant to paragraph (8) of this Section 2(b).

(5) In case the Company shall, by dividend or otherwise, make a Cash Distribution, then, and in each such case, immediately after the close of business on the Determination Date for such Cash Distribution, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on such Determination Date by a fraction (a) the numerator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date less an amount equal to the quotient of (1) the amount of such Cash Distribution divided by (2) the number of shares of Common Stock outstanding on such Determination Date and (b) the denominator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date.

(6) In case the Company or any Subsidiary shall make an Excess Purchase Payment, then, and in each such case, immediately prior to the opening of business on the day after the tender offer in respect of which such Excess Purchase Payment is to be made expires, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on the Determination Date for such tender offer by a fraction (a) the numerator of which shall be equal to the

current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock at such Determination Date less the amount of such Excess Purchase Payment and (b) the denominator of which shall be equal to the current market price per share of the Common Stock (determined as provided in paragraph (8) of this Section 2(b)) as of such Determination Date.

(7) The reclassification of Common Stock into securities other than Common Stock (other than any reclassification upon a consolidation or merger to which Section 2(h) applies) shall be deemed to involve (a) a distribution of such securities other than Common Stock to all holders of Common Stock (and the effective date of such reclassification shall be deemed to be the Determination Date), and (b) a subdivision or combination, as the case may be, of the number of shares of Common Stock outstanding immediately prior to such reclassification into the number of shares of Common Stock outstanding immediately thereafter (and the effective date of such reclassification shall be deemed to be “the day upon which such subdivision becomes effective” or “the day upon which such combination becomes effective”, as the case may be, and “the day upon which such subdivision or combination becomes effective” within the meaning of paragraph (3) of this Section 2(b)). Rights or warrants issued by the Company to all holders of its Common Stock entitling the holders thereof to subscribe for or purchase shares of Common Stock, which rights or warrants (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, in each case in clauses (i) through (iii) until the occurrence of a specified event or events (“Trigger Event”), shall for purposes of this Section 2(b) not be deemed issued until the occurrence of the earliest Trigger Event.

(8) For the purpose of any computation under paragraphs (2), (4), (5) or (6) of this Section 2(b) the current market price per share of Common Stock on any date shall be calculated by the Company and be deemed to be the average of the daily Closing Prices for the five consecutive Trading Days selected by the Company commencing not more than 10 Trading Days before, and ending not later than, the earlier of the day in question and the day before the “ex” date with respect to the issuance or distribution requiring such computation. For purposes of this paragraph, the term “ex date”, when used with respect to any issuance or distribution, means the first date on which the Common Stock trades regular way in the applicable securities market or on the applicable securities exchange without the right to receive such issuance or distribution.

(9) No adjustment in the Conversion Rate shall be required unless such adjustment (plus any adjustments not previously made by reason of this paragraph (9)) would require an increase or decrease of at least one percent in such rate; provided, however, that any adjustments which by reason of this paragraph (9) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 2 shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be.

(10) The Company may make such increases in the Conversion Rate, for the remaining term of the Securities or any shorter term, in addition to those required by paragraphs (1), (2), (3), (4), (5) and (6) of this Section 2(b) as it considers to be advisable in order to avoid or diminish any income tax to any holders of shares of Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to purchase or subscribe for stock or from any event treated as such for income tax purposes.

(c) Whenever the Conversion Rate is adjusted as provided in Section 2(b), the Company shall compute the adjusted Conversion Rate in accordance with Section 2(b) and shall prepare a certificate signed by the chief financial officer of the Company setting forth the adjusted Conversion Rate and showing in reasonable detail the facts upon which such adjustment is based, and shall promptly deliver such certificate to the holder of Security.

(d) In case:

(1) the Company shall declare a dividend or other distribution on its Common Stock payable (i) otherwise than exclusively in cash or (ii) exclusively in cash in an amount that would require any adjustment pursuant to Section 2(b); or

(2) the Company shall authorize the granting to the holders of its Common Stock of rights, options or warrants to subscribe for or purchase any shares of capital stock of any class or of any other rights; or

(3) of any reclassification of the Common Stock of the Company, or of any consolidation, merger or share exchange to which the Company is a party and for which approval of any shareholders of the Company is required, or of the conveyance, sale, transfer or lease of all or substantially all of the assets of the Company; or

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

(5) the Company or any Subsidiary shall commence a tender offer for all or a portion of the Company's outstanding shares of Common Stock (or shall amend any such tender offer);

then the Company shall cause to be delivered to the holder of this Security, at least 10 days prior to the applicable record, expiration or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, rights, options 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, rights, options or warrants are to be determined, (y) the date on which the right to make tenders under such tender offer expires or (z) the date on which such reclassification, consolidation, merger, conveyance, transfer, sale, lease, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, conveyance, transfer, sale, lease, dissolution, liquidation or winding up. Neither the failure to give such notice nor any defect therein shall affect the legality or validity of the proceedings described in clauses (1) through (5) of this Section 2(d).

(e) The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of the Security, the full number of shares of Common Stock then issuable upon the conversion of this Security.

(f) Except as provided in the next sentence, the Company will pay any and all stamp or transfer taxes and duties that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of the Security. The Company shall not, however, be required to pay any tax or duty which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the holder of this Security, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

(g) The Company agrees that all shares of Common Stock which may be delivered upon conversion of the Security, upon such delivery, will have been duly authorized and validly issued and will be fully paid and nonassessable (and shall be issued out of the Company's authorized but unissued Common Stock) and, except as provided in Section 2(f), the Company will pay all stamp or transfer taxes, liens and charges with respect to the issue thereof.

(h) In case of any consolidation of the Company with any other person, any merger of the Company into another person or of another person into the Company (other than a merger which does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock of the Company) or any conveyance, sale, transfer or lease of all or substantially all of the properties and assets of the Company, the person formed by such consolidation or resulting from such merger or which acquires such properties and assets, as the case may be, shall execute and deliver to the holder of this Security a supplemental agreement providing that such holder have the right there-after, during the period this Security shall be convertible as specified in Section 2(a), to convert this Security only into the kind and amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease (including any Common Stock retainable) by a holder of the number of shares of Common Stock of the Company into which this Security might have been converted immediately prior to such consolidation, merger, conveyance, sale, transfer or lease, assuming such holder of Common Stock of the Company (i) is not a person with which the Company consolidated, into which the Company merged or which merged into the Company or to which such conveyance, sale, transfer or lease was made, as the case may be (a "Constituent Person"), or an Affiliate of a Constituent Person and (ii) failed to exercise his rights of election, if any, as to the kind or amount of securities, cash and other property receivable upon

such consolidation, merger, conveyance, sale, transfer or lease (provided that if the kind or amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer, or lease is not the same for each share of Common Stock of the Company held immediately prior to such consolidation, merger, conveyance, sale, transfer or lease by others than a Constituent Person or an Affiliate thereof and in respect of which such rights of election shall not have been exercised (“Non-electing Share”), then for the purpose of this Section 2(h) the kind and amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease by the holders of 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 agreement shall provide for adjustments which, for events subsequent to the effective date of such supplemental agreement, shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 2. The above provisions of this Section 2(h) shall similarly apply to successive consolidations, mergers, conveyances, sales, transfers or leases. In this paragraph, “securities of the kind receivable” upon such consolidation, merger, conveyance, transfer, sale or lease by a holder of Common Stock means securities that, among other things, are registered and transferable under the Securities Act, and listed and approved for quotation in all securities markets, in each case to the same extent as such securities so receivable by a holder of Common Stock.

(i) The Company (a) will effect all registrations with, and obtain all approvals by, all governmental authorities that may be necessary under any United States Federal or state law (including the Securities Act of 1933, as amended (the “Securities Act”), the Securities Exchange Act of 1934, as amended, and state securities and Blue Sky laws) for the shares of Common Stock issuable upon conversion of this Security to be lawfully issued and delivered as provided herein, and thereafter publicly traded (if permissible under such Securities Act) and qualified or listed as contemplated by clause (b) below (it being understood that the Company shall not be required to register the Common Stock issuable on conversion hereof under the Securities Act, except pursuant to the Registration Rights Agreement between the Company and the initial holder of this Security); and (b) will list the shares of Common Stock required to be issued and delivered upon conversion of Securities, prior to such issuance or delivery, on each national securities exchange on which outstanding Common Stock is listed or quoted at the time of such delivery, or if the Common Stock is not then listed on any securities exchange, to qualify the Common Stock for quotation on the Nasdaq National Market or such other inter-dealer quotation system, if any, on which the Common Stock is then quoted.

(j) For purposes hereof:

“Affiliate” of any specified person means any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, “control”, when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Cash Distribution” means the distribution by the Company to all holders of its Common Stock of cash, other than any cash that is distributed upon a merger or consolidation to which Section 2(h) applies or as part of a distribution referred to in paragraph (4) of Section 2(b).

“Closing Price” means, with respect to the Common Stock of the Company, for any day, the reported last sale price per share on the American Stock Exchange, or, if the Common Stock is not admitted to trading on the American Stock Exchange, on the principal national securities exchange or inter-dealer quotation system on which the Common Stock is listed or admitted to trading, or if not admitted to trading on the Nasdaq National Market, or listed or admitted to trading on any national securities exchange or inter-dealer quotation system, the average of the closing bid and asked prices per share in the over-the-counter market as furnished by any New York Stock Exchange member firm selected from time to time by the Company for that purpose.

“Common Stock” means the Common Stock, par value \$.01 per share, of the Company authorized at the date of this instrument as originally executed. Subject to the provisions of Section 2(h), shares issuable on conversion or repurchase of this Security shall include only shares of Common Stock or shares of any class or classes of common stock resulting from any reclassification or reclassifications thereof; provided, however, that if at any time there shall be more than one such resulting class, the shares so issuable on conversion of this Security shall include shares of all such classes, and the shares of each such class then so issuable shall be substantially in the proportion which 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.

“Conversion Price” on any day means an amount equal to \$5,500 divided by the Conversion Rate in effect on such day.

“Determination Date” means, in the case of a dividend or other distribution, including the issuance of rights, options or warrants, to shareholders, the date fixed for the determination of shareholders entitled to receive such dividend or other distribution and, in the case of a tender offer, the last time that tenders could have been made pursuant to such tender offer.

“Excess Purchase Payment” means the excess, if any, of (i) the amount of cash plus the fair market value (as determined in good faith by the Company’s Board of Directors) of any non-cash consideration required to be paid with respect to one share of Common Stock acquired or to be acquired in a tender offer made by the Company or any subsidiary of the Company for all or any portion of the Common Stock over (ii) the current market price per share as of the last time that tenders could have been made pursuant to such tender offer.

“Trading Day” means (i) if the Common Stock is listed or admitted for trading on the New York or American Stock Exchange or any other national securities exchange, a day on which such exchange is open for business; (ii) if the Common Stock is admitted to trading on the Nasdaq National Market or any other system of automated dissemination of quotations of securities prices, a day on which trades may be effected through such system; or (iii) if the Common Stock is not admitted to trading on the Nasdaq National Market or listed or admitted for trading on any national securities exchange or any other system of automated dissemination of quotation of securities prices, a day on which the Common Stock is traded regular way in the over-the-counter market and for which a closing bid and a closing asked price for the Common Stock are available.

3. Right to Require Repurchase.

(a) In the event that a Change in Control (as hereinafter defined) shall occur, then the holder of this Security shall have the right, at such holder’s option, subject to the rights of holders of Senior Indebtedness, to require the Company to repurchase, and upon the exercise of such right the Company shall repurchase, this Security, or any portion of the principal amount hereof that is equal to \$5,500 or any integral multiple thereof, on the date (the “Repurchase Date”) that is ten Trading Days after the date on which the Company gives notice thereof to the holder of this Security, at a purchase price equal to 105% of the principal amount of this Security to be repurchased, plus interest accrued to the Repurchase Date (the “Repurchase Price”); provided, however, that installments of interest on this Security whose stated maturity is on or prior to the Repurchase Date shall be payable to the holder of this Security, or one or more predecessor Securities, registered as such on the relevant Record Date according to their terms. Upon surrender of this Security for repurchase, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being repurchased from the interest payment date next preceding the date of such repurchase to such date of repurchase. At the option of the Company, the Repurchase Price may be paid in cash or, subject to the fulfillment by the Company of the conditions set forth in Section 3(b), by delivery of shares of Common Stock having a fair market value equal to the Repurchase Price as described in Section 3(b). The Company agrees to give the holder of this Security notice of any Change in Control, by facsimile transmission confirmed in writing by overnight courier service, promptly and in any event within two Trading Days of the occurrence thereof.

(b) The Company may elect to pay the Repurchase Price by delivery of shares of Common Stock pursuant to Section 3(a), if and only if the following conditions have been satisfied:

(1) The shares of Common Stock deliverable in payment of the Repurchase Price shall have a fair market value as of the Repurchase Date of not less than the Repurchase Price. For purposes of this Section 3(b), the fair market value of shares of Common Stock shall be equal to 95% of the average of the Closing Prices for the five consecutive Trading Days ending on and including the third Trading Day immediately preceding the Repurchase Date;

(2) In the event any shares of Common Stock to be issued upon repurchase of this Security require registration under any Federal securities law before such shares may be freely transferable without being subject to any transfer restrictions under the Securities Act of 1933

upon issuance, such registration shall have been completed and shall have become effective prior to the Repurchase Date;

(3) In the event any shares of Common Stock to be issued upon repurchase of this Security require registration with or approval of any governmental authority under any State law or any other Federal law before such shares may be validly issued or delivered upon repurchase, such registration shall have been completed, have become effective and such approval shall have been obtained, in each case, prior to the Repurchase Date;

(4) Immediately prior to the Repurchase Date the shares of Common Stock deliverable in payment of the Repurchase Price shall have been approved for trading or listed on the American Stock Exchange or the principal national securities exchange or interdealer quotation system on which the Common Stock is then admitted to trading or listed; and

(5) All shares of Common Stock deliverable in payment of the Repurchase Price shall be issued out of the Company's authorized but unissued Common Stock and will, upon issue, be duly and validly issued and fully paid and non-assessable and free of any preemptive rights. If all of the conditions set forth in this Section 3(b) are not satisfied in accordance with the terms thereof, the Repurchase Price shall be paid by the Company only in cash.

(c) To exercise a repurchase right, the holder shall deliver to the Company on or before the 5th day prior to the Repurchase Date, together with this Security, written notice of the holder's exercise of such right, which notice shall set forth the name of the holder, the principal amount of this Security to be repurchased (and, if this Security is to be repurchased in part, the portion of the principal amount thereof to be repurchased and the name of the person in which the portion thereof to remain outstanding after such repurchase is to be registered) and a statement that an election to exercise the repurchase right is being made thereby, and, in the event that the Repurchase Price shall be paid in shares of Common Stock, the name or names (with addresses) in which the certificate or certificates for shares of Common Stock shall be issued. Such written notice shall be irrevocable, except that the right of the holder to convert this Security (or the portion hereof with respect to which the repurchase right is being exercised) shall continue until the close of business on the Repurchase Date.

(d) In the event a repurchase right shall be exercised in accordance with the terms hereof, the Company shall pay or cause to be paid to the holder the Repurchase Price in cash or shares of Common Stock, as provided above, or, if shares of Common Stock are to be paid, as promptly after the Repurchase Date as practicable, together with accrued and unpaid interest to the Repurchase Date; provided, however, that installments of interest that mature on or prior to the Repurchase Date shall be payable in cash, to the holders of this Security, or one or more predecessor Securities, registered as such at the close of business on the relevant regular record date.

(e) If this Security (or portion thereof) is surrendered for repurchase and is not so paid on the Repurchase Date, the principal amount of this Security (or such portion hereof, as the case may be) shall, until paid, bear interest to the extent permitted by applicable law from the Repurchase Date at the rate per annum borne by this Security, and shall remain convertible into Common Stock until the principal of this Security (or portion thereof, as the case may be) shall have been paid or duly provided for.

(f) If this Security is to be repurchased only in part, it shall be surrendered to the Company at the Designated Office (with, if the Company so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company duly executed by, the holder hereof or his attorney duly authorized in writing), and the Company shall execute and make available for delivery to the holder without service charge, a new Security or Securities, containing identical terms and conditions, each in an authorized denomination in aggregate principal amount equal to and in exchange for the unreurchased portion of the principal of the Security so surrendered.

(g) Any issuance of shares of Common Stock in respect of the Repurchase Price shall be deemed to have been effected immediately prior to the close of business on the Repurchase Date and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such repurchase shall be deemed to have become on the Repurchase Date the holder or holders of record of the shares represented thereby; provided, however, that any surrender for repurchase on a date when the stock transfer books of the Company shall be closed shall constitute the person or persons in whose name or names the certificate or certificates for such shares are to be issued as the record holder or holders

thereof for all purposes at the opening of business on the next succeeding day on which such stock transfer books are open. No payment or adjustment shall be made for dividends or distributions on any Common Stock issued upon repurchase of this Security declared prior to the Repurchase Date.

(h) No fractions of shares shall be issued upon repurchase of this Security. Instead of any fractional share of Common Stock which would otherwise be issuable on the repurchase of this Security, the Company will deliver to the holder its check for the current market value of such fractional share. The current market value of a fraction of a share shall be determined by multiplying the current market price of a full share by the fraction, and rounding the result to the nearest cent. For purposes of this Section 3 the current market price of a share of Common Stock shall be the Closing Price of the Common Stock on the Trading Day immediately preceding the Repurchase Date.

(i) Any issuance and delivery of certificates for shares of Common Stock on repurchase of this Security shall be made without charge to the holder of this Security for such certificates or for any stamp or transfer tax or duty in respect of the issuance or delivery of such certificates or the securities represented thereby; provided, however, that the Company shall not be required to pay any tax or duty which may be payable in respect of any transfer involved in the issuance or delivery of certificates for shares of Common Stock in a name other than that of the holder of this Security, and no such issuance or delivery shall be made unless and until the person requesting such issuance or delivery has paid to the Company the amount of any such tax or duty or has established, to the satisfaction of the Company, that such tax or duty has been paid.

(j) For purposes of this Section 3;

(1) the term “beneficial owner” shall be determined in accordance with Rule 13d-3 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934; and

(2) a “Change in Control” shall be deemed to have occurred at the time, after the original issuance of this Security, of:

(i) the acquisition by any person of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, of shares of capital stock of the Company entitling such person to exercise 50% or more of the total voting power of all shares of capital stock of the Company entitled to vote generally in the election of directors (any shares of voting stock of which such person is the beneficial owner that are not then outstanding being deemed outstanding for purposes of calculating such percentage) other than any such acquisition by the Company or any employee benefit plan of the Company;

(ii) any consolidation or merger of the Company with or into, any other person, any merger of another person with or into the Company, or any conveyance, transfer, sale, lease or other disposition of all or substantially all of the assets of the Company to another person (other than (a) any such transaction (x) which does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock and (y) pursuant to which holders of Common Stock immediately prior to such transaction have the entitlement to exercise, directly or indirectly, 50% or more of the total voting power of all shares of capital stock entitled to vote generally in the election of directors of the continuing or surviving person immediately after such transaction and (b) any merger which is effected solely to change the jurisdiction of incorporation of the Company and results in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into shares of common stock);

provided, however, that a Change in Control shall not be deemed to have occurred if the Closing Price for any five Trading Days within the period of 10 consecutive Trading Days (x) ending immediately after the later of the date of the Change in Control or the date of the public announcement of the Change in Control (in the case of a Change in Control under Clause (i) above) or (y) ending immediately prior to the date of the Change in Control (in the case of a Change in Control under Clause (ii) above) shall equal or exceed 105% of the Conversion Price in effect on each such Trading Day.

4. Events of Default.

(a) “Event of Default”, wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be occasioned by the provisions of Section 6 or be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (1) default in the payment of any interest upon this Security when it becomes due and payable, and continuance of such default for a period of 30 days; or
- (2) default by the Company in the performance of its obligations in respect of any conversion of this Security (or any portion hereof) in accordance with Section 2; or
- (3) failure by the Company to give any notice of a Change of Control required to be delivered in accordance with Section 3(a); or
- (4) default in the performance, or breach, of any material covenant or warranty of the Company herein (other than a covenant or warranty a default in the performance or breach of which is specifically dealt with elsewhere in this Section 4(a)) and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Company by the holder of this Security a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder; or
- (5) a default under any bond, debenture, note or other evidence of indebtedness for money borrowed by the Company, or under any agreement, mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any indebtedness for money borrowed by the Company, with a principal amount then outstanding in excess of \$1,000,000, whether such indebtedness now exists or shall hereafter be created, which default shall constitute a failure to pay the principal of such indebtedness (in whole or in any part greater than \$1,000,000) when due and payable or shall have resulted in such indebtedness (in whole or in any part greater than \$1,000,000) becoming or being declared due and payable prior to the date on which it would otherwise have become due and payable, without such indebtedness having been discharged, or such acceleration having been rescinded or annulled, within a period of 30 days after there shall have been given, by registered or certified mail, to the Company by the holder of this Security a written notice specifying such default and requiring the Company to cause such indebtedness to be discharged or cause such acceleration to be rescinded or annulled and stating that such notice is a “Notice of Default” hereunder; or
- (6) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization or other similar law or (ii) a decree or order adjudging the Company bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days; or
- (7) the commencement by the Company of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or similar relief under any applicable Federal or State law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of

creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action.

(b) If an Event of Default (other than an Event of Default specified in Section 4(a)(6) or 4(a)(7)) occurs and is continuing, then in every such case the holder of this Security may declare the principal hereof to be due and payable immediately, by a notice in writing to the Company, and upon any such declaration such principal and all accrued interest thereon shall become immediately due and payable. If an Event of Default specified in Section 4(a)(6) or 4(a)(7) occurs and is continuing, the principal of, and accrued interest on, this Security shall ipso facto become immediately due and payable without any declaration or other act of the holders.

5. Consolidation, Merger, Etc.,

(a) The Company shall not consolidate with or merge into any other person or, directly or indirectly, convey, transfer, sell or lease all or substantially all of its properties and assets to any person, and the Company shall not permit any person to consolidate with or merge into the Company or, directly or indirectly, convey, transfer, sell or lease all or substantially all of its properties and assets to the Company, unless:

(1) in case the Company shall consolidate with or merge into another person or convey, transfer, sell or lease all or substantially all of its properties and assets to any person, the person formed by such consolidation or into which the Company is merged or the person which acquires by conveyance, transfer or sale, or which leases, all or substantially all the properties and assets of the Company shall be a corporation, limited liability company, partnership or trust, shall be organized and validly existing and shall expressly assume, by an agreement supplemental hereto, executed and delivered to the holder of this Security, the due and punctual payment of the principal of and interest on this Security and the performance or observance of every covenant of this Security on the part of the Company to be performed or observed, including the conversion rights provided herein;

(2) immediately after giving effect to such transaction and treating any indebtedness which becomes an obligation of the Company or a subsidiary of the Company as a result of such transaction as having been incurred by the Company or such subsidiary of the Company at the time of such transaction, 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; and

(3) the Company has delivered to the holder of this Security an officers' certificate stating that such consolidation, merger, conveyance, transfer, sale or lease and, if a supplemental agreement is required in connection with such transaction, such supplemental agreement, comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

(b) Upon any consolidation of the Company with, or merger of the Company into, any other person or any conveyance, transfer, sale or lease of all or substantially all of the properties and assets of the Company in accordance with Section 5(a), the successor person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer, sale or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Security with the same effect as if such successor person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor person shall be relieved of all obligations and covenants under this Security.

6. Subordination. The Company agrees, and the holder of this Security by accepting a Security agrees, that the indebtedness evidenced by this Security is subordinated in right of payment to the prior payment in full of all Senior Indebtedness, and that the subordination is for the benefit of the holders of Senior Indebtedness.

“Senior Indebtedness” means:

(a) the principal of, interest (including, to the extent permitted by applicable law, interest on or after the commencement of any bankruptcy or similar proceeding whether or not representing an allowed claim in such proceeding) on and any other amounts owing with respect to (i) any indebtedness of the Company,

now or hereafter outstanding, in respect of borrowed money (other than the Securities), (ii) any indebtedness of the Company, now or hereafter outstanding, evidenced by a bond, note, debenture, capitalized lease, letter of credit or other similar instrument, (iii) any other written obligation of the Company, now or hereafter outstanding, to pay money issued or assumed as all or part of the consideration for the acquisition of property, assets or securities and (iv) any guaranty or endorsement (other than for collection or deposit in the ordinary course of business) or discount with recourse of, or other agreement (contingent or otherwise) to purchase, repurchase or otherwise acquire, to supply or advance funds or to become liable with respect to (directly or indirectly), any indebtedness or obligation of any person of the type referred to in the preceding subclauses (i), (ii) and (iii) now or hereafter outstanding; and

(b) any refundings, renewals or extensions of any indebtedness or other obligation described in clause (a) above.

Notwithstanding the foregoing, if, by the terms of the instrument creating or evidencing any indebtedness or obligation referred to in clauses (a) and (b) above, it is expressly provided that such indebtedness or obligation is not senior in right of payment to this Security, such indebtedness or obligation shall not be included as Senior Indebtedness.

7. Other.

(a) No provision of this Security shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, and interest on this Security at the times, places and rate, and in the coin or currency, herein prescribed or to convert this Security as herein provided.

(b) The Company will give prompt written notice to the holder of this Security of any change in the location of the Designated Office.

(c) The transfer of this Security is registrable on the Security Register of the Company upon surrender of this Security for registration of transfer at the Designated Office, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees. Such Securities are issuable only in registered form without coupons in denominations of \$5,500 and any integral multiple thereof. No service charge shall be made for any such registration of transfer, but the Company may require payment of a sum sufficient to recover any tax or other governmental charge payable in connection therewith. Prior to due presentation of this Security for registration of transfer, the Company and any agent of the Company may treat the person in whose name this Security is registered, as the owner thereof for all purposes, whether or not this Security be overdue, and neither the Company, nor any such agent shall be affected by notice to the contrary.

Notwithstanding any other provision of this Security, this Security and the shares of Common Stock issuable upon conversion hereof may only be transferred by the holder of this Security (a) in the case of the Common Stock only, in a public offering registered under the Securities Act of 1933, as amend; (b) to one or more investors, in one or more transactions, any one of whom, after such purchase, would hold not more than 5% of the shares of Common Stock then outstanding (assuming conversion of any portion of this Security so transferred); (c) to any person or entity that already controls more than 50% of the voting securities of the Company prior to such transfer; (d) in a transaction that complies with the manner of sale restrictions of Rule 144 under the Securities Act; or (e) in a transaction approved in advance by the Federal Reserve Board. The holder of this Security, by acceptance thereof, shall be deemed to have agreed to the foregoing restriction on transfers_

(d) The holder agrees that, at the written request of the Company or any managing underwriter of any underwritten public offering of securities of the Company, such holder shall not, without the prior written consent of the Company or such managing underwriter, sell, make any short sale of, loan, grant any option for the purchase of, pledge, encumber, or otherwise dispose of, or exercise any registration rights with respect to, any Securities or Common Stock of the Company during the 180-day period commencing on the effective date of the registration statement relating to such underwritten public offering of the Company's securities; provided, that each officer and director of the Company shall have entered into a similar agreement.

(e) This Security shall be governed by and construed in accordance with the laws of the State of Texas, United States of America.

IN WITNESS WHEREOF, the Company has caused this Security to be duly executed under its corporate seal.

Dated: September 13, 2000

By: /s/Kerry P.
Gray
Name: Kerry P.
Gray
Title: Chief
Executive Officer

Attest:

/s/Stephen B. Thompson
Name: Stephen B. Thompson
Title: Vice President and CFO

ELECTION OF HOLDER TO REQUIRE REPURCHASE

1. Pursuant to Section 3(a) of this Security, the undersigned hereby elects to have all or a portion of this Security repurchased by the Company.

2. The undersigned hereby directs the Company to pay [choose one] (a) it or (b) Name: _____; address: _____; Social Security or Other Taxpayer Identification Number, if any: _____, an amount in cash or, at the Company's election, Common Stock valued as set forth in the Security, equal to 100% of the principal amount to be repurchased (as set forth below), plus interest accrued to the Repurchase Date, as provided herein.

Dated: _____

Signature

Principal amount to be repurchased
(an integral multiple of \$5,500): _____

Remaining principal amount following such repurchase
(not less than \$5,500): _____

NOTICE: The signature to the foregoing Election must correspond to the name as written upon the face of this Security in every particular, without alteration or any change whatsoever.

CONVERSION NOTICE

The undersigned holder of this Security hereby irrevocably exercises the option to convert this Security, or any portion of the principal amount hereof (which is an integral multiple of \$5,500) below designated, into shares of Common Stock in accordance with the terms of this Security, and directs that such shares, together with a check in payment for any fractional share and any Security representing any unconverted principal amount hereof, be delivered to and be registered in the name of the undersigned unless a different name has been indicated below. If shares of Common Stock or Securities are to be registered in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Dated: _____

Signature

If only a portion of the Securities is to be converted, please indicate:

If shares or Securities are to be registered in the name of a person other than the holder, please print such person's name and address:

1. Principal amount to be converted:
\$ _____

2. Principal amount and denomination of Security representing unconverted principal amount to be issued:

Name

Amount: \$ _____

Address

Denominations: \$ _____
(any integral multiple of \$5,500)

Social Security or other Taxpayer Identification Number, if any

THIS SECURITY AND ANY SECURITIES ISSUABLE PURSUANT HERETO HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAW, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT AND IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

7.0% (SUBJECT TO ADJUSTMENT) CONVERTIBLE SUBORDINATED NOTE DUE
SEPTEMBER 13, 2005

No. R-1

\$698,500.00

Access Pharmaceuticals, Inc., a corporation duly organized and existing under the laws of Delaware (the "Company") for value received, hereby promises to pay to Oracle Institutional Partners LP, or registered assigns, the principal sum of Six Hundred Ninety Eight Thousand Five Hundred Dollars (\$698,500.00) on September 13, 2005, and to pay interest thereon, from September 13, 2000, or from the most recent interest payment date to which interest has been paid or duly provided for, annually on September 13 in each year, commencing September 13, 2001, at the rate of 7.0% per annum provided, that if the holder elects to extend the Redemption Commencement Date and the Conversion Commencement Date as provided in Sections 1 and 2 below, the rate shall adjust to 7.7% per annum commencing September 13, 2001 and continuing for the balance of the term of this Note, until the principal hereof is due, and at the rate of 10% per annum on any overdue principal and premium, if any, and, to the extent permitted by law, on any overdue interest. The interest so payable, and punctually paid or duly provided for, on any interest payment date will be paid to the person in whose name this Security (or one or more predecessor Securities) is registered at the close of business on the regular record date for such interest, which shall be September 1 (whether or not a business day), as the

case may be, next preceding such interest payment date. Payment of the principal of this Security shall be made upon the surrender of this Security to the Company, at its office at 2600 N. Stemmons Freeway, Suite 176, Dallas, Texas 75207-2107 (or such other office within the United States as shall be notified by the Company to the holder hereof) (the "Designated Office"), 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, by transfer to a U.S. dollar account maintained by the payee with a bank in the United States of America. Payment of interest on this Security shall be made, at the election of the holder, either (a) by transfer of cash to a U.S. dollar account (such a transfer to be made only if the holder shall have furnished wire instructions in writing to the Company no later than 15 days prior to the relevant payment date) maintained by the payee with a bank in the United States of America, provided that if the holder shall not have timely furnished wire instructions in writing to the Company, payment of interest on this Security shall be made by a check mailed to the address of the person entitled thereto as such address shall appear in the Company security register, or (b) by delivery of shares of Common Stock with a fair market value equal to 100% of the average Closing Prices for the five consecutive Trading Days ending on and including the third Trading Day immediately preceding the interest payment date.

1. Redemption. This Security is subject to redemption upon not less than 30 nor more than 60 days' notice by mail, at any time on or after September 30, 2001 (the "Redemption Commencement Date"), as a whole or in part, (in any amount that is an integral multiple of \$5,500) at the election of the Company, at a redemption price of 100% of the principal amount thereof, together with accrued interest to the redemption date, but interest installments whose stated maturity is on or prior to such redemption date will be payable to the holder of this Security, or one or more predecessor Securities, of record at the close of business on the relevant record dates referred to on the face hereof; provided that this Security may not be redeemed on or after September 30, 2001 unless the Closing Price of the Company Stock exceeds 1.5 times the Conversion Price for any period of 10 consecutive Trading Days commencing on or after August 30, 2001 and ending not less than two Trading Days prior to the Company's giving notice of such redemption to the holder hereof; further provided, that the holder of this Security may extend the Redemption Commencement Date to December 31, 2002 by giving written notice to the Company on or before July 1, 2001 of its election to so extend the Redemption Commencement Date and the Conversion Commencement Date (as defined below).

2. Conversion.

(a) The holder of this Security is entitled at any time on or after September 13, 2001 (the "Conversion Commencement Date") and before the close of business on September 13, 2005 (or, in case this Security or a portion hereof is called for redemption or the holder hereof has exercised his right to require the Company to repurchase this Security or a portion hereof, then in respect of this Security or such portion hereof, as the case may be, until and including, but (unless the Company defaults in making the payment due upon redemption or repurchase, as the case may be) not after, the close of business on the redemption date or the Repurchase Date, as the case may be) to convert this Security (or any portion of the principal amount hereof that is an integral multiple of \$5,500), into fully paid and nonassessable shares (calculated as to each conversion to the nearest 1/100 of a share) of Common Stock of the Company at the rate of 1,000 shares of Common Stock (the "Conversion Rate") for each \$5,500 principal amount of Security by surrender of this Security, duly endorsed or assigned to the Company or in blank to the Company at the Designated Office, accompanied by written notice to the Company that the holder hereof elects to convert this Security (or if less than the entire principal amount hereof is to be converted, specifying the portion hereof to be converted) provided, that the holder of this Security may extend the Conversion Commencement Date to December 13, 2002 by giving written notice to the Company on or before July 1, 2001 of its election to so extend the Conversion Commencement Date and Redemption Commencement Date. Upon surrender of this Security for conversion, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being converted from the interest payment date next preceding the date of such conversion to such date of conversion. No payment or adjustment is to be made on conversion for dividends on the Common Stock issued on conversion hereof. No fractions of shares or scrip representing fractions of shares will be issued on conversion, but instead of any fractional interest, the Company shall pay a cash adjustment, computed on the basis of the Closing Price of the Common Stock on the date of conversion, or, at its option, the Company shall round up to the next higher whole share.

(b) The Conversion Rate shall be subject to adjustments from time to time as follows:

(1) In case the Company shall pay or make a dividend or other distribution on any class of capital stock of the Company payable in shares of Common Stock, the Conversion Rate in effect at the opening of business on the day following the Determination Date for such dividend or other distribution shall be increased by dividing such Conversion Rate by a

fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such increase to become effective immediately after the opening of business on the day following such Determination Date. For the purposes of this paragraph (1), 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.

(2) Subject to the last sentence of paragraph (7) of this Section 2(b), in case the Company shall issue rights, options or warrants to all holders of its Common Stock entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on the Determination Date for such distribution, the Conversion Rate in effect at the opening of business on the day following such Determination Date shall be increased by dividing such Conversion Rate by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date plus the number of shares of Common Stock which the aggregate of the offering price of the total number of shares of Common Stock so offered for subscription or purchase would purchase at such current market price and the denominator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date plus the number of shares of Common Stock so offered for subscription or purchase, such increase to become effective immediately after the opening of business on the day following such Determination Date. For the purposes of this paragraph (2), 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.

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

(4) Subject to the last sentence of paragraph (7) of this Section 2(b), in case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock evidences of its indebtedness, shares of any class of capital stock, or other property (including securities, but excluding (i) any rights, options or warrants referred to in paragraph (2) of this Section 2(b), (ii) any dividend or distribution paid exclusively in cash, (iii) any dividend or distribution referred to in paragraph (1) of this Section 2(b) and (iv) any merger or consolidation to which Section 2(h) applies), the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on the Determination Date for such distribution by a fraction of which the numerator shall be the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date less the then fair market value (as determined in good faith by the Board of Directors of the Company) of the portion of the assets, shares or evidences of indebtedness so distributed applicable to one share of Common Stock and the denominator shall be such current market price per share of the Common Stock, such adjustment to become effective immediately prior to the opening of business on the day following such Determination Date. If the Board of Directors determines the fair market value of any distribution for purposes of this paragraph (4) by reference to the actual or when issued trading market for any securities comprising such distribution, it must in doing so consider the prices in such market over the same period used in computing the current market price per share pursuant to paragraph (8) of this Section 2(b).

(5) In case the Company shall, by dividend or otherwise, make a Cash Distribution, then, and

in each such case, immediately after the close of business on the Determination Date for such Cash Distribution, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on such Determination Date by a fraction (a) the numerator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date less an amount equal to the quotient of (1) the amount of such Cash Distribution divided by (2) the number of shares of Common Stock outstanding on such Determination Date and (b) the denominator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date.

(6) In case the Company or any Subsidiary shall make an Excess Purchase Payment, then, and in each such case, immediately prior to the opening of business on the day after the tender offer in respect of which such Excess Purchase Payment is to be made expires, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on the Determination Date for such tender offer by a fraction (a) the numerator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock at such Determination Date less the amount of such Excess Purchase Payment and (b) the denominator of which shall be equal to the current market price per share of the Common Stock (determined as provided in paragraph (8) of this Section 2(b)) as of such Determination Date.

(7) The reclassification of Common Stock into securities other than Common Stock (other than any reclassification upon a consolidation or merger to which Section 2(h) applies) shall be deemed to involve (a) a distribution of such securities other than Common Stock to all holders of Common Stock (and the effective date of such reclassification shall be deemed to be the Determination Date), and (b) a subdivision or combination, as the case may be, of the number of shares of Common Stock outstanding immediately prior to such reclassification into the number of shares of Common Stock outstanding immediately thereafter (and the effective date of such reclassification shall be deemed to be “the day upon which such subdivision becomes effective” or “the day upon which such combination becomes effective”, as the case may be, and “the day upon which such subdivision or combination becomes effective” within the meaning of paragraph (3) of this Section 2(b)). Rights or warrants issued by the Company to all holders of its Common Stock entitling the holders thereof to subscribe for or purchase shares of Common Stock, which rights or warrants (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, in each case in clauses (i) through (iii) until the occurrence of a specified event or events (“Trigger Event”), shall for purposes of this Section 2(b) not be deemed issued until the occurrence of the earliest Trigger Event.

(8) For the purpose of any computation under paragraphs (2), (4), (5) or (6) of this Section 2(b) the current market price per share of Common Stock on any date shall be calculated by the Company and be deemed to be the average of the daily Closing Prices for the five consecutive Trading Days selected by the Company commencing not more than 10 Trading Days before, and ending not later than, the earlier of the day in question and the day before the “ex” date with respect to the issuance or distribution requiring such computation. For purposes of this paragraph, the term “ex date”, when used with respect to any issuance or distribution, means the first date on which the Common Stock trades regular way in the applicable securities market or on the applicable securities exchange without the right to receive such issuance or distribution.

(9) No adjustment in the Conversion Rate shall be required unless such adjustment (plus any adjustments not previously made by reason of this paragraph (9)) would require an increase or decrease of at least one percent in such rate; provided, however, that any adjustments which by reason of this paragraph (9) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 2 shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be.

(10) The Company may make such increases in the Conversion Rate, for the remaining term of the Securities or any shorter term, in addition to those required by paragraphs (1), (2), (3),

(4), (5) and (6) of this Section 2(b) as it considers to be advisable in order to avoid or diminish any income tax to any holders of shares of Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to purchase or subscribe for stock or from any event treated as such for income tax purposes.

(c) Whenever the Conversion Rate is adjusted as provided in Section 2(b), the Company shall compute the adjusted Conversion Rate in accordance with Section 2(b) and shall prepare a certificate signed by the chief financial officer of the Company setting forth the adjusted Conversion Rate and showing in reasonable detail the facts upon which such adjustment is based, and shall promptly deliver such certificate to the holder of Security.

(d) In case:

(1) the Company shall declare a dividend or other distribution on its Common Stock payable (i) otherwise than exclusively in cash or (ii) exclusively in cash in an amount that would require any adjustment pursuant to Section 2(b); or

(2) the Company shall authorize the granting to the holders of its Common Stock of rights, options or warrants to subscribe for or purchase any shares of capital stock of any class or of any other rights; or

(3) of any reclassification of the Common Stock of the Company, or of any consolidation, merger or share exchange to which the Company is a party and for which approval of any shareholders of the Company is required, or of the conveyance, sale, transfer or lease of all or substantially all of the assets of the Company; or

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

(5) the Company or any Subsidiary shall commence a tender offer for all or a portion of the Company's outstanding shares of Common Stock (or shall amend any such tender offer);

then the Company shall cause to be delivered to the holder of this Security, at least 10 days prior to the applicable record, expiration or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, rights, options 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, rights, options or warrants are to be determined, (y) the date on which the right to make tenders under such tender offer expires or (z) the date on which such reclassification, consolidation, merger, conveyance, transfer, sale, lease, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, conveyance, transfer, sale, lease, dissolution, liquidation or winding up. Neither the failure to give such notice nor any defect therein shall affect the legality or validity of the proceedings described in clauses (1) through (5) of this Section 2(d).

(e) The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of the Security, the full number of shares of Common Stock then issuable upon the conversion of this Security.

(f) Except as provided in the next sentence, the Company will pay any and all stamp or transfer taxes and duties that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of the Security. The Company shall not, however, be required to pay any tax or duty which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the holder of this Security, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

(g) The Company agrees that all shares of Common Stock which may be delivered upon conversion of the Security, upon such delivery, will have been duly authorized and validly issued and will be fully paid and nonassessable (and shall be issued out of the Company's authorized but unissued Common Stock) and, except as provided in Section 2(f), the Company will pay all stamp or transfer taxes, liens and charges with respect to the issue thereof.

(h) In case of any consolidation of the Company with any other person, any merger of the Company into another person or of another person into the Company (other than a merger which does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock of the Company) or any conveyance, sale, transfer or lease of all or substantially all of the properties and assets of the Company, the person formed by such consolidation or resulting from such merger or which acquires such properties and assets, as the case may be, shall execute and deliver to the holder of this Security a supplemental agreement providing that such holder have the right there-after, during the period this Security shall be convertible as specified in Section 2(a), to convert this Security only into the kind and amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease (including any Common Stock retainable) by a holder of the number of shares of Common Stock of the Company into which this Security might have been converted immediately prior to such consolidation, merger, conveyance, sale, transfer or lease, assuming such holder of Common Stock of the Company (i) is not a person with which the Company consolidated, into which the Company merged or which merged into the Company or to which such conveyance, sale, transfer or lease was made, as the case may be (a “Constituent Person”), or an Affiliate of a Constituent Person and (ii) failed to exercise his rights of election, if any, as to the kind or amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease (provided that if the kind or amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer, or lease is not the same for each share of Common Stock of the Company held immediately prior to such consolidation, merger, conveyance, sale, transfer or lease by others than a Constituent Person or an Affiliate thereof and in respect of which such rights of election shall not have been exercised (“Non-electing Share”), then for the purpose of this Section 2(h) the kind and amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease by the holders of 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 agreement shall provide for adjustments which, for events subsequent to the effective date of such supplemental agreement, shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 2. The above provisions of this Section 2(h) shall similarly apply to successive consolidations, mergers, conveyances, sales, transfers or leases. In this paragraph, “securities of the kind receivable” upon such consolidation, merger, conveyance, transfer, sale or lease by a holder of Common Stock means securities that, among other things, are registered and transferable under the Securities Act, and listed and approved for quotation in all securities markets, in each case to the same extent as such securities so receivable by a holder of Common Stock.

(i) The Company (a) will effect all registrations with, and obtain all approvals by, all governmental authorities that may be necessary under any United States Federal or state law (including the Securities Act of 1933, as amended (the “Securities Act”), the Securities Exchange Act of 1934, as amended, and state securities and Blue Sky laws) for the shares of Common Stock issuable upon conversion of this Security to be lawfully issued and delivered as provided herein, and thereafter publicly traded (if permissible under such Securities Act) and qualified or listed as contemplated by clause (b) below (it being understood that the Company shall not be required to register the Common Stock issuable on conversion hereof under the Securities Act, except pursuant to the Registration Rights Agreement between the Company and the initial holder of this Security); and (b) will list the shares of Common Stock required to be issued and delivered upon conversion of Securities, prior to such issuance or delivery, on each national securities exchange on which outstanding Common Stock is listed or quoted at the time of such delivery, or if the Common Stock is not then listed on any securities exchange, to qualify the Common Stock for quotation on the Nasdaq National Market or such other inter-dealer quotation system, if any, on which the Common Stock is then quoted.

(j) For purposes hereof:

“Affiliate” of any specified person means any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, “control”, when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Cash Distribution” means the distribution by the Company to all holders of its Common Stock of cash, other than any cash that is distributed upon a merger or consolidation to which Section 2(h) applies or as part of a distribution referred to in paragraph (4) of Section 2(b).

“Closing Price” means, with respect to the Common Stock of the Company, for any day, the reported last sale price per share on the American Stock Exchange, or, if the Common Stock is not admitted to trading on the American Stock Exchange, on the principal national securities exchange or inter-dealer quotation system on which the Common Stock is listed or admitted to trading, or if not admitted to trading on the Nasdaq National Market, or listed or admitted to trading on any national securities exchange or inter-dealer quotation system, the average of the closing bid and asked prices per share in the over-the-counter market as furnished by any New York Stock Exchange member firm selected from time to time by the Company for that purpose.

“Common Stock” means the Common Stock, par value \$.91 per share, of the Company authorized at the date of this instrument as originally executed. Subject to the provisions of Section 2(h), shares issuable on conversion or repurchase of this Security shall include only shares of Common Stock or shares of any class or classes of common stock resulting from any reclassification or reclassifications thereof; provided, however, that if at any time there shall be more than one such resulting class, the shares so issuable on conversion of this Security shall include shares of all such classes, and the shares of each such class then so issuable shall be substantially in the proportion which 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.

“Conversion Price” on any day means an amount equal to \$5,500 divided by the Conversion Rate in effect on such day.

“Determination Date” means, in the case of a dividend or other distribution, including the issuance of rights, options or warrants, to shareholders, the date fixed for the determination of shareholders entitled to receive such dividend or other distribution and, in the case of a tender offer, the last time that tenders could have been made pursuant to such tender offer.

“Excess Purchase Payment” means the excess, if any, of (i) the amount of cash plus the fair market value (as determined in good faith by the Company’s Board of Directors) of any non-cash consideration required to be paid with respect to one share of Common Stock acquired or to be acquired in a tender offer made by the Company or any subsidiary of the Company for all or any portion of the Common Stock over (ii) the current market price per share as of the last time that tenders could have been made pursuant to such tender offer.

“Trading Day” means (i) if the Common Stock is listed or admitted for trading on the New York or American Stock Exchange or any other national securities exchange, a day on which such exchange is open for business; (ii) if the Common Stock is admitted to trading on the Nasdaq National Market or any other system of automated dissemination of quotations of securities prices, a day on which trades may be effected through such system; or (iii) if the Common Stock is not admitted to trading on the Nasdaq National Market or listed or admitted for trading on any national securities exchange or any other system of automated dissemination of quotation of securities prices, a day on which the Common Stock is traded regular way in the over-the-counter market and for which a closing bid and a closing asked price for the Common Stock are available.

3. Right to Require Repurchase.

(a) In the event that a Change in Control (as hereinafter defined) shall occur, then the holder of this Security shall have the right, at such holder’s option, subject to the rights of holders of Senior Indebtedness, to require the Company to repurchase, and upon the exercise of such right the Company shall repurchase, this Security, or any portion of the principal amount hereof that is equal to \$5,500 or any integral multiple thereof, on the date (the “Repurchase Date”) that is ten Trading Days after the date on which the Company gives notice thereof to the holder of this Security, at a purchase price equal to 105% of the principal amount of this Security to be repurchased, plus interest accrued to the Repurchase Date (the “Repurchase Price”); provided, however, that installments of interest on this Security whose stated maturity is on or prior to the Repurchase Date shall be payable to the holder of this Security, or one or more predecessor Securities, registered as such on the relevant Record Date according to their terms. Upon surrender of this Security for repurchase, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being repurchased from the interest payment date next preceding the date of such repurchase to such date of repurchase. At the option of the Company, the Repurchase Price may be paid in cash or, subject to the fulfillment by the Company of the conditions set forth in Section 3(b), by delivery of shares of Common Stock having a fair market value equal to the

Repurchase Price as described in Section 3(b). The Company agrees to give the holder of this Security notice of any Change in Control, by facsimile transmission confirmed in writing by overnight courier service, promptly and in any event within two Trading Days of the occurrence thereof.

(b) The Company may elect to pay the Repurchase Price by delivery of shares of Common Stock pursuant to Section 3(a), if and only if the following conditions have been satisfied:

(1) The shares of Common Stock deliverable in payment of the Repurchase Price shall have a fair market value as of the Repurchase Date of not less than the Repurchase Price. For purposes of this Section 3(b), the fair market value of shares of Common Stock shall be equal to 95% of the average of the Closing Prices for the five consecutive Trading Days ending on and including the third Trading Day immediately preceding the Repurchase Date;

(2) In the event any shares of Common Stock to be issued upon repurchase of this Security require registration under any Federal securities law before such shares may be freely transferable without being subject to any transfer restrictions under the Securities Act of 1933 upon issuance, such registration shall have been completed and shall have become effective prior to the Repurchase Date;

(3) In the event any shares of Common Stock to be issued upon repurchase of this Security require registration with or approval of any governmental authority under any State law or any other Federal law before such shares may be validly issued or delivered upon repurchase, such registration shall have been completed, have become effective and such approval shall have been obtained, in each case, prior to the Repurchase Date;

(4) Immediately prior to the Repurchase Date the shares of Common Stock deliverable in payment of the Repurchase Price shall have been approved for trading or listed on the American Stock Exchange or the principal national securities exchange or interdealer quotation system on which the Common Stock is then admitted to trading or listed; and

(5) All shares of Common Stock deliverable in payment of the Repurchase Price shall be issued out of the Company's authorized but unissued Common Stock and will, upon issue, be duly and validly issued and fully paid and non-assessable and free of any preemptive rights.

If all of the conditions set forth in this Section 3(b) are not satisfied in accordance with the terms thereof, the Repurchase Price shall be paid by the Company only in cash.

(c) To exercise a repurchase right, the holder shall deliver to the Company on or before the 5th day prior to the Repurchase Date, together with this Security, written notice of the holder's exercise of such right, which notice shall set forth the name of the holder, the principal amount of this Security to be repurchased (and, if this Security is to be repurchased in part, the portion of the principal amount thereof to be repurchased and the name of the person in which the portion thereof to remain outstanding after such repurchase is to be registered) and a statement that an election to exercise the repurchase right is being made thereby, and, in the event that the Repurchase Price shall be paid in shares of Common Stock, the name or names (with addresses) in which the certificate or certificates for shares of Common Stock shall be issued. Such written notice shall be irrevocable, except that the right of the holder to convert this Security (or the portion hereof with respect to which the repurchase right is being exercised) shall continue until the close of business on the Repurchase Date.

(d) In the event a repurchase right shall be exercised in accordance with the terms hereof, the Company shall pay or cause to be paid to the holder the Repurchase Price in cash or shares of Common Stock, as provided above, or, if shares of Common Stock are to be paid, as promptly after the Repurchase Date as practicable, together with accrued and unpaid interest to the Repurchase Date; provided, however, that installments of interest that mature on or prior to the Repurchase Date shall be payable in cash, to the holders of this Security, or one or more predecessor Securities, registered as such at the close of business on the relevant regular record date.

(e) If this Security (or portion thereof) is surrendered for repurchase and is not so paid on the Repurchase Date, the principal amount of this Security (or such portion hereof, as the case may be) shall, until paid, bear interest to the extent permitted by applicable law from the Repurchase Date at the rate per annum borne by this Security, and shall remain convertible into Common Stock until the principal of this Security

(or portion thereof, as the case may be) shall have been paid or duly provided for.

(f) If this Security is to be repurchased only in part, it shall be surrendered to the Company at the Designated Office (with, if the Company so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company duly executed by, the holder hereof or his attorney duly authorized in writing), and the Company shall execute and make available for delivery to the holder without service charge, a new Security or Securities, containing identical terms and conditions, each in an authorized denomination in aggregate principal amount equal to and in exchange for the unreurchased portion of the principal of the Security so surrendered.

(g) Any issuance of shares of Common Stock in respect of the Repurchase Price shall be deemed to have been effected immediately prior to the close of business on the Repurchase Date and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such repurchase shall be deemed to have become on the Repurchase Date the holder or holders of record of the shares represented thereby; provided, however, that any surrender for repurchase on a date when the stock transfer books of the Company shall be closed shall constitute the person or persons in whose name or names the certificate or certificates for such shares are to be issued as the record holder or holders thereof for all purposes at the opening of business on the next succeeding day on which such stock transfer books are open. No payment or adjustment shall be made for dividends or distributions on any Common Stock issued upon repurchase of this Security declared prior to the Repurchase Date.

(h) No fractions of shares shall be issued upon repurchase of this Security. Instead of any fractional share of Common Stock which would otherwise be issuable on the repurchase of this Security, the Company will deliver to the holder its check for the current market value of such fractional share. The current market value of a fraction of a share shall be determined by multiplying the current market price of a full share by the fraction, and rounding the result to the nearest cent. For purposes of this Section 3 the current market price of a share of Common Stock shall be the Closing Price of the Common Stock on the Trading Day immediately preceding the Repurchase Date.

(i) Any issuance and delivery of certificates for shares of Common Stock on repurchase of this Security shall be made without charge to the holder of this Security for such certificates or for any stamp or transfer tax or duty in respect of the issuance or delivery of such certificates or the securities represented thereby; provided, however, that the Company shall not be required to pay any tax or duty which may be payable in respect of any transfer involved in the issuance or delivery of certificates for shares of Common Stock in a name other than that of the holder of this Security, and no such issuance or delivery shall be made unless and until the person requesting such issuance or delivery has paid to the Company the amount of any such tax or duty or has established, to the satisfaction of the Company, that such tax or duty has been paid.

(j) For purposes of this Section 3;

(1) the term “beneficial owner” shall be determined in accordance with Rule 13d-3 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934; and

(2) a “Change in Control” shall be deemed to have occurred at the time, after the original issuance of this Security, of:

(i) the acquisition by any person of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, of shares of capital stock of the Company entitling such person to exercise 50% or more of the total voting power of all shares of capital stock of the Company entitled to vote generally in the election of directors (any shares of voting stock of which such person is the beneficial owner that are not then outstanding being deemed outstanding for purposes of calculating such percentage) other than any such acquisition by the Company or any employee benefit plan of the Company;

(ii) any consolidation or merger of the Company with or into, any other person, any merger of another person with or into the Company, or any conveyance, transfer, sale, lease or other disposition of all or substantially all of the assets of the Company to another person (other than (a) any such transaction (x) which

does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock and (y) pursuant to which holders of Common Stock immediately prior to such transaction have the entitlement to exercise, directly or indirectly, 50% or more of the total voting power of all shares of capital stock entitled to vote generally in the election of directors of the continuing or surviving person immediately after such transaction and (b) any merger which is effected solely to change the jurisdiction of incorporation of the Company and results in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into shares of common stock);

provided, however, that a Change in Control shall not be deemed to have occurred if the Closing Price for any five Trading Days within the period of 10 consecutive Trading Days (x) ending immediately after the later of the date of the Change in Control or the date of the public announcement of the Change in Control (in the case of a Change in Control under Clause (i) above) or (y) ending immediately prior to the date of the Change in Control (in the case of a Change in Control under Clause (ii) above) shall equal or exceed 105% of the Conversion Price in effect on each such Trading Day.

4. Events of Default.

(a) "Event of Default", wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be occasioned by the provisions of Section 6 or be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of any interest upon this Security when it becomes due and payable, and continuance of such default for a period of 30 days; or

(2) default by the Company in the performance of its obligations in respect of any conversion of this Security (or any portion hereof) in accordance with Section 2; or

(3) failure by the Company to give any notice of a Change of Control required to be delivered in accordance with Section 3(a); or

(4) default in the performance, or breach, of any material covenant or warranty of the Company herein (other than a covenant or warranty a default in the performance or breach of which is specifically dealt with elsewhere in this Section 4(a)) and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Company by the holder of this Security a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(5) a default under any bond, debenture, note or other evidence of indebtedness for money borrowed by the Company, or under any agreement, mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any indebtedness for money borrowed by the Company, with a principal amount then outstanding in excess of \$1,000,000, whether such indebtedness now exists or shall hereafter be created, which default shall constitute a failure to pay the principal of such indebtedness (in whole or in any part greater than \$1,000,000) when due and payable or shall have resulted in such indebtedness (in whole or in any part greater than \$1,000,000) becoming or being declared due and payable prior to the date on which it would otherwise have become due and payable, without such indebtedness having been discharged, or such acceleration having been rescinded or annulled, within a period of 30 days after there shall have been given, by registered or certified mail, to the Company by the holder of this Security a written notice specifying such default and requiring the Company to cause such indebtedness to be discharged or cause such acceleration to be rescinded or annulled and stating that such notice is a "Notice of Default" hereunder; or

(6) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization or other similar law or (ii) a decree or order adjudging the Company bankrupt or insolvent, or approving as properly filed a petition

seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days; or

(7) the commencement by the Company of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or similar relief under any applicable Federal or State law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action.

(b) If an Event of Default (other than an Event of Default specified in Section 4(a)(6) or 4(a)(7)) occurs and is continuing, then in every such case the holder of this Security may declare the principal hereof to be due and payable immediately, by a notice in writing to the Company, and upon any such declaration such principal and all accrued interest thereon shall become immediately due and payable. If an Event of Default specified in Section 4(a)(6) or 4(a)(7) occurs and is continuing, the principal of, and accrued interest on, this Security shall ipso facto become immediately due and payable without any declaration or other act of the holders.

5. Consolidation, Merger, Etc.

(a) The Company shall not consolidate with or merge into any other person or, directly or indirectly, convey, transfer, sell or lease all or substantially all of its properties and assets to any person, and the Company shall not permit any person to consolidate with or merge into the Company or, directly or indirectly, convey, transfer, sell or lease all or substantially all of its properties and assets to the Company, unless:

(1) in case the Company shall consolidate with or merge into another person or convey, transfer, sell or lease all or substantially all of its properties and assets to any person, the person formed by such consolidation or into which the Company is merged or the person which acquires by conveyance, transfer or sale, or which leases, all or substantially all the properties and assets of the Company shall be a corporation, limited liability company, partnership or trust, shall be organized and validly existing and shall expressly assume, by an agreement supplemental hereto, executed and delivered to the holder of this Security, the due and punctual payment of the principal of and interest on this Security and the performance or observance of every covenant of this Security on the part of the Company to be performed or observed, including the conversion rights provided herein;

(2) immediately after giving effect to such transaction and treating any indebtedness which becomes an obligation of the Company or a subsidiary of the Company as a result of such transaction as having been incurred by the Company or such subsidiary of the Company at the time of such transaction, 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; and

(3) the Company has delivered to the holder of this Security an officers' certificate stating that such consolidation, merger, conveyance, transfer, sale or lease and, if a supplemental agreement is required in connection with such transaction, such supplemental agreement, comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

(b) Upon any consolidation of the Company with, or merger of the Company into, any other person or any conveyance, transfer, sale or lease of all or substantially all of the properties and assets of the Company in accordance with Section 5(a), the successor person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer, sale or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Security with the same effect as if such successor person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor person shall be relieved of all obligations and covenants under this Security.

6. Subordination. The Company agrees, and the holder of this Security by accepting a Security agrees, that the indebtedness evidenced by this Security is subordinated in right of payment to the prior payment in full of all Senior Indebtedness, and that the subordination is for the benefit of the holders of Senior Indebtedness.

“Senior Indebtedness” means:

(a) the principal of, interest (including, to the extent permitted by applicable law, interest on or after the commencement of any bankruptcy or similar proceeding whether or not representing an allowed claim in such proceeding) on and any other amounts owing with respect to (i) any indebtedness of the Company, now or hereafter outstanding, in respect of borrowed money (other than the Securities), (ii) any indebtedness of the Company, now or hereafter outstanding, evidenced by a bond, note, debenture, capitalized lease, letter of credit or other similar instrument, (iii) any other written obligation of the Company, now or hereafter outstanding, to pay money issued or assumed as all or part of the consideration for the acquisition of property, assets or securities and (iv) any guaranty or endorsement (other than for collection or deposit in the ordinary course of business) or discount with recourse of, or other agreement (contingent or otherwise) to purchase, repurchase or otherwise acquire, to supply or advance funds or to become liable with respect to (directly or indirectly), any indebtedness or obligation of any person of the type referred to in the preceding subclauses (i), (ii) and (iii) now or hereafter outstanding; and

(b) any refundings, renewals or extensions of any indebtedness or other obligation described in clause (a) above.

Notwithstanding the foregoing, if, by the terms of the instrument creating or evidencing any indebtedness or obligation referred to in clauses (a) and (b) above, it is expressly provided that such indebtedness or obligation is not senior in right of payment to this Security, such indebtedness or obligation shall not be included as Senior Indebtedness.

7. Other.

(a) No provision of this Security shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, and interest on this Security at the times, places and rate, and in the coin or currency, herein prescribed or to convert this Security as herein provided.

(b) The Company will give prompt written notice to the holder of this Security of any change in the location of the Designated Office.

(c) The transfer of this Security is registrable on the Security Register of the Company upon surrender of this Security for registration of transfer at the Designated Office, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees. Such Securities are issuable only in registered form without coupons in denominations of \$5,500 and any integral multiple thereof. No service charge shall be made for any such registration of transfer, but the Company may require payment of a sum sufficient to recover any tax or other governmental charge payable in connection therewith. Prior to due presentation of this Security for registration of transfer, the Company and any agent of the Company may treat the person in whose name this Security is registered, as the owner thereof for all purposes, whether or not this Security be overdue, and neither the Company, nor any such agent shall be affected by notice to the contrary.

Notwithstanding any other provision of this Security, this Security and the shares of Common Stock issuable upon conversion hereof may only be transferred by the holder of this Security (a) in the case of the Common Stock only, in a public offering registered under the Securities Act of 1933, as amend; (b) to

one or more investors, in one or more transactions, any one of whom, after such purchase, would hold not more than 5% of the shares of Common Stock then outstanding (assuming conversion of any portion of this Security so transferred); (c) to any person or entity that already controls more than 50% of the voting securities of the Company prior to such transfer; (d) in a transaction that complies with the manner of sale restrictions of Rule 144 under the Securities Act; or (e) in a transaction approved in advance by the Federal Reserve Board. The holder of this Security, by acceptance thereof, shall be deemed to have agreed to the foregoing restriction on transfers.

(d) The holder agrees that, at the written request of the Company or any managing underwriter of any underwritten public offering of securities of the Company, such holder shall not, without the prior written consent of the Company or such managing underwriter, sell, make any short sale of, loan, grant any option for the purchase of, pledge, encumber, or otherwise dispose of, or exercise any registration rights with respect to, any Securities or Common Stock of the Company during the 180-day period commencing on the effective date of the registration statement relating to such underwritten public offering of the Company's securities; provided, that each officer and director of the Company shall have entered into a similar agreement.

(e) This Security shall be governed by and construed in accordance with the laws of the State of Texas, United States of America.

IN WITNESS WHEREOF, the Company has caused this Security to be duly executed under its corporate seal.

Dated: September 13, 2000

By: /s/Kerry P. Gray

Name: Kerry P. Gray

Title: Chief Executive Officer

Attest:

/s/Stephen B. Thompson

Name: Stephen B. Thompson

Title: Vice President and CFO

ELECTION OF HOLDER TO REQUIRE REPURCHASE

1. Pursuant to Section 3(a) of this Security, the undersigned hereby elects to have all or a portion of this Security repurchased by the Company.

2. The undersigned hereby directs the Company to pay [choose one] (a) it or (b) Name: _____; address: _____; Social Security or Other Taxpayer Identification Number, if any: _____, an amount in cash or, at the Company's election, Common Stock valued as set forth in the Security, equal to 100% of the principal amount to be repurchased (as set forth below), plus interest accrued to the Repurchase Date, as provided herein.

Dated: _____

Signature

Principal amount to be repurchased
(an integral multiple of \$5,500): _____

Remaining principal amount following such repurchase
(not less than \$5,500): _____

NOTICE: The signature to the foregoing Election must correspond to the name as written upon the face of this Security in every particular, without alteration or any change whatsoever.

CONVERSION NOTICE

The undersigned holder of this Security hereby irrevocably exercises the option to convert this Security, or any portion of the principal amount hereof (which is an integral multiple of \$5,500) below designated, into shares of Common Stock in accordance with the terms of this Security, and directs that such shares, together with a check in payment for any fractional share and any Security representing any unconverted principal amount hereof, be delivered to and be registered in the name of the undersigned unless a different name has been indicated below. If shares of Common Stock or Securities are to be registered in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Dated: _____

Signature

If only a portion of the Securities is to be converted, please indicate:

If shares or Securities are to be registered in the name of a person other than the holder, please print such person's name and address:

1. Principal amount to be converted:
\$ _____

2. Principal amount and denomination of Security representing unconverted principal amount to be issued:

Amount: \$ _____

Name

Address

Social Security or other Taxpayer Identification (any integral multiple of \$5,500)
Number, if any

Denominations: \$ _____

THIS SECURITY AND ANY SECURITIES ISSUABLE PURSUANT HERETO HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAW, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT AND IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

7.0% (SUBJECT TO ADJUSTMENT) CONVERTIBLE SUBORDINATED NOTE DUE
SEPTEMBER 13, 2005

No. R-1

\$132,000.00

Access Pharmaceuticals, Inc., a corporation duly organized and existing under the laws of Delaware (the "Company") for value received, hereby promises to pay to Oracle Offshore Ltd., or registered assigns, the principal sum of One Hundred Thirty Two Thousand Dollars (\$132,000.00) on September 13, 2005, and to pay interest thereon, from September 13, 2000, or from the most recent interest payment date to which interest has been paid or duly provided for, annually on September 13 in each year, commencing September 13, 2001, at the rate of 7.0% per annum provided, that if the holder elects to extend the Redemption Commencement Date and the Conversion Commencement Date as provided in Sections 1 and 2 below, the rate shall adjust to 7.7% per annum commencing September 13, 2001 and continuing for the balance of the term of this Note, until the principal hereof is due, and at the rate of 10% per annum on any overdue principal and premium, if any, and, to the extent permitted by law, on any overdue interest. The interest so payable, and punctually paid or duly provided for, on any interest payment date will be paid to the person in whose name this Security (or one or more predecessor Securities) is registered at the close of business on the regular record date for such interest, which shall be September 1 (whether or not a business day), as the case may be, next preceding such interest payment date. Payment of the principal of this Security shall be made upon the surrender of this Security to the Company, at its office at 2600 N. Stemmons Freeway, Suite 176, Dallas, Texas 75207-2107 (or such other office within the United States as shall be notified by the Company to the holder hereof) (the "Designated Office"), 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, by transfer to a U.S. dollar account maintained by the payee with a bank in the United States of America. Payment of interest on this Security shall be made, at the election of the holder, either (a) by transfer of cash to a U.S. dollar account (such a transfer to be made only if the holder shall have furnished wire instructions in writing to the Company no later than 15 days prior to the relevant payment date) maintained by the payee with a bank in the United States of America, provided that if the holder shall not have timely furnished wire instructions in writing to the Company, payment of interest on this Security shall be made by a check mailed to the address of the person entitled thereto as such address shall appear in the Company security register, or (b) by delivery of shares of Common Stock with a fair market value equal to 100% of the average Closing Prices for the five consecutive Trading Days ending on and including the third Trading Day immediately preceding the interest payment date.

1. Redemption. This Security is subject to redemption upon not less than 30 nor more than 60 days' notice by mail, at any time on or after September 30, 2001 (the "Redemption Commencement Date"), as a whole or in part, (in any amount that is an integral multiple of \$5,500) at the election of the Company, at a redemption price of 100% of the principal amount thereof, together with accrued interest to the redemption date, but interest installments whose stated maturity is on or prior to such redemption date will be payable to the holder of this Security, or one or more predecessor Securities, of record at the close of business on the relevant record dates referred to on the face hereof; provided that this Security may not be redeemed on or after September 30, 2001 unless the Closing Price of the Company Stock exceeds 1.5 times the Conversion Price for any period of 10 consecutive Trading Days commencing on or after August 30, 2001 and ending not less than two Trading Days prior to the Company's giving notice of such redemption to the holder hereof; further provided, that the holder of this Security may extend the Redemption Commencement Date to December 31, 2002 by giving written notice to the Company on or before July 1, 2001 of its election to so extend the Redemption Commencement Date and the Conversion Commencement Date (as defined below).

2. Conversion.

(a) The holder of this Security is entitled at any time on or after September 13, 2001 (the "Conversion Commencement Date") and before the close of business on September 13, 2005 (or, in case this Security or a portion hereof is called for redemption or the holder hereof has exercised his right to require the Company to repurchase this Security or a portion hereof, then in respect of this Security or such portion hereof, as the case may be, until and including, but (unless the Company defaults in making the payment due upon redemption or repurchase, as the case may be) not after, the close of business on the redemption date or the Repurchase Date, as the case may be) to convert this Security (or any portion of the principal amount hereof that is an integral multiple of \$5,500), into fully paid and nonassessable shares (calculated as to each conversion to the nearest 1/100 of a share) of Common Stock of the Company at the rate of 1,000 shares of Common Stock (the "Conversion Rate") for each \$5,500 principal amount of Security by surrender of this Security, duly endorsed or assigned to the Company or in blank to the Company at the Designated Office, accompanied by written notice to the Company that the holder hereof elects to convert this Security (or if less than the entire principal amount hereof is to be converted, specifying the portion

hereof to be converted) provided, that the holder of this Security may extend the Conversion Commencement Date to December 13, 2002 by giving written notice to the Company on or before July 1, 2001 of its election to so extend the Conversion Commencement Date and Redemption Commencement Date. Upon surrender of this Security for conversion, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being converted from the interest payment date next preceding the date of such conversion to such date of conversion. No payment or adjustment is to be made on conversion for dividends on the Common Stock issued on conversion hereof. No fractions of shares or scrip representing fractions of shares will be issued on conversion, but instead of any fractional interest, the Company shall pay a cash adjustment, computed on the basis of the Closing Price of the Common Stock on the date of conversion, or, at its option, the Company shall round up to the next higher whole share.

(b) The Conversion Rate shall be subject to adjustments from time to time as follows:

(1) In case the Company shall pay or make a dividend or other distribution on any class of capital stock of the Company payable in shares of Common Stock, the Conversion Rate in effect at the opening of business on the day following the Determination Date for such dividend or other distribution shall be increased by dividing such Conversion Rate by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such increase to become effective immediately after the opening of business on the day following such Determination Date. For the purposes of this paragraph (1), 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.

(2) Subject to the last sentence of paragraph (7) of this Section 2(b), in case the Company shall issue rights, options or warrants to all holders of its Common Stock entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on the Determination Date for such distribution, the Conversion Rate in effect at the opening of business on the day following such Determination Date shall be increased by dividing such Conversion Rate by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date plus the number of shares of Common Stock which the aggregate of the offering price of the total number of shares of Common Stock so offered for subscription or purchase would purchase at such current market price and the denominator shall be the number of shares of Common Stock outstanding at the close of business on such Determination Date plus the number of shares of Common Stock so offered for subscription or purchase, such increase to become effective immediately after the opening of business on the day following such Determination Date. For the purposes of this paragraph (2), 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.

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

(4) Subject to the last sentence of paragraph (7) of this Section 2(b), in case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock evidences of its indebtedness, shares of any class of capital stock, or other property (including securities, but excluding (i) any rights, options or warrants referred to in paragraph (2) of this Section 2(b), (ii) any dividend or distribution paid exclusively in cash, (iii) any dividend or distribution referred to in paragraph (1) of this Section 2(b) and (iv) any merger or consolidation to which

Section 2(h) applies), the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on the Determination Date for such distribution by a fraction of which the numerator shall be the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date less the then fair market value (as determined in good faith by the Board of Directors of the Company) of the portion of the assets, shares or evidences of indebtedness so distributed applicable to one share of Common Stock and the denominator shall be such current market price per share of the Common Stock, such adjustment to become effective immediately prior to the opening of business on the day following such Determination Date. If the Board of Directors determines the fair market value of any distribution for purposes of this paragraph (4) by reference to the actual or when issued trading market for any securities comprising such distribution, it must in doing so consider the prices in such market over the same period used in computing the current market price per share pursuant to paragraph (8) of this Section 2(b).

(5) In case the Company shall, by dividend or otherwise, make a Cash Distribution, then, and in each such case, immediately after the close of business on the Determination Date for such Cash Distribution, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on such Determination Date by a fraction (a) the numerator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date less an amount equal to the quotient of (1) the amount of such Cash Distribution divided by (2) the number of shares of Common Stock outstanding on such Determination Date and (b) the denominator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock on such Determination Date.

(6) In case the Company or any Subsidiary shall make an Excess Purchase Payment, then, and in each such case, immediately prior to the opening of business on the day after the tender offer in respect of which such Excess Purchase Payment is to be made expires, the Conversion Rate shall be adjusted so that the same shall equal the rate determined by dividing the Conversion Rate in effect immediately prior to the close of business on the Determination Date for such tender offer by a fraction (a) the numerator of which shall be equal to the current market price per share (determined as provided in paragraph (8) of this Section 2(b)) of the Common Stock at such Determination Date less the amount of such Excess Purchase Payment and (b) the denominator of which shall be equal to the current market price per share of the Common Stock (determined as provided in paragraph (8) of this Section 2(b)) as of such Determination Date.

(7) The reclassification of Common Stock into securities other than Common Stock (other than any reclassification upon a consolidation or merger to which Section 2(h) applies) shall be deemed to involve (a) a distribution of such securities other than Common Stock to all holders of Common Stock (and the effective date of such reclassification shall be deemed to be the Determination Date), and (b) a subdivision or combination, as the case may be, of the number of shares of Common Stock outstanding immediately prior to such reclassification into the number of shares of Common Stock outstanding immediately thereafter (and the effective date of such reclassification shall be deemed to be “the day upon which such subdivision becomes effective” or “the day upon which such combination becomes effective”, as the case may be, and “the day upon which such subdivision or combination becomes effective” within the meaning of paragraph (3) of this Section 2(b)). Rights or warrants issued by the Company to all holders of its Common Stock entitling the holders thereof to subscribe for or purchase shares of Common Stock, which rights or warrants (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, in each case in clauses (i) through (iii) until the occurrence of a specified event or events (“Trigger Event”), shall for purposes of this Section 2(b) not be deemed issued until the occurrence of the earliest Trigger Event.

(8) For the purpose of any computation under paragraphs (2), (4), (5) or (6) of this Section 2(b) the current market price per share of Common Stock on any date shall be calculated by the Company and be deemed to be the average of the daily Closing Prices for the five

consecutive Trading Days selected by the Company commencing not more than 10 Trading Days before, and ending not later than, the earlier of the day in question and the day before the “ex” date with respect to the issuance or distribution requiring such computation. For purposes of this paragraph, the term “ex date”, when used with respect to any issuance or distribution, means the first date on which the Common Stock trades regular way in the applicable securities market or on the applicable securities exchange without the right to receive such issuance or distribution.

(9) No adjustment in the Conversion Rate shall be required unless such adjustment (plus any adjustments not previously made by reason of this paragraph (9)) would require an increase or decrease of at least one percent in such rate; provided, however, that any adjustments which by reason of this paragraph (9) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 2 shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be.

(10) The Company may make such increases in the Conversion Rate, for the remaining term of the Securities or any shorter term, in addition to those required by paragraphs (1), (2), (3), (4), (5) and (6) of this Section 2(b) as it considers to be advisable in order to avoid or diminish any income tax to any holders of shares of Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to purchase or subscribe for stock or from any event treated as such for income tax purposes.

(c) Whenever the Conversion Rate is adjusted as provided in Section 2(b), the Company shall compute the adjusted Conversion Rate in accordance with Section 2(b) and shall prepare a certificate signed by the chief financial officer of the Company setting forth the adjusted Conversion Rate and showing in reasonable detail the facts upon which such adjustment is based, and shall promptly deliver such certificate to the holder of Security,

(d) In case:

(1) the Company shall declare a dividend or other distribution on its Common Stock payable (i) otherwise than exclusively in cash or (ii) exclusively in cash in an amount that would require any adjustment pursuant to Section 2(b); or

(2) the Company shall authorize the granting to the holders of its Common Stock of rights, options or warrants to subscribe for or purchase any shares of capital stock of any class or of any other rights; or

(3) of any reclassification of the Common Stock of the Company, or of any consolidation, merger or share exchange to which the Company is a party and for which approval of any shareholders of the Company is required, or of the conveyance, sale, transfer or lease of all or substantially all of the assets of the Company; or

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

(5) the Company or any Subsidiary shall commence a tender offer for all or a portion of the Company’s outstanding shares of Common Stock (or shall amend any such tender offer);

then the Company shall cause to be delivered to the holder of this Security, at least 10 days prior to the applicable record, expiration or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, rights, options 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, rights, options or warrants are to be determined, (y) the date on which the right to make tenders under such tender offer expires or (z) the date on which such reclassification, consolidation, merger, conveyance, transfer, sale, lease, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, conveyance, transfer, sale, lease, dissolution, liquidation or winding up. Neither the failure to give such notice nor any defect therein shall affect the legality or validity of the proceedings described in clauses (1) through (5) of this Section 2(d).

(e) The Company shall at all times reserve and keep available, free from preemptive rights, out of its

authorized but unissued Common Stock, for the purpose of effecting the conversion of the Security, the full number of shares of Common Stock then issuable upon the conversion of this Security.

(f) Except as provided in the next sentence, the Company will pay any and all stamp or transfer taxes and duties that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of the Security. The Company shall not, however, be required to pay any tax or duty which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the holder of this Security, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

(g) The Company agrees that all shares of Common Stock which may be delivered upon conversion of the Security, upon such delivery, will have been duly authorized and validly issued and will be fully paid and non assessable (and shall be issued out of the Company's authorized but unissued Common Stock) and, except as provided in Section 2(f), the Company will pay all stamp or transfer taxes, liens and charges with respect to the issue thereof.

(h) In case of any consolidation of the Company with any other person, any merger of the Company into another person or of another person into the Company (other than a merger which does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock of the Company) or any conveyance, sale, transfer or lease of all or substantially all of the properties and assets of the Company, the person formed by such consolidation or resulting from such merger or which acquires such properties and assets, as the case may be, shall execute and deliver to the holder of this Security a supplemental agreement providing that such holder have the right there-after, during the period this Security shall be convertible as specified in Section 2(a), to convert this Security only into the kind and amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease (including any Common Stock retainable) by a holder of the number of shares of Common Stock of the Company into which this Security might have been converted immediately prior to such consolidation, merger, conveyance, sale, transfer or lease, assuming such holder of Common Stock of the Company (i) is not a person with which the Company consolidated, into which the Company merged or which merged into the Company or to which such conveyance, sale, transfer or lease was made, as the case may be (a "Constituent Person"), or an Affiliate of a Constituent Person and (ii) failed to exercise his rights of election, if any, as to the kind or amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease (provided that if the kind or amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer, or lease is not the same for each share of Common Stock of the Company held immediately prior to such consolidation, merger, conveyance, sale, transfer or lease by others than a Constituent Person or an Affiliate thereof and in respect of which such rights of election shall not have been exercised ("Non-electing Share"), then for the purpose of this Section 2(h) the kind and amount of securities, cash and other property receivable upon such consolidation, merger, conveyance, sale, transfer or lease by the holders of 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 agreement shall provide for adjustments which, for events subsequent to the effective date of such supplemental agreement, shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 2. The above provisions of this Section 2(h) shall similarly apply to successive consolidations, mergers, conveyances, sales, transfers or leases. In this paragraph, "securities of the kind receivable" upon such consolidation, merger, conveyance, transfer, sale or lease by a holder of Common Stock means securities that, among other things, are registered and transferable under the Securities Act, and listed and approved for quotation in all securities markets, in each case to the same extent as such securities so receivable by a holder of Common Stock.

(i) The Company (a) will effect all registrations with, and obtain all approvals by, all governmental authorities that may be necessary under any United States Federal or state law (including the Securities Act of 1933, as amended (the "Securities Act"), the Securities Exchange Act of 1934, as amended, and state securities and Blue Sky laws) for the shares of Common Stock issuable upon conversion of this Security to be lawfully issued and delivered as provided herein, and thereafter publicly traded (if permissible under such Securities Act) and qualified or listed as contemplated by clause (b) below (it being understood that the Company shall not be required to register the Common Stock issuable on conversion hereof under the Securities Act, except pursuant to the Registration Rights Agreement between the Company and the initial holder of this Security); and (b) will list the shares of Common Stock required to be issued and delivered upon conversion of Securities, prior to such issuance or delivery, on each national

securities exchange on which outstanding Common Stock is listed or quoted at the time of such delivery, or if the Common Stock is not then listed on any securities exchange, to qualify the Common Stock for quotation on the Nasdaq National Market or such other inter-dealer quotation system, if any, on which the Common Stock is then quoted.

(j) For purposes hereof:

“Affiliate” of any specified person means any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, “control”, when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Cash Distribution” means the distribution by the Company to all holders of its Common Stock of cash, other than any cash that is distributed upon a merger or consolidation to which Section 2(h) applies or as part of a distribution referred to in paragraph (4) of Section 2(b).

“Closing Price” means, with respect to the Common Stock of the Company, for any day, the reported last sale price per share on the American Stock Exchange, or, if the Common Stock is not admitted to trading on the American Stock Exchange, on the principal national securities exchange or inter-dealer quotation system on which the Common Stock is listed or admitted to trading, or if not admitted to trading on the Nasdaq National Market, or listed or admitted to trading on any national securities exchange or inter-dealer quotation system, the average of the closing bid and asked prices per share in the over-the-counter market as furnished by any New York Stock Exchange member firm selected from time to time by the Company for that purpose.

“Common Stock” means the Common Stock, par value \$.01 per share, of the Company authorized at the date of this instrument as originally executed. Subject to the provisions of Section 2(h), shares issuable on conversion or repurchase of this Security shall include only shares of Common Stock or shares of any class or classes of common stock resulting from any reclassification or reclassifications thereof; provided, however, that if at any time there shall be more than one such resulting class, the shares so issuable on conversion of this Security shall include shares of all such classes, and the shares of each such class then so issuable shall be substantially in the proportion which 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.

“Conversion Price” on any day means an amount equal to \$5,500 divided by the Conversion Rate in effect on such day.

“Determination Date” means, in the case of a dividend or other distribution, including the issuance of rights, options or warrants, to shareholders, the date fixed for the determination of shareholders entitled to receive such dividend or other distribution and, in the case of a tender offer, the last time that tenders could have been made pursuant to such tender offer.

“Excess Purchase Payment” means the excess, if any, of (i) the amount of cash plus the fair market value (as determined in good faith by the Company’s Board of Directors) of any non-cash consideration required to be paid with respect to one share of Common Stock acquired or to be acquired in a tender offer made by the Company or any subsidiary of the Company for all or any portion of the Common Stock over (ii) the current market price per share as of the last time that tenders could have been made pursuant to such tender offer.

“Trading Day” means (i) if the Common Stock is listed or admitted for trading on the New York or American Stock Exchange or any other national securities exchange, a day on which such exchange is open for business; (ii) if the Common Stock is admitted to trading on the Nasdaq National Market or any other system of automated dissemination of quotations of securities prices, a day on which trades may be effected through such system; or (iii) if the Common Stock is not admitted to trading on the Nasdaq National Market or listed or admitted for trading on any national securities exchange or any other system of automated dissemination of quotation of securities prices, a day on which the Common Stock is traded regular way in the over-the-counter market and for which a closing bid and a closing asked price for the Common Stock are available.

3. Right to Require Repurchase.

(a) In the event that a Change in Control (as hereinafter defined) shall occur, then the holder of this Security shall have the right, at such holder's option, subject to the rights of holders of Senior Indebtedness, to require the Company to repurchase, and upon the exercise of such right the Company shall repurchase, this Security, or any portion of the principal amount hereof that is equal to \$5,500 or any integral multiple thereof, on the date (the "Repurchase Date") that is ten Trading Days after the date on which the Company gives notice thereof to the holder of this Security, at a purchase price equal to 105% of the principal amount of this Security to be repurchased, plus interest accrued to the Repurchase Date (the "Repurchase Price"); provided, however, that installments of interest on this Security whose stated maturity is on or prior to the Repurchase Date shall be payable to the holder of this Security, or one or more predecessor Securities, registered as such on the relevant Record Date according to their terms. Upon surrender of this Security for repurchase, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being repurchased from the interest payment date next preceding the date of such repurchase to such date of repurchase. At the option of the Company, the Repurchase Price may be paid in cash or, subject to the fulfillment by the Company of the conditions set forth in Section 3(b), by delivery of shares of Common Stock having a fair market value equal to the Repurchase Price as described in Section 3(b). The Company agrees to give the holder of this Security notice of any Change in Control, by facsimile transmission confirmed in writing by overnight courier service, promptly and in any event within two Trading Days of the occurrence thereof.

(b) The Company may elect to pay the Repurchase Price by delivery of shares of Common Stock pursuant to Section 3(a), if and only if the following conditions have been satisfied:

(1) The shares of Common Stock deliverable in payment of the Repurchase Price shall have a fair market value as of the Repurchase Date of not less than the Repurchase Price. For purposes of this Section 3(b), the fair market value of shares of Common Stock shall be equal to 95% of the average of the Closing Prices for the five consecutive Trading Days ending on and including the third Trading Day immediately preceding the Repurchase Date;

(2) In the event any shares of Common Stock to be issued upon repurchase of this Security require registration under any Federal securities law before such shares may be freely transferable without being subject to any transfer restrictions under the Securities Act of 1933 upon issuance, such registration shall have been completed and shall have become effective prior to the Repurchase Date;

(3) In the event any shares of Common Stock to be issued upon repurchase of this Security require registration with or approval of any governmental authority under any State law or any other Federal law before such shares may be validly issued or delivered upon repurchase, such registration shall have been completed, have become effective and such approval shall have been obtained, in each case, prior to the Repurchase Date;

(4) Immediately prior to the Repurchase Date the shares of Common Stock deliverable in payment of the Repurchase Price shall have been approved for trading or listed on the American Stock Exchange or the principal national securities exchange or interdealer quotation system on which the Common Stock is then admitted to trading or listed; and

(5) All shares of Common Stock deliverable in payment of the Repurchase Price shall be issued out of the Company's authorized but unissued Common Stock and will, upon issue, be duly and validly issued and fully paid and non-assessable and free of any preemptive rights.

If all of the conditions set forth in this Section 3(b) are not satisfied in accordance with the terms thereof, the Repurchase Price shall be paid by the Company only in cash.

(c) To exercise a repurchase right, the holder shall deliver to the Company on or before the 5th day prior to the Repurchase Date, together with this Security, written notice of the holder's exercise of such right, which notice shall set forth the name of the holder, the principal amount of this Security to be repurchased (and, if this Security is to be repurchased in part, the portion of the principal amount thereof to be repurchased and the name of the person in which the portion thereof to remain outstanding after such repurchase is to be registered) and a statement that an election to exercise the repurchase right is being made thereby, and, in the event that the Repurchase Price shall be paid in shares of Common Stock, the

name or names (with addresses) in which the certificate or certificates for shares of Common Stock shall be issued. Such written notice shall be irrevocable, except that the right of the holder to convert this Security (or the portion hereof with respect to which the repurchase right is being exercised) shall continue until the close of business on the Repurchase Date.

(d) In the event a repurchase right shall be exercised in accordance with the terms hereof, the Company shall pay or cause to be paid to the holder the Repurchase Price in cash or shares of Common Stock, as provided above, or, if shares of Common Stock are to be paid, as promptly after the Repurchase Date as practicable, together with accrued and unpaid interest to the Repurchase Date; provided, however, that installments of interest that mature on or prior to the Repurchase Date shall be payable in cash, to the holders of this Security, or one or more predecessor Securities, registered as such at the close of business on the relevant regular record date.

(e) If this Security (or portion thereof) is surrendered for repurchase and is not so paid on the Repurchase Date, the principal amount of this Security (or such portion hereof, as the case may be) shall, until paid, bear interest to the extent permitted by applicable law from the Repurchase Date at the rate per annum borne by this Security, and shall remain convertible into Common Stock until the principal of this Security (or portion thereof, as the case may be) shall have been paid or duly provided for.

(f) If this Security is to be repurchased only in part, it shall be surrendered to the Company at the Designated Office (with, if the Company so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company duly executed by, the holder hereof or his attorney duly authorized in writing), and the Company shall execute and make available for delivery to the holder without service charge, a new Security or Securities, containing identical terms and conditions, each in an authorized denomination in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

(g) Any issuance of shares of Common Stock in respect of the Repurchase Price shall be deemed to have been effected immediately prior to the close of business on the Repurchase Date and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such repurchase shall be deemed to have become on the Repurchase Date the holder or holders of record of the shares represented thereby; provided, however, that any surrender for repurchase on a date when the stock transfer books of the Company shall be closed shall constitute the person or persons in whose name or names the certificate or certificates for such shares are to be issued as the record holder or holders thereof for all purposes at the opening of business on the next succeeding day on which such stock transfer books are open. No payment or adjustment shall be made for dividends or distributions on any Common Stock issued upon repurchase of this Security declared prior to the Repurchase Date.

(h) No fractions of shares shall be issued upon repurchase of this Security. Instead of any fractional share of Common Stock which would otherwise be issuable on the repurchase of this Security, the Company will deliver to the holder its check for the current market value of such fractional share. The current market value of a fraction of a share shall be determined by multiplying the current market price of a full share by the fraction, and rounding the result to the nearest cent. For purposes of this Section 3 the current market price of a share of Common Stock shall be the Closing Price of the Common Stock on the Trading Day immediately preceding the Repurchase Date.

(i) Any issuance and delivery of certificates for shares of Common Stock on repurchase of this Security shall be made without charge to the holder of this Security for such certificates or for any stamp or transfer tax or duty in respect of the issuance or delivery of such certificates or the securities represented thereby; provided, however, that the Company shall not be required to pay any tax or duty which may be payable in respect of any transfer involved in the issuance or delivery of certificates for shares of Common Stock in a name other than that of the holder of this Security, and no such issuance or delivery shall be made unless and until the person requesting such issuance or delivery has paid to the Company the amount of any such tax or duty or has established, to the satisfaction of the Company, that such tax or duty has been paid.

(j) For purposes of this Section 3;

(1) the term "beneficial owner" shall be determined in accordance with Rule 13d-3 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934; and

(2) a “Change in Control” shall be deemed to have occurred at the time, after the original issuance of this Security, of:

(i) the acquisition by any person of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of transactions, of shares of capital stock of the Company entitling such person to exercise 50% or more of the total voting power of all shares of capital stock of the Company entitled to vote generally in the election of directors (any shares of voting stock of which such person is the beneficial owner that are not then outstanding being deemed outstanding for purposes of calculating such percentage) other than any such acquisition by the Company or any employee benefit plan of the Company;

(ii) any consolidation or merger of the Company with or into, any other person, any merger of another person with or into the Company, or any conveyance, transfer, sale, lease or other disposition of all or substantially all of the assets of the Company to another person (other than (a) any such transaction (x) which does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock and (y) pursuant to which holders of Common Stock immediately prior to such transaction have the entitlement to exercise, directly or indirectly, 50% or more of the total voting power of all shares of capital stock entitled to vote generally in the election of directors of the continuing or surviving person immediately after such transaction and (b) any merger which is effected solely to change the jurisdiction of incorporation of the Company and results in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into shares of common stock);

provided, however, that a Change in Control shall not be deemed to have occurred if the Closing Price for any five Trading Days within the period of 10 consecutive Trading Days (x) ending immediately after the later of the date of the Change in Control or the date of the public announcement of the Change in Control (in the case of a Change in Control under Clause (i) above) or (y) ending immediately prior to the date of the Change in Control (in the case of a Change in Control under Clause (ii) above) shall equal or exceed 105% of the Conversion Price in effect on each such Trading Day.

4. Events of Default.

(a) “Event of Default”, wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be occasioned by the provisions of Section 6 or be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of any interest upon this Security when it becomes due and payable, and continuance of such default for a period of 30 days; or

(2) default by the Company in the performance of its obligations in respect of any conversion of this Security (or any portion hereof) in accordance with Section 2; or

(3) failure by the Company to give any notice of a Change of Control required to be delivered in accordance with Section 3(a); or

(4) default in the performance, or breach, of any material covenant or warranty of the Company herein (other than a covenant or warranty a default in the performance or breach of which is specifically dealt with elsewhere in this Section 4(a)) and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Company by the holder of this Security a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder; or

(5) a default under any bond, debenture, note or other evidence of indebtedness for money borrowed by the Company, or under any agreement, mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any indebtedness

for money borrowed by the Company, with a principal amount then outstanding in excess of \$1,000,000, whether such indebtedness now exists or shall hereafter be created, which default shall constitute a failure to pay the principal of such indebtedness (in whole or in any part greater than \$1,000,000) when due and payable or shall have resulted in such indebtedness (in whole or in any part greater than \$1,000,000) becoming or being declared due and payable prior to the date on which it would otherwise have become due and payable, without such indebtedness having been discharged, or such acceleration having been rescinded or annulled, within a period of 30 days after there shall have been given, by registered or certified mail, to the Company by the holder of this Security a written notice specifying such default and requiring the Company to cause such indebtedness to be discharged or cause such acceleration to be rescinded or annulled and stating that such notice is a "Notice of Default" hereunder; or

(6) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization or other similar law or (ii) a decree or order adjudging the Company bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days; or

(7) the commencement by the Company of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or similar relief under any applicable Federal or State law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action.

(b) If an Event of Default (other than an Event of Default specified in Section 4(a)(6) or 4(a)(7)) occurs and is continuing, then in every such case the holder of this Security may declare the principal hereof to be due and payable immediately, by a notice in writing to the Company, and upon any such declaration such principal and all accrued interest thereon shall become immediately due and payable. If an Event of Default specified in Section 4(a)(6) or 4(a)(7) occurs and is continuing, the principal of, and accrued interest on, this Security shall ipso facto become immediately due and payable without any declaration or other act of the holders.

5. Consolidation, Merger, Etc.

(a) The Company shall not consolidate with or merge into any other person or, directly or indirectly, convey, transfer, sell or lease all or substantially all of its properties and assets to any person, and the Company shall not permit any person to consolidate with or merge into the Company or, directly or indirectly, convey, transfer, sell or lease all or substantially all of its properties and assets to the Company, unless:

(1) in case the Company shall consolidate with or merge into another person or convey, transfer, sell or lease all or substantially all of its properties and assets to any person, the person formed by such consolidation or into which the Company is merged or the person which acquires by conveyance, transfer or sale, or which leases, all or substantially all the properties and assets of the Company shall be a corporation, limited liability company, partnership or trust, shall be organized and validly existing and shall expressly assume, by an agreement supplemental hereto, executed and delivered to the holder of this Security, the due

and punctual payment of the principal of and interest on this Security and the performance or observance of every covenant of this Security on the part of the Company to be performed or observed, including the conversion rights provided herein;

(2) immediately after giving effect to such transaction and treating any indebtedness which becomes an obligation of the Company or a subsidiary of the Company as a result of such transaction as having been incurred by the Company or such subsidiary of the Company at the time of such transaction, 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; and

(3) the Company has delivered to the holder of this Security an officers' certificate stating that such consolidation, merger, conveyance, transfer, sale or lease and, if a supplemental agreement is required in connection with such transaction, such supplemental agreement, comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

(b) Upon any consolidation of the Company with, or merger of the Company into, any other person or any conveyance, transfer, sale or lease of all or substantially all of the properties and assets of the Company in accordance with Section 5(a), the successor person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer, sale or lease is made shall succeed to, and he substituted for, and may exercise every right and power of, the Company under this Security with the same effect as if such successor person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor person shall be relieved of all obligations and covenants under this Security.

6. Subordination. The Company agrees, and the holder of this Security by accepting a Security agrees, that the indebtedness evidenced by this Security is subordinated in right of payment to the prior payment in full of all Senior Indebtedness, and that the subordination is for the benefit of the holders of Senior Indebtedness.

“Senior Indebtedness” means:

(a) the principal of, interest (including, to the extent permitted by applicable law, interest on or after the commencement of any bankruptcy or similar proceeding whether or not representing an allowed claim in such proceeding) on and any other amounts owing with respect to (i) any indebtedness of the Company, now or hereafter outstanding, in respect of borrowed money (other than the Securities), (ii) any indebtedness of the Company, now or hereafter outstanding, evidenced by a bond, note, debenture, capitalized lease, letter of credit or other similar instrument, (iii) any other written obligation of the Company, now or hereafter outstanding, to pay money issued or assumed as all or part of the consideration for the acquisition of property, assets or securities and (iv) any guaranty or endorsement (other than for collection or deposit in the ordinary course of business) or discount with recourse of, or other agreement (contingent or otherwise) to purchase, repurchase or otherwise acquire, to supply or advance funds or to become liable with respect to (directly or indirectly), any indebtedness or obligation of any person of the type referred to in the preceding subclauses (i), (ii) and (iii) now or hereafter outstanding; and

(b) any refundings, renewals or extensions of any indebtedness or other obligation described in clause (a) above.

Notwithstanding the foregoing, if, by the terms of the instrument creating or evidencing any indebtedness or obligation referred to in clauses (a) and (b) above, it is expressly provided that such indebtedness or obligation is not senior in right of payment to this Security, such indebtedness or obligation shall not be included as Senior Indebtedness.

7. Other.

(a) No provision of this Security shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, and interest on this Security at the times, places and rate, and in the coin or currency, herein prescribed or to convert this Security as herein provided.

(b) The Company will give prompt written notice to the holder of this Security of any change in the location of the Designated Office.

(c) The transfer of this Security is registrable on the Security Register of the Company upon surrender of

this Security for registration of transfer at the Designated Office, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees. Such Securities are issuable only in registered form without coupons in denominations of \$5,500 and any integral multiple thereof. No service charge shall be made for any such registration of transfer, but the Company may require payment of a sum sufficient to recover any tax or other governmental charge payable in connection therewith. Prior to due presentation of this Security for registration of transfer, the Company and any agent of the Company may treat the person in whose name this Security is registered, as the owner thereof for all purposes, whether or not this Security be overdue, and neither the Company, nor any such agent shall be affected by notice to the contrary.

Notwithstanding any other provision of this Security, this Security and the shares of Common Stock issuable upon conversion hereof may only be transferred by the holder of this Security (a) in the case of the Common Stock only, in a public offering registered under the Securities Act of 1933, as amend; (b) to one or more investors, in one or more transactions, any one of whom, after such purchase, would hold not more than 5% of the shares of Common Stock then outstanding (assuming conversion of any portion of this Security so transferred); (c) to any person or entity that already controls more than 50% of the voting securities of the Company prior to such transfer; (d) in a transaction that complies with the manner of sale restrictions of Rule 144 under the Securities Act; or (e) in a transaction approved in advance by the Federal Reserve Board. The holder of this Security, by acceptance thereof, shall be deemed to have agreed to the foregoing restriction on transfers.

(d) The holder agrees that, at the written request of the Company or any managing underwriter of any underwritten public offering of securities of the Company, such holder shall not, without the prior written consent of the Company or such managing underwriter, sell, make any short sale of, loan, grant any option for the purchase of, pledge, encumber, or otherwise dispose of, or exercise any registration rights with respect to, any Securities or Common Stock of the Company during the 180-day period commencing on the effective date of the registration statement relating to such underwritten public offering of the Company's securities; provided, that each officer and director of the Company shall have entered into a similar agreement.

(e) This Security shall be governed by and construed in accordance with the laws of the State of Texas, United States of America.

IN WITNESS WHEREOF, the Company has caused this Security to be duly executed under its corporate seal.
Dated: September 13, 2000

By: /s/Kerry P. Gray
Name: Kerry P. Gray
Title: Chief Executive Officer

Attest:

/s/Stephen B. Thompson
Name: Stephen B. Thompson
Title: Vice President and CFO

ELECTION OF HOLDER TO REQUIRE REPURCHASE

1. Pursuant to Section 3(a) of this Security, the undersigned hereby elects to have all or a portion of this Security repurchased by the Company.

2. The undersigned hereby directs the Company to pay [choose one] (a) it or (b) Name: _____; address:

_____ ; Social Security or Other Taxpayer Identification Number, if any: _____, an amount in cash or, at the Company's election, Common Stock valued as set forth in the Security, equal to 100% of the principal amount to be repurchased (as set forth below), plus interest accrued to the Repurchase Date, as provided herein.

Dated: _____

Signature

Principal amount to be repurchased
(an integral multiple of \$5,500): _____

Remaining principal amount following such repurchase
(not less than \$5,500): _____

NOTICE: The signature to the foregoing Election must correspond to the name as written upon the face of this Security in every particular, without alteration or any change whatsoever.

CONVERSION NOTICE

The undersigned holder of this Security hereby irrevocably exercises the option to convert this Security, or any portion of the principal amount hereof (which is an integral multiple of \$5,500) below designated, into shares of Common Stock in accordance with the terms of this Security, and directs that such shares, together with a check in payment for any fractional share and any Security representing any unconverted principal amount hereof, be delivered to and be registered in the name of the undersigned unless a different name has been indicated below. If shares of Common Stock or Securities are to be registered in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Dated: _____

Signature

If only a portion of the Securities is to be converted, please indicate:

If shares or Securities are to be registered in the name of a person other than the holder, please print such person's name and address:

1. Principal amount to be converted:
\$ _____

2. Principal amount and denomination of Security representing unconverted principal amount to be issued:

Amount: \$ _____

Name

Address

Denominations: \$ _____

Social Security or other Taxpayer Identification Number, if any (any integral multiple of \$5,500)

AMENDMENT TO 7.0% (SUBJECT TO ADJUSTMENT) CONVERTIBLE
PROMISSORY NOTES DUE SEPTEMBER 13, 2005

This Amendment to 7.0% (Subject to Adjustment) Convertible Promissory Notes Due September 13, 2005, dated as of November 3, 2005 (the "Amendment"), is by and among Access Pharmaceuticals, inc., a Delaware corporation (the "Company"), and each of Oracle Partners LP, Oracle Institutional Partners LP, SAM Oracle Investments Inc. and Oracle Offshore Ltd. (each, a "Holder"), amending certain provisions of those certain 7.0% (Subject to Adjustment) Convertible Promissory Notes Due September 13, 2005 No. R-1 (each as amended and in effect from time to time, a "Note") from the Company to each Holder in the original principal amount of \$2,524,500, \$698,500, \$660,000 and \$132,000, respectively. Terms not otherwise defined herein which are defined in any Note shall have the same respective meanings herein as therein.

WHEREAS, the Company and each Holder have agreed to modify certain terms and conditions of each Note as specifically set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Amendment to Each Note. Each Note is hereby amended as follows:

(a) The title of each Note is hereby deleted in its entirety and replaced with the following:

"7.0% (Subject to Adjustment) Convertible Promissory Note Due April 28, 2007."

(b) All references to "September 13, 2005" in the preamble (the "Preamble") of each Note and the first sentence of Section 2(a) of each Note are hereby deleted and replaced with "April 28, 2007."

(c) The following text is hereby added following the word "annum" and before the word "provided" in the first sentence of the Preamble:

"(and shall pay interest from September 13, 2006, or from the most recent interest payment date to which interest has been paid or duly provided for, on April 28, 2007)."

(d) The following text is hereby added following the words "September 1" and before the word "(whether" in the second sentence of the Preamble:

"(and April 1 in the case of the interest payment due on April 28, 2007)."

(e) All references to "15,500" in each Note, including, without limitation, in the first sentence of Section 1 of each Note, the first sentence of Section 2(a) of each Note, the defined term "Conversion Price" in Section 2(j) of each Note and the second sentence of Section 7(c) of each Note, are hereby deleted and replaced with "\$1,000."

(f) The following text is hereby added as a new paragraph following the first paragraph of Section 2(a) of each Note:

"Automatically and without further action, immediately upon the Closing Price of the Company Stock exceeding 1.5 times the Conversion Price for any period of 20 consecutive Trading Days, this Security (or any portion of the principal amount hereof then outstanding) shall convert into fully paid and nonassessable shares (calculated to the nearest 1/100 of a share) of Common Stock of the Company at the rate of 1,000 shares of Common Stock for each \$1,000 principal amount of Security. Upon such conversion of this Security (or any portion of the principal amount hereof then outstanding), the holder of this Security shall surrender this Security, duly endorsed or assigned to the Company or in blank to the Company at the Designated Office. Upon surrender of this Security upon such conversion, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being converted from the interest payment date next preceding the date of such conversion to such date of conversion. No payment or adjustment is to be made on conversion for dividends on the Common Stock issued on conversion hereof. No fractions of shares or scrip representing fractions of shares will be issued on

conversion, but instead of any fractional interest, the Company shall pay a cash adjustment, computed on the basis of the Closing Price of the Common Stock on the date of conversion, or, at its option, the Company shall round up to the next higher whole share."

(g) Sections 3(a) through (i) of each Note are hereby deleted in their entirety and replaced with the following:

"3. Conversion Upon Change in Control.

(a) In the event that a Change in Control (as hereinafter defined) shall occur, then automatically and without further action immediately prior to such Change in Control, this Security (or any portion of the principal amount hereof then outstanding) shall convert into fully paid and nonassessable shares (calculated to the nearest 1/100 of a share) of Common Stock at the rate of 1,000 shares of Common Stock for each \$1,000 principal amount of Security. Upon such conversion of this Security (or any portion of the principal amount hereof then outstanding), the holder of this Security shall surrender this Security, duly endorsed or assigned to the Company or in blank to the Company at the Designated Office. Upon surrender of this Security upon such conversion, the holder will be entitled to receive the interest accruing on the principal amount of this Security then being converted from the interest payment date next preceding the date of such conversion to such date of conversion. No payment or adjustment is to be made on conversion for dividends on the common stock issued on conversion hereof. No fractions of shares or scrip representing fractions of shares will be issued on conversion, but instead of any fractional interest, the Company shall pay a cash adjustment, computed on the basis of the amount payable per share of Common Stock upon such Change in Control, or, at its option, the Company shall round up to the next higher whole share. Notwithstanding the foregoing, this Security (or any portion of the principal amount hereof then outstanding) shall not convert automatically under this Section 3(a) in the event of a Change in Control in which the amount payable per share of Common Stock is less than 1.5 times the Conversion Price unless, immediately prior to the consummation of such Change in Control, the Company pays to the holder of this Security, in cash or, subject to the fulfillment by the Company of the conditions set forth in Section 3(b), by delivery of shares of Common Stock, an amount such that the aggregate amount per share of Common Stock payable to the holder of this Security in connection with such Change in Control equals 1.5 times the Conversion Price. The Company agrees to give the holder of this Security notice of any Change in Control, by facsimile transmission confirmed in writing by overnight courier service, promptly and in any event within two Trading Days of the occurrence thereof.

(b) The Company may elect to deliver shares of Common Stock in payment under Section 3(a), if and only if the following conditions have been satisfied:

(1) Each share of Common Stock deliverable as payment under Section 3(a) shall have a fair market value as of the date of the consummation of the Change in Control (the "Change in Control Closing Date") of not less than the sum obtained by subtracting the amount payable per share of Common Stock upon such Change in Control from the Conversion Price. For purposes of this Section 3(b), the fair market value of a share of Common Stock shall be equal to 95% of the average of the Closing Prices for the five consecutive Trading Days ending on and including the third Trading Day immediately preceding the Change in Control Closing Date;

(2) In the event any shares of Common Stock to be issued under Section 3(a) require registration under any Federal securities law before such shares may be freely transferable without being subject to any transfer restrictions under the Securities Act of 1933, as amended, upon issuance, such registration shall have been completed and shall have become effective prior to the Change in Control Closing Date;

(3) In the event any shares of Common Stock to be issued under Section 3(a) require registration with or approval of any governmental authority under any State law or any other Federal law before such shares may be validly issued or delivered upon repurchase, such registration shall have been completed, have

become effective and such approval shall have been obtained, in each case, prior to the Change in Control Closing Date;

(4) Immediately prior to the Change in Control Closing Date the shares of Common Stock deliverable as payment under Section 3(a) shall have been approved for trading or listed on the American Stock Exchange or the principal national securities exchange or interdealer quotation system on which the Common Stock is then admitted to trading or listed; and

(5) All shares of Common Stock deliverable as payment under Section 3(a) shall be issued out of the Company's authorized but unissued Common Stock and will, upon issue, be duly and validly issued and fully paid and non-assessable and free of any preemptive rights.

if all of the conditions set forth in this Section 3(b) are not satisfied in accordance with the terms thereof, the Company shall pay the holder of this Security all amounts payable under Section 3(a) only in cash."

(h) Section 3(j) of each Note is hereby re-numbered as Section 3(c).

2. Condition to Effectiveness. This Amendment shall not become effective until each Holder receives a counterpart of this Amendment executed by the Company.

3. Ratification, Etc. Except as expressly amended hereby, all terms and conditions of each Note are hereby ratified and confirmed in all respects and shall continue in full force and effect. Each Note and this Amendment shall be read and construed as a single agreement. All references to any Note shall hereafter refer to such Note, as amended hereby.

4. No Waiver. Nothing contained herein shall constitute a waiver of, impair or otherwise affect, any obligation of the Company under any Note or any rights of any Holder consequent thereon.

5. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

6. Governing Law. This amendment shall be governed by, and construed in accordance with, the laws of the State of Texas (without reference to conflict of laws).

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as a document under seal as of the date first above written.

Company:

ACCESS PHARMACEUTICALS, INC.

By. /s/ Rosemary Mazanet
Name: Rosemary Mazanet
Title: Acting CEO

Holder:

ORACLE PARTNERS LP

By.

Name:
Title:

ORACLE INSTITUTIONAL PARTNERS LP

By.

Name:

Title:

SAM ORACLE INVESTMENTS INC.

By.

Name:

Title:

ORACLE OFFSHORE LTD.

By.

Name:

Title:

AMENDMENT TO 7.0% (SUBJECT TO ADJUSTMENT) CONVERTIBLE
PROMISSORY NOTES DUE APRIL 28, 2007

This Amendment to 7.0% (Subject to Adjustment) Convertible Promissory Notes previously Due September 13, 2005, dated as of April ___, 2007 and currently due April 28, 2007 (the "Amendment"), is by and among Access Pharmaceuticals, Inc., a Delaware corporation (the "Company"), and each of Oracle Partners LP, Oracle Institutional Partners LP, SAM Oracle Investments Inc. and Oracle Offshore Ltd. (each, a "Holder"), amending certain provisions of those certain 7.0% (Subject to Adjustment) Convertible Promissory Notes Due April 28, 2007 (each as amended and in effect from time to time, a "Note") from the Company to each Holder in the original principal amount of \$2,524,500, \$698,500, \$660,000 and \$132,000, respectively. Terms not otherwise defined herein which are defined in any Note shall have the same respective meanings herein as therein.

WHEREAS, the Company and each Holder have agreed to modify certain terms and conditions of each Note as specifically set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Amendment to Each Note. Each Note is hereby amended as follows:

(a) The title of each Note is hereby deleted in its entirety and replaced with the following:

"7.0% (Subject to Adjustment) Convertible Promissory Note Due June 12, 2007."

(b) All references to "April 28, 2007" in each Note are hereby deleted and replaced with "June 12, 2007,"

2. Condition to Effectiveness. This Amendment shall not become effective until each Holder receives a counterpart of this Amendment executed by the Company.

3. Ratification, Etc. Except as expressly amended hereby, all terms and conditions of each Note, as amended, are hereby ratified and confirmed in all respects and shall continue in full force and effect. Each Note and this Amendment shall be read and construed as a single agreement. All references to any Note shall hereafter refer to such Note, as amended hereby.

4. No Waiver. Nothing contained herein shall constitute a waiver of, impair or otherwise affect, any obligation of the Company under any Note or any rights of any Holder consequent thereon.

5. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

6. Governing Law. This amendment shall be governed by, and construed in accordance with, the laws of the State of

Texas (without reference to conflict of laws).

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as a document under seal as of the date first above written.

Company:
ACCESS PHARMACEUTICALS, INC.

By: _____
Name:
Title:

Holder:

ORACLE PARTNERS LP

By: /s/ Joel Liffman
Name: Joel Liffman
Title: Authorized Agent

ORACLE INSTITUTIONAL PARTNERS LP

By: /s/ Joel Liffman
Name: Joel Liffman
Title: Authorized Agent

SAM ORACLE INVESTMENTS INC.

By: /s/ Joel Liffman
Name: Joel Liffman
Title: Authorized Agent

ORACLE OFFSHORE LTD.

By: /s/ Joel Liffman
Name: Joel Liffman
Title: Authorized Agent

AMENDMENT TO 7.0% (SUBJECT TO ADJUSTMENT) CONVERTIBLE
PROMISSORY NOTES DUE SEPTEMBER 7, 2007

This Amendment to 7.0% (Subject to Adjustment) Convertible Promissory Notes previously Due September 13, 2005, dated as of September 7, 2007 and currently due September 7, 2007 (the "Amendment"), is by and among Access Pharmaceuticals, Inc., a Delaware corporation (the "Company"), and each of Oracle Partners LP, Oracle Institutional Partners LP, SAM Oracle Investments Inc. and Oracle Offshore Ltd. (each, a "Holder"), amending certain provisions of those certain 7.0% (Subject to Adjustment) Convertible Promissory Notes Due September 7, 2007 (each as amended and in effect from time to time, a "Note") from the Company to each Holder in the original principal amount of \$2,524,500, \$698,500, \$660,000 and \$132,000, respectively. Terms not otherwise defined herein which are defined in any Note shall have the same respective meanings herein as therein.

WHEREAS, the Company and each Holder have agreed to modify certain terms and conditions of each Note as specifically set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Amendment to Each Note. Each Note is hereby amended as follows:

(a) The title of each Note is hereby deleted in its entirety and replaced with the following:

"7.0% (Subject to Adjustment) Convertible Promissory Note Due October 5, 2007."

(b) All references to "September 7, 2007" in each Note are hereby deleted and replaced with "October 5, 2007."

2. Condition to Effectiveness. This Amendment shall not become effective until each Holder receives a counterpart of this Amendment executed by the Company.

3. Ratification, Etc. Except as expressly amended hereby, all terms and conditions of each Note, as amended, are hereby ratified and confirmed in all respects and shall continue in full force and effect. Each Note and this Amendment shall be read and construed as a single agreement. All references to any Note shall hereafter refer to such Note, as amended hereby.

4. No Waiver. Nothing contained herein shall constitute a waiver of, impair or otherwise affect, any obligation of the Company under any Note or any rights of any Holder consequent thereon.

5. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

6. Governing Law. This amendment shall be governed by, and construed in accordance with, the laws of the State of Texas (without reference to conflict of laws).

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as a document tender seal as of the date first above written.

Company:

ACCESS PHARMACEUTICALS, INC.

By: /s/ Stephen B. Thompson
Name: Stephen B. Thompson
Title: Vice President, Chief Financial Officer

Holders:

ORACLE PARTNERS LP

By: /s/ Joel Liffman
Name: Joel Liffman
Title: Authorized Agent

ORACLE INSTITUTIONAL PARTNERS LP

By: /s/ Joel Liffman
Name: Joel Liffman
Title: Authorized Agent

SAM ORACLE INVESTMENTS INC.

By: /s/ Joel Liffman
Name: Joel Liffman
Title: Authorized Agent

ORACLE OFFSHORE LTD.

By: /s/ Joel Liffman
Name: Joel Liffman
Title: Authorized Agent

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019-6099

_____, 2008

VIA EDGAR

Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Amendment No. 1 to Schedule 13D with respect to
the Common Stock, par value \$0.01 per share, of
Access Pharmaceuticals, Inc.

Ladies and Gentlemen:

On behalf of Mr. Larry N. Feinberg, Oracle Associates, LLC and Oracle Partners, L.P., Oracle Institutional Partners, L.P., Oracle Investment Management, Inc., and SAM Oracle Investments, Inc. transmitted herewith for filing with the Securities and Exchange Commission is one complete copy of Amendment No. 1 to Schedule 13D ("Amendment No. 1") with respect to the common stock, par value \$0.01 per share, of Access Pharmaceuticals, Inc. (the "Company").

By copy of this letter, one complete copy of Amendment No. 1 has been sent to the Company at its principal executive office by certified mail.

Should you have any questions regarding the enclosed, please call the undersigned at (212) 728-8000.

Very truly yours,

[/s/ Jay B. Straus]

Jay B. Straus

Enclosure

cc: Access Pharmaceuticals, Inc.
Rita Molesworth
Jay B. Straus