AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON JUNE 17, 1997

REGISTRATION NO. 333-25445

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

AMENDMENT NO. 1

TO
FORM SB-2
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

DEPOMED, INC.
(NAME OF SMALL BUSINESS ISSUER AS SPECIFIED IN ITS CHARTER)

CALIFORNIA	8731	94-3229046
(STATE OR OTHER JURISDICTION OF INCORPORATION OR ORGANIZATION)	(PRIMARY STANDARD INDUSTRIAL CLASSIFICATION CODE NUMBER)	(I.R.S. EMPLOYER IDENTIFICATION NO.)

1170 B CHESS DRIVE,
FOSTER CITY, CALIFORNIA 94404
(ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER, INCLUDING AREA CODE, OF REGISTRANT'S PRINCIPAL EXECUTIVE OFFICES)

JOHN W. FARA
PRESIDENT AND CHIEF EXECUTIVE OFFICER
1170 B CHESS DRIVE
FOSTER CITY, CALIFORNIA 94404
(415) 513-0990
(NAME, ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER, INCLUDING AREA CODE, OF AGENT FOR SERVICE)

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APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC: As soon as practicable following the effectiveness of this Registration Statement.

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

If this Form is filed to register additional securities for an offering pursuant to Rule 426(b) under the Securities Act of 1933, please check the following box and list the Securities Act registration number of the earlier effective registration statement for the same offering: [_]

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act of 1933, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: [_]

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box: [_]

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

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+INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. A +
+REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE +
+SECURITIES AND EXCHANGE COMMISSION. THESE SECURITIES MAY NOT BE SOLD NOR MAY +
+OFFERS TO BUY BE ACCEPTED PRIOR TO THE TIME THE REGISTRATION STATEMENT +
+BECOMES EFFECTIVE. THIS PROSPECTUS SHALL NOT CONSTITUTE AN OFFER TO SELL OR +
+THE SOLICITATION OF AN OFFER TO BUY NOR SHALL THERE BE ANY SALE OF THESE +
+SECURITIES IN ANY STATE IN WHICH SUCH OFFER, SOLICITATION OR SALE WOULD BE +
+UNLAWFUL PRIOR TO REGISTRATION OR QUALIFICATION UNDER THE SECURITIES LAWS OF +
+ANY SUCH STATE. +
++++++++++

SUBJECT TO COMPLETION, DATED JUNE 17, 1997

PROSPECTUS

DEPOMED, INC.

2,500,000 SHARES OF COMMON STOCK AND 1,250,000 REDEEMABLE COMMON STOCK PURCHASE WARRANTS

DepoMed, Inc., a California corporation (the "Company"), hereby offers (the "Offering") 2,500,000 shares (the "Shares") of common stock, no par value (the "Common Stock"), and 1,250,000 redeemable common stock purchase warrants (the "Warrants"). The Shares and Warrants are sometimes hereinafter collectively referred to as the "Securities." The Shares and Warrants may only be purchased together on the basis of two shares of Common Stock and one Warrant and will trade separately immediately upon issuance. Each Warrant entitles the registered holder thereof to purchase one share of Common Stock at an exercise price of $ per share [140% of the initial public offering price per share of Common Stock], at any time during the period commencing on , 1998 [twelve months from the date of the Prospectus] until , 2002 [5 years after the date of this Prospectus]. Commencing , 1998 [18 months from the date of the Prospectus], the Warrants are subject to redemption by the Company, in whole but not in part, at $0.10 per Warrant, on 30 days' prior written notice provided that the average closing sale price of the Common Stock as reported on the American Stock Exchange ("AMEX") equals or exceeds $ per share [150% of the initial public offering price per share of Common Stock] for any 20 trading days within a period of 30 consecutive trading days ending on the fifth trading

day prior to the date of the notice of redemption. See "Description of Securities--Warrants."

Prior to this Offering, there has been no public market for the Common Stock or the Warrants and there can be no assurance that such a market will develop after the completion of this Offering, or, if developed, that it will be sustained. It is currently anticipated that the initial public offering prices will be $6.00-$7.00 per Share and $0.10 per Warrant, respectively. For information regarding the factors considered in determining the initial public offering prices of the Shares and Warrants and the terms of the Warrants, see "Risk Factors" and "Underwriting." Application has been made to include the Shares and Warrants on the AMEX under the symbols "DMI" and "DMI.WS," respectively.

THE SECURITIES OFFERED HEREBY INVOLVE A HIGH DEGREE OF RISK AND IMMEDIATE SUBSTANTIAL DILUTION. SEE "RISK FACTORS" COMMENCING ON PAGE 7 AND "DILUTION."

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

	PRICE TO PUBLIC	UNDERWRITING DISCOUNT(1)	PROCEEDS TO COMPANY(2)
Per Share	$	$	$
Per Warrant	$	$	$
Total(3)	$	$	$

(1) Does not include additional compensation payable to National Securities Corporation, the representative (the "Representative") of the several Underwriters, in the form of a non-accountable expense allowance. In addition, see "Underwriting" for information concerning indemnification and contribution arrangements with the Underwriters and other compensation payable to the Representative.

(2) Before deducting expenses payable by the Company estimated at $, excluding the non-accountable expense allowance payable to the Representative.

(3) The Company has granted to the Representative an option, exercisable within 45 days after the date of this Prospectus, to purchase up to 375,000 additional shares of Common Stock and/or up to 187,500 additional Warrants, all upon the same terms and conditions as set forth above, solely to cover over-allotments, if any (the "Over-Allotment Option"). If such Over-Allotment Option is exercised in full, the total Price to Public, Underwriting Discount, Proceeds to Company will be $, $ and $, respectively. See "Underwriting."

The Securities are being offered by the Underwriters, subject to prior sale, when, as and if delivered to and accepted by the Underwriters and subject to approval of certain legal matters by their counsel and subject to certain other conditions. The Underwriters reserve the right to withdraw, cancel or modify

this Offering and to reject any order in whole or in part. It is expected that delivery of the Securities will be made against payment at the offices of National Securities Corporation, Seattle, Washington, on or about , 1997.

NATIONAL SECURITIES CORPORATION

THE DATE OF THIS PROSPECTUS IS , 1997.

CERTAIN PERSONS PARTICIPATING IN THIS OFFERING MAY ENGAGE IN TRANSACTIONS THAT STABILIZE, MAINTAIN OR OTHERWISE AFFECT THE PRICE OF THE COMMON STOCK AND WARRANTS, INCLUDING PURCHASES OF THE COMMON STOCK AND/OR WARRANTS TO STABILIZE THEIR RESPECTIVE MARKET PRICES, PURCHASES OF THE COMMON STOCK AND/OR WARRANTS TO COVER SOME OR ALL OF A SHORT POSITION MAINTAINED BY THE UNDERWRITERS IN THE COMMON STOCK AND/OR WARRANTS, RESPECTIVELY, AND THE IMPOSITION OF PENALTY BIDS. FOR A DISCUSSION OF THESE ACTIVITIES, SEE "UNDERWRITING."

PROSPECTUS SUMMARY

This Prospectus contains forward-looking statements that involve risk and uncertainties. The Company's actual results could differ materially from those anticipated in such forward-looking statements as a result of certain factors, including those set forth under "Risk Factors" and elsewhere in this Prospectus. The following summary is qualified in its entirety by the more detailed information and the Financial Statements and Notes thereto appearing elsewhere in this Prospectus. Except as otherwise noted, all information in this Prospectus (i) assumes no exercise of the Over-Allotment Option, (ii) gives effect to a one-for-three reverse stock split of the Common Stock on , 1997, (iii) assumes the Warrants and the Representative's Warrants are not exercised, (iv) assumes no exercise of 76,923 warrants to purchase Common Stock (the "Bridge Warrants") issued in connection with the Company's Bridge Financing (the "Bridge Financing") completed in April 1997, and (v) reflects the conversion of all outstanding shares of Series A Preferred Stock and Series B Preferred Stock (collectively, the "Preferred Stock") into 908,622 shares of Common Stock effective automatically upon the closing of the Offering. See "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Description of Securities," "Underwriting" and Notes to Financial Statements.

THE COMPANY

DepoMed, Inc. (the "Company") is a development stage company engaged in the development of new and proprietary oral drug delivery technologies. Utilizing these technologies, the Company has developed two types of oral drug delivery systems, the Gastric Retention System (the "GR System") and the Reduced Irritation System (the "RI System" and, collectively with the GR System, the "DepoMed Systems"). The GR System is designed to be retained in the stomach for an extended period of time while it delivers the incorporated drug or drugs, and the RI System is designed to reduce the gastrointestinal ("GI") irritation that is a side effect of many drugs. In addition, the DepoMed Systems are designed to provide continuous, controlled delivery of an incorporated drug.

The Company intends to develop products utilizing the DepoMed Systems in collaboration with pharmaceutical and biotechnology companies, from which the Company expects to receive license fees, research and development funding, milestone payments and royalties. The Company also intends to develop either independently or jointly certain over-the-counter ("OTC") products utilizing off-patent drugs in the DepoMed Systems.

The Company currently has a joint research and development agreement with

Bristol-Myers Squibb Company ("BMS") to develop a product incorporating a BMS proprietary compound into the GR System. In addition, the Company has entered into a feasibility study with GalaGen Inc. ("GalaGen") to use the GR System to enhance local effectiveness and/or provide continuous, controlled delivery of GalaGen's proprietary immunoglobulin (a protein of the immune system) products. The Company is also independently developing a reduced irritation aspirin product and an enhanced absorption calcium supplement product and has identified certain other product candidates expected to benefit from the DepoMed Systems. In April 1997, the Company and Oakmont Pharmaceuticals, Inc. ("Oakmont") signed a letter of intent to enter into an agreement pursuant to which Oakmont will manufacture the Company's reduced irritation aspirin and enhanced absorption calcium supplement products and have rights to distribute and sell these products in territories to be determined. The letter of intent also provides for the Company and Oakmont each to offer rights to future products to the other party.

The DepoMed Systems include proprietary formulations of drug-containing polymeric units that allow multihour delivery of an incorporated drug continuously into the stomach either for prolonged, local treatment in the stomach or for enhanced absorption in the GI tract. The Company believes that the GR System has the ability to enhance the bioavailability (blood levels) of drugs that are preferentially absorbed in the stomach, allow for

more effective treatment of local stomach disorders, and provide continuous and extended delivery of drugs to the upper part of the small intestine, the site where many drugs are absorbed most efficiently. The RI System is designed to reduce the irritation to the GI tract caused by many commonly used drugs, including aspirin. The Company believes the RI System has the potential to make such drugs less irritating and therefore more widely used.

In addition to the benefits described above, the Company believes that the DepoMed Systems may offer additional advantages including multihour release patterns for drugs of almost any solubility and the ability to use drug combinations previously not feasible due to the pharmacokinetic (absorption, distribution, metabolism and excretion) differences of drugs. The Company believes that by reducing the frequency of drug administration, use of the DepoMed Systems may lead to reduced costs and improved patient compliance. Also, by providing new formulations of existing products using the DepoMed Systems, the Company believes that it will be able to provide its collaborative partners with the ability to extend their patent franchises on such products.

The Company intends to have the DepoMed Systems used with as many pharmaceutical products as possible with an emphasis on pharmaceutical products which command a large market share or are in large market segments and where the Company believes the DepoMed Systems will provide an advantage over other drug delivery systems. The Company's primary strategy for the development and commercialization of the DepoMed Systems involves establishing collaborative relationships with pharmaceutical and biotechnology companies to develop improved therapeutic products. The Company also intends to develop improved products using off-patent and/or OTC drugs that utilize the DepoMed Systems either independently or jointly by entering into collaborative partnerships with pharmaceutical, biotechnology or other health care companies.

The Company was incorporated in the State of California in August 1995. Pursuant to a settlement agreement between M6 Pharmaceuticals, Inc. ("M6") on the one hand, and Dr. John W. Shell and DepoMed Systems, Inc. ("DSI") on the other hand, the Company obtained substantially all the assets, and assumed certain liabilities, attributable to the business conducted by DSI prior to its merger into M6. The Company's executive offices are located at 1170 B Chess Drive, Foster City, California 94404 and its telephone number is (415) 513-0990.

THE OFFERING

Securities offered.....	2,500,000 shares of Common Stock and 1,250,000 Warrants.
Terms of Warrants.....	Each Warrant entitles the holder thereof to purchase, at any time commencing , 1998 [one year after the date of this Prospectus], until , 2002 [five years after the date of this Prospectus], one share of Common Stock at a price of $ per share [140% of the initial public offering price per share of Common Stock]. Commencing , 1998 [18 months after the date of this Prospectus], the Warrants are subject to redemption by the Company, in whole but not in part, at $.10 per Warrant provided that the average closing sale price of the Common Stock as reported on the AMEX equals or exceeds $ per share [150% of the initial public offering price of the Common Stock] for any 20 trading days within a period of 30 consecutive trading days ending on the fifth trading day prior to the date of the notice of redemption. See "Description of Securities."
Common Stock outstanding prior to the Offering(1).....	4,263,447 shares of Common Stock.
Securities to be outstanding after the Offering(1).....	6,763,447 shares of Common Stock and 1,250,000 Warrants.
Use of proceeds.....	For research and development, laboratory and facilities capital expenditures, repayment of certain indebtedness and working capital and general corporate purposes. See "Use of Proceeds."
AMEX symbols:	
Common Stock.....	DMI
Warrants.....	DMI.WS
Risk Factors.....	An investment in the Securities offered hereby involves a high degree of risk and immediate and substantial dilution, and should be made only by investors who can afford the loss of their entire investment. See "Risk Factors" and "Dilution."

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(1) Excludes 196,667 shares of Common Stock issuable upon exercise of outstanding stock options as of March 31, 1997 at a weighted average exercise price of $1.64 per share under the Company's 1995 Stock Option Plan (the "Stock Plan"). Also excludes 128,333 shares available for grant under the Stock Plan as of March 31, 1997. In April 1997, the Board of Directors approved an increase of 250,000 shares to the Stock Plan. In April and June 1997, the Board of Directors granted options to purchase 71,666 and 68,333 shares of Common Stock, respectively, at a weighted average exercise price of $4.30 per share. See "Management--1995 Stock Option Plan."

SUMMARY FINANCIAL INFORMATION

	INCEPTION (AUGUST 7, 1995) TO DECEMBER 31, 1995	YEAR ENDED DECEMBER 31, 1996	THREE MONTHS ENDED MARCH 31, 1996	THREE MONTHS ENDED MARCH 31, 1997
STATEMENTS OF OPERATIONS DATA:				
Product development revenue	$ --	$ 317,971	$ --	$ 127,039
Operating expenses:				
Research and development	138,816	390,496	104,852	135,788
General and administrative	155,157	393,676	129,305	170,499
Purchase of in-process research and development	298,154	--	--	--
Total operating expenses	592,127	784,172	234,157	306,287
Loss from operations	(592,127)	(466,201)	(234,157)	(179,248)
Interest expense, net	8,541	6,572	(419)	4,470
Net loss	$(600,668)	$(472,773)	$(233,738)	$(183,718)
Pro forma net loss per share		$ (0.11)	$ (0.05)	$ (0.04)
Shares used in computing pro forma net loss per share(1)		4,312,910	4,290,321	4,444,682

	MARCH 31, 1997	
	ACTUAL	PRO FORMA AS ADJUSTED(2)
BALANCE SHEET DATA:		
Working capital (deficit)	$ (413,071)	$13,586,929
Total assets	536,885	14,238,763
Notes payable to shareholders	298,122	--
Deficit accumulated during the development stage	(1,257,159)	(1,257,159)
Total shareholders' equity (net capital deficiency)	(265,379)	13,734,621

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(1) See Note 2 of Notes to Financial Statements for an explanation of the determination of the number of shares used in computing pro forma net loss per share.

(2) Adjusted to give effect to (i) the Bridge Financing, and (ii) the receipt of the estimated net proceeds of the Offering upon an assumed initial public offering price of $6.50 per Share and $.10 per Warrant and the initial application of the net proceeds therefrom. See "Use of Proceeds."

RISK FACTORS

This Prospectus contains forward-looking statements that involve risks and uncertainties. Actual results could differ materially from those discussed in the forward-looking statements as a result of certain factors, including those set forth below and elsewhere in this Prospectus. An investment in the Securities offered hereby involves a high degree of risk and should be made only by investors who can afford the loss of their entire investment. Prospective investors should carefully review and consider the risk factors described below and other information in this Prospectus before purchasing the Securities.

EARLY STAGE OF DEVELOPMENT; WORKING CAPITAL DEFICIT; LIMITED REVENUES; LIMITED OPERATING HISTORY

The Company is at an early stage of development and is subject to all business risks associated with a new enterprise, including constraints on the Company's financial and personnel resources, lack of established credit facilities and collaborative partnering relationships, and uncertainties regarding product development and future revenues. At March 31, 1997, the Company had an accumulated deficit of $1,257,159 and a working capital deficit of $413,071. The Company anticipates that it will continue to incur substantial additional operating losses for at least the next several years and expects cumulative losses to increase as the Company's research and development efforts expand. The Company has had only minimal revenues to date from collaborative research and development arrangements and feasibility studies, and no revenues from product sales. There can be no assurance as to when or whether it will be able to develop significant sources of revenue or that its operations will become profitable, even if it is able to commercialize any products.The Company has only a limited history of operations, consisting primarily of development of its products and sponsorship of research. See "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Notes to Financial Statements.

GOING CONCERN DISCLOSURE IN INDEPENDENT AUDITORS' REPORT

The report of the Company's independent auditors with respect to the Company's financial statements included in this Prospectus includes a "going concern" modification, indicating that the Company's losses and deficits in working capital and shareholders' equity raise substantial doubt about the Company's ability to continue as a going concern. See "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Notes to Financial Statements.

NO ASSURANCE OF SUCCESSFUL PRODUCT DEVELOPMENT

The Company's research and development programs are at an early stage of development. Substantial additional research and development will be necessary in order for the Company to develop the DepoMed Systems, and there can be no assurance that the DepoMed Systems will be developed or that products utilizing the DepoMed Systems will be commercialized by the Company or third parties in a timely manner or at all. In addition to further research and development related to the DepoMed Systems, products utilizing the DepoMed Systems will require clinical testing, regulatory approval and substantial additional investment prior to commercialization. There can be no assurance that products utilizing the DepoMed Systems will be successfully developed, prove to be safe and efficacious in clinical trials, meet applicable regulatory standards, be capable of being produced in commercial quantities at acceptable costs, be eligible for third-party reimbursement from governmental or private insurers, be successfully marketed or achieve market acceptance. Further, the DepoMed Systems may prove to have undesirable or unintended side effects that may prevent or limit their commercial use. The Company or its collaborative partners may find that products that appeared promising in

preclinical studies do not demonstrate efficacy in larger-scale clinical trials and/or that such products will not receive regulatory approvals. Accordingly, any product development program undertaken by the Company may be curtailed, redirected or eliminated at any time which could have a material adverse effect on the Company. See "Business--The DepoMed Systems."

NEED FOR SUBSTANTIAL ADDITIONAL FUNDS

The Company anticipates that the net proceeds from this Offering will enable it to meet its capital and operational requirements for at least the 12 months following the date of this Prospectus. However, this expectation is based on the Company's current operating plan which can change as a result of many factors, and the Company could require additional funding sooner than anticipated. The Company's cash needs may also vary materially from those now planned because of results of research and development, relationships with possible collaborative partners, changes in the focus and direction of the Company's research and development programs, competitive and technological advances, results of clinical testing, requirements of the United States Food and Drug Administration ("FDA") and comparable foreign regulatory agencies and other factors. The Company will require substantial funds of its own or from third parties to conduct research and development, preclinical and clinical testing, and to manufacture (or have manufactured) and market (or have marketed) the products utilizing the DepoMed Systems. The net proceeds of this Offering are not expected to be sufficient to fund the Company's operations through commercialization of products yielding sufficient revenues to support the Company's operations. The Company has no credit facility or other committed sources of capital. To the extent capital resources are insufficient to meet future capital requirements, the Company will have to raise additional funds to continue the development of the DepoMed Systems. There can be no assurance that such funds will be available on favorable terms, or at all. To the extent that additional capital is raised through the sale of equity or convertible debt securities, the issuance of such securities could result in dilution to the Company's shareholders. If adequate funds are not available, the Company may be required to curtail operations significantly or to obtain funds through entering into collaboration agreements on unattractive terms. The Company's inability to raise capital would have a material adverse effect on the Company. See "Use of Proceeds" and "Management's Discussion and Analysis of Financial Condition and Results of Operations."

DEPENDENCE ON AND NEED FOR COLLABORATIVE PARTNERS

The Company's strategy for the research, development, clinical testing, manufacturing and commercialization of products utilizing the DepoMed Systems requires entering into collaborative arrangements with pharmaceutical and biotechnology companies. The Company has received substantially all of its revenues since inception from BMS and GalaGen and intends to enter into collaborative arrangements with other companies to fund the continued development of the DepoMed Systems, commercialize potential products utilizing the DepoMed Systems and assist in obtaining regulatory approval. Although the Company has entered into a joint research agreement with BMS and a feasibility study with GalaGen, there can be no assurance that either BMS or GalaGen will choose to continue to fund these projects or enter into arrangements to commercialize products utilizing the DepoMed Systems or, if they do, that any products utilizing the DepoMed Systems will be successfully developed or commercialized. Although the Company has entered into a letter of intent with Oakmont pursuant to which Oakmont will manufacture the Company's reduced irritation aspirin and enhanced absorption calcium supplement products and have rights to distribute and sell these products in certain territories, there can be no assurance that the Company and Oakmont will enter into a definitive agreement or, if they do, that the Company will be successful in developing these products or Oakmont will be successful in manufacturing, distributing or marketing them. Further, there can be no assurance that any of the Company's present or future collaborative partners will perform their obligations as expected or will devote sufficient resources to the development, clinical testing or marketing of the Company's potential products

developed under the collaborations or that the Company will be able to negotiate future collaborative arrangements on acceptable terms, if at all, or that such collaborations will be successful. Any parallel development by a collaborative partner of alternative technologies, preclusion of the Company from entering into competitive arrangements, failure to obtain timely regulatory approvals, premature termination of an agreement, or failure by a collaborative partner to devote sufficient resources to the development and commercialization of products utilizing the DepoMed Systems could have a material adverse effect on the Company.

The Company's agreements with its collaborative partners are likely to be complex. There may be provisions within such agreements which give rise to disputes regarding the rights and obligations of the parties. These and other possible disagreements could lead to delays in collaborative research, development or

commercialization of potential products, or could require or result in litigation or arbitration, which would be time-consuming and expensive, and could have a material adverse effect on the Company. See "Business--Collaborative Relationships."

FLUCTUATIONS IN OPERATING RESULTS

The Company's quarterly operating results will depend upon variations in revenues recognized under collaborative agreements, including milestones, royalties, license fees and other contract revenues, and the timing of new product introductions by the Company and its collaborative partners. The Company's quarterly operating results may also fluctuate significantly depending on other factors, including the introduction of new products by the Company's competitors, regulatory actions, market acceptance of the DepoMed Systems, adoption of new technologies, manufacturing costs and capabilities, changes in government funding, and third-party reimbursement policies. See "Management's Discussion and Analysis of Financial Condition and Results of Operations."

COMPETITION; TECHNOLOGICAL CHANGE

Competition in the areas of pharmaceutical products and drug delivery systems is intense and is expected to become more intense in the future. Other companies that have oral drug delivery technologies that are competitive with the DepoMed Systems include ALZA Corporation ("ALZA"), Elan Corporation plc ("Elan"), Jago Pharma AG ("JAGO"), Skyepharma plc ("Skye"), Dura Pharmaceuticals, Inc. ("Dura"), Kos Pharmaceuticals, Inc. ("Kos") and Flamel Aromatic SA ("Flamel"), all of which have oral tablet products designed to release the incorporated drugs over time. Each of these companies has a patented technology with attributes different from those of the Company's, and in some cases with different sites of delivery to the GI tract. These competing technologies may prove superior, either generally or in particular market segments, in terms of factors such as cost, consumer satisfaction or drug delivery profile. The Company's principal competitors in the business of developing and applying drug delivery systems all have substantially greater financial, technological, marketing, personnel and research and development resources than the Company. In addition, the Company may face competition from pharmaceutical and biotechnology companies that may develop or acquire drug delivery systems or technologies. Many of the Company's potential collaborative partners have devoted and are continuing to devote significant resources in the development of their own drug delivery systems and technologies. Potential products utilizing the DepoMed Systems will compete both with products employing advanced drug delivery systems and with products in conventional dosage forms. New drugs or future developments in alternative technologies may provide therapeutic or cost advantages over products utilizing the DepoMed Systems. There can be no assurance that developments by others will not render the Company's potential products utilizing the DepoMed Systems or technologies noncompetitive or obsolete. In addition, the Company's

competitive success will depend heavily on entering into collaborative relationships on reasonable commercial terms, commercial development of products utilizing the DepoMed Systems, regulatory approvals, protection of intellectual property and market acceptance of such products. See "Business--Competition."

NO ASSURANCE OF FDA APPROVAL; GOVERNMENT REGULATION

FDA Approval Process. In the United States, pharmaceutical products, including any drugs utilizing the DepoMed Systems, are subject to rigorous regulation by the FDA. If a company fails to comply with applicable requirements, it may be subject to administrative or judicially imposed sanctions such as civil penalties, criminal prosecution of the company or its officers and employees, injunctions, product seizure or detention, product recalls, total or partial suspension of production, FDA withdrawal of approved applications or FDA refusal to approve pending premarket approval applications, or supplements to approved applications.

Prior to commencement of clinical studies involving human beings, preclinical testing of new pharmaceutical products is generally conducted on animals in the laboratory to evaluate the potential efficacy and the safety of the product. The results of these studies are submitted to the FDA as a part of an Investigational

New Drug ("IND") application, which must become effective before clinical testing in humans can begin. Typically, clinical evaluation involves a time consuming and costly three-phase process. In Phase I, clinical trials are conducted with a small number of subjects to determine the early safety profile, the pattern of drug distribution and metabolism. In Phase II, clinical trials are conducted with groups of patients afflicted with a specific disease in order to determine preliminary efficacy, optimal dosages and expanded evidence of safety. In Phase III, large-scale, multi-center, comparative trials are conducted with groups of patients afflicted with a target disease in order to provide enough data to demonstrate the efficacy and safety required by the FDA. The FDA closely monitors the progress of each of the three phases of clinical testing and may, at its discretion, reevaluate, alter, suspend or terminate the testing based upon the data which have been accumulated to that point and its assessment of the risk/benefit ratio to the patient.

The results of the preclinical and clinical testing on a drug are submitted to the FDA in the form of a New Drug Application ("NDA") for approval prior to commencement of commercial sales. In responding to an NDA, the FDA may grant marketing approval, request additional information or deny the application if the FDA determines that the application does not satisfy its regulatory approval criteria. There can be no assurance that approvals will be granted on a timely basis, if at all. Failure to receive approval for any products utilizing the DepoMed Systems could have a material adverse effect on the Company.

Most OTC products are subject to an OTC monograph issued by the FDA. If an OTC product complies with an FDA monograph, it will not require the submission and approval of an NDA to be lawfully marketed. Such products are subject to various FDA regulations such as FDA's current good manufacturing practices ("cGMP") requirements, general and specific OTC labeling requirements (including warning statements), the restriction against advertising for conditions other than those stated in product labeling, and the requirement that in addition to active ingredients OTC drugs contain only safe and suitable inactive ingredients. Facilities which manufacture OTC products are subject to FDA inspection and failure to comply with applicable regulatory requirements may lead to administrative or judicially imposed penalties. If an OTC product differs from the terms of a monograph, it will, in most cases, require FDA approval of an NDA for the product to be marketed.

Other Regulations. Even if required FDA approval has been obtained with respect to a product, foreign regulatory approval of a product must also be

obtained prior to marketing the product internationally. Foreign approval varies from country to country and the time required for approval may delay or prevent marketing. In certain instances the Company or its collaborative partners may seek approval to market and sell certain of its products outside of the United States before submitting an application for United States approval to the FDA. The regulatory procedures for approval of new pharmaceutical products vary significantly among foreign countries. The clinical testing requirements and the time required to obtain foreign regulatory approvals may differ from that required for FDA approval. Although there is now a centralized European Union ("EU") approval mechanism in place, each EU country may nonetheless impose its own procedures and requirements, many of which are time consuming and expensive, and some EU countries require price approval as part of the regulatory process. Thus, there can be substantial delays in obtaining required approvals from both the FDA and foreign regulatory authorities after the relevant applications are filed, and approval in any single country may not be a meaningful indication that the product will thereafter be approved in another country.

The Company is also subject to regulation under various federal and state laws regarding, among other things, occupational safety, environmental protection, hazardous substance control and product advertising and promotion. In connection with its research and development activities and its manufacturing, the Company is subject to federal, state and local laws, rules, regulations and policies governing the use, generation, manufacture, storage, air emission, effluent discharge, handling and disposal of certain materials and wastes. See "Business--Government Regulation."

NO MANUFACTURING, MARKETING OR SALES CAPABILITIES

The Company does not have internal manufacturing, marketing or sales resources. In view of its early stage of development and limited resources, the Company does not anticipate spending a material portion of the net proceeds of this Offering to acquire resources and develop capabilities in these areas. Although the Company

intends to acquire pilot manufacturing equipment with a portion of the net proceeds from this Offering, the Company does not intend to acquire or establish its own dedicated manufacturing facilities for the foreseeable future. See "Use of Proceeds." Rather, the Company's manufacturing strategy will be to utilize the facilities of its collaborative partners or to develop manufacturing relationships with established contract manufacturers to make products utilizing the DepoMed Systems. In addition, the Company does not intend to establish an internal sales and marketing capability, but will seek to rely on its collaborative partners or distributor arrangements to market and sell the products utilizing the DepoMed Systems. In April 1997, the Company and Oakmont signed a letter of intent to enter into an agreement pursuant to which Oakmont will manufacture the Company's reduced irritation aspirin and enhanced absorption calcium supplement products and to have rights to distribute and sell these products in territories to be determined. There can be no assurance that the Company will be able to enter into manufacturing, marketing or sales agreements on reasonable commercial terms, or at all, with Oakmont or any other third party. Failure to do so could have a material adverse effect on the Company.

Manufacturers of products utilizing the DepoMed Systems will be subject to applicable cGMP requirements prescribed by the FDA or other rules and regulations prescribed by foreign regulatory authorities. There can be no assurance that the Company will be able to enter into manufacturing agreements either domestically or abroad with companies whose facilities and procedures comply with cGMP or applicable foreign standards. Should such agreements be entered into, the Company will be dependent on such manufacturers for continued compliance with cGMP and applicable foreign standards. Failure by a manufacturer of products utilizing the DepoMed Systems to maintain cGMP or applicable foreign standards could result in significant time delays or the inability of the Company to commercialize the DepoMed Systems and could have a

material adverse effect on the Company. At the present time, due to ongoing consolidation in the chemical and pharmaceutical industries, the Company believes there is a worldwide excess of manufacturing capacity available to the Company. As a result, the Company believes that it will be able to enter into agreements with suppliers and manufacturers on reasonable commercial terms. However, there can be no assurance that there will be manufacturing capacity available to the Company at the time the Company is ready to commercialize the DepoMed Systems. There also can be no assurance that any products utilizing the DepoMed Systems can be manufactured at a cost or in quantities required to make it commercially viable. The Company's inability to contract on acceptable terms and with qualified suppliers for the manufacture of any products utilizing the DepoMed Systems or delays or difficulties in its relationships with manufacturers, would have a material adverse effect on the Company.

Contract manufacturers must adhere to cGMP regulations strictly enforced by the FDA on an ongoing basis through its facilities inspection program. Contract manufacturing facilities must generally pass a pre-approval plant inspection before the FDA will approve an NDA. Certain material manufacturing changes that occur after approval are also subject to FDA review and clearance or approval. There can be no assurance that the FDA or other regulatory agencies will approve the process or the facilities by which any of the products utilizing the DepoMed Systems may be manufactured. The Company's dependence on third parties for the manufacture of products utilizing the DepoMed Systems may adversely affect the Company's ability to develop and deliver products utilizing the DepoMed Systems on a timely and competitive basis. See "Business--Collaborative Relationships" and "Business--Manufacturing, Marketing and Sales."

UNCERTAINTY REGARDING PATENTS AND PROPRIETARY RIGHTS

The Company's success will depend in part on its ability to obtain and maintain patent protection for its technologies and to preserve its trade secrets. It is the policy of the Company to file patent applications in the United States and foreign jurisdictions. The Company currently holds two issued United States and three pending United States patent applications, and has applied for patents in numerous foreign countries, some of which have been granted and others are still pending. No assurance can be given that the Company's patent applications will be approved or that any issued patents will provide competitive advantages for the DepoMed Systems or the Company's technologies or will not be challenged or circumvented by competitors. With respect to already issued patents and any patents which may issue from the Company's applications, there can be no assurance that claims allowed will be sufficient to protect the DepoMed Systems or the Company's technologies. Patent applications in the United States are maintained in secrecy until a patent issues, and the Company cannot be

certain that others have not filed patent applications for technology covered by the Company's pending applications or that the Company was the first to file patent applications for such technology. Competitors may have filed applications for, or may have received patents and may obtain additional patents and proprietary rights relating to, compounds or processes that may block the Company's patent rights or compete without infringing the patent rights of the Company. In addition, there can be no assurance that any patents issued to the Company will not be challenged, invalidated or circumvented, or that the rights granted thereunder will provide proprietary protection or commercial advantage to the Company.

The Company also relies on trade secrets and proprietary know-how which it seeks to protect, in part, through confidentiality agreements with employees, consultants, collaborative partners and others. There can be no assurance that these agreements will not be breached, that the Company will have adequate remedies for any such breach or that the Company's trade secrets will not otherwise become known or be independently developed by competitors. Although potential collaborative partners and the Company's research partners and consultants are not given access to proprietary trade secrets and know-how of

the Company until they have executed confidentiality agreements, these agreements may be breached by the other party thereto or may otherwise be of limited effectiveness or enforceability.

The ability to develop the DepoMed Systems or the Company's technologies and to commercialize products using the DepoMed Systems or such technologies will depend on not infringing the patents of others. Although the Company is not aware of any claim of patent infringement against it, claims concerning patents and proprietary technologies determined adversely to the Company could have a material adverse effect on the Company. In addition, litigation may also be necessary to enforce any patents issued or licensed to the Company or to determine the scope and validity of third-party proprietary rights. There can be no assurance that the Company's issued or licensed patents would be held valid by a court of competent jurisdiction. Whether or not the outcome of litigation is favorable to the Company, the cost of such litigation and the diversion of the Company's resources during such litigation could have a material adverse effect on the Company.

The pharmaceutical industry has experienced extensive litigation regarding patent and other intellectual property rights. Accordingly, the Company could incur substantial costs in defending itself in suits that may be brought against the Company claiming infringement of the patent rights of others or in asserting the Company's patent rights in a suit against another party. The Company may also be required to participate in interference proceedings declared by the United States Patent and Trademark Office for the purpose of determining the priority of inventions in connection with the patent applications of the Company or other parties. Adverse determinations in litigation or interference proceedings could require the Company to seek licenses (which may not be available on commercially reasonable terms) or subject the Company to significant liabilities to third parties, and could therefore have a material adverse effect on the Company. See "Business--Patents and Proprietary Rights."

RELATIONSHIPS OF ADVISORS WITH OTHER ENTITIES

Certain members of the Company's Policy Advisory Board and Development Advisory Board are employed on a full-time basis by academic or research institutions. In some cases, members of the Policy Advisory Board and Development Advisory Board also act as consultants to the other companies. In addition, except for work performed specifically for and at the direction of the Company, any inventions or processes discovered by such persons will be the intellectual property of their institutions or other companies. If the Company desires access to inventions which are not its property, it will be necessary for the Company to obtain licenses to such inventions from these institutions or companies. In addition, invention assignment agreements executed by such persons in connection with their relationships with the Company may be subject to the rights of their primary employers or other third parties with whom they have consulting relationships. See "Business--Advisors to the Company."

HEALTHCARE REFORM; UNCERTAIN AVAILABILITY OF HEALTHCARE REIMBURSEMENT

The healthcare industry is changing rapidly as the public, government, medical professionals, third-party payors and the pharmaceutical industry examine ways to contain or reduce the cost of health care. Changes in the healthcare industry could impact the Company's business, particularly to the extent that the Company develops the DepoMed Systems for use in prescription drug applications. In certain foreign markets pricing or profitability of prescription pharmaceuticals is subject to government control. In the United States, there have been, and the Company expects that there will continue to be, a number of federal and state proposals to implement similar government control or cost containment, particular with respect to Medicare payments. In addition, emphasis on managed care in the United States has increased and is expected to continue to increase the pressure on pharmaceutical pricing. While the Company cannot predict whether any such legislative or regulatory proposals will be adopted or the effect such proposals or managed care efforts may have

on its business, the announcement of such proposals or efforts could have a material adverse effect on the Company's ability to raise capital, and the adoption of such proposals or efforts could have a material adverse effect on the Company. Further, to the extent that such proposals or efforts have a material adverse effect on pharmaceutical and biotechnology companies or other healthcare providers that are prospective collaborative partners for the Company, the Company's ability to establish collaborations may be adversely affected. In addition, in both domestic and foreign markets, sales of products utilizing the DepoMed Systems will depend in part on the availability of reimbursement from third-party payors such as government health administration authorities, private health insurers and other organizations. Third-party payors are increasingly challenging the price and cost-effectiveness of prescription pharmaceutical products. Significant uncertainty exists as to the reimbursement status of newly approved healthcare products. There can be no assurance that products utilizing the DepoMed Systems will be considered cost effective or that adequate third-party reimbursement will be available to the Company's collaborators to maintain price levels sufficient to realize an appropriate return on the Company's investment in the DepoMed Systems.

DEPENDENCE ON MANAGEMENT AND OTHER KEY EMPLOYEES

The success of the Company is dependent in large part upon the continued services of John W. Shell and John W. Fara, its Chairman and Chief Scientific Officer, and President and Chief Executive Officer, respectively, and other members of the Company's executive management, and on the Company's ability to attract and retain key management and operating personnel. The Company has applied for key man life insurance on the lives of Drs. Shell and Fara in the amount of $2,000,000 each. Management and scientific personnel are in high demand and are often subject to competing offers. In particular, the Company's success will depend, in part, on its ability to attract and retain the services of its executive officers and scientific and technical personnel. The loss of the services of one or more members of management or key employees or the inability to hire additional personnel as needed may have a material adverse effect on the Company. See "Business--Employees" and "Management--Executive Officers and Directors."

SUBSTANTIAL CONTROL BY OFFICERS, DIRECTORS AND THEIR AFFILIATES

Following the Offering, the Company's officers and directors and their affiliates will beneficially own or control approximately 50.3% of the outstanding shares of Common Stock. Accordingly, such officers, directors and their affiliates may be able to influence the outcome of shareholder votes, including votes concerning election of directors, adoption of amendments to the Company's Articles of Incorporation and Bylaws and approval of mergers and other significant corporate transactions. See "Principal Shareholders."

RISK OF PRODUCT LIABILITY; UNCERTAINTY OF AVAILABILITY OF PRODUCT LIABILITY INSURANCE

The Company's business involves exposure to potential product liability risks that are inherent in the production and manufacture of pharmaceutical products. Any such claims could have a material adverse effect on the Company. The Company does not currently have any product liability insurance. Although the Company has applied to obtain product liability insurance, there can be no assurance that it will be able to obtain or maintain such insurance on acceptable terms, that the Company will be able to secure increased coverage as the

commercialization of its potential products utilizing the DepoMed Systems proceeds or that any insurance will provide adequate protection against potential liabilities. Claims or losses in excess of the limit of any liability insurance coverage obtained by the Company could have a material adverse effect on the Company. See "Business--Product Liability."

ABSENCE OF DIVIDENDS

The Company has never declared or paid cash dividends on its Common Stock and does not intend to pay any cash dividends in the foreseeable future. See "Dividend Policy."

NO PUBLIC MARKET FOR THE SECURITIES; ARBITRARY DETERMINATION OF PUBLIC OFFERING PRICES

Prior to the Offering, there has been no public market for the Securities, and there can be no assurance that an active trading market will develop, or, if developed, be sustained in any of the Securities after the Offering. The initial public offering price of the Securities and the exercise price and terms of the Warrants have been determined arbitrarily by negotiations between the Company and the Representative and do not necessarily bear any relationship to the Company's asset value, net worth or other established criteria of value. Factors considered in such negotiations, in addition to prevailing market conditions, included the history and prospects for the industry in which the Company competes, an assessment of the Company's management, the prospects of the Company, its capital structure and certain other factors as were deemed relevant. Accordingly, the initial public offering price of the Securities and the exercise price and terms of the Warrants may not be indicative of prices that may prevail at any time or from time to time in the public market for the Securities. See "Underwriting."

PRICE VOLATILITY

The securities markets have from time to time experienced significant price and volume fluctuations that may be unrelated to the operating performance of particular companies. In addition, the market prices of the common stock of many publicly traded pharmaceutical or biotechnology companies have in the past been, and can in the future be expected to be, especially volatile. Announcements of technological innovations or new products by the Company or its competitors, developments or disputes concerning patents or proprietary rights, publicity regarding actual or potential medical results relating to products under development by the Company or its competitors, regulatory developments in both the United States and foreign countries, delays in the Company's testing and development schedules, public concern as to the safety of biopharmaceutical or biotechnology products and economic and other external factors, as well as period-to-period fluctuations in the Company's financial results, may have a significant impact on the market price of the Securities.

POTENTIAL ADVERSE EFFECT OF REPRESENTATIVE'S WARRANTS

At the consummation of the Offering, the Company will sell to the Representative for nominal consideration the Representative's Warrants to purchase up to 250,000 shares of Common Stock and/or 125,000 Warrants. The Representative's Warrants will be exercisable for a period of four years commencing , 1998 [one year after the effective date of this Offering], at an exercise price of $ per share [165% of the initial public offering price per share of Common Stock] and $ per Warrant [165% of the initial public offering price per Warrant]. The Warrants obtained upon exercise of the Representative's Warrants will be exercisable for a period of four years commencing one year after the effective date of this Offering, at an exercise price of $ per share [140% of the initial public offering price per share of Common Stock]. For the term of the Representative's Warrants, the holders thereof will have, at nominal cost, the opportunity to profit from a rise in the market price of the Securities without assuming the risk of ownership, with a resulting dilution in the interest of other security holders. As long as the Representative's Warrants remain unexercised, the Company's ability to obtain additional capital may be adversely affected. Moreover, the Representative may be expected to exercise the Representative's Warrants at a time when the Company would, in all likelihood, be able to obtain any needed capital through a new offering of its securities on terms more favorable to the Company than those provided by the Representative's Warrants. See "Underwriting."

POTENTIAL ADVERSE EFFECT OF REDEMPTION OF WARRANTS

Commencing , 1998 [18 months after the date of this Prospectus], the Warrants are subject to redemption at $0.10 per Warrant on 30 days' prior written notice to the Warrant holders if the average closing sales price of the Common Stock as reported on the AMEX equals or exceeds $ per share [150% of the initial public offering price per share of Common Stock] for any 20 trading days within a period of 30 consecutive trading days ending on the fifth trading day prior to the date of the notice of redemption. If the Warrants are redeemed, holders of the Warrants will lose their rights to exercise the Warrants after the expiration of the 30 day notice of redemption period. Upon receipt of a notice of redemption, holders would be required to: (i) exercise the Warrants and pay the exercise price at a time when it may be disadvantageous for them to do so, (ii) sell the Warrants at the current market price, if any, when they might otherwise wish to hold the Warrants or (iii) accept the redemption price which is likely to be substantially less than the market value of the Warrants at the time of redemption. See "Description of Securities--Warrants."

MANAGEMENT'S DISCRETION IN USE OF PROCEEDS

Approximately $2.4 million or approximately 17% of the estimated net proceeds of the Offering has been allocated to working capital and general corporate purposes. Accordingly, the Company's Board of Directors will have discretion with respect to the allocation of such net proceeds. See "Use of Proceeds."

DILUTION; DISPARITY OF CONSIDERATION

Purchasers of shares of Common Stock in this Offering will experience an immediate and substantial dilution of $4.47 per share based on an assumed initial public offering price of $6.50 per share of Common Stock. Additional dilution to future net tangible book value per share may occur upon exercise of outstanding stock options and warrants and may occur, in addition, if the Company issues additional equity securities in the future. The current shareholders of the Company, including officers and directors, acquired their shares of Common Stock for nominal consideration or for consideration substantially less than the public offering price of the shares of Common Stock offered hereby. As a result, new investors will bear substantially all of the risks inherent in an investment in the Company. See "Dilution" and "Certain Transactions."

POTENTIAL ADVERSE EFFECT OF SHARES ELIGIBLE FOR FUTURE SALE

Future sales of Common Stock by shareholders and option holders or through the exercise of the Warrants could have an adverse effect on the market prices of the Securities. Upon completion of this Offering, the Company will have 6,763,447 shares of Common Stock outstanding, of which the 2,500,000 shares offered hereby (and the 1,250,000 Warrants) will be transferable without restriction under the Securities Act. The Company, all officers and directors of the Company and all holders of outstanding securities exercisable for or convertible into Common Stock have entered into contractual arrangements (the "Lock-Up Agreements") and have agreed not to directly or indirectly, issue, agree or offer to sell, transfer, assign, distribute, grant an option for purchase of sale of, pledge, hypothecate or otherwise encumber or dispose of any beneficial interest in such securities for a period of 12 months following the date of this Prospectus (the "Lock-Up Period") without the prior written consent of the Representative. As a result, notwithstanding the possible earlier eligibility for sale under the provisions of Rules 144, 144(k) and 701 under the Securities Act of 1933, as amended (the "Securities Act"), shares subject to the Lock-Up Agreements will not be saleable until the Lock-Up Period expires or the terms of the Lock-Up Agreements are waived by the Representative. Assuming that the Representative does not release the shareholders from the Lock-Up Agreements, after the Lock-Up Period all of the shares will be eligible for sale in the public market. Of such shares, 3,355,991 shares of Common Stock will be eligible for sale under Rule 144 (subject to volume limitations imposed by such rule), 815,789 shares of Common

Stock will be eligible for sale under Rule 144(k), and 91,667 shares will be eligible for sale under Rule 701. In addition, the Company intends to register on Form S-8 under the Securities Act, as soon as possible after the Effective Date, shares of Common Stock issuable under options granted under the Stock Plan. Such registration becomes effective immediately upon its filing with the Securities and Exchange Commission (the "Commission"). As of March

31, 1997, options to purchase a total of 196,667 shares of Common Stock were outstanding, and options to purchase an additional 128,333 shares of Common Stock were reserved for future issuance under the Stock Plan. In April 1997, the Board of Directors approved an increase of 250,000 shares to the Stock Plan. In April and June 1997, the Board of Directors granted options to purchase 71,666 and 68,333 shares of Common Stock, respectively, at a weighted average exercise price of $4.30 per share.

No prediction can be made as to the effect that future sales of Common Stock, or the availability of shares of Common Stock for future sale, will have on the market prices of the Common Stock and Warrants prevailing from time to time. The sale or issuance, or the potential for sale or issuance, of Common Stock after the Lock-Up Period could have an adverse impact on the market prices of the Common Stock and/or the Warrants. Sales of substantial amounts of Common Stock or the perception that such sales could occur could adversely affect prevailing market prices for the Common Stock and/or the Warrants. See "Underwriting" and "Shares Eligible for Future Sale."

CURRENT PROSPECTUS AND STATE BLUE SKY REGISTRATION REQUIRED TO EXERCISE WARRANTS

The Warrants are not exercisable unless, at the time of exercise, the Company has a current prospectus covering the shares of Common Stock issuable upon exercise of the Warrants and such shares have been registered, qualified or deemed to be exempt under the securities or "blue sky" laws of the state of residence of the exercising holder of the Warrants. Although the Company has undertaken to use its best efforts to have all of the shares of Common Stock issuable upon exercise of the Warrants registered or qualified on or before the exercise date and to maintain a current prospectus relating thereto until the expiration of the Warrants, there is no assurance that it will be able to do so. The value of the Warrants may be greatly reduced if a current prospectus covering the Common Stock issuable upon the exercise of the Warrants is not kept effective or if such Common Stock is not qualified or exempt from qualification in the states in which the holders of the Warrants reside. Until completion of this Offering, the Common Stock and the Warrants may only be purchased together on the basis of two shares of Common Stock and one Warrant, but the Warrants will be separately tradeable immediately after this Offering. Although the Securities will not knowingly be sold to purchasers in jurisdictions in which the Securities are not registered or otherwise qualified for sale, investors may purchase the Warrants in the secondary market or move to a jurisdiction in which the shares underlying the Warrants are not registered or qualified during the period that the Warrants are exercisable, the Company will be unable to issue shares to those persons desiring to exercise their Warrants unless and until the shares are qualified for sale in jurisdictions in which such purchasers reside, or an exemption from such qualification exists in such jurisdictions, and holders of the Warrants would have no choice but to attempt to sell the Warrants in a jurisdiction where such sale is permissible or allow them to expire unexercised. See "Description of Securities--Warrants."

USE OF PROCEEDS

The net proceeds to the Company from the sale of the Securities offered hereby (assuming an initial public price of $6.50 per Share and $0.10 per

Warrant), after deduction of underwriting discounts and other estimated expenses relating to the Offering, are estimated to be approximately $14,000,000 (or $16,200,000 if the Over-Allotment Option is exercised in full). The Company intends to use the net proceeds as follows:

	NET PROCEEDS	PERCENT OF TOTAL
Research and development expenses	$ 8,000,000	58%
Laboratory and facilities capital expenditures	2,000,000	14%
Repayment of certain indebtedness	1,600,000	11%
Working capital and general corporate purposes	2,400,000	17%
Total	$14,000,000	100%

Research and Development Expenses. The Company intends to continue investing in the further development of its oral drug delivery technologies and the DepoMed Systems. The Company also intends to develop generic compounds, such as a reduced irritation aspirin product and an enhanced absorption calcium supplement product, internally. The Company intends to conduct or fund clinical trials on such products and will undertake the associated regulatory activities.

Laboratory and Facilities Capital Expenditures. The Company intends to spend a portion of the net proceeds of this Offering to make capital investments in laboratories and related facilities, including the leasing of laboratory, testing and pilot manufacturing facilities, leasehold improvements and purchase of laboratory and pilot scale manufacturing equipment.

Repayment of Certain Indebtedness. Approximately $1,000,000 of the net proceeds of this Offering will be used to repay indebtedness of the Company incurred in connection with the Bridge Financing. In connection with the Bridge Financing, the Company issued promissory notes (the "Bridge Notes") in the aggregate principal amount of $1,000,000 to fund working capital and general corporate purposes. Interest accrues on the Bridge Notes at the rate of 6% per annum and the Bridge Notes will become due and payable on the consummation of the Offering. Approximately $600,000 of the net proceeds of this Offering will be used to repay other indebtedness of the Company, including unpaid salaries and five promissory notes held by officers of the Company. As of March 31, 1997, $250,667 of principal was outstanding and $47,455 of interest was outstanding on such promissory notes. Interest accrues on $150,667 of principal at the rate of 6% per annum and on the remaining $100,000 at the rate of 6.5% per annum. See "Management's Discussion and Analysis of Financial Condition and Results of Operations--Liquidity and Capital Resources" and "Certain Transactions."

The foregoing represents the Company's best estimate of its allocation of the net proceeds of the Offering, based on the current state of its operations, its current plans and current economic conditions. Proceeds may be reapportioned among categories listed above. The amount and timing of expenditures will vary depending upon a number of factors, including progress of the Company's operations, technical advances, terms of collaborative arrangements, changes in competitive conditions and determinations with respect to the commercial potential of products utilizing the DepoMed Systems.

The Company currently anticipates that the net proceeds of this Offering will enable it to meet its operational and capital requirements for at least the 12 months following the date of this Prospectus. However, there can be no assurance the net proceeds of this Offering will satisfy the Company's requirements for any particular period of time. Further, the net proceeds of

this Offering are not expected to be sufficient to fund the Company's operations through commercialization of products yielding sufficient revenues to support the Company's operations. To the extent capital resources are insufficient to meet future capital requirements, the Company will have to raise additional funds to continue the development of the DepoMed Systems. There can be no assurance that such funds will be available on favorable terms, or at all. See "Risk Factors--Need for Substantial Additional Funds."

Pending application of the net proceeds of the Offering, the Company intends to invest such net proceeds in interest-bearing, short-term investment grade financial instruments.

DIVIDEND POLICY

The Company has never declared or paid any cash dividends on its Common Stock. The Company currently intends to retain its earnings for future growth and, therefore, does not anticipate paying any cash dividends in the foreseeable future.

CAPITALIZATION

The following table sets forth the capitalization of the Company as of March 31, 1997 (i) on an actual basis, and (ii) pro forma as adjusted to give effect to (a) the Bridge Financing, (b) the estimated net proceeds from the sale of Common Stock and Warrants offered hereby at an assumed initial public offering price of $6.50 per Share and $0.10 per Warrant and the initial application of the estimated net proceeds therefrom (including the repayment of all the Bridge Notes in the principal amount of $1,000,000), and (c) the conversion of the Preferred Stock into 908,622 shares of Common Stock upon consummation of the Offering. This table should be read in conjunction with the Company's Financial Statements and related Notes thereto and Selected Financial Data appearing elsewhere in this Prospectus. See "Use of Proceeds."

	AS OF MARCH 31, 1997	
	ACTUAL	PRO FORMA AS ADJUSTED
Shareholders' equity (net capital deficiency):		
Preferred stock, no par value, 10,000,000 shares authorized, 2,725,868 shares issued and outstanding, actual; 5,000,000 shares authorized, none issued and outstanding, pro forma as adjusted	$ 961,259	$ --
Common stock, no par value, 25,000,000 shares authorized, 3,354,825 shares issued and outstanding, actual; 6,763,447 shares issued and outstanding, pro forma as adjusted(1)	382,250	15,343,509
Deferred compensation	(351,729)	(351,729)
Deficit accumulated during the development stage	(1,257,159)	(1,257,159)
Total shareholders' equity (net capital deficiency)	$ (265,379)	$13,734,621

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(1) Excludes 196,667 shares of Common Stock issuable upon the exercise of outstanding stock options as of March 31, 1997 at a weighted average exercise price of $1.64 per share under the Stock Plan. Also excludes 128,333 shares of Common Stock reserved for future grants of options under the Stock Plan as of March 31, 1997. In April 1997, the Board of Directors approved an increase of 250,000 shares to the Stock Plan. In April and June 1997, the Board of Directors granted options to purchase 71,666 and 68,333 shares of Common Stock, respectively, at a weighted average exercise price of $4.30 per share. See "Management--1995 Stock Option Plan."

DILUTION

As of March 31, 1997, the pro forma net tangible book value (deficit) of the Company's Common Stock was $(265,379), or approximately $(0.06) per share of Common Stock after giving effect to (i) the Bridge Financing and (ii) the conversion of the Preferred Stock into Common Stock upon consummation of the Offering. Pro forma net tangible book value per share represents the total amount of tangible assets less total liabilities divided by the number of shares of Common Stock issued and outstanding. After giving effect to the sale of the Common Stock and Warrants offered hereby at an assumed initial public offering price of $6.50 per share of Common Stock and $0.10 per Warrant (after deducting underwriting discounts and commissions and estimated offering expenses payable by the Company), the pro forma net tangible book value of the Company at March 31, 1997 would have been $13,734,621, or approximately $2.03 per share of Common Stock. This represents an immediate increase in net tangible book value of $2.09 per share of Common Stock to existing shareholders of Common Stock and an immediate dilution in net tangible book value of $4.47 per share of Common Stock to new investors. The following table illustrates this per share dilution:

Assumed initial public offering price per share.....		$6.50
Pro forma net tangible book value (deficit) per share prior to this Offering.....	(0.06)	
Increase per share attributable to this Offering.....	2.09	
Pro forma net tangible book value per share after this Offering.....		2.03
Dilution per share to new investors.....		$4.47

The computations in the table set forth above assume that the Over-Allotment Option is not exercised. If the Over-Allotment Option is exercised in full, the pro forma net tangible book value as of March 31, 1997 would have been $15,932,965 or $2.23 per share of Common Stock, resulting in dilution to new investors of $4.27 per share of Common Stock.

The following table summarizes, on a pro forma basis to reflect the same adjustments described above, the number of shares of Common Stock purchased from the Company, the total consideration paid and the average price per share paid by (i) existing shareholders of Common Stock at March 31, 1997, and (ii) new shareholders in the Offering, assuming the sale of the Common Stock and Warrants offered hereby at an assumed initial public offering price of $6.50 per Share. The calculations are based upon total consideration given by new investors and existing shareholders before any deduction of underwriting discounts and offering expenses payable by the Company.

	SHARES PURCHASED		TOTAL CONSIDERATION		
	NUMBER	PERCENT	AMOUNT	PERCENT	AVERAGE PRICE PER SHARE
Existing shareholders(1)...	4,263,447	63%	$ 1,037,750	6%	$0.24
New investors(2).....	2,500,000	37%	16,250,000	94%	$6.50
Total.....	6,763,447	100%	$17,287,750	100%	

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(1) Excludes 196,667 shares of Common Stock issuable upon exercise of stock options as of March 31, 1997 with a weighted average exercise price of $1.64 per share outstanding under the Stock Plan. Also excludes 128,333 shares of Common Stock reserved for future grants of options under the Stock Plan as of March 31, 1997. In April 1997, the Board of Directors approved an increase of 250,000 shares to the Stock Plan. In April and June 1997, the Board of Directors granted options to purchase 71,666 and 68,333 shares of Common Stock, respectively, at a weighted average exercise price of $4.30 per share. See "Management--1995 Stock Option Plan."

(2) Reflects no proceeds received from the sale of the Warrants.

SELECTED FINANCIAL DATA

The selected statements of operations data for the period from inception (August 7, 1995) to December 31, 1995 and for the year ended December 31, 1996 and the balance sheet data at December 31, 1996 are derived from financial statements of the Company which have been audited by Ernst & Young LLP, independent auditors. The selected historical information as of March 31, 1997 and for the three months ended March 31, 1996 and 1997 and for the period from inception (August 7, 1995) to March 31, 1997 are derived from unaudited interim financial statements of the Company which are included elsewhere in this Prospectus and include, in the opinion of management, all adjustments (consisting only of normal, recurring adjustments) necessary for the fair presentation of its results for such periods. Results for the three months ended March 31, 1997 are not necessarily indicative of results for any other interim period or for the entire year. The selected financial data set forth below is qualified in its entirety by, and should be read in conjunction with, "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the Company's Financial Statements and related Notes thereto appearing elsewhere in this Prospectus.

	INCEPTION (AUGUST 7, 1995) TO DECEMBER 31, 1995	YEAR ENDED DECEMBER 31, 1996	THREE MONTHS ENDED MARCH 31, 1996	THREE MONTHS ENDED MARCH 31, 1997	INCEPTION (AUGUST 7, 1995) TO MARCH 31, 1997
STATEMENTS OF OPERATIONS DATA:					
Product development revenue.....	$ --	$ 317,971	$ --	$ 127,039	$ 445,010
Operating expenses:					
Research and development.....	138,816	390,496	104,852	135,788	665,100
General and administrative.....	155,157	393,676	129,305	170,499	719,332

Purchase of in-process research and development.....	298,154	--	--	--	298,154
Total operating expenses.....	592,127	784,172	234,157	306,287	1,682,586
Loss from operations....	(592,127)	(466,201)	(234,157)	(179,248)	(1,237,576)
Interest expense, net...	8,541	6,572	(419)	4,470	19,583
Net loss.....	$(600,668)	$(472,773)	$(233,738)	$(183,718)	$(1,257,159)
Pro forma net loss per share.....		$ (0.11)	$ (0.05)	$ (0.04)	
Shares used in computing pro forma net loss per share(1).....		4,312,910	4,290,321	4,444,682	

	AS OF DECEMBER 31, 1996	AS OF MARCH 31, 1997
BALANCE SHEETS DATA:		
Working capital (deficit).....	$ (516,688)	$ (413,071)
Total assets.....	333,127	536,885
Notes payable to shareholders.....	294,238	298,122
Capital lease obligation, non-current portion.....	34,634	24,338
Deficit accumulated during development stage.....	(1,073,441)	(1,257,159)
Total shareholders' equity (net capital deficiency).....	(381,432)	(265,379)

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(1) See Note 2 of Notes to Financial Statements for an explanation of the determination of the number of shares used in computing pro forma net loss per share.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis should be read in conjunction with "Selected Financial Data" and the Company's Financial Statements and related Notes thereto appearing elsewhere in this Prospectus. Except for the historical information contained herein, the discussion in this Prospectus contains certain forward-looking statements that involve risks and uncertainties, such as statements of the Company's plans, objectives, expectations and intentions. The cautionary statements made in this Prospectus should be read as being applicable to all related forward-looking statements wherever they appear in this Prospectus. The Company's actual results could differ materially from those discussed here. Factors that could cause or contribute to such differences include those discussed in "Risk Factors," as well as those discussed elsewhere herein.

GENERAL

Since its inception in August 1995, the Company has devoted substantially all its efforts to research and development conducted on its own behalf and through collaborations with pharmaceutical partners in connection with the DepoMed Systems. The Company's primary activities since inception (August 7, 1995) have been, in addition to research and development, establishing its offices and research facilities, recruiting personnel, filing patent applications, developing a business strategy and raising capital. To date, the Company has received only limited revenue, all of which has been from collaborative research and feasibility arrangements. At its inception in 1995, the Company acquired $298,154 of in-process research and development technology. This amount was recognized as operating expense in 1995. There was no such expense in 1996. The Company has generated a cumulative net loss of $1,257,159 for the period from its inception through March 31, 1997.

The Company intends to continue investing in the further development of its drug delivery technologies and the DepoMed Systems. The Company also intends to develop generic compounds, such as a reduced irritation aspirin product and an enhanced absorption calcium supplement product, internally. Depending upon a variety of factors, including collaborative arrangements, available personnel and financial resources, the Company will conduct or fund clinical trials on such products and will undertake the associated regulatory activities. The Company will need to make additional capital investments in laboratories and related facilities, including the purchase of laboratory and pilot scale manufacturing equipment. As additional personnel are hired in 1997 and beyond, expenses can be expected to increase from their 1996 levels. Within the next 12 months, the Company will also require additional space for laboratory, testing and pilot manufacturing facilities. See "Use of Proceeds."

RESULTS OF OPERATIONS

The Company commenced operations in August 1995. Because of the difference in the length of the reported periods, the comparison of the period from inception to December 31, 1995 to the year ended December 31, 1996 is not meaningful and has not been presented.

Three Months Ended March 31, 1996 and 1997

Revenue for the three months ended March 31, 1997 was $127,039 and consisted entirely of amounts earned under the research and development arrangement with BMS. There was no revenue earned for the three months ended March 31, 1996.

Research and development expenses for the three months ended March 31, 1997 were $135,788, compared to $104,852 during the three months ended March 31, 1996. The increase was due to the hiring of additional employees and related expenses.

General and administrative expenses for the three months ended March 31, 1997 were $170,499, compared to $129,305 during the three months ended March 31, 1996. The increase was due to the hiring of additional employees and related expenses.

Year Ended December 31, 1996

Revenue in 1996 was $317,971, primarily the result of the joint research agreement with BMS.

Research and development expenses in 1996 were $390,496, primarily consisting of personnel costs and laboratory supply expenses.

General and administrative expenses in 1996 were $393,676, primarily consisting of personnel costs, facilities expenses and fees paid to outside financial consultants.

The Company records and amortizes over related vesting periods deferred compensation representing the difference between the exercise price of options

granted and the deemed fair value of its Common Stock at the time of grant. Options generally vest over four years. Deferred compensation of $373,000 has been recorded and is being amortized to both research and development expenses as well as general and administrative expenses over the related vesting periods of the options granted through March 31, 1997. The Company will record approximately $144,000 of additional deferred compensation in its quarter ending June 30, 1997 related to stock options granted in April and June 1997.

LIQUIDITY AND CAPITAL RESOURCES

Since inception, the Company has financed operations principally from the sale of preferred stock. In 1995, the Company issued 2,447,368 shares of Series A Preferred Stock for net proceeds of $682,759. During the three months ended March 31, 1997, the Company issued 278,500 shares of Series B Preferred Stock for an aggregate purchase price of $278,500. In 1996, the Company borrowed $50,000 from an officer of the Company, which the Company intends to repay with a portion of the net proceeds of this Offering. See "Use of Proceeds" and "Certain Transactions."

In April 1997, the Company completed the Bridge Financing and issued the Bridge Notes to fund working capital and general corporate purposes. The Bridge Notes bear interest at the rate of 6% per annum and are due and payable upon the closing of this Offering. The Company intends to use a portion of the net proceeds of this Offering to repay the entire principal amount of and the accrued interest on the Bridge Notes. In connection with the Bridge Financing, the Company issued Bridge Warrants entitling the investors to purchase the number of shares of Common Stock which equals 50% of their investment divided by the initial public offering price per share of the Common Stock. A total of 76,923 shares of Common Stock will be issuable upon exercise of the Bridge Warrants at an exercise price of $6.50 per share of Common Stock, assuming an initial public offering price of $6.50 per share. The Bridge Warrants may be exercised at any time during the four year period beginning 12 months after the date of this Prospectus. See "Use of Proceeds" and Note 9 of Notes to Financial Statements.

Cash used in operations in the three months ended March 31, 1997 was $147,097 compared to $168,827 for the three months ended March 31, 1996. During the three months ended March 31, 1997 increases in accounts payable and accrued compensation approximated the increase in prepaid expenses, which were expenses that are anticipated to be capitalized as expenses of the Offering. During the three months ended March 31, 1996 increases in accrued compensation, accounts payable and a reduction in current assets were offset by the net loss and a decrease in other current liabilities.

Cash used in operations in 1996 was $391,316 compared to $194,019 for the period from inception to December 31, 1995. The period from inception to December 31, 1995 included a non-recurring charge of $298,154 for the acquisition of in-process research and development technology. Cash used in operations is expected to increase in 1997 as a result of increased expenditures and working capital requirements to support product development and expanded and continuing research activities.

Cash used in investing activities in the three months ended March 31, 1997 totaled $19,533 and consisted of purchases of laboratory equipment, furniture and office equipment. Cash provided by investing activities in the three months ended March 31, 1996 totaled $45,924 and consisted of sales of short term investments offset by purchases of laboratory equipment.

Cash used in investing activities primarily related to capital expenditures for property and equipment. Capital expenditures in 1996 were $28,708. Capital expenditures for the period from inception to December 31,

1995 were $49,645. In addition, in 1996, $56,393 of equipment was acquired and financed under a capital lease. For the period from inception to December 31, 1995 $65,563 of equipment was acquired and financed under a capital lease.

Capital expenditures in both years were primarily for research and development equipment. Capital expenditures during the 12 months following the date of this Prospectus may include pilot manufacturing equipment, such as tablet presses for proof of principle, and product development and quality control laboratory equipment. In the future the Company may seek lease financing for certain additional equipment. Upon completion of the Offering, the Bridge Notes, the promissory notes issued to the officers of the Company and accrued, unpaid salaries will be paid with a portion of the net proceeds from this Offering. See "Use of Proceeds"

The Company anticipates that the net proceeds from this Offering, will enable it to meet its capital and operational requirements for at least the 12 months following the date of this Prospectus. Cash needs of the Company may vary materially from those now planned because of results of research and development, relationships with possible collaborative partners, changes in the focus and direction of the Company's research and development programs, competitive and technological advances, results of clinical testing, requirements of the FDA and comparable foreign regulatory processes and other factors. The Company will require substantial funds of its own or from third parties to conduct research and development, preclinical and clinical testing, and to manufacture (or have manufactured) and market (or have marketed) the products utilizing the DepoMed Systems. The net proceeds of this Offering are not expected to be sufficient to fund the Company's operations through commercialization of products yielding sufficient revenues to support the Company's operations. The Company has no credit facility or other committed sources of capital. To the extent capital resources are insufficient to meet future capital requirements, the Company will have to raise additional funds to continue the development of its technologies. There can be no assurance that such funds will be available on favorable terms, or at all. To the extent that additional capital is raised through the sale of equity or convertible debt securities, the issuance of such securities could result in dilution to the Company's shareholders. If adequate funds are not available, the Company may be required to curtail operations significantly or to obtain funds through entering into collaboration agreements on unattractive terms. The Company's inability to raise capital would have a material adverse effect on the Company.

NET OPERATING LOSSES

The Company has not generated any taxable income to date. At December 31, 1996, the net operating losses available to offset future taxable income for federal income tax purposes were approximately $500,000. Because the Company has experienced ownership changes, future utilization of carry forwards may be limited in any fiscal year pursuant to Internal Revenue Code regulations. The carryforwards expire at various dates beginning in 2010 through 2011 if not utilized. As a result of the annual limitation, anticipated and future losses, all or a portion of these carryforwards may expire before becoming available to reduce the Company's federal income tax liabilities.

BUSINESS

The Company is a development stage company engaged in the development of new and proprietary oral drug delivery technologies. Utilizing these technologies, the Company has developed two types of oral drug delivery systems, the GR System and the RI System. The GR System is designed to be retained in the stomach for an extended period of time while it delivers the incorporated drug or drugs and the RI System is designed to reduce the GI irritation that is a side effect of many drugs. In addition, the DepoMed Systems are designed to provide continuous, controlled delivery of an incorporated drug.

The Company intends to develop products utilizing the DepoMed Systems in collaboration with pharmaceutical and biotechnology companies, from which the Company expects to receive license fees, research and development funding, milestone payments and royalties. The Company also intends to develop either

independently or jointly certain OTC and products utilizing off-patent drugs in the DepoMed Systems.

The Company currently has a joint research and development agreement with BMS to develop a product incorporating a BMS proprietary compound into the GR System. In addition, the Company has entered into a feasibility study with GalaGen to use the GR System to enhance local effectiveness and/or provide continuous, controlled delivery of GalaGen's proprietary immunoglobulin products. The Company is also independently developing a reduced irritation aspirin product and enhanced absorption calcium supplement product and has identified certain other product candidates expected to benefit from the DepoMed Systems. In April 1997, the Company and Oakmont signed a letter of intent to enter into an agreement pursuant to which Oakmont will manufacture the Company's reduced irritation aspirin and enhanced absorption calcium supplement products and have rights to distribute and sell these products in territories to be determined. The letter of intent also provides for the Company and Oakmont each to offer rights to future products to the other party.

The DepoMed Systems include proprietary formulations of drug-containing polymeric units that allow multihour delivery of an incorporated drug continuously into the stomach either for prolonged, local treatment in the stomach or for enhanced absorption in the GI tract. The Company believes that the GR System has the ability to enhance the bioavailability of drugs that are preferentially absorbed in the stomach, allow for more effective treatment of local stomach disorders, and provide continuous and extended delivery of drugs to the upper part of the small intestine, the site where many drugs are absorbed most efficiently. The RI System is designed to reduce the irritation to the GI tract caused by many commonly used drugs, including aspirin. The Company believes the RI System has the potential to make such drugs less irritating and therefore more widely used.

In addition to the benefits described above, the Company believes that the DepoMed Systems may offer additional advantages including: multihour release rate patterns for drugs of almost any solubility and the ability to use drug combinations previously not feasible due to pharmacokinetic differences between drugs. The Company believes that by reducing the frequency of drug administration, use of the DepoMed Systems may lead to reduced costs and improved patient compliance. Also, by providing new formulations of existing products using the DepoMed Systems, the Company believes that it will be able to provide its collaborative partners with the ability to extend their patent franchises on such products.

The Company intends to have the DepoMed Systems used with as many pharmaceutical products as possible with an emphasis on pharmaceutical products which command a large market share or are in large market segments and where the Company believes the DepoMed Systems will provide an advantage over other drug delivery systems. The Company's primary strategy for the development and commercialization of the DepoMed Systems involves establishing collaborative relationships with pharmaceutical and biotechnology companies to develop improved therapeutic products. The Company also intends to develop off-patent drugs and/or OTC products that utilize the DepoMed Systems either independently or jointly by entering into collaborative partnerships with pharmaceutical, biotechnology or other health care companies.

THE DRUG DELIVERY INDUSTRY

Drug delivery companies apply proprietary technologies to create new pharmaceutical products utilizing drugs developed by others. These products are generally novel, cost-effective dosage forms that provide any of several benefits including better control of drug concentration in the blood, improved safety and efficacy, improved patient compliance and ease of use. The Company believes that drug delivery technologies can provide pharmaceutical companies with a means of developing new products as well as extending existing patent

franchises.

The increasing need to deliver medication to patients efficiently and with fewer side effects has accelerated the pace of invention of new drug delivery systems and the development and maturation of the drug delivery industry. Today, medication can be delivered to a patient through many different delivery systems including transdermal (through the skin), injection, implant and oral methods. However, these delivery methods continue to have certain limitations. Transdermal patches are often inconvenient to apply, can be irritating to the skin and the rate of release can be difficult to control. Injections are uncomfortable for most patients. In most cases both injections and implants must be administered in a hospital or physician's office and, accordingly, are frequently not suitable for home use. Oral administration remains the preferred method of administering medication. However, conventional oral drug administration also has limitations. Because capsules and tablets have limited effectiveness in providing controlled drug delivery, they frequently result in drug release that is too rapid, causing incomplete absorption of the drug, irritation to the GI tract and other side effects. In addition, they lack the ability to provide localized therapy. The Company believes that the need for frequent dosing of many drugs administered by capsules and tablets also can impede patient compliance with the prescribed regimen.

In recent years, drug delivery companies have been able to develop innovative and efficient solutions to some of the limitations of conventional oral drug administration. For example, the improved oral delivery system developed by ALZA in the 1980s reduced the side effects and dosing frequency of the hypertension drug, Procardia(R). The improved product, Procardia XL(R), has substantially increased the sales of the drug and, because of the new formulation, the patent franchise on Procardia(R) was extended. The Company believes that the DepoMed Systems have the potential to offer similar opportunities of improved therapy and extended patent life to pharmaceutical and biotechnology companies.

THE DEPOMED SYSTEMS

The DepoMed Systems are based on the Company's proprietary oral drug delivery technologies which are designed to include formulations of drug-containing polymeric units that allow multihour delivery of an incorporated drug. Although the Company's formulations are proprietary, the polymers utilized in the DepoMed Systems are commonly used in the food and drug industries. The Company has formulated these polymers into cylinders and spheres that are contained in gelatin capsules for ease of administration. By using different formulations of the polymers, the Company believes that the DepoMed Systems are able to provide continuous, controlled delivery of drugs of varying molecular complexity and solubility.

The DepoMed Systems are designed to address certain limitations of drug delivery and to provide for orally administered, conveniently dosed, cost-effective drug therapy that provides continuous, controlled delivery of a drug over a multihour period. The Company believes that the DepoMed Systems can provide one or more of the following therapeutic advantages over conventional methods of drug administration:

- Enhance Safety and Efficacy through Controlled Delivery. The Company believes that the DepoMed Systems may improve the ratio of therapeutic effect to toxicity by decreasing the initial peak concentrations of drug associated with toxicity, while maintaining levels of a drug at therapeutic, subtoxic concentrations for an extended period of time. Many drugs demonstrate optimal efficacy when concentrations are maintained at therapeutic levels over an extended period of time. When a drug is administered intermittently, the therapeutic concentration is often exceeded for some period of time, and then the concentration rapidly drops below effective levels. Excessively high concentrations are a major cause of side effects, and subtherapeutic concentrations are ineffective.

- Greater Patient and Caregiver Convenience. The Company believes that the DepoMed Systems may offer once-daily dosing for certain drugs that are currently required to be administered several times daily. Such once-daily dosing promotes compliance to dosing regimens. Patient noncompliance with dosing regimens has been associated with increased costs of medical therapies by prolonging treatment duration, increasing the likelihood of secondary or tertiary disease manifestation and contributing to over-utilization of medical personnel and facilities. By improving patient compliance, providers and third-party payors may reduce unnecessary expenditures and improve therapeutic outcomes.

- Expand Types of Drugs Capable of Oral Delivery. Some drugs, including certain proteins (complex organic compounds of high molecular weight, containing numerous amino acids) and peptides (low molecular weight compounds consisting of two or more amino acids), because of their large molecular size and susceptibility to degradation in the GI tract, must currently be administered by injection or by continuous infusion, which is typically done in a hospital or other clinical setting. The Company believes the Depomed Systems may be able to deliver some of these drugs orally.

- Proprietary Reformulation of Generic Products. The Company believes that the DepoMed Systems may offer the potential to produce improved formulations of off-patent drugs. These proprietary formulations may be differentiated from existing generic products by virtue of reduced dosing requirements, improved efficacy, decreased toxicity or additional indications.

THE GASTRIC RETENTION SYSTEM

The GR System consists of a proprietary formulation of drug-containing polymeric cylinders which, if taken with a meal, remain in the stomach for an extended period of time to provide continuous, controlled delivery of an incorporated drug. The GR System's design is based in part on principles of human gastric emptying and GI transit. Following a meal, liquids and small particles flow continuously from the stomach into the intestine leaving behind the larger nondigested particles until the digestive process is complete. As a result, drugs in liquid form or those consisting of small particles tend to empty rapidly from the stomach and continue into the intestine, often before the drug has time to act locally or to be absorbed. The drug-containing polymeric cylinders of the GR System are formulated into easily swallowed cylinder shapes which are designed to swell upon ingestion. The cylinders attain a size after ingestion sufficient to be retained in the stomach for multiple hours while delivering the drug content.

The Company has demonstrated multihour gastric retention in humans who have been given the GR System with food. In addition, the Company is currently developing an enhanced version of the GR System designed to be retained in the stomach without the ingestion of food. This process is expected to allow for treatment regimens unrelated to meal times, as well as for retention that is more prolonged and with minimum patient to patient variation in retention time. The Company believes that this feature will make medical treatment less disruptive to a patient's normal schedule.

The expected advantages of the GR System over conventional oral drug delivery systems include the following:

More Efficient GI Drug Absorption. The Company believes that the GR System can be used for improved oral administration of drugs that are currently inadequately absorbed when delivered as conventional tablets or capsules. Many drugs are primarily absorbed in the stomach, duodenum or upper small intestine, through which drugs administered in conventional oral dosage forms pass quickly. In contrast, the GR System is designed to be retained in the stomach allowing for constant multihour flow of drugs to certain areas of the GI tract. Accordingly, for such drugs, the Company believes that the GR System

offers a significantly enhanced opportunity for increased absorption. Unlike some insoluble systems, at the end of its useful life the polymer contained in the GR System dissolves and is passed through the GI tract and eliminated. Under its joint research agreement with BMS, the Company currently is developing a product utilizing this feature of the GR System. See "--Collaborative Relationships."

Gastric Delivery for Local Therapy and Absorption. The Company believes that the GR System can be used to deliver drugs which can efficiently eradicate GI-dwelling microorganisms, such as H. pylori, the bacterium which is a cause of ulcers, and C. parvum, the bacterium that causes cryptosporidiosis, a parasitic intestinal disorder which afflicts late stage AIDS patients. The Company is currently conducting a feasibility study with GalaGen on the use of the GR System for the local gastric delivery of immunoglobulin products which may be effective against these microorganisms. See "--Collaborative Relationships."

The Company is currently developing a calcium supplement product which utilizes the GR System. Calcium supplements are essential in the treatment of osteoporosis (disease characterized by decreased bone density). It is estimated that 20 million people in the United States suffer from osteoporosis and that another 17 million people are at risk. New medications for this debilitating condition are effective but calcium supplementation is essential. In addition, it is estimated that 30 million people in the United States are under long-term treatment with corticosteroids (general class of hormonal agents), such as prednisone, which can cause significant bone loss. Accordingly, calcium supplementation is recommended as concomitant treatment with these drugs. Current calcium supplement products are mostly in the form of calcium carbonate, which is soluble only in an acidic medium and which consequently must be retained in the stomach for an extended period of time for efficient dissolution and subsequent absorption. However, conventional calcium carbonate products pass through the stomach too quickly for a significant amount of the calcium to dissolve. The Company believes that the GR System will provide for the more efficient dissolution and absorption of an orally administered calcium compound by keeping the product in the stomach for an extended period of time.

The Company believes that a possible future application of the GR System is the incorporation of a nonsystemic antacid into the GR System that would be designed to provide sustained local action. Although currently used antacid products are nonsystemic, their duration time is short. Accordingly, individuals who need through-the-night protection from excess stomach acid must resort to systemic antacids, such as Zantac(R) or Tagamet(R), which have a longer on-set of action. The Company believes that the GR System may be designed to provide continuous, controlled local delivery which is expected to allow for a nonsystemic antacid product with more immediate and sustained action. It is estimated that several million people in the United States regularly take antacids.

Rational Drug Combinations. The Company believes that the GR System may allow for rational combinations of drugs with different biological half-lives. Physicians frequently prescribe multiple drugs for treatment of a single medical condition. For example, a physician may prescribe a combination of captopril/hydrochlorothiazide or nifedipine/triampterine for a patient with a heart condition. Single product combinations have not been considered feasible because the different biological half-lives of these combination drugs would result in an overdosage of one drug and/or an underdosage of the other. By incorporating different drugs into different polymeric cylinders in the same capsule, the GR System is designed to release each of its incorporated drugs continuously at a rate and duration (dose) appropriately adjusted for the specific biological half-lives of the drugs. The Company believes that future rational drug combination products using the GR System have the potential to simplify drug administration, increase patient compliance, and reduce medical

costs.

Potential for Oral Delivery of Peptides and Proteins. Based on laboratory studies conducted by the Company, the GR System is expected to protect drugs prior to their delivery in the stomach. This feature coupled with gastric retention could allow for continuous delivery of peptides and proteins (i.e., labile drugs) into the upper portion of the small intestine, the most likely site of possible absorption for many such drugs. The Company believes that this mechanism will allow effective oral delivery of some drugs that currently require administration by injection. In addition, the Company believes that the GR System can be formulated to provide for continuous, controlled delivery of insoluble or particulate matter, including protein or antigen-laden vesicles, such as liposomes, and microspheres or nanoparticles.

THE REDUCED IRRITATION SYSTEM

The RI System is designed to provide for significant reduction in local GI irritation from the effects of certain drugs. Local tissue damage occurs when solid crystals of a drug remain at any one site of the GI tract for long periods of time. The RI System consists of an outer capsule, which is designed to rapidly disintegrate upon ingestion to deliver multiple small, spherical pellets. The spherical pellets are composed of an inert matrix of polymeric material in which the active ingredient is homogeneously dispersed in its solid state. The spherical pellets persist for a period of time, but ultimately dissolve and the polymer is eliminated.

The RI System is designed to reduce irritation through three distinct mechanisms. First, the small spheres of the RI System are designed to deliver an incorporated drug in solution state, in contrast to a solid or crystalline state which may cause ulcers. Second, the dispersion of the spherical pellets within the stomach contributes further to the dilution of the local drug effects. Third, controlled delivery contributes to the reduction of GI irritation by delivering the incorporated drug over a longer period of time. In addition to the reduced irritation aspirin that the Company is currently developing, the Company believes that other GI irritating compounds such as potassium chloride and erythromycin (a frequently used antibiotic) may benefit from the RI System.

The Company is currently developing an aspirin product which utilizes the RI System and is designed to reduce the GI irritation which is common when aspirin is administered in conventional tablet or capsule form. Aspirin usage has been expanding with important new medical indications, including the prevention and treatment of cardiovascular disease. Aspirin is widely recognized for its ability to cause damage to the GI tract and local irritation of the stomach and intestine which often relates to GI discomfort and a patient's intolerance to this drug. The irritation properties of aspirin are mostly local, not systemic in origin. Local damage begins and is sustained by high local drug concentration against the mucosa (membraneous lining), particularly when aspirin is administered in a solid, crystalline state as from a rapidly dissolving tablet. These crystals in contact with the mucosa provide a stagnant pool of saturated drug solution against the cell walls, resulting in damage from both cellular mechanisms and from back diffusion of acid into the mucosal cells and into the submucosal capillaries, causing tissue necrosis (morbidity) and bleeding. To minimize local damage, the RI System is designed to deliver its drug in solution, in a controlled manner from a dispersion of polymeric units.

The figure below shows the results from a preliminary study completed for the Company by SRI International. Using a standard animal model (considered predictive of local GI irritation in humans), the irritant properties of aspirin were reduced by approximately 72% when delivered from the RI System,

compared to the same dose of aspirin administered in conventional tablet form.

COMPARATIVE IRRITATION RESPONSES IN THE RABBIT COLONIC MUCOSAL MODEL

[GRAPH APPEARS HERE]

PRODUCTS UNDER DEVELOPMENT

The following table summarizes the Company's principal product development initiatives:

DEPOMED SYSTEM	PROGRAM	PARTNER	POTENTIAL INDICATIONS	EXPECTED BENEFIT
GR	BMS Proprietary Compound	Bristol-Myers Squibb Company(1)	Confidential(2)	. Less frequent dosing
GR	Anti-infective Immunoglobulin	GalaGen Inc.(3)	C. parvum intestinal infection	. Prolonged, continuous delivery for intestinal therapy
GR	Anti-infective Immunoglobulin	GalaGen Inc.(3)	H. pylori gastric infection	. Prolonged, continuous delivery to gastric mucosa
GR	Calcium Supplement	In-house	Osteoporosis, other calcium deficiencies	. Improved calcium absorption
RI	Aspirin	In-house	Multiple, including cardiovascular therapy	. Reduced gastric irritation . Prolonged low dose delivery

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(1) The Company entered into an option agreement relating to this compound with BMS in July 1996. See "--Collaborative Relationships."

(2) The potential indication may not be disclosed pursuant to the terms of the agreement between the Company and BMS. See "--Collaborative Relationships."

(3) The Company entered into a feasibility study relating to this immunoglobulin with GalaGen in May 1996. See "--Collaborative Relationships."

The products listed in the above table are in various stages of development. For the BMS compound, a Phase I pharmacokinetic trial was completed in January 1997 and the product is now in advanced clinical testing. The GalaGen immunoglobulins are being tested in vitro for the ability of the GR System to protect and deliver the product in an acid and enzyme rich environment like the stomach. The calcium supplement and aspirin products are in pre-clinical development by the Company. As no clinical trials will be required for the initial commercialization of the calcium supplement product, that product will be available for manufacturing upon completion of development. The Company expects to initiate a clinical trial for its reduced irritation aspirin

product during the first half of 1998. See "--Business Strategy" and "--Government Regulation."

BUSINESS STRATEGY

The Company intends to have the DepoMed Systems used with as many pharmaceutical products as possible with an emphasis on pharmaceutical products which command a large market share or are in large market segments and where the Company believes the DepoMed Systems will provide an advantage over other drug delivery systems.

The Company's primary strategy for the development and commercialization of the DepoMed Systems involves establishing collaborative relationships with pharmaceutical and biotechnology companies to develop improved therapeutic products. The products will be jointly developed, with the collaborative partner having primary responsibility to clinically test, manufacture, market and sell the products. The Company has retained and intends to continue to retain ownership of its technologies developed for its collaborative partners. The Company believes this practice will provide the Company with the flexibility of entering into collaborative arrangements with other potential partners should the initial partner decide not to pursue the commercialization of a particular product which utilizes the DepoMed Systems. The Company believes that its partnering strategy will enable it to reduce its cash requirements while developing a larger potential product portfolio. By providing new formulations of existing products using the DepoMed Systems, the Company believes that it will not only be able to offer its partners improved products but also may provide them with the ability to extend their patent franchises on such products. The Company believes that the potential for such renewed franchises will be

especially attractive to pharmaceutical companies whose patents on existing products are close to expiration. In addition, the Company believes that the DepoMed Systems may offer pharmaceutical and biotechnology companies formulations for products based on new molecular entities, such as antigens and peptides, that can be safely and effectively administered orally. Collaborations with pharmaceutical and biotechnology companies are expected to provide near-term revenues from sponsored development activities and future revenues from license fees and royalties relating to the sale of products.

In addition to the Company's current programs with BMS and GalaGen, the Company's goal is to enter into one additional development program with a major pharmaceutical company over the next twelve months. To meet this goal, the Company has identified as potential partners six companies that the Company believes have drugs which can derive potential benefits if incorporated into the DepoMed Systems. The Company has initiated preliminary discussions with several of these companies. There can be no assurance that any of these discussions will lead to the Company's entering into a development agreement with a collaborative partner or, if such agreement is entered into, that such collaboration will lead to the successful development of a product.

The Company also intends to develop OTC and/or off-patent drug products that utilize the DepoMed Systems either independently or jointly by entering into collaborative partnerships with pharmaceutical, biotechnology or other healthcare companies. To reduce costs and time-to market, the Company intends to select those products that treat indications with clear-cut clinical end-points and that are reformulations of existing compounds already approved by the FDA. The Company believes that products utilizing the DepoMed Systems will provide favorable product differentiation in the highly competitive generic and OTC drug product markets at costs below those of other drug delivery systems, thereby enabling the Company and its collaborative partners to compete more effectively in marketing improved off-patent and OTC drug products. By funding the initial development costs of these improved products, the Company believes that it may be able to enter into collaborative marketing arrangements that provide higher royalty rates or other more favorable payment

terms on product sales. The Company is also seeking to establish alliances with overseas sales and marketing partners for the initial sale of the Company's future generic products. The Company believes that due to the more favorable regulatory environments in some foreign countries, it may be able to generate revenues from these markets while awaiting FDA approval in the United States.

Pursuant to this business strategy, two products utilizing the DepoMed Systems are currently under development: an enhanced absorption OTC calcium supplement product and a reduced irritation aspirin product. Since calcium supplements are regarded as food supplements by the FDA rather than drugs, no clinical trials are required. The Company, consequently, believes that development time for the calcium supplement product will be shorter than products that require FDA review and approval. The Company believes that an OTC calcium supplement product can be developed by the Company and commercialized within three years from the date of this Prospectus. During that time, the Company will need to undertake studies to support its claims of enhanced absorption, develop a manufacturing relationship with a contract manufacturer and enter into a collaborative marketing arrangement for the calcium supplement product. There can be no assurance that the studies will be successfully completed or that the Company will be successful in entering into a manufacturing relationship or marketing arrangement for the calcium supplement within three years or at all, or, even if the Company does so, that the product will be successfully commercialized.

The Company's reduced irritation aspirin product will require the submission of an NDA to the FDA. Because clinical trials and FDA review and approval will be required to support the claim of reduced gastric irritation relating to the aspirin product, commercialization of the reduced irritation aspirin product is expected to take at least one year longer than the OTC calcium supplement product. There can be no assurance that the clinical trials will be successful or that the Company will be successful in obtaining the required FDA approval to market the reduced irritation aspirin product, or, if it does, that the Company's reduced irritation aspirin product will be successfully commercialized.

In addition to the calcium supplement and reduced irritation aspirin products, the Company has a target list of off-patent drugs which the Company believes can derive potential benefits if incorporated into the DepoMed

Systems. The Company intends to select one such off-patent drug for development within twelve months following completion of the Offering. There can be no assurance that the Company will have sufficient funds to complete the development of the off-patent drug product chosen or, even if developed, that the product will be successfully commercialized.

COLLABORATIVE RELATIONSHIPS

Bristol-Myers Squibb Company. In July 1996, the Company and BMS entered into a joint research agreement to develop a product incorporating a BMS proprietary compound into the GR System. Pursuant to the agreement, BMS has an option to obtain an exclusive, worldwide license to products incorporating the BMS compound utilizing the GR System. Based on a pharmacokinetic study in humans that was concluded in February 1997, a dosage level (drug release rate and duration) for the product has been selected. Further clinical testing is now in progress, while process scale-up and manufacturing methodologies are being finalized. If such license is entered into, the Company will receive a royalty on net sales of the products as well as certain milestone payments. The option expires in February 1999. There can be no assurance, however, that BMS will exercise the option or that, if it does, any resulting product will be approved by the FDA or, if approved, will be successfully commercialized.

GalaGen Inc. In May 1996, the Company and GalaGen entered into a feasibility study involving the use of the GR System to deliver oral immunoglobulin

products developed by GalaGen. If the outcome of the feasibility study is favorable, the Company may enter into a development agreement with GalaGen. There can be no assurance, however, that such feasibility study will be concluded successfully, and even if successfully concluded that the Company will be able to enter into an agreement with GalaGen on reasonable commercial terms or at all.

Oakmont Pharmaceuticals, Inc. In April 1997, the Company and Oakmont signed a letter of intent to enter into an agreement pursuant to which Oakmont will manufacture the Company's reduced irritation aspirin and enhanced absorption calcium supplement products and have rights to distribute and sell these products in territories to be determined. The letter of intent also provides for the Company and Oakmont each to offer rights to future products to the other party. There can be no assurance that the Company and Oakmont will enter into a definitive agreement or, if they do, that the Company will be successful in developing these products or Oakmont will be successful in manufacturing, distributing or marketing them.

COMPETITION

Other companies that have oral drug delivery technologies that are competitive with the DepoMed Systems include ALZA, Elan, JAGO, Skye, Dura, KOS, and Flamel, all of which have oral tablet products designed to release the incorporated drugs over time. Each of these companies has a patented technology with attributes different from those of the Company's, and in some cases with different sites of delivery to the GI tract. The Company believes that it is the only drug delivery company that is currently developing products for oral drug delivery systems both for enhanced retention in the stomach of an orally administered tablet (the GR System) and the safer oral administration of otherwise locally irritating drugs (the RI System). The Company believes that this combination of oral drug delivery technologies differentiates the Company from other oral drug delivery companies and will enable the Company to interest pharmaceutical companies in incorporating their proprietary drugs into the DepoMed Systems and to differentiate any OTC and/or off-patent drugs that utilize the DepoMed Systems from those of other drug delivery companies.

Competition in the areas of pharmaceutical products and drug delivery systems is intense and is expected to become more intense in the future. These competing technologies may prove superior, either generally or in particular market segments, in terms of factors such as cost, consumer satisfaction or drug delivery profile. The Company's principal competitors in the business of developing and applying drug delivery systems all have substantially greater financial, technological, marketing, personnel and research and development resources than the Company. In addition, the Company may face competition from pharmaceutical and biotechnology

companies that may develop or acquire drug delivery technologies. Many of the Company's potential collaborative partners have devoted and are continuing to devote significant resources in the development of their own drug delivery systems and technologies. Products incorporating the Company's technologies will compete both with products employing advanced drug delivery systems and with products in conventional dosage forms. New drugs or future developments in alternate drug delivery technologies may provide therapeutic or cost advantages over any potential products which utilize the DepoMed Systems. There can be no assurance that developments by others will not render any potential products utilizing the DepoMed Systems noncompetitive or obsolete. In addition, the Company's competitive success will depend heavily on entering into collaborative relationships on reasonable commercial terms, commercial development of products incorporating the DepoMed Systems, regulatory approvals, protection of intellectual property and market acceptance of such products.

PATENTS AND PROPRIETARY RIGHTS

The Company's success will depend in part on its ability to obtain and maintain patent protection for its technologies and to preserve its trade secrets. It is the policy of the Company to file patent applications in the United States and foreign jurisdictions. The Company currently holds two issued United States and three pending United States patent applications, and has applied for patents in numerous foreign countries, some of which have been granted and others of which are still pending. No assurance can be given that the Company's patent applications will be approved or that any issued patents will provide competitive advantages for the DepoMed Systems or the Company's technologies or will not be challenged or circumvented by competitors. With respect to already issued patents and any patents which may issue from the Company's applications, there can be no assurance that claims allowed will be sufficient to protect the Company's technologies. Patent applications in the United States are maintained in secrecy until a patent issues, and the Company cannot be certain that others have not filed patent applications for technology covered by the Company's pending applications or that the Company was the first to file patent applications for such technology. Competitors may have filed applications for, or may have received patents and may obtain additional patents and proprietary rights relating to, compounds or processes that may block the Company's patent rights or compete without infringing the patent rights of the Company. In addition, there can be no assurance that any patents issued to the Company will not be challenged, invalidated or circumvented, or that the rights granted thereunder will provide proprietary protection or commercial advantage to the Company.

The Company also relies on trade secrets and proprietary know-how which it seeks to protect, in part, through confidentiality agreements with employees, consultants, collaborative partners and others. There can be no assurance that these agreements will not be breached, that the Company will have adequate remedies for any such breach or that the Company's trade secrets will not otherwise become known or be independently developed by competitors. Although potential collaborative partners and the Company's research partners and consultants are not given access to proprietary trade secrets and know-how of the Company until they have executed confidentiality agreements, these agreements may be breached by the other party thereto or may otherwise be of limited effectiveness or enforceability.

The ability to develop the Company's technologies and to commercialize products using such technologies will depend on not infringing the patents of others. Although the Company is not aware of any claim of patent infringement against it, claims concerning patents and proprietary technologies determined adversely to the Company could have a material adverse effect on the Company. In addition, litigation may also be necessary to enforce any patents issued or licensed to the Company or to determine the scope and validity of third-party proprietary rights. There can be no assurance that the Company's issued or licensed patents would be held valid by a court of competent jurisdiction. Whether or not the outcome of litigation is favorable to the Company, the cost of such litigation and the diversion of the Company's resources during such litigation could have a material adverse effect on the Company.

The pharmaceutical industry has experienced extensive litigation regarding patent and other intellectual property rights. Accordingly, the Company could incur substantial costs in defending itself in suits that may be brought against the Company claiming infringement of the patent rights of others or in asserting the Company's

patent rights in a suit against another party. The Company may also be required to participate in interference proceedings declared by the United States Patent and Trademark Office for the purpose of determining the priority of inventions in connection with the patent applications of the Company or other parties. Adverse determinations in litigation or interference proceedings could require the Company to seek licenses (which may not be available on commercially reasonable terms) or subject the Company to significant liabilities to third parties, and could therefore have a material adverse effect on the Company.

MANUFACTURING, MARKETING AND SALES

The Company intends to develop products utilizing the DepoMed Systems for its collaborators and, in some cases, retain rights to manufacture commercial quantities of such products. The manufacture and incorporation of drugs into hydrophilic (readily absorbing moisture), polymer matrix pellets used in the DepoMed Systems is accomplished by using a variety of standard techniques. These include direct compression, compression using high speed rotary tablet press or, alternatively, by an extrusion/spheronization process, which results in very small spherical bodies. The Company does not have any internal manufacturing, marketing or sales resources. In view of its early stage of development and limited resources, the Company does not anticipate spending a material portion of the net proceeds of this Offering to acquire resources and develop capabilities in these areas. Although the Company intends to acquire pilot manufacturing equipment with a portion of the net proceeds of the Offering, the Company does not intend to acquire or establish its own dedicated manufacturing facilities for the foreseeable future. See "Use of Proceeds." Rather, the Company's manufacturing strategy will be to utilize the facilities of its collaborative partners, or to develop manufacturing relationships with established contract manufacturers to make products utilizing the DepoMed Systems. In addition, the Company does not intend to establish an internal sales and marketing capability, but will seek to rely on its collaborative partners or distributor arrangements to market and sell the products utilizing the DepoMed Systems. In April 1997, the Company and Oakmont signed a letter of intent to enter into an agreement pursuant to which Oakmont will manufacture the Company's reduced irritation aspirin and enhanced absorption calcium supplement products and have rights to distribute and sell these products in territories to be determined. There can be no assurance that the Company will be able to enter into manufacturing, marketing or sales agreements on reasonable commercial terms, or at all, with Oakmont or with another third party. Failure to do so could have a material adverse effect on the Company.

Manufacturers of products utilizing the DepoMed Systems will be subject to applicable cGMP requirements prescribed by the FDA or other rules and regulations prescribed by foreign regulatory authorities. There can be no assurance that the Company will be able to enter into manufacturing agreements either domestically or abroad with companies whose facilities and procedures comply with cGMP or applicable foreign standards. Should such agreements be entered into, the Company will be dependent on such manufacturers for continued compliance with cGMP and applicable foreign standards. Failure by a manufacturer of products utilizing the DepoMed Systems to maintain cGMP or applicable foreign standards could result in significant time delays or the inability of the Company to commercialize the DepoMed Systems and could have a material adverse effect on the Company. At the present time, due to ongoing consolidation in the chemical and pharmaceutical industries, the Company believes there is a worldwide excess of manufacturing capacity available to the Company. As a result, the Company believes that it will be able to enter into agreements with suppliers and manufacturers on reasonable commercial terms. However, there can be no assurance that there will be manufacturing capacity available to the Company at the time the Company is ready to commercialize products utilizing the DepoMed Systems. There also can be no assurance that any products utilizing the DepoMed Systems can be manufactured at a cost or in quantities required to make them commercially viable. The Company's inability to contract on acceptable terms and with qualified suppliers for the manufacture of any products or delays or difficulties in its relationships with manufacturers, would have a material adverse effect on the Company.

Contract manufacturers must adhere to cGMP regulations strictly enforced by the FDA on an ongoing basis through its facilities inspection program. Contract manufacturing facilities must generally pass a pre-approval plan inspection before the FDA will approve an NDA. Certain material manufacturing changes that occur after approval are also subject to FDA review and clearance or approval. There can be no assurance that the FDA or

other regulatory agencies will approve the process or facilities by which any of the products utilizing the DepoMed Systems may be manufactured. The Company's dependence on third parties for the manufacture of products utilizing the DepoMed Systems may adversely affect the Company's ability to develop and deliver such products on a timely and competitive basis.

GOVERNMENT REGULATION

The Company is subject to regulation under various federal laws regarding pharmaceutical products and also various federal and state laws regarding, among other things, occupational safety, environmental protection, hazardous substance control and product advertising and promotion. In connection with its research and development activities, the Company is subject to federal, state and local laws, rules, regulations and policies governing the use, generation, manufacture, storage, air emission, effluent discharge, handling and disposal of certain materials and wastes. The Company believes that it has complied with these laws and regulations in all material respects and it has not been required to take any action to correct any material noncompliance.

FDA Approval Process. In the United States, pharmaceutical products, including any drugs utilizing the DepoMed Systems, are subject to rigorous regulation by the FDA. If a company fails to comply with applicable requirements, it may be subject to administrative or judicially imposed sanctions such as civil penalties, criminal prosecution of the company or its officers and employees, injunctions, product seizure or detention, product recalls, total or partial suspension of production, FDA withdrawal of approved applications or FDA refusal to approve pending new drug applications, premarket approval applications, or supplements to approved applications.

Prior to commencement of clinical studies involving human beings, preclinical testing of new pharmaceutical products is generally conducted on animals in the laboratory to evaluate the potential efficacy and the safety of the product. The results of these studies are submitted to the FDA as a part of an IND application, which must become effective before clinical testing in humans can begin. Typically, clinical evaluation involves a time consuming and costly three-phase process. In Phase I, clinical trials are conducted with a small number of subjects to determine the early safety profile and the pharmcokinetic pattern of a drug. In Phase II, clinical trials are conducted with groups of patients afflicted with a specific disease in order to determine preliminary efficacy, optimal dosages and expanded evidence of safety. In Phase III, large-scale, multi-center, comparative trials are conducted with patients afflicted with a target disease in order to provide enough data to demonstrate the efficacy and safety required by the FDA. The FDA closely monitors the progress of each of the three phases of clinical testing and may, at its discretion, re-evaluate, alter, suspend or terminate the testing based upon the data which have been accumulated to that point and its assessment of the risk/benefit ratio to the patient.

The results of the preclinical and clinical testing on drugs are submitted to the FDA in the form of an NDA for approval prior to commencement of commercial sales. In responding to an NDA, the FDA may grant marketing approval, request additional information or deny the application if the FDA determines that the application does not satisfy its regulatory approval criteria. There can be no assurance that approvals will be granted on a timely basis, if at all. Failure to receive approval for any products utilizing the DepoMed Systems could have a material adverse effect on the Company.

OTC products that comply with monographs issued by the FDA are subject to various FDA regulations such as cGMP requirements, general and specific OTC labeling requirements (including warning statements), the restriction against advertising for conditions other than those stated in product labeling, and the requirement that in addition to approved active ingredients OTC drugs contain only safe and suitable inactive ingredients. OTC products and manufacturing facilities are subject to FDA inspection, and failure to comply with applicable regulatory requirements may lead to administrative or judicially imposed penalties. If an OTC product differs from the terms of a

monograph, it will, in most cases, require FDA approval of an NDA for the product to be marketed.

Other Regulations. Even if required FDA approval has been obtained with respect to a product, foreign regulatory approval of a product must also be obtained prior to marketing the product internationally. Foreign approval procedures vary from country to country and the time required for approval may delay or prevent marketing. In certain instances the Company or its collaborative partners may seek approval to market and sell certain of its products outside of the U.S. before submitting an application for U.S. approval to the FDA. The regulatory procedures for approval of new pharmaceutical products vary significantly among foreign countries. The clinical testing requirements and the time required to obtain foreign regulatory approvals may differ from that required for FDA approval. Although there is now a centralized EU approval mechanism in place, each EU country may nonetheless impose its own procedures and requirements, many of which are time consuming and expensive, and some EU countries require price approval as part of the regulatory process. Thus, there can be substantial delays in obtaining required approval from both the FDA and foreign regulatory authorities after the relevant applications are filed, and approval in any single country may not be a meaningful indication that the product will thereafter be approved in another country.

PRODUCT LIABILITY

The Company's business involves exposure to potential product liability risks that are inherent in the production and manufacture of pharmaceutical products. Any such claims could have a material adverse effect on the Company. The Company does not currently have any product liability insurance. Although the Company has applied for product liability insurance, there can be no assurance that it will be able to obtain or maintain such insurance on acceptable terms, that the Company will be able to secure increased coverage as the commercialization of the DepoMed Systems proceeds or that any insurance will provide adequate protection against potential liabilities.

ADVISORS TO THE COMPANY

The Company has two groups of advisors that advise the Company on business and scientific issues and on future opportunities. As compensation for these services, the Company has granted the advisors options to purchase shares of the Company's Common Stock. These options vest over four years.

The Policy Advisory Board

Members of the Policy Advisory Board advise management of the Company on medical, regulatory and business issues relating to the Company.

Carl C. Peck, M.D. Dr. Peck is Professor of Pharmacology and Medicine and founding Director of the Center for Drug Development Science at Georgetown University Medical Center, Washington, D.C. Formerly he served as Assistant Surgeon General in the U.S. Public Health Service and as Director of the Center for Drug Evaluation and Research (CDER) at the FDA. Dr. Peck holds an M.D. degree from the University of Kansas. Dr. Peck advises the Company on drug development, experimental design and analysis, and regulatory affairs.

John Urquhart, M.D. Dr. Urquhart is Professor of Pharmacoepidemiology at Maastricht University in Maastricht, The Netherlands. He is also Chief Scientist of AARDEX, Ltd. in Zurich, Switzerland and Adjunct Professor of Biopharmaceutical Sciences at the University of California, San Francisco. Earlier he was Chief Scientist at ALZA, holding various management positions including President of ALZA Research. Dr. Urquhart holds an M.D. degree from Harvard University. Dr. Urquhart advises the Company on new product opportunities and product specifications.

James B. Wiesler. Mr. Wiesler is the retired Vice Chairman of the Bank of America, where he was in charge of global consumer banking. Mr. Wiesler currently serves as a director of Science Applications International Corporation and of the Sidney Kimmel Cancer Center in San Diego. Additionally, he serves on the Board of Trustees of Sharp Memorial Hospital and Alexian Brothers Hospital. Mr. Wiesler advises the Company on financial and business strategy issues.

The Development Advisory Board

Members of the Development Advisory Board provide the Company with expertise on medical, scientific and product development issues, including government regulations, clinical trial design and manufacturing issues related to the DepoMed Systems. In certain cases, the advisors also provide consulting services to the Company in their area of expertise and receive compensation for such consulting services.

Harriet Benson, Ph.D. Dr. Benson, who was until recently Vice President for Regulatory Affairs of ALZA, advises the Company on matters relating to state and federal compliance issues and other regulatory affairs.

Roy Kuramoto, Ph.D. Until his recent retirement, Dr. Kuramoto was Senior Vice President in charge of world-wide manufacturing operations for Syntex Corporation. Dr. Kuramoto advises the Company on issues related to pilot scale-up and manufacturing methodologies.

John Palmer, M.D., Ph.D. Dr. Palmer is Chairman Emeritus and Professor in the Department of Pharmacology, University of Arizona Medical School. Dr. Palmer advises the Company on matters related to preclinical study design and clinical pharmacology.

Virgil Place, M.D. Dr. Place is the founder and Chairman of Vivus, Inc., a medical device company. Dr. Place advises the Company on issues related to product design, regulatory procedures, and medical affairs.

EMPLOYEES

As of May 1, 1997, the Company had seven full-time employees. None of the Company's employees is represented by a collective bargaining agreement, nor has the Company experienced any work stoppage. The Company believes that its relations with its employees are good.

FACILITIES

The Company leases approximately 3,300 square feet in Foster City, California, under a non-cancellable lease which expires on February 28, 1999, and which includes an option to renew for an additional five years. The Company will need to lease additional space for laboratory, testing and pilot manufacturing facilities within the next 12 months following the date of this Prospectus. See "Use of Proceeds."

LEGAL PROCEEDINGS

The Company is not a party to any legal proceedings.

MANAGEMENT

EXECUTIVE OFFICERS AND DIRECTORS

The executive officers and directors of the Company and their ages as of March 31, 1997 are as follows:

NAME	AGE	POSITION
John W. Shell, Ph.D.	72	Founder, Chairman of the Board and Chief Scientific Officer
John W. Fara, Ph.D.	54	President, Chief Executive Officer and Director
John N. Shell	44	Vice President, Operations and Director
John F. Hamilton	52	Vice President, Finance and Chief Financial Officer
Judson A. Cooper(1)	38	Director
Joshua Schein, Ph.D.(1)	36	Director

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(1) Member of Audit Committee

John W. Shell, Ph.D., has served as Chairman of the Board of Directors of the Company since its inception in August 1995, and served as the Company's President and Chief Executive Officer from May 1995 to December 1996 when he became the Company's Chief Scientific Officer. Dr. Shell founded DSI in 1991, and served as its Chairman and Chief Executive Officer until its merger with M6 in 1994, and served as President of the DepoMed Division of M6 from March 1994 until May 1995. Prior to founding DSI, from 1987 until 1990 he was Vice President for Research at Johnson & Johnson's IOLAB division. His experience also includes eight years as a Senior Research Scientist at The Upjohn Company, six years as Director of Research for Allergan Pharmaceuticals and fifteen years with ALZA dating from its founding in 1968. Dr. Shell served as Vice President of the pharmaceutical division, and later as Vice President for Business Development for ALZA. Dr. Shell received B.A., B.S. and Ph.D. degrees from the University of Colorado.

John W. Fara, Ph.D., has served as a director of the Company since November 1995 and as its President and Chief Executive Officer since December 1996. From February 1990 to June 1996 he was President and Chief Executive Officer of Anergen, Inc., a biotechnology company. Prior to February 1990 he was President of Prototek, Inc., a biotechnology company ("Prototek"). Prior to his tenure at Prototek, he was Director of Biomedical Research and then Vice President of Business Development during ten years with ALZA. Dr. Fara received a B.S. from the University of Wisconsin and a Ph.D. from University of California, Los Angeles.

John N. Shell has served as a director of the Company since its inception in August 1995 and Director of Operations for the Company until December 1996, when he was named Vice President, Operations. From May 1994 to August 1995, Mr. Shell served in a similar capacity at the DepoMed Division of M6. Prior to 1994, Mr. Shell served as Materials Manager for Ebara International Corporation, a multi-national semiconductor equipment manufacturer, and as Materials Manager for ILC Technology, an electro-optics and electronics manufacturer. Mr. Shell received his B.A. from the University of California, Berkeley.

John F. Hamilton has served as the Company's Vice President, Finance and Chief Financial Officer since January 1997. Prior to joining the Company, Mr. Hamilton was Vice President and Chief Financial Officer of Glyko, Inc. and Glyko Biomedical Ltd., a carbohydrate instrument and reagents company from May 1992 to September 1996. Previously he was President and Chief Financial Officer of Protos Corporation, a drug design subsidiary of Chiron Corporation, from June 1988 to May 1992 and held various positions with Chiron Corporation, including Treasurer, from September 1987 to May 1992. Mr. Hamilton received a B.A. from the University of Pennsylvania and an M.B.A. from the University of Chicago.

Judson A. Cooper has served as a director of the Company since August 1995. Mr. Cooper has been a private investor since September 1993. Prior to 1993, Mr. Cooper served for two years as a Vice President of D. Blech and Company, a merchant bank. Mr. Cooper is a graduate of the Kellogg School of Management.

Joshua Schein, Ph.D., has served as a director of the Company since December 1995. Since 1994 Dr. Schein has served as a Vice President of Investment Banking at Josephthal Lyon and Ross Incorporated, and from 1991 until 1994 as a Vice President at D. Blech and Company. Dr. Schein received a Ph.D. in neurosciences from the Albert Einstein College of Medicine, and an M.B.A. from Columbia University Graduate School of Business.

BOARD OF DIRECTORS COMMITTEES AND OTHER INFORMATION

All directors are elected at the annual meeting of shareholders and hold office until the election and qualification of their successors at the next annual meeting of shareholders. Officers of the Company serve at the discretion of the Board of Directors (the "Board"). Mr. John N. Shell is Dr. Shell's son. There are no other family relationships.

The Board currently has an Audit Committee consisting of Mr. Cooper and Dr. Schein. The Audit Committee oversees the actions taken by the Company's independent auditors and reviews the Company's internal financial and accounting controls and policies.

The Company is currently seeking to appoint two independent directors to the Board.

DIRECTOR COMPENSATION

Directors do not currently receive any cash compensation from the Company for their services as members of the Board of Directors, although they are reimbursed for certain expenses in connection with their attendance at meetings of the Board of Directors. Upon his election to the Board of Directors in 1995, John W. Fara received an option to purchase 16,666 shares of Common Stock at an exercise price of $0.09 per share.

EXECUTIVE COMPENSATION

The following table sets forth certain compensation paid by the Company in the fiscal year ended December 31, 1996 to the Company's Chief Executive Officer and former Chief Executive Officer (now the Company's Chairman and Chief Scientific Officer) (collectively, the "Named Executive Officers"). No other executive officer earned in excess of $100,000 during fiscal 1996.

SUMMARY COMPENSATION TABLE

		LONG-TERM COMPENSATION	
		AWARDS	
	ANNUAL COMPENSATION	COMMON STOCK	
NAME AND PRINCIPAL POSITION	SALARY($)	UNDERLYING OPTIONS (#)	
John W. Fara, President and Chief Executive Officer(1)	$ 21,917(2)	83,333	
John W. Shell, Chairman and Chief Scientific Officer(3)	185,000	--	

(1) Dr. Fara became President and Chief Executive Officer in December 1996. Dr. Fara devoted 40% of his time to the Company until February 1997, when he assumed his duties on a full-time basis.

(2) Includes $15,750 that Dr. Fara received in connection with services performed as a consultant to the Company prior to his appointment as President and Chief Executive Officer.
(3) Dr. Shell served as President and Chief Executive Officer of the Company until December 1996.

The following table provides information concerning grants of options to purchase the Company's Common Stock made to each of the Named Executive Officers during the fiscal year ended December 31, 1996.

OPTION GRANTS IN LAST FISCAL YEAR

	INDIVIDUAL GRANTS					
					POTENTIAL REALIZED VALUE AT ASSUMED ANNUAL RATES OF STOCK PRICE APPRECIATION FOR OPTION TERM (1)	
NAME	NUMBER OF SECURITIES UNDERLYING OPTIONS GRANTED (2)(3)	PERCENT OF TOTAL OPTIONS GRANTED TO EMPLOYEES IN FY-1996 (4)	EXERCISE PRICE ($/SH) (5)	EXPIRATION DATE	5%	10%
John W. Fara.....	83,333	96%	$0.90	10/25/06	$ 47,167	$ 119,531
John W. Shell.....	--	--	--	--	--	--

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(1) Amounts represent hypothetical gains that could be achieved for the respective options if exercised at the end of the option term. The assumed 5% and 10% rates of stock price appreciation are mandated by rules of the Securities and Exchange Commission and do not represent the Company's estimate or projection of the future Common Stock price.
(2) The options reflected in this table were all granted under the Stock Plan. The date of grant is 10 years prior to the expiration date listed. For additional material terms of the options, see "Management--1995 Stock Option Plan."
(3) The options vest at a rate of 25% per year over four years from the grant date.
(4) Based on an aggregate of 86,667 options granted to employees of the Company in fiscal 1996.
(5) The exercise price per share of options granted represented the fair value of the underlying shares of Common Stock on the dates the options were granted as determined by the Board of Directors. The Company's Common Stock was not traded publicly at the time of the option grants to the Named Executive Officers.

None of the Named Executive Officers exercised options to purchase Common Stock during the year ended December 31, 1996. The following table sets forth certain information regarding the value of exercised and unexercised stock options held by each of the Named Executive Officers as of December 31, 1996.

AGGREGATED OPTION EXERCISES IN LAST FISCAL YEAR AND FISCAL YEAR-END OPTION VALUES

	NUMBER OF SECURITIES UNDERLYING UNEXERCISED OPTIONS AT DECEMBER 31, 1996		VALUE OF UNEXERCISED IN-THE-MONEY OPTIONS AT DECEMBER 31, 1996(1)	
NAME	EXERCISABLE	UNEXERCISABLE	EXERCISABLE	UNEXERCISABLE

John W. Fara.....	4,167	95,833	$26,710	$546,790
John W. Shell.....	--	--	--	--

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(1) The value of the options is based upon the difference between the exercise price and the assumed value of $6.50 per share, the midpoint of the range of the estimated initial public offering price set forth on the cover of this Prospectus.

1995 STOCK OPTION PLAN

The Stock Plan was adopted by the Board and approved by the shareholders in September 1995 and subsequently amended. As of March 31, 1997, a total of 416,667 shares of Common Stock were reserved for issuance under the Stock Plan. As of March 31, 1997, options to purchase a total of 91,667 shares of Common Stock had been exercised, options to purchase a total of 196,667 shares at a weighted average exercise price of $1.64 per share were outstanding, and 128,333 shares remained available for future option grants. In April 1997, the Board approved an increase of 250,000 shares to the Stock Plan. In April and June 1997, the Board of Directors granted options to purchase 71,666 and 68,333 shares of Common Stock, respectively, at a weighted average exercise price of $4.30 per share.

The purpose of the Stock Plan is to attract, retain and motivate officers, key employees, consultants and directors of the Company by giving them the opportunity to acquire stock ownership in the Company. The Stock Plan provides for the granting to employees of the Company (including officers and employee directors) of "incentive stock options" within the meaning of Section 422 of the Code and for the grant of nonstatutory stock options to employees, consultants and directors of the Company. To the extent an optionee would have the right in any calendar year to exercise for the first time incentive stock options for shares having an aggregate fair market value (under all plans of the Company and determined for each share as of the grant date) in excess of $100,000, any such excess options shall be automatically converted to a nonstatutory stock option.

The Stock Plan is administered by the Board of Directors or a committee of the Board of Directors (the "Administrator"). The Administrator determines the type and terms of options and purchase rights granted under the Stock Plan, including the number of shares covered, exercise price, term and condition for exercise of the option. The exercise price of all stock options granted under the Stock Plan must be at least 100% of the fair market value of the Common Stock of the Company on the grant date. The term of an incentive stock option may not exceed ten years from the date of grant. With respect to any participant who owns stock possessing more than 10% of the voting power of all classes of stock of the Company, the exercise price of any stock option granted shall be at least 110% of the fair market value of the Common Stock on the grant date and the term of such option may not exceed five years. Payment of the exercise price may be in cash, check, or, at the discretion of the administrator, by promissory notes or shares of stock held by the optionee, or a combination thereof.

No option may be transferred by the optionee other than by will or the laws of descent and distribution or pursuant to a qualified domestic relations order ("QDRO"). During the lifetime of an optionee, only the optionee (or the optionee's spouse pursuant to a QDRO) may exercise an option. An option shall be exercisable on or after each vesting date in accordance with the terms set forth in the option agreement; provided, however, that

the right to exercise an option must vest at the rate of at least 20% per year over five years from the grant date. In the event of a change in control of the Company all outstanding options will become fully vested.

In the event of certain changes in control of the Company or a sale of substantially all its assets, the Administrator may cancel each outstanding option upon payment in cash to the optionee of the amount by which any cash and any other property which the optionee would have received for the shares of stock covered by the vested portion of the option exceeds the exercise price of the option. The Board may amend, suspend or terminate the Stock Plan as long as such action does not adversely affect any outstanding option or purchase right and provided that shareholder approval shall be required for any amendment to (i) increase the number of shares subject to the Stock Plan, (ii) materially change eligibility for the grant of options or purchase rights, or (iii) materially increase the benefits accruing to participants. If not terminated earlier, the Stock Plan will terminate in 2005.

EMPLOYMENT AGREEMENTS AND CHANGE IN CONTROL ARRANGEMENTS

The Company entered into employment agreements with two-year terms with John W. Fara and John W. Shell in February 1997. Pursuant to these agreements, Drs. Fara and Shell each receive an annual base salary of $185,000. Dr. Fara's agreement provides for him to receive his salary and benefits for the remainder of the two-year term of the agreement in the event of his termination without cause (as defined in the agreement) or in the event of his involuntary termination following a change in control (as defined in the agreement). Dr. Shell's employment agreement provides that either party may terminate employment at any time upon 90 days written notice. Each employment agreement provides that the employee will not disclose confidential information of the Company during and after employment and will not compete with the Company during the term of employment with the Company.

LIMITATION OF LIABILITY AND INDEMNIFICATION MATTERS

The Company's Articles of Incorporation limit the liability of directors for monetary damages to the maximum extent permitted by California law. Such limitation of liability has no effect on the availability of equitable remedies, such as injunctive relief or recission. The Company is also empowered under its Articles of Incorporation to enter into indemnification agreements with its director and officers and to purchase insurance on behalf of any person whom it is required to indemnify. The Company's Bylaws provide that the Company will indemnify its directors and officers as a contractual obligation and may indemnify its employees and agents against certain liabilities to the fullest extent permitted by California law. The Company intends to enter into indemnification agreements with each of its current directors and officers.

CERTAIN TRANSACTIONS

In March 1994, DepoMed Systems, Inc. ("DSI") a company founded and principally owned by Dr. John W. Shell was merged into M6 Pharmaceuticals, Inc. ("M6"). In July 1995 DSI and Dr. Shell instituted an action against M6 relating to the merger and related events. In August 1995, pursuant to a settlement agreement (the "Settlement Agreement") between DSI and Dr. Shell, on the one hand, and M6, on the other hand, M6 transferred all of the intellectual property and other technology assets of DSI to the Company, and the Company assumed certain liabilities related thereto.

In September 1995, the Company issued 2,066,667 shares of its Common Stock to Dr. Shell and other shareholders of DSI in cancellation of the M6 stock received in the merger. See "Principal Shareholders."

In September 1995, the Company issued 1,196,491 shares of Common Stock to CSO Ventures LLC ("CSO") in consideration of the prior agreement of CSO to lend the Company $100,000 to finance the litigation against M6 and to assist the Company in its initial financing. In September 1995, the Company also entered into a consulting agreement with CSO, pursuant to which CSO provided financial advisory services to the Company for an annual fee of $120,000. The

consulting agreement terminated in September 1996. In March 1997, the Company entered into a consulting agreement with CSO which provides for business development, operations and financial advisory services to be performed by CSO for an annual fee of $120,000. The agreement has a term of one year and is renewed automatically unless terminated by either party with 60 days written notice. Dr. Schein and Mr. Cooper are members of CSO and also are directors of the Company.

In November 1995, the Company sold 1,025,000 shares of Series A Preferred Stock to David P. Ash and 815,000 shares of Series A Preferred to Amore Perpetuo, Inc., each a principal shareholder of the Company. In February 1997, the Company sold 25,000 shares of Series B Preferred Stock to John F. Hamilton, the Company's Chief Financial Officer. See "Principal Shareholders."

Pursuant to the terms of the Settlement Agreement, the Company assumed two promissory notes issued to Dr. Shell by DSI in December 1992 and December 1993 for the aggregate principal amount of $100,667 (the "DSI Notes"). In November 1996, the Company issued a promissory note to Dr. Shell (the "1996 Note" and together with the DSI Notes the "Shell Notes") for the principal amount of $50,000. The Shell Notes bear interest at 6% per annum. The Shell Notes will become due and payable upon completion of this Offering. As of March 31, 1997, the aggregate principal amount and related interest on the Shell Notes totaled $173,747. The Company intends to repay the Shell Notes with a portion of the net proceeds from this Offering. See "Use of Proceeds."

Pursuant to the terms of the Settlement Agreement, the Company assumed promissory notes (the "Stern Notes") issued to Julian N. Stern, Secretary of the Company, by DSI. The Stern Notes bear interest at 6.5% per annum. The Stern Notes will become due and payable upon completion of this Offering. The Company intends to repay the Stern Notes with a portion of the net proceeds from this Offering. As of March 31, 1997, the aggregate principal amount of the Stern Notes and related interest totaled $124,375. See "Use of Proceeds."

Subsequent to December 31, 1996, the Company has granted options to purchase Common Stock to officers and directors including options to purchase 66,667 shares of Common Stock to Dr. Fara and options to purchase 30,000 shares of Common Stock to Mr. Hamilton at an exercise price of $3.00 per share of Common Stock. In June 1997, the Company granted options to purchase 25,000 shares of Common Stock to Mr. Hamilton at an exercise price of $5.25 per share of Common Stock.

PRINCIPAL SHAREHOLDERS

The following table sets forth certain information regarding the beneficial ownership of the Company's Common Stock as of May 31, 1997 and, as adjusted to reflect the sale of the Securities offered hereby, by (i) each person who is known by the Company to own beneficially more than 5% of the Company's Common Stock, (ii) each of the Company's directors, (iii) each of the Named Executive Officers, and (iv) by all current directors and executive officers as a group.

NAME OF BENEFICIAL OWNER	SHARES BENEFICIALLY OWNED (1)(2)	PERCENT BEFORE OFFERING (2)	PERCENT AFTER OFFERING (2)
CSO Ventures LLC (3).....	1,196,491	28.1%	17.7%
Cygnus, Inc. (4).....	400,000	9.4	5.9
David P. Ash (5).....	341,667	8.0	5.1
Amore Perpetuo, Inc. (6).....	271,666	6.4	4.0
John W. Shell (7).....	1,566,666	36.7	23.2
John N. Shell (8).....	502,083	11.8	7.4
John W. Fara (9).....	4,167	*	*
Judson A. Cooper (10).....	1,196,491	28.1	17.7

Joshua Schein (10).....	1,196,491	28.1	17.7
All directors and executive officers as a group (6 persons) (11)..	3,277,741	76.8	50.3

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* Less than one percent of the outstanding shares of Common Stock.

(1) Assumes no exercise of the Over-Allotment Option. Except pursuant to applicable community property laws or as indicated in the footnotes to this table, to the Company's knowledge, each shareholder identified in the table possesses sole voting and investment power with respect to all shares of Common Stock shown as beneficially owned by such shareholder.

(2) Applicable percentage of ownership for each shareholder is based on 4,263,447 shares of Common Stock outstanding as of May 31, 1997, together with applicable options for such shareholders. Beneficial ownership is determined in accordance with the rules of the Securities and Exchange Commission, and includes voting and investment power with respect to the shares. Shares of Common Stock subject to outstanding options are deemed outstanding for computing the percentage of ownership of the person holding such options, but are not deemed outstanding for computing the percentage ownership of any other person.

(3) CSO Ventures LLC's ("CSO") address is 666 3rd Avenue, 30th Floor, New York, New York 10017.

(4) These shares are being held by Dr. John W. Shell for delivery to Cygnus, Inc., formerly Cygnus Therapeutics Systems ("Cygnus") if certain conditions are met, including the timely tender for cancellation of certificates representing shares of M6 held by Cygnus. Cygnus, Inc.'s address is 400 Penobscot Drive, Redwood City, California 94063. Cygnus is engaged in the development of diagnostic and drug delivery systems, with its current efforts primarily focused on three core areas: a painless, automatic glucose monitoring device, transdermal drug delivery systems and mucosal drug delivery systems.

(5) Includes 30,000 shares of Common Stock held by the children of Mr. Ash.

(6) Amore Perpetuo, Inc.'s address is 4616 West Sahara Avenue #65, Las Vegas, Nevada 89012.

(7) Includes 400,000 shares of Common Stock held on behalf of Cygnus, of which Dr. Shell disclaims beneficial ownership. See footnote 4. Dr. Shell's address is 1170 B Chess Drive, Foster City, California 94404.

(8) Includes 2,083 shares of Common Stock issuable upon exercise of outstanding options which will vest within 60 days of May 31, 1997. Mr. Shell's address is 1170 B Chess Drive, Foster City, California 94404.

(9) Represents 4,167 shares of Common Stock issuable upon exercise of outstanding options which will vest within 60 days of May 31, 1997. Dr. Fara's address is 1170 B Chess Drive, Foster City, California 94404.

(10) Represents shares beneficially owned by CSO, of which Mr. Cooper and Dr. Schein disclaim beneficial ownership.

(11) Includes 6,250 shares of Common Stock issuable upon exercise of outstanding options which will vest within 60 days of May 31, 1997. Also includes 1,196,491 shares owned by CSO, of which Mr. Cooper and Dr. Schein disclaim beneficial ownership and 8,333 shares of Common Stock held by John F. Hamilton, the Company's Chief Financial Officer.

DESCRIPTION OF SECURITIES

The following description of the securities of the Company and certain provisions of the Company's Articles of Incorporation and Bylaws to be effective upon completion of the Offering is a summary and is qualified in its entirety by the provisions of the Articles of Incorporation and Bylaws, which

have been filed as exhibits to the Company's Registration Statement, of which this prospectus is a part.

Upon the closing of the Offering, the authorized capital stock of the Company will consist of 25,000,000 shares of Common Stock, no par value and 5,000,000 shares of Preferred Stock, no par value (the "Preferred Stock").

COMMON STOCK

Upon completion of this Offering, there will be 6,763,447 shares of Common Stock issued and outstanding. Holders of Common Stock are entitled to one vote per share on all matters to be voted upon by the shareholders of the Company. Subject to the preferences that may be applicable to any future shares of Preferred Stock outstanding, the holders of Common Stock are entitled to receive ratably such dividends, if any, as may be declared by the Board of Directors out of funds legally available therefor. In the event of liquidation, dissolution or winding up of the Company, the holders of Common Stock are entitled to share ratably in all assets remaining after payment of liabilities, subject to the prior liquidation rights of any future shares of Preferred Stock outstanding. The holders of Common Stock have no preemptive, redemption, conversion, sinking fund or other subscription rights. The outstanding shares of Common Stock are, and the shares offered by the Company in the Offering will be, when issued and paid for, fully paid and nonassessable. The rights, preferences and privileges of holders of Common Stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of Preferred Stock which the Company may designate and issue in the future.

PREFERRED STOCK

Upon the closing of this Offering, the Board of Directors will have the authority, without further action by the shareholders, to issue up to 5,000,000 shares of Preferred Stock in one or more series and to fix the rights, preferences, privileges and restrictions thereof, including dividend rights, conversion rights, voting rights, terms in redemption, liquidation preferences, sinking fund terms and the number of shares constituting any series or the designation of such series without any further vote or action by the shareholders. The issuance of Preferred Stock could adversely affect the voting power of holders of Common Stock and the likelihood that such holders will receive dividend payments and payments upon liquidation and could have the effect of delaying, deferring or preventing a change in control of the Company. The Company has no present plans to issue any shares of Preferred Stock.

BRIDGE WARRANTS

Each Bridge Warrant entitles the registered holder thereof to purchase, at anytime during the four year period commencing 12 months after the date of this Prospectus, one share of Common Stock at the initial public offering price of the Company's Common Stock, subject to adjustment upon the occurrence of certain events such as combinations or reclassifications of the Common Stock. The holders of the Bridge Warrants are also entitled to certain registration rights. See "--Registration Rights."

WARRANTS

The following is a brief summary of certain provisions of the Warrants, but such summary does not purport to be complete and is qualified in all respects by reference to the actual text of the Warrant Agreement between the Company, and Continental Stock Transfer & Trust Company (the "Warrant Agent"), a copy of which has been filed as an exhibit to the Registration Statement of which this Prospectus is a part.

Exercise Price and Terms. Each Warrant entitles the registered holder

thereof to purchase, at any time commencing , 1998 [12 months after the date of this Prospectus], until , 2002 [5 years after the date of this Prospectus], one share of Common Stock at a price of $ per share [140% of the initial public offering price per share of Common Stock], subject to adjustment in accordance with the anti-dilution provisions referred to below. The holder of any Warrant may exercise such Warrant by surrendering the certificate representing the Warrant to the Warrant Agent, with the subscription form thereon properly completed and executed, together with payment of the exercise price. The Warrants may be exercised at any time in whole or in part at the applicable exercise price until the expiration of the Warrants. No fractional shares will be issued upon the exercise of the Warrants. The exercise price of the Warrants bears no relationship to any objective criteria and should in no event be regarded as an indication of any future market price of the securities offered hereby.

Adjustments. The exercise price and the number of shares of Common Stock purchasable upon the exercise of the Warrants are subject to adjustment, upon the occurrence of certain events, including stock dividends, stock splits, combinations or reclassifications of the Common Stock or for a period of two years from the date of this Prospectus, the sale by the Company of shares of its Common Stock or other securities convertible into Common Stock at a price below the initial public offering price of the Common Stock, excluding shares of Common Stock issued in connection with incentive or benefit plans of the Company, strategic alliances, joint ventures or other corporate partnerships. Additionally, an adjustment will be made in the case of a reclassification or exchange of Common Stock, consolidation or merger of the Company with or into another corporation (other than a consolidation or merger in which the Company is the surviving corporation) or sale of all or substantially all of the assets of the Company, in order to enable warrantholders to acquire the kind and number of shares of stock or other securities or property receivable in such event by a holder of the number of shares of Common Stock that might have been purchased upon the exercise of the Warrant.

Redemption Provisions. Commencing , 1998 [18 months after the date of this Prospectus], the Warrants are subject to redemption at $.10 per Warrant on 30 days' prior written notice provided that the average closing sales price of the Common Stock as reported on the AMEX equals or exceeds $ per share [150% of the initial public offering price of the Common Stock] (subject to adjustment for stock dividends, stock splits, combinations or reclassifications of the Common Stock), for any 20 trading days within a period of 30 consecutive trading days ending on the fifth trading day prior to the date of the notice of redemption. In the event the Company exercises the right to redeem the Warrants, such Warrants will be exercisable until the close of business on the business day immediately preceding the date for redemption fixed in such notice. If any Warrant called for redemption is not exercised by such time, it will cease to be exercisable and the holder will be entitled only to the redemption price.

Transfer, Exchange and Exercise. The Warrants are in registered form and may be presented to the Warrant Agent for transfer, exchange or exercise at any time on or prior to their expiration date five years from the date of this Prospectus, at which time the Warrants become wholly void and of no value. If a market for the Warrants develops, the holder may sell the Warrants instead of exercising them. There can be no assurance, however, that a market for the Warrants will develop, or if it develops, that it will continue.

Warrantholders Not Shareholders. The Warrants do not confer upon holders any voting, dividend or other rights as shareholders of the Company.

Modification of Warrants. The Company and the Warrant Agent may make such modifications to the Warrants as they deem necessary and desirable that do not adversely affect the interests of the warrantholders. The Company may, in its sole discretion, lower the exercise price of the Warrants for a period of not less than 30 days on not less than thirty (30) days' prior written notice to the warrantholders and the Representative. Modification of the number of securities purchasable upon the exercise of any Warrant, the exercise price and the expiration date with respect to any Warrant requires the consent of two-thirds of the warrantholders.

The Warrants are not exercisable unless, at the time of the exercise, the Company has a current prospectus covering the shares of Common Stock issuable upon exercise of the Warrants, and such shares have been

registered, qualified or deemed to be exempt under the securities laws of the state of residence of the exercising holder of the Warrants. Although the Company will use its best efforts to have all of the shares of Common Stock issuable upon exercise of the Warrants registered or qualified on or before the exercise date and to maintain a current prospectus relating thereto until the expiration of the Warrants, there can be no assurance that it will be able to do so.

The Warrants are separately transferable immediately upon issuance. Although the Securities will not knowingly be sold to purchasers in jurisdictions in which the Securities are not registered or otherwise qualified for sale, purchasers may buy Warrants in the aftermarket or may move to jurisdictions in which the shares underlying the Warrants are not so registered or qualified during the period that the Warrants are exercisable. In this event, the Company would be unable to issue shares to those persons desiring to exercise their Warrants and holders of Warrants would have no choice but to attempt to sell the Warrants in a jurisdiction where such sale is permissible or allow them to expire unexercised.

REGISTRATION RIGHTS

Certain holders of the Common Stock or their transferees are entitled to certain rights with respect to the registration of shares under the Securities Act. Registration rights are held with respect to 92,834 shares of Common Stock to be issued upon conversion of the Company's Series B Preferred Stock upon consummation of this Offering under the terms of the agreements between the Company and holders of Series B Preferred Stock (the "Registrable Securities"). Subject to certain limitations in such agreements, the holders of Registrable Securities have "piggyback" rights to request that their shares be registered for public resale with respect to up to four registrations of the Company's securities. However, if such piggyback rights are exercised in connection with an underwritten offering of the Company's Common Stock, the underwriter of such offering has the right to reduce to 20% of the total the number of such shares to be included in such public offering or, in the case of the initial public offering, to exclude such shares entirely. In addition, at a time when the Company is eligible to register securities on Form S-3, holders of Registrable Securities not already registered may demand that the Company file a Form S-3, provided that the aggregate offering price of the Registrable Securities would be at least $1,000,000. The Company will pay certain expenses in connection with the exercise of the foregoing rights. These registration rights expire five years after an initial public offering of the Company's securities.

Registration rights are also held with respect to 76,923 shares of Common Stock (assuming an initial public offering price of $6.50) issuable upon exercise of the Bridge Warrants (the "Bridge Shares") under the terms of the agreement between the Company and holders of the Bridge Warrants. Subject to certain limitations in such agreement, the holders of Bridge Shares have the right to require the Company, on one occasion, to register the Bridge Shares under the Securities Act. In addition, the holders of the Bridge Shares have "piggyback" rights to request that their shares be registered for public resale with respect to one registration of the Company's securities. However, if such piggyback registration rights are exercised in connection with an underwritten offering of the Company's Common Stock, the underwriter of such offering has the right to reduce or eliminate such shares to be included in such public offering. The Company will pay certain expenses (excluding underwriting discounts and commissions) relating to such registrations.

TRANSFER AGENT AND REGISTRAR

The transfer agent and registrar for the Company's Common Stock and the Warrant Agent for the Warrants is Continental Stock Transfer & Trust Company, New York, New York.

SHARES ELIGIBLE FOR FUTURE SALE

Upon completion of this Offering, the Company will have 6,763,447 shares of Common Stock outstanding, of which the 2,500,000 shares offered hereby (and the 1,250,000 Warrants) will be transferable without restriction under the Securities Act. The other 4,263,447 outstanding shares of Common Stock are "restricted securities" (as that term is defined in Rule 144 promulgated under the Securities Act) which may be publicly sold only if registered under the Securities Act or if sold in accordance with an applicable exemption from registration, such as Rule 144. In general, under the revised holding period requirements of Rule 144, subject to the satisfaction of certain other conditions, a person, including an affiliate of the Company, who has beneficially owned restricted securities for at least one year, is entitled to sell (together with any person with whom such individual is required to aggregate sales) within any three-month period, a number of shares that does not exceed the greater of 1% of the total number of outstanding shares of the same class, or, if the Common Stock is quoted on the Nasdaq Stock Market or another national securities exchange, the average weekly trading volume during the four calendar weeks preceding the sale. Sales under Rule 144 are also subject to certain manner of sale provisions, notice requirements, and the availability of current public information regarding the Company. A person who has not been an affiliate of the Company for at least three months, and who has beneficially owned restricted securities for at least two years, is entitled to sell such restricted shares under Rule 144(k) without regard to any of the limitations described above.

Subject to certain limitations on the aggregate offering price of a transaction and other conditions, Rule 701 generally may be relied upon with respect to the sale of shares purchased from the Company by its employees, directors, officers or consultants prior to the date of this Prospectus pursuant to written compensatory benefit plans such as the Stock Plan and written contracts such as option agreements. Rule 701 is also available for sales of shares acquired by persons pursuant to the exercise of options granted prior to the effective date of this Prospectus, regardless of whether the option exercise occurs before or after the effective date of this Prospectus. Securities issued in reliance on Rule 701 are "restricted securities" within the meaning of Rule 144 and, beginning 90 days after the date of this Prospectus, may be sold by persons other than affiliates of the Company subject only to the manner of sale provisions of Rule 144 and by affiliates under Rule 144 without compliance with its one-year minimum holding period requirement.

As of March 31, 1997, options granted under the Stock Plan to purchase a total of 196,667 shares of Common Stock were outstanding and options to purchase an additional 128,333 shares of Common Stock were reserved for future issuance under the Stock Plan. Of the options granted under the Stock Plan, 7,083 of such options were currently exercisable as of March 31, 1997, with the remaining outstanding options to become exercisable at the rate of 28,750 options in 1997 and 49,167 in each of 1998 and 1999, and 62,500 options in 2000 and thereafter. In April 1997, the Board of Directors approved an increase of 250,000 shares to the Stock Plan. In April and June 1997, the Board of Directors granted options to purchase 71,666 and 68,333 shares of Common Stock, respectively. Shares of Common Stock issued upon the exercise of outstanding options will be "restricted securities" and may not be sold in the absence of registration under the Securities Act unless an exemption from registration is available. Potential exemptions include those available under Rule 144 and Rule 701.

No prediction can be made as to the effect that future sales of Common Stock, or the availability of shares of Common Stock for future sale, will have on the market prices of the Common Stock and Warrants prevailing from

time to time. Pursuant to the Lock-Up Agreements, the Company, all officers and directors of the Company and all holders of outstanding securities exercisable for or convertible into Common Stock have agreed not to, directly or indirectly, issue, agree or offer to sell, transfer, assign, distribute, grant an option for purchase or sale of, pledge, hypothecate or otherwise encumber or dispose of any beneficial interest in such securities for a period of 12 months following the date of this Prospectus without the prior written consent of the Representative. The Representative has no general policy with respect to the release of shares prior to the expiration of the lock-up period and no present intention to waive or modify any of these restrictions on the sale of Company securities. Assuming that the Representative does not release the shareholders from the Lock-Up Agreements, after the Lock-Up Period all of the shares will be eligible for sale in the public market. Of such shares, 3,355,991 shares of Common Stock will be eligible for sale under Rule 144 (subject to volume limitations imposed by such rule), 815,789 shares of Common Stock will be eligible for sale under Rule 144(k), and 91,667 shares will be eligible for sale under Rule 701. The sale or issuance, or the potential for sale or issuance, of Common Stock after such 12-month period could have an adverse impact on the market prices of the Common Stock and/or the Warrants. Sales of substantial amounts of Common Stock or the perception that such sales could occur could adversely affect prevailing market prices for the Common Stock and/or the Warrants. See "Underwriting."

UNDERWRITING

The Underwriters named below (the "Underwriters"), for whom National Securities Corporation is acting as representative (in such capacity, the "Representative"), have severally agreed, subject to the terms and conditions of the Underwriting Agreement (the "Underwriting Agreement"), to purchase from the Company and the Company has agreed to sell to the Underwriters on a firm commitment basis, the respective number of shares of Common Stock and Warrants set forth opposite their names:

UNDERWRITERS	NUMBER OF SHARES	NUMBER OF WARRANTS
National Securities Corporation.....		
Total.....	2,500,000	1,250,000

The Underwriters are committed to purchase all the shares of Common Stock and Warrants offered hereby, if any of such Securities are purchased. The Underwriting Agreement provides that the obligations of the several Underwriters are subject to conditions precedent specified therein.

The Company has been advised by the Representative that the Underwriters propose initially to offer the Securities to the public at the initial public offering prices set forth on the cover page of this Prospectus and to certain dealers at such prices less concessions not in excess of $ per share of Common Stock and $ per Warrant. Such dealers may reallow a concession not in excess of $ per share of Common Stock and $ per Warrant to certain other dealers. After the commencement of the Offering, the public offering price, concession and reallowance may be changed by the Representative.

The Representative has informed the Company that it does not expect sales to discretionary accounts by the Underwriters to exceed five percent of the Securities offered hereby.

The Company has agreed to indemnify the Underwriters against certain liabilities, including liabilities under the Securities Act, or to contribute

to payments that Underwriters may be required to make. The Company has also agreed to pay to the Representative a non-accountable expense allowance equal to 2 1/2% of the gross proceeds derived from the sale of the Securities underwritten, of which $50,000 has been paid to date.

The Company has granted to the Underwriters the Over-Allotment Option, exercisable during the 45-day period from the date of this Prospectus, to purchase from the Company up to an additional 375,000 shares and/or an additional 187,500 Warrants at the initial public offering prices per share and per Warrant, respectively, offered hereby, less underwriting discounts. Such option may be exercised only for the purpose of covering over-allotments, if any, incurred in the sale of the Securities offered hereby. To the extent such option is exercised in whole or in part, each Underwriter will have a firm commitment, subject to certain conditions, to purchase the number of the additional Securities proportionate to its initial commitment.

In connection with this Offering, the Company has agreed to sell to the Representative, for $.0001 per warrant, warrants to purchase from the Company up to 250,000 shares of Common Stock and/or up to 125,000 Warrants (the "Representative's Warrants"). The Representative's Warrants are initially exercisable at a price of $ per share [165% of the initial public offering price per share of Common Stock] and $ per Warrant [165% of the initial public offering price per Warrant] for a period of four years, commencing one year after the date of this Prospectus and are restricted from sale, transfer, assignment or hypothecation for a period of 12 months from the date of this Prospectus, except to officers of the Representative. The Representative's Warrants provide for adjustment in the number of securities issuable upon the exercise thereof as a result of certain subdivisions and combinations of the Common Stock. The Representative's Warrants grant to the holders thereof certain rights of registration for the securities issuable upon exercise thereof.

The Company's directors, and executive officers, and all holders of shares of Common Stock, options, warrants or other securities convertible, exercisable or exchangeable for Common Stock have agreed not to offer, sell, or otherwise dispose of any shares of Common Stock for a period of 12 months following the date of this Prospectus without the prior written consent of the Representative. An appropriate legend shall be placed on the certificates representing such securities. The Representative has no general policy with respect to the release of shares prior to the expiration of the lock-up period and no present intention to waive or modify any of these restrictions on the sale of Company securities.

Upon the exercise of any Warrants more than one year after the date of this Prospectus, which exercise was solicited by the Representative, and to the extent not inconsistent with the guidelines of the National Association of Securities Dealers, Inc. ("NASD") and the Rules and Regulations of the Commission, the Company has agreed to pay the Representative a commission which shall not exceed five percent (5%) of the aggregate exercise price of such Warrants in connection with bona fide services provided by the Representative relating to any warrant solicitation undertaken by the Representative. In addition, the individual must designate the firm entitled to payment of such warrant solicitation fee. A warrant solicitation fee will only be paid to the Representative or another NASD member when such NASD member is specifically designated in writing as the soliciting broker. However, no compensation will be paid to the Representative in connection with the exercise of the Warrants if (i) the market price of the Common Stock is lower than the exercise price, (ii) the Warrants were held in a discretionary account, or (iii) the exercise of Warrants is not solicited by the Representative. Unless granted an exemption by the Commission from its Rule 101 under Regulation M promulgated under the Securities Act, the Representative will be prohibited from engaging in any market making activities with regard to the Company's securities for the period from five business days (or such applicable periods as Rule 101 under Regulation M may

provide) prior to any solicitation of the exercise of the Warrants until the later of the termination of such solicitation activity or the termination (by waiver or otherwise) of any right the Representative may have to receive a fee. As a result, the Representative may be unable to continue to provide a market for the Company's securities during certain periods while the Warrants are exercisable. If the Representative has engaged in any of the activities prohibited by Rule 101 under Regulation M during the period described above, the Representative undertakes to waive unconditionally its rights to receive a commission on the exercise of such Warrants.

In connection with this Offering, certain Underwriters and selling group members and their respective affiliates may engage in transactions that stabilize, maintain or otherwise affect the market prices of the Securities. Such transactions may include stabilization transactions effected in accordance with Rule 104 of Regulation M, pursuant to which such persons may bid for or purchase the Common Stock and/or Warrants for the purpose of stabilizing their respective market prices. The Underwriters also may create a short position for the account of the Underwriters by selling more Securities in connection with the Offering than they are committed to purchase from the Company, and in such case may purchase Securities in the open market following completion of the Offering to cover all or a portion of such short position. The Underwriters may also cover all or a portion of such short position, up to 375,000 shares of Common Stock and/or 187,500 Warrants, by exercising the Over-Allotment Option referred to above. In addition, the Representative may impose "penalty bids" under contractual arrangements with the Underwriters whereby it may reclaim from an Underwriter (or dealer participating in the Offering) for the account of other Underwriters, the selling concession with respect to the Securities that are distributed in the Offering but subsequently purchased for the account of the Underwriters in the open market. Any of the transactions described in this paragraph may result in the maintenance of the prices of the Securities at a level above that which might otherwise prevail in the open market. None of the transactions described in this paragraph is required, and, if they are undertaken, they may be discontinued at any time.

Prior to this Offering, there has been no public market for the Common Stock or the Warrants. Consequently, the initial public offering prices of the Common Stock and Warrants, and the exercise price of the Warrants has been determined by negotiation between the Company and the Representative and does not necessarily bear any relationship to the Company's asset value, net worth or other established criteria of value.

The factors considered in such negotiations, in addition to prevailing market conditions, included the history of and prospects for the industry in which the Company competes, an assessment of the Company's management, the prospects of the Company, its capital structure, the market for initial public offerings and certain other factors as were deemed relevant.

The foregoing is a summary of the principal terms of the agreements described above and does not purport to be complete. Reference is made to a copy of each such agreement which are filed as exhibits to the Registration Statement of which this Prospectus is a part. For a more complete description thereof, see "Additional Information."

LEGAL MATTERS

The legality of the Securities offered hereby will be passed upon for the Company by Heller Ehrman White & McAuliffe, Palo Alto, California. Julian N. Stern, the Secretary of the Company, is the owner of 83,333 shares of Common Stock and is the sole stockholder and employee of a professional corporation that is a partner of Heller Ehrman White & McAuliffe. Orrick, Herrington & Sutcliffe LLP, New York, New York has acted as counsel to the Underwriters in connection with the Offering.

EXPERTS

The financial statements of DepoMed, Inc. at December 31, 1996 and for the period from inception (August 7, 1995) to December 31, 1995 and for the year ended December 31, 1996 appearing in this Prospectus and Registration Statement have been audited by Ernst & Young LLP, independent auditors, as set forth in their report thereon appearing elsewhere herein and in the Registration Statement, and are included in reliance upon such report given upon the authority of such firm as experts in accounting and auditing.

ADDITIONAL INFORMATION

The Company has filed with the Securities and Exchange Commission (the "Commission"), a Registration Statement on Form SB-2 under the Securities Act (the "Registration Statement") with respect to the shares of Common Stock offered hereby. This Prospectus does not contain all the information set forth in the Registration Statement and the exhibits and schedules thereto. For further information with respect to the Company and such Common Stock, reference is made to the Registration Statement and to the exhibits and schedules filed therewith. Statements contained in this Prospectus as to the contents of any contracts or other document referred to are not necessarily complete, and in each instance reference is made to the copy of such contract or other document filed as an exhibit to the Registration Statement, each such statement being qualified in all respects by such reference. A copy of the Registration Statement may be inspected by anyone without charge at the Commission's principal office in Washington, D.C., and copies of all or any part of the Registration Statement may be obtained from the Public Reference Section of the Commission, 450 Fifth Street, N.W. Washington, D.C. 20549, upon payment of certain fees prescribed by the Commission. The Commission maintains an Internet World Wide Web site that contains reports, proxy and information reports and other materials that are filed through the Commission's Electronic Data Gathering, Analysis and Retrieval System. The site can be accessed at http://www.sec.gov.

The Company intends to furnish its shareholders with annual reports containing financial statements audited by its independent auditors.

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REPORT OF ERNST & YOUNG LLP, INDEPENDENT AUDITORS

The Board of Directors DepoMed, Inc.

We have audited the accompanying balance sheet of DepoMed, Inc. (a development stage company) as of December 31, 1996, and the related statements of operations, shareholders' equity (net capital deficiency), and cash flows for the period from inception (August 7, 1995) to December 31, 1995 and for the year ended December 31, 1996. These financial statements are the

responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of DepoMed, Inc. (a development stage company) at December 31, 1996, and the results of its operations and its cash flows for the period from inception (August 7, 1995) to December 31, 1995 and for the year ended December 31, 1996 in conformity with generally accepted accounting principles.

As discussed in Note 1 to the financial statements, the Company's recurring losses from operations and net capital deficiency raise substantial doubt about its ability to continue as a going concern. Management's plans as to these matters are also described in Note 1. The 1996 financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Palo Alto, California January 31, 1997, except for Note 9, as to which the date is , 1997

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The foregoing report is in the form that will be signed upon completion of the one-for-three reverse stock split described in Note 9 to the Financial Statements.

/s/ Ernst & Young LLP

Palo Alto, California June 16 1997

DEPOMED, INC.
(A DEVELOPMENT STAGE COMPANY)

BALANCE SHEETS

	DECEMBER 31, 1996	MARCH 31, 1997	PRO FORMA SHAREHOLDERS' EQUITY (NET CAPITAL DEFICIENCY) AT MARCH 31, 1997
		(UNAUDITED)	
ASSETS			
Current assets:			
Cash and cash equivalents	$ 10,802	$ 107,523	
Accounts receivable	120,898	114,301	
Other current assets	31,537	143,031	
Total current assets	163,237	364,855	

Property and equipment, net.....	155,139	163,077	
Other assets.....	14,751	8,953	
	$ 333,127	$ 536,885	
LIABILITIES AND SHAREHOLDERS' EQUITY (NET CAPITAL DEFICIENCY)			
Current liabilities:			
Accounts payable.....	$ 51,746	$ 125,241	
Accrued compensation.....	291,374	319,487	
Notes payable to shareholders.....	294,238	298,122	
Capital lease obligation, current portion.....	19,803	14,950	
Other current liabilities.....	22,764	20,126	
Total current liabilities.....	679,925	777,926	
Capital lease obligation, non-current portion.....	34,634	24,338	
Commitments			
Shareholder's equity (net capital deficiency):			
Preferred stock, no par value, 10,000,000 shares authorized (5,000,000 pro forma); 2,447,368 and 2,725,868 shares issued and outstanding at December 31, 1996 and March 31, 1997, respectively (none pro forma); aggregate liquidation preference of $750,000 and $1,028,500 at December 31, 1996 and March 31, 1997, respectively.....	682,759	961,259	$ --
Common stock, no par value, 25,000,000 shares authorized; 3,354,825 shares issued and outstanding at December 31, 1996 and March 31, 1997, respectively, (4,263,447 shares pro forma).....	284,250	382,250	1,343,509
Deferred compensation.....	(275,000)	(351,729)	(351,729)
Deficit accumulated during the development stage.....	(1,073,441)	(1,257,159)	(1,257,159)
Total shareholders' equity (net capital deficiency).....	(381,432)	(265,379)	$ (265,379)
	$ 333,127	$ 536,885	

See accompanying notes.

DEPOMED, INC.
(A DEVELOPMENT STAGE COMPANY)

STATEMENTS OF OPERATIONS

	INCEPTION (AUGUST 7, 1995)	YEAR ENDED	THREE MONTHS ENDED MARCH 31,	INCEPTION (AUGUST 7, 1995) TO

	TO DECEMBER 31, 1995	DECEMBER 31, 1996	1996	1997	MARCH 31, 1997
			(UNAUDITED)	(UNAUDITED)	(UNAUDITED)
Product development revenue	$ --	$ 317,971	$ --	$ 127,039	$ 445,010
Operating expenses:					
Research and development	138,816	390,496	104,852	135,788	665,100
General and administrative	155,157	393,676	129,305	170,499	719,332
Purchase of in-process research and development	298,154	--	--	--	298,154
Total operating expenses	592,127	784,172	234,157	306,287	1,682,586
Loss from operations	(592,127)	(466,201)	(234,157)	(179,248)	(1,237,576)
Interest expense, net	8,541	6,572	(419)	4,470	19,583
Net loss	$(600,668)	$(472,773)	$(233,738)	$(183,718)	$(1,257,159)
Pro forma net loss per share		$ (0.11)	$ (0.05)	$ (0.04)	
Shares used in computing pro forma net loss per share		4,312,910	4,290,321	4,444,682	

See accompanying notes.

DEPOMED, INC.
(A DEVELOPMENT STAGE COMPANY)

STATEMENT OF SHAREHOLDERS' EQUITY (NET CAPITAL DEFICIENCY)

FROM INCEPTION (AUGUST 7, 1995) TO MARCH 31, 1997

	CONVERTIBLE PREFERRED STOCK		COMMON STOCK		DEFERRED	DEFICIT ACCUMULATED DURING DEVELOPMENT	TOTAL SHAREHOLDERS' EQUITY (NET CAPITAL
	SHARES	AMOUNT	SHARES	AMOUNT	COMPENSATION	STAGE	DEFICIENCY)
Balances at inception (August 7, 1995)	--	$ --	--	$ --	$ --	$ --	$ --
Issuance of common shares to founders on August 7, 1995 in exchange for shares held by them in M6 Pharmaceuticals, Inc.	--	--	2,066,667	--	--	--	--
Issuance of common shares for cash to investors at approximately $0.0009 per share on November 15, 1995	--	--	1,196,491	1,000	--	--	1,000
Issuance of Series A convertible preferred stock for cash to investors at approximately $0.31 per share on November 15, 1995, net of issuance costs of $67,241	2,447,368	682,759	--	--	--	--	682,759
Net loss	--	--	--	--	--	(600,668)	(600,668)
Balances at December 31, 1995	2,447,368	682,759	3,263,158	1,000	--	(600,668)	83,091
Issuance of common shares for cash at various dates at $0.09 per share to employees and the Company's							

counsel pursuant to stock option agreements.....	--	--	91,667	8,250	--	--	8,250
Deferred compensation related to grants of certain stock options..	--	--	--	275,000	(275,000)	--	--
Net loss.....	--	--	--	--	--	(472,773)	(472,773)
Balances at December 31, 1996.....	2,447,368	$ 682,759	3,354,825	$ 284,250	$ (275,000)	$ (1,073,441)	$ (381,432)
Issuance of Series B convertible preferred stock to investors for cash at $1.00 per share (unaudited).....	278,500	278,500	--	--	--	--	278,500
Deferred compensation related to grants of certain stock options (unaudited).....	--	--	--	98,000	(98,000)	--	--
Amortization of deferred compensation (unaudited).....	--	--	--	--	21,271	--	21,271
Net loss (unaudited)....	--	--	--	--	--	(183,718)	(183,718)
Balances at March 31, 1997 (unaudited).....	2,725,868	$ 961,259	3,354,825	$ 382,250	$ (351,729)	$ (1,257,159)	$ (265,379)

DEPOMED, INC.
(A DEVELOPMENT STAGE COMPANY)

STATEMENTS OF CASH FLOWS

	INCEPTION (AUGUST 7, 1995) TO DECEMBER 31, 1995	YEAR ENDED DECEMBER 31, 1996	THREE MONTHS ENDED MARCH 31, 1996	THREE MONTHS ENDED MARCH 31, 1997	INCEPTION (AUGUST 7, 1995) TO MARCH 31, 1997
			(UNAUDITED)	(UNAUDITED)	(UNAUDITED)
Cash flows from operating activities:					
Net loss.....	$(600,668)	$(472,773)	$(233,738)	$(183,718)	$(1,257,159)
Adjustments to reconcile net loss to net cash used in in operating activities:					
Depreciation and amortization.....	12,234	32,878	8,217	11,611	56,723
Accrued interest expense on shareholder notes...	2,930	10,688	2,588	3,884	17,502
Amortization of deferred compensation expense.....	--	--	--	21,271	21,271
Purchase of in-process research and development.....	298,154	--	--	--	298,154
Changes in assets and liabilities:					
Accounts receivable.....	--	(120,898)	--	6,597	(114,301)
Other current assets.....	(9,144)	(22,393)	657	(111,494)	(143,031)
Other assets.....	(10,076)	(4,675)	(787)	5,782	(8,969)
Accounts payable...	12,000	39,746	37,300	73,495	125,241
Accrued compensation.....	62,283	161,615	40,405	28,113	252,011
Other current liabilities.....	38,268	(15,504)	(23,469)	(2,638)	20,126
Net cash provided by (used in) operating					

activities.....	(194,019)	(391,316)	(168,827)	(147,097)	(732,432)
Cash flows from investing activities:					
Expenditures for property and equipment.....	(49,645)	(28,708)	(3,283)	(19,533)	(97,886)
Purchases of short-term investments.....	(79,582)	--	--	--	(79,582)
Sales of short-term investments.....	--	79,582	49,207	--	79,582
Net cash provided by (used in) investing activities.....	(129,227)	50,874	45,924	(19,533)	(97,886)
Cash flows from financing activities:					
Payments on capital lease obligations....	(22,506)	(45,013)	(7,242)	(15,149)	(82,668)
Proceeds on issuance of notes to shareholders.....	--	50,000	--	--	50,000
Proceeds on issuance of common stock.....	1,000	8,250	--	--	9,250
Proceeds on issuance of preferred stock...	682,759	--	--	278,500	961,259
Net cash provided by financing activities.....	661,253	13,237	(7,242)	263,351	937,841
Net increase (decrease) in cash and cash equivalents.....	338,007	(327,205)	(130,145)	96,721	107,523
Cash and cash equivalents at beginning of period..	--	338,007	338,007	10,802	--
Cash and cash equivalents at end of period.....	$ 338,007	$ 10,802	$ 207,862	$ 107,523	$ 107,523
Supplemental schedule of noncash financing and investing activities:					
Acquisition of property and equipment under capital leases.....	$ 65,563	$ 56,393	$ --	$ --	$ 121,956
Assumption of net liabilities of M6 Pharmaceuticals at inception (August 7, 1995).....	$ 298,154	$ --	$ --	$ --	$ 298,154
Supplemental disclosure of cash flow information:					
Cash paid during the period for interest..	$ 6,493	$ 5,695	$ 1,260	$ 1,714	$ 12,188

See accompanying notes.

(INFORMATION FOR THE THREE MONTHS ENDED MARCH 31, 1996 AND 1997 IS UNAUDITED)

(1) ORGANIZATION AND BASIS OF PRESENTATION

Organization

DepoMed, Inc. (the "Company"), a development stage company, was incorporated in the State of California on August 7, 1995. The Company is engaged in the research and development of oral drug delivery systems. The Company's primary activities since incorporation have been establishing its offices and research facilities, recruiting personnel, conducting research and development, performing business and strategic planning and raising capital.

Basis of Presentation

In the course of its development activities, the Company has sustained continuing operating losses and expects such losses to continue over the next several years. Management plans to continue to finance the operations with a combination of stock sales, such as the initial public offering contemplated by the Company and, in the longer term, revenues from corporate alliances and technology licenses. The Company's ability to continue as a going concern is dependent upon the successful execution of financings and, ultimately, upon achieving profitable operations. If adequate funds are not available, the Company may be required to delay, reduce the scope of, or eliminate one or more of its development programs. During the three months ended March 31, 1997, the Company raised $278,500 in gross proceeds from the private placement of Series B preferred stock.

In March 1994, DepoMed Systems, Inc. ("DSI"), a company founded and principally owned by Dr. John W. Shell, the founder of the Company, was merged into M6 Pharmaceuticals, Inc. ("M6"). In August 1995, pursuant to a settlement agreement (the "1995 Settlement Agreement") among M6, DSI and Dr. Shell, M6 transferred all of the assets related to the research, development, marketing, production and sale of oral drug delivery systems and technology developed by or under the direction of Dr. Shell to the Company, and the Company assumed certain net liabilities totaling $298,154 related thereto. Such amount has been reflected in the statement of operations as a charge for the purchase of in-process research and development.

Unaudited Pro Forma Shareholders' Equity (Net Capital Deficiency)

If the offering contemplated by this Prospectus is consummated, all of the convertible preferred shares outstanding as of the closing date will automatically be converted into 908,622 shares of common stock based on the shares of convertible preferred stock outstanding as of March 31, 1997. Pro forma shareholders' equity at March 31, 1997, as adjusted for the conversion of preferred stock, is disclosed on the balance sheet.

Interim Financial Information

The financial information at March 31, 1997, for the three months ended March 31, 1996 and 1997 and for the period from inception (August 7, 1995) to March 31, 1997 is unaudited but includes all adjustments (consisting only of normal recurring adjustments) which the Company considers necessary for a fair presentation of the financial position at such date and the operating results and cash flows for those periods. Results for the three months ended March 31, 1997 are not necessarily indicative of results for any other interim period or for the entire year.

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Cash, Cash Equivalents and Short-Term Investments

The Company considers all highly liquid investments purchased with an original maturity from the date of purchase of three months or less to be cash equivalents. As of December 31, 1995, cash equivalents primarily

consist of U.S. treasury bills. All other liquid investments are classified as short-term investments and consist of treasury bills with maturities in excess of three months. The Company places its cash, cash equivalents and short-term investments with high quality, U.S. financial institutions and to date has not experienced losses on any of its balances.

Depreciation and Amortization

Property and equipment are stated at cost, less accumulated depreciation and amortization. Depreciation is provided using the straight-line method over the estimated useful lives of the respective assets, generally three to five years. Leasehold improvements are amortized over the lesser of the lease term or the estimated useful lives of the related assets, generally four years.

Use of Estimates

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

Stock-Based Compensation

In October 1995, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation" ("SFAS 123"). Under SFAS 123, stock-based compensation expense is measured using either the intrinsic value method as prescribed by Accounting Principles Board Opinion No. 25 ("APBO 25") or the fair-value method described in SFAS 123. Beginning in 1996, the Company implemented SFAS 123 using the intrinsic-value method. Accordingly, adoption of the SFAS 123 had no material effect on the Company's financial position or results of operations.

Net Loss Per Share

Except as noted below, historical net loss per share is computed using the weighted average number of common shares outstanding. Common equivalent shares are excluded from the computation as their effect is antidilutive, except that pursuant to the Securities and Exchange Commission ("SEC") Staff Accounting Bulletins, common and common equivalent shares issued during the 12-month period prior to the initial filing of the proposed offering at prices below the assumed public offering price have been included in the calculation as if they were outstanding for all periods presented (using the treasury stock method for stock options at the estimated public offering price).

Historical net loss per share information is as follows:

	PERIOD FROM INCEPTION (AUGUST 7, 1995) TO DECEMBER 31, 1995	YEAR ENDED DECEMBER 31, 1996	THREE MONTHS ENDED MARCH 31, 1996	THREE MONTHS ENDED MARCH 31, 1997
Net loss per share.....	$ (0.19)	$ (0.14)	$ (0.07)	(0.05)
Shares used in computing net loss per share.....	3,071,367	3,497,121	3,474,532	3,566,199

Pro forma net loss per share has been computed as described above and also gives effect to the conversion of convertible preferred shares not included above that will automatically convert upon completion of the Company's initial public offering (using the as-if-converted method) from the original date of issuance.

Pro forma net loss per share for the period from inception (August 7, 1995) to December 31, 1995 is as follows:

Pro forma net loss per share	$ (0.18)
Shares used in computing pro forma net loss per share	3,279,748

Impact of Recently Issued Accounting Pronouncements

In February 1997, the Financial Accounting Standards Board issued Statement No. 128, Earnings per Share, which is required to be adopted on December 31, 1997. At that time, the Company will be required to change the method currently used to compute loss per share and to restate all prior periods. The impact is expected to result in no change to loss per share for any of the periods presented and the quarters ended March 31, 1997 and March 31, 1996.

Revenue Recognition

Product development revenue relates to the reimbursement of costs incurred for research and development and the achievement of milestones as specified in the related agreement and are recorded as earned.

(3) RESEARCH ARRANGEMENTS

Bristol-Myers Squibb Company

In July 1996, the Company and Bristol-Myers Squibb Company ("BMS") entered into a joint research agreement to develop a product incorporating a BMS proprietary compound into the DepoMed Gastric Retentive ("GR") System. Pursuant to the agreement, the Company has achieved all the specified milestones and has, therefore, recorded approximately $198,000 in product development revenues in 1996, the entire fee specified in the agreement. The amounts receivable under the agreement totaled $57,778 as of December 31, 1996.

Pursuant to the agreement, BMS has an option to obtain an exclusive, worldwide license to products incorporating the BMS compound utilizing the GR System. If such license is entered into, the Company will receive a royalty on net sales of the products as well as certain milestone payments. The option expires in February 1999.

Also in 1996 and the three month period ended March 31, 1997, the Company performed contract research services for BMS under an arrangement whereby BMS reimbursed specific research costs relating to the same product. Revenue recognized in accordance with this arrangement amounted to $110,000 and

$127,039 and the amounts receivable under the arrangement totaled $63,120 and $114,301 as of December 31, 1996 and March 31, 1997, respectively.

GalaGen Inc.

In May 1996, the Company and GalaGen Inc. ("GalaGen") entered into a feasibility study involving the use of the GR System to deliver oral immunoglobulin products developed by GalaGen. If the outcome of the feasibility study is favorable, the Company may enter into a development agreement with GalaGen.

(4) PROPERTY AND EQUIPMENT

Property and equipment consist of the following:

	DECEMBER 31, 1996
Furniture and office equipment	$ 15,590
Laboratory equipment	153,957
Leasehold improvements	30,704
	200,251
Less accumulated depreciation and amortization	(45,112)
	$155,139

Property and equipment includes assets under capitalized leases of $121,956 at December 31, 1996. Accumulated amortization related to assets under capital leases totaled $33,412 at December 31, 1996, respectively.

(5) LEASES

The Company leases its facilities under a noncancelable operating lease. The facilities lease expires in 1999 and includes an option to renew the lease for an additional five years. Future minimum lease payments under the capital leases and operating leases at December 31, 1996, together with the present value of the minimum lease payments, are as follows:

	OPERATING LEASES	CAPITAL LEASES
Year ending December 31,		
1997	$ 38,676	$ 27,272
1998	39,468	23,316
1999	6,600	19,820
Total minimum payments required	$ 84,744	70,408
Less amount representing interest		(15,971)

Present value of future lease payments.....	54,437
Less current portion.....	(19,803)
Noncurrent portion.....	$ 34,634

Rent expense for the period from inception (August 7, 1995) to December 31, 1995, for the year ended December 31, 1996 and for the period from inception (August 7, 1995) to December 31, 1996 was approximately $15,840, $36,960 and $52,800, respectively.

(6) RELATED PARTY TRANSACTIONS

CSO Ventures LLC

In September 1995, the Company issued 1,196,491 shares of Common Stock to CSO Ventures LLC ("CSO") in consideration of the prior agreement of CSO to lend the Company $100,000 to finance the litigation against M6 and to assist the Company in its initial financing. In September 1995, the Company also entered into

a consulting agreement with CSO, pursuant to which CSO provided financial advisory services to the Company for an annual fee of $120,000. The consulting agreement terminated in September 1996. In March 1997, the Company entered into a consulting agreement with CSO which provides for business development, operations and financial advisory services to be performed by CSO for an annual fee of $120,000. The agreement has a term of one year and is renewed automatically unless terminated by either party with 60 days written notice. Two members of CSO are also directors of the Company. Through December 31, 1996 and March 31, 1997, the Company has paid $120,000 in fees to CSO under these arrangements.

Promissory Note to Chairman of the Board

DSI entered into a promissory note with an individual who is the Company's founder, a shareholder and the Chairman of the Board of Directors, in each of December 1992 and December 1993 in the aggregate principal amount of $100,667. These notes are among the liabilities assumed by the Company pursuant to the 1995 Settlement Agreement. In November 1996, the Company entered into a promissory note with the same individual in the aggregate principal amount of $50,000. All the notes bear interest at 6% per annum on the outstanding principal balance. The notes are due upon the Company's receipt of at least $1 million in net proceeds in additional equity financing to the Company. The aggregate principal balance of all outstanding notes including the related interest due the Chairman is $171,488 and $173,747 as of December 31, 1996 and March 31, 1997, respectively.

Promissory Note to Shareholder

In July 1993, DSI signed two promissory notes with a shareholder who is also the secretary to the Board of Directors. These notes are among the liabilities assumed by the Company pursuant to the 1995 Settlement Agreement. The principal of the notes aggregates $100,000, bears interest at 6.5% per annum, and is due at the earlier of the Company's receipt of at least $500,000 in net proceeds from additional equity financing, but not later than December 31, 1997. The aggregate principal balance of all outstanding notes including the related interest due the shareholder is $122,750 and $124,375 as of December 31, 1996

and March 31, 1997, respectively.

(7) SHAREHOLDERS' EQUITY

Convertible Preferred Stock

The Company is authorized to issue 10,000,000 shares of preferred stock, designated as Series A convertible preferred stock (2,505,000 shares designated) and Series B preferred stock (500,000 shares designated). Preferred shareholders are entitled to receive noncumulative dividends at the rate of $0.02451616 and $0.08 per annum, for each share of Series A, and Series B preferred shares outstanding, respectively, when and if declared by the Board of Directors, payable in preference to common stock dividends. No dividends have been declared or paid by the Company.

In the event of any liquidation, dissolution, or winding up of the Company, the holders of the Series A and Series B preferred shares shall be entitled to receive, prior to and in preference to any distribution of any of the assets or surplus funds of the Company to the common shareholders, $0.306452 and $1.00, respectively, for each share of Series A and Series B preferred stock, respectively, held by them, and all declared but unpaid dividends on the preferred shares.

The holders of each share of preferred stock shall be entitled to the number of votes equal to the number of shares of common stock into which such shares of preferred stock could be converted at the record date for determination of the shareholders entitled to vote on such matter.

Each share of preferred stock is convertible at any time at the option of the holder into shares of common stock at the then effective conversion price. The conversion price per share of Series A and Series B preferred stock shall be $0.919356 and $3.00, respectively, and is subject to adjustment as specified in the articles of incorporation. Conversion of preferred shares is automatic upon the closing of a public offering registered under the Securities Act of 1933, with aggregate proceeds of not less than $3,500,000. Such conversion shall be deemed to have been made immediately prior to the closing of such underwritten public offering of securities.

Common Shares

The Company is authorized to issue 25,000,000 shares of common stock. Holders of common stock are entitled to one vote per share on all matters to be voted upon by the shareholders of the Company.

Subject to the preferences that may be applicable to any outstanding shares of preferred stock, the holders of common stock are entitled to receive ratably such dividends, if any, as may be declared by the Board of Directors.

1995 Stock Option Plan

The Company's 1995 Stock Option Plan (the "Plan") was adopted by the Board of Directors and approved by the shareholders in September 1995, and has subsequently been amended. As of December 31, 1996 a total of 416,667 shares of common stock have been reserved for issuance under the Plan. The Plan provides for the granting to employees of the Company, including officers and employee directors, of incentive stock options, and for the granting of nonstatutory stock options to employees and consultants of the Company.

The exercise price of all stock options granted under the Plan must be at least 100% of the fair value of the common stock of the Company on the grant date. The term of an incentive stock option may not exceed ten years from the date of grant. An option shall be exercisable on or after each vesting date in accordance with the terms set forth in the option agreement; provided, however, that the right to exercise an option generally vests at the rate of at least 25% per year over four years from the grant date.

Stock-Based Compensation

During 1996, the Company adopted SFAS 123. In accordance with the Statement, the Company applies APBO 25 in accounting for option grants to employees under the Plan and, accordingly, does not recognize compensation expense for options granted to employees at fair value, only those options granted at prices below fair value. The valuation related to stock options granted to non-employees was immaterial and, therefore, no value was recorded in the financial statements.

The Company used the minimum value method to determine the fair value of stock options at the grant date issued in 1995 and 1996 using the following weighted average assumptions for 1995 and 1996, respectively: risk free interest rates of 6.6% and 6.4%, respectively, and a weighted average expected option life of 2 and 4 years, respectively. The weighted average estimated fair value of employee stock options granted during 1995 and 1996 was $0.0014 and $1.13 per share, respectively.

The effect of applying the minimum value method of SFAS 123 in determining the fair values of stock options in 1995 and 1996 did not result in pro forma net loss and loss per share that are materially different from historical amounts reported. Therefore, such pro forma information is not presented herein. Future pro forma results of operations may be materially different from actual amounts reported.

A summary of the Company's stock option activity, and related information for the period from inception (August 7, 1995) to March 31, 1997 follows:

		OUTSTANDING OPTIONS		
	SHARES AVAILABLE FOR GRANT	NUMBER OF SHARES	PRICE PER SHARE	AGGREGATE PRICE
Shares authorized	250,000			
Options granted	(120,000)	120,000	0.09	10,800
Balanced at December 31, 1995	130,000	120,000	0.09	10,800
Shares authorized	--	--	--	--
Options granted at fair value	(3,334)	3,334	0.09	300
Options granted below fair value	(83,333)	83,333	0.90	75,000
Options cancelled	--	--	--	--
Options exercised	--	(91,667)	0.09	(8,250)
Balance at December 31, 1996	43,333	115,000	0.68	77,850
Shares authorized	166,667	--	--	--
Options granted at fair value	--	--	--	--

Options granted below fair value.....	(81,667)	81,667	3.00	245,000
Options cancelled.....	--	--	--	--
Options exercised.....	--	--	--	--
Balance at March 31, 1997.....	128,333	196,667	1.64	322,850

Exercise prices for options outstanding as of December 31, 1996 ranged from $0.09 to $0.90. The following table summarizes information about options outstanding at December 31, 1996:

	OUTSTANDING OPTIONS			EXERCISABLE OPTIONS	
EXRCISE PRICESE	NUMBER OF OPTIONS	WEIGHTED AVERAGE EXERCISE PRICE	REMAINING CONTRACTUAL LIFE (IN YEARS)	NUMBER OF OPTIONS	WEIGHTED AVERAGE EXERCISE PRICE
$0.09.....	31,667	$0.09	8.87	7,083	$ 0.09
$0.90.....	83,333	0.90	9.83	--	--
	115,000				

Exercise prices for options outstanding as of March 31, 1997 ranged from $0.09 to $3.00. The following table summarizes information about options outstanding at March 31, 1997:

	OUTSTANDING OPTIONS			EXERCISABLE OPTIONS	
EXRCISE PRICESE	NUMBER OF OPTIONS	WEIGHTED AVERAGE EXERCISE PRICE	REMAINING CONTRACTUAL LIFE (IN YEARS)	NUMBER OF OPTIONS	WEIGHTED AVERAGE EXERCISE PRICE
$0.09.....	31,667	$0.09	8.62	7,083	$ 0.09
$0.90.....	83,333	0.90	9.58	--	--
$3.00.....	81,667	3.00	9.83	--	--
	196,667				

In December 1996, the Company granted an option to purchase 83,333 shares of common stock at $0.90 per share. Deferred compensation of $275,000 was recorded on this option grant based on the deemed fair value of common stock on the date of grant of approximately $4.20. In January 1997, the Company granted options to purchase 81,667 shares of common stock at $3.00 per share and additional deferred compensation of approximately $98,000 has been recorded in the quarter ended March 31, 1997 based on the deemed fair value of

common stock on the grant date of $4.20. In April 1997, the Company granted options to purchase 71,666 shares of common stock at $3.00 per share. In June 1997, the Company granted options to purchase 33,333 shares of common stock at exercise prices ranging from $3.00 to $5.25 per share and options to purchase 35,000 shares at an exercise price equal to the closing price of the Company's anticipated initial public offering. Deferred compensation of approximately $144,000 related to certain of the aforementioned stock options will be recorded in the quarter ending June 30, 1997. The fair value of the underlying common stock, as determined by the Board of Directors approximated $4.80 in April 1997 and $5.25 in June 1997.

(8) INCOME TAXES

As of December 31, 1996 the Company had federal net operating loss carryforwards of approximately $500,000. The primary difference between the accumulated deficit and the net operating loss carryforwards relates to the exclusion of deferred compensation which will not be paid prior to March 15, 1997 for tax purposes. The net operating loss carryforwards will expire at various dates beginning on 2010 through 2011 if not utilized.

Utilization of the net operating losses and credits may be subject to an annual limitation due to the ownership change limitations provided by the Internal Revenue Code of 1986. The annual limitations may result in the expiration of net operating losses before utilization.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting and the amount used for income tax purposes.

Significant components of the Company's deferred tax assets as of December 31 are as follows:

	INCEPTION (AUGUST 7, 1995) TO DECEMBER 31, 1995	DECEMBER 31, 1996
Net operating loss carryforward	$ 65,000	$ 380,000
Deferred compensation	50,000	120,000
Total deferred tax assets	115,000	500,000
Valuation allowance for deferred tax assets	(115,000)	(500,000)
Total	$ --	$ --

(INFORMATION FOR THE THREE MONTHS ENDED MARCH 31, 1996 AND 1997 IS UNAUDITED)

(9) SUBSEQUENT EVENTS

In January 1997, the board of directors authorized management of the Company to file a registration statement with the SEC permitting the Company to sell shares of its common stock and warrants to the public. If the initial public offering is consummated under the terms currently anticipated, all of the

preferred stock outstanding will automatically convert into 908,622 shares of common stock. Unaudited pro forma shareholders' equity, as adjusted for the assumed conversion of the preferred shares, is set forth on the balance sheet.

Also in January 1997, the board of directors of the Company authorized a 3-for-1 reverse stock split, in which three shares of common stock will be exchanged for one share of common stock. Following shareholder approval, the stock split was effected on , 1997. Effective upon closing of the initial public offering, the Company will become authorized to issue 5,000,000 shares of preferred stock and 25,000,000 shares of common stock. All share and per share amounts, as well as the dividend and liquidation preferences from preferred stock, included in the accompanying financial statements have been retroactively adjusted to reflect the reverse stock split.

In April 1997, the Company arranged a financing facility of up to $1,000,000 of one-year notes to accredited investors (the "Bridge Financing"). The terms of the borrowing include a mandatory payment requirement upon the closing of an initial public offering prior to the Bridge Financing's maturity. The Bridge Financing bears interest at the rate of 6% per annum and further provides for the issuance of warrants upon the closing of an initial public offering (the "Bridge Warrants"). The Bridge Warrants entitle the investors to purchase the number of shares of Common Stock which equals 50% of their investment divided by the initial public offering price of the Common Stock, exercisable at a price equal to the initial public offering price of the Common Stock. The Bridge Warrants may be exercised during the 4 year period beginning one year after the date of the initial public offering.

In April 1997, the Board of Directors approved an increase of 250,000 shares to the Company's 1995 Stock Option Plan.

Oakmont Pharmaceuticals, Inc.

In April 1997, the Company and Oakmont signed a letter of intent to enter into an agreement pursuant to which Oakmont will manufacture the Company's reduced irritation aspirin and enhanced absorption calcium supplement products and have rights to distribute and sell these products in territories to be determined. The letter of intent also provides for the Company and Oakmont each to offer rights to future products to the other party.

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NO DEALER, SALESPERSON OR OTHER PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THIS PROSPECTUS AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE COMPANY OR ANY UNDERWRITER. NEITHER THE DELIVERY OF THIS PROSPECTUS NOR ANY SALE MADE HEREUNDER SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COMPANY SINCE THE DATE HEREOF OR THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AS OF ANY DATE SUBSEQUENT TO THE DATE HEREOF. THIS PROSPECTUS DOES NOT CONSTITUTE AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY ANY SECURITIES OFFERED HEREBY BY ANYONE IN ANY JURISDICTION IN WHICH SUCH OFFER OR SOLICITATION IS NOT AUTHORIZED OR IN WHICH THE PERSON MAKING SUCH OFFER OR SOLICITATION IS NOT QUALIFIED TO DO SO OR TO ANYONE TO WHOM IT IS UNLAWFUL TO MAKE SUCH OFFER OR SOLICITATION.

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UNTIL , 1997 (25 DAYS AFTER THE DATE OF THIS PROSPECTUS), ALL DEALERS EFFECTING TRANSACTIONS IN THE REGISTERED SECURITIES, WHETHER OR NOT PARTICIPATING IN THIS DISTRIBUTION, MAY BE REQUIRED TO DELIVER A PROSPECTUS. THIS DELIVERY REQUIREMENT IS IN addition TO THE OBLIGATIONS OF DEALERS TO DELIVER A PROSPECTUS WHEN ACTING AS UNDERWRITERS AND WITH RESPECT TO THEIR UNSOLD ALLOTMENTS OR SUBSCRIPTIONS.

DEPOMED, INC.

2,500,000 SHARES
OF COMMON STOCK
AND
1,250,000 REDEEMABLE
COMMON STOCK
PURCHASE WARRANTS

PROSPECTUS

NATIONAL SECURITIES
CORPORATION

, 1997

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 24. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

The registrant has the power to indemnify its directors and officers against liability for certain acts pursuant to Section 317 of the California Corporations Code. Article IV of the registrant's Third Amended and Restated Articles of Incorporation provides as follows:

> "The liability of the directors of this corporation for monetary damages shall be eliminated to the fullest extent permissible under California law. This corporation is also authorized, to the fullest extent permissible under California law, to indemnify its agents (as defined in Section 317 of the California Corporations Code), whether by by-law, agreement or otherwise, for breach of duty to this corporation and its shareholders in excess of that expressly permitted by Section 371 and to advance defense expenses to its agents in connection with such matters as they are incurred, subject to the limits on such excess indemnification set forth in Section 204 of the California Corporations Code. If, after the effective date of this Article, California law is amended in a manner which permits a corporation to limit the monetary or other liability of its directors or to authorize indemnification of, or advancement of such defense expenses to, its directors or other persons, in any such case to a greater extent than is permitted on such effective date, the references in this Article to "California law" shall to that extent be deemed to refer to California law as so amended."

ITEM 25. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The following-table sets forth the costs and expenses, other than underwriting discounts and commissions, payable by the registrant in connection with the sale of the Common Stock being registered. All amounts are estimated except the Commission Registration Fee, the NASD Filing Fee and the American Stock Exchange Application Fee.

SEC Registration Fee	$ 11,370
NASD Filing Fee	4,252
American Stock Exchange Application Fee	42,500
Blue Sky Qualification Fees and Expenses	20,000
Accounting Fees and Expenses	140,000
Legal Fees and Expenses	175,000
Transfer Agent and Registrar Fees	5,000
Directors' and Officers' Insurance	115,000
Printing and Engraving	120,000
Miscellaneous	22,516
Total	$655,638

ITEM 26. RECENT SALES OF UNREGISTERED SECURITIES.

During the past three years, the registrant has issued the securities set forth below which were not registered under the Securities Act of 1933, as amended (the "Securities Act").

In March 1994, DepoMed Systems, Inc. ("DSI") a company founded and principally owned by Dr. John W. Shell was merged into M6 Pharmaceuticals, Inc. ("M6"). In August 1995, pursuant to a settlement agreement between DSI and Dr. Shell, on the one hand, and M6, on the other hand, M6 transferred all of the intellectual property and other technology assets attributable to DSI to the Company, and the Company assumed certain liabilities related thereto. In September 1995, the Company issued 2,066,667 shares of its Common Stock to Dr. Shell and other prior shareholders of DSI in cancellation of the M6 stock received in the merger. The shares were issued under section 4(2) of the Securities Act.

In September 1995, the Company also issued 1,196,491 shares of Common Stock to CSO Ventures LLC ("CSO") in consideration of the prior agreement of CSO to lend the Company $100,000 to finance the litigation against M6 and to assist the Company in its initial financing. The shares were issued under section 4(2) of the Securities Act.

In November 1995, the Company sold 2,447,368 shares of Series A Preferred Stock to certain accredited investors. The shares were issued under section 4(2) of the Securities Act.

In the first quarter of 1997, the Company sold 278,500 shares of Series B Preferred Stock to eight accredited investors. The shares were issued under section 4(2) of the Securities Act. See "Principal Shareholders."

ITEM 27. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.

(a) Exhibits

1.1	Form of Underwriting Agreement
*3.1	Third Amended and Restated Articles of Incorporation
3.2	Form of Amended and Restated Articles of Incorporation (to become effective upon closing of the Offering)
*3.3	Bylaws
**4.1	Specimen Common Stock Certificate
**4.2	Specimen Warrant Certificate
4.3	Form of Representative's Warrant Agreement including form of Representative's Warrant
4.4	Form of Warrant Agreement
4.5	Form of Lock-up Agreement
**5.1	Opinion of Heller Ehrman White & McAuliffe
*10.1	1995 Incentive Stock Plan, as amended
*+10.2	Agreement dated July 11, 1996 between the Company and Bristol-Myers Squibb Company
*+10.3	Feasibility Agreement dated May 13, 1996 between the Company and GalaGen Inc.
*10.4	Agreement dated March 18, 1997 between the Company and CSO Ventures LLC
10.5	Lease Agreement between the Company and 1170 Chess Drive Limited Partnership dated September 2, 1992
*10.6	First Amendment to lease agreement dated January 1, 1996 between the Company and SKW II Real Estate Partnership
10.7	Employment Agreement between DepoMed, Inc. and John W. Shell
10.8	Employment Agreement between DepoMed, Inc. and John W. Fara
10.9	Agreement re: Settlement of Lawsuit, Conveyance of Assets and Assumption of Liabilities dated August 28, 1995 by and among DepoMed Systems, Inc., Dr. John W. Shell and M6 Pharmaceuticals, Inc.
11.1	Statement re: computation of net loss per share
23.1	Consent of Ernst & Young LLP, Independent Auditors
**23.2	Consent of Heller Ehrman White & McAuliffe (included in Exhibit 5.1)
*24.1	Power of Attorney (included on pages II-4 and II-5)
27.1	Financial Data Schedule

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* Previously filed.

** To be filed by amendment.

\+ Confidential treatment requested.

ITEM 28. UNDERTAKINGS.

(1) The undersigned Registrant hereby undertakes that it will:

(a) File, during any period in which offers or sales are being made, a post-effective amendment to this registration statement to:

(i) Include any prospectus required by Section 10(a)(3) of the Securities Act,

(ii) Reflect in the prospectus any facts or events which, individually or together, represent a fundamental change in the information in the registration statement, and

(iii) Include any additional or changed material information on the plan of distribution.

(b) For determining liability under the Securities Act, treat each post-effective amendment as a new registration statement of the securities offered, and the offering of the securities at that time to be the initial bona fide offering.

(c) File a post-effective amendment to remove from registration any of the securities that remain unsold at the end of this offering.

(2) The undersigned Registrant hereby undertakes to provide to the Underwriter at the closing specified in the Underwriting Agreement certificates in such denominations and registered in such names as required by the Underwriter to permit prompt delivery to each purchaser.

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

(4) The undersigned Registrant hereby undertakes that it will:

(a) For determining any liability under the Securities Act, treat the information omitted from the form of prospectus filed as part of this Registration Statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4), or 497(h) under the Securities Act as part of this registration statement as of the time it was declared effective.

(b) For determining any liability under the Securities Act, treat each post-effective amendment that contains a form of prospectus as a new registration statement for the securities offered in the registration statement, and the offering of such securities at that time as the initial bona fide offering of those securities.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form SB-2 and has duly caused this Amendment No. 1 to the Registration Statement on Form SB-2 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Foster City, California on June 17, 1997.

DEPOMED, INC.

/s/ John F. Hamilton
By: _____

John F. Hamilton

Vice President, Finance, Chief Financial Officer

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 1 to the Registration Statement on Form SB-2 has been signed by the following persons in the capacities and on the dates indicated.

*	Chairman of the Board of Directors and Chief Scientific Officer	June 17, 1997
John W. Shell, Ph.D.		
*	President, Chief Executive Officer and Director (Principal Executive Officer)	June 17, 1997
John W. Fara, Ph.D.		
*	Vice President, Operations and Director	June 17, 1997
John N. Shell		
/s/ John F. Hamilton	Vice President, Finance Chief Financial Officer (Principal Financial Officer)	June 17, 1997
John F. Hamilton		
*	Director	June 17, 1997
Judson A. Cooper		
*	Director	June 17, 1997
Joshua Schein, Ph.D.		

*By: /s/ John F. Hamilton

JOHN F. HAMILTON
ATTORNEY-IN-FACT

INDEX TO EXHIBITS

EXHIBIT PAGE	DESCRIPTION	SEQUENTIALLY NUMBERED PAGE
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23.1	Consent of Ernst & Young LLP, Independent Auditors	
**23.2	Consent of Heller Ehrman White & McAuliffe (included in Exhibit 5.1)	
*24.1	Power of Attorney (included on pages II-4 and II-5)	
27.1	Financial Data Schedule	

- --------

* Previously filed.

** To be filed by amendment.

+ Confidential treatment requested.

EXHIBIT 1.1

[Form of Underwriting Agreement - Subject to Additional Review]

2,500,000 SHARES OF COMMON STOCK
AND 1,250,000 REDEEMABLE WARRANTS

DEPOMED, INC.

UNDERWRITING AGREEMENT

New York, New York
, 1997

NATIONAL SECURITIES CORPORATION
As Representative of the
Several Underwriters listed on Schedule A hereto
1001 Fourth Avenue
Suite 2200
Seattle, Washington 98154

Ladies and Gentlemen:

DepoMed, Inc., a California corporation (the "Company"), confirms its agreement with National Securities Corporation ("National") and each of the underwriters named in Schedule A hereto (collectively, the "Underwriters," which term shall also include any underwriter substituted as hereinafter provided in Section 11), for whom National is acting as representative (in such capacity, - -------
National shall hereinafter be referred to as "you" or the "Representative"), with respect to the sale by the Company and the purchase by the Underwriters, acting severally and not jointly, of the respective numbers of shares ("Shares") of the Company's common stock, no par value per share ("Common Stock"), and redeemable common stock purchase warrants (the "Redeemable Warrants"), each to purchase one share of Common Stock, set forth in Schedule A hereto. The aggregate 2,500,000 Shares and 1,250,000 Redeemable Warrants will be separately tradeable upon issuance and are hereinafter referred to as the "Firm Securities." Each Redeemable Warrant is exercisable commencing on _____, 1998 [12 months from

the date of this Agreement] until _____, 2002 [60 months from the date of this Agreement], unless previously redeemed by the Company, at an initial exercise price of $_____ [140% of the initial public offering price] per share of Common Stock. The Redeemable Warrants may be redeemed by the Company at a redemption price of $.10 per Redeemable Warrant at any time after _____, 1998 [18 months from the date of this Agreement] on thirty (30) days' prior written notice, provided that the closing bid price of the Common Stock equals or exceeds $_____ [150% of the initial public offering price of Common Stock] per share, for any twenty (20) trading days within a period of thirty (30) consecutive trading days ending on the fifth trading day prior to the notice of redemption, all in accordance with the terms and conditions of the Warrant Agreement (herein defined).

Upon your request, as provided in Section 2(b) of this Agreement, the Company shall also issue and sell to the Underwriters, acting severally and not jointly, up to an additional 375,000 shares of Common Stock and/or 125,000 Redeemable Warrants for the purpose of covering over-allotments, if any. Such 375,000 shares of Common Stock and 187,500 Redeemable Warrants are hereinafter collectively to as the "Option Securities." The Company also proposes to issue and sell to you warrants (the "Representative's Warrants") pursuant to the

Representative's Warrant Agreement (the "Representative's Warrant Agreement") for the purchase of an additional 250,000 shares of Common Stock and/or 187,500 Redeemable Warrants. The shares of Common Stock and Redeemable Warrants issuable upon exercise of the Representative's Warrants are hereinafter referred to as the "Representative's Securities." The Firm Securities, the Option Securities, the Representative's Warrants and the Representative's Securities (collectively, hereinafter referred to as the "Securities") are more fully described in the Registration Statement and the Prospectus referred to below.

1. Representations and Warranties of the Company. The Company represents and warrants to, and agrees with, each of the Underwriters as of the date hereof, and as of the Closing Date (as hereinafter defined) and each Option Closing Date (as hereinafter defined), if any, as follows:

(a) The Company has prepared and filed with the Securities and Exchange Commission (the "Commission") a registration statement, and an amendment or amendments thereto, on Form SB-2 (No. 333-_____), including any related preliminary prospectus ("Preliminary Prospectus"), for the registration of the Firm Securities, the Option Securities and the Representative's Securities under the Securities Act of 1933, as amended (the "Act"), which registration statement and amendment or amendments have been prepared by the Company in conformity with the requirements of the Act, and the rules and regulations (the "Regulations") of the Commission under the Act. The Company will promptly file a further amendment to said registration statement in the form heretofore delivered to the Underwriters and will not file any other amendment thereto to which the Underwriters shall have objected in writing after having been furnished with a copy thereof. Except as the context may otherwise require, such registration statement, as amended, on file with the Commission at the time the registration statement becomes effective (including the prospectus, financial statements, schedules, exhibits and all other documents filed as a part thereof or incorporated therein (including, but not limited to those documents or information incorporated by reference therein) and all information deemed to be a part thereof as of such time pursuant to paragraph (b) of Rule 430(A) of the

Regulations), is hereinafter called the "Registration Statement", and the form of prospectus in the form first filed with the Commission pursuant to Rule 424(b) of the Regulations, is hereinafter called the "Prospectus." For purposes hereof, "Rules and Regulations" mean the rules and regulations adopted by the Commission under either the Act or the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as applicable.

(b) Neither the Commission nor any state regulatory authority has issued any order preventing or suspending the use of any Preliminary Prospectus, the Registration Statement or Prospectus or any part of any thereof and no proceedings for a stop order suspending the effectiveness of the Registration Statement or any of the Company's securities have been instituted or are pending or threatened. Each of the Preliminary Prospectus, the Registration Statement and Prospectus at the time of filing thereof conformed with the requirements of the Act and the Rules and Regulations, and none of the Preliminary Prospectus, the Registration Statement or Prospectus at the time of filing thereof contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except that this representation and warranty does not apply to statements made in reliance upon and in conformity with written information furnished to the Company with respect to the Underwriters by or on behalf of the Underwriters expressly for use in such Preliminary Prospectus, Registration Statement or Prospectus or any amendment thereof or supplement thereto.

(c) When the Registration Statement becomes effective and at all times subsequent thereto up to the Closing Date (as defined herein) and each Option Closing Date (as defined herein), if any, and during such longer period as the Prospectus may be required to be delivered in connection with sales by the Underwriters or a dealer, the Registration Statement and the Prospectus will

contain all statements which are required to be stated therein in accordance with the Act and the Rules and Regulations, and will conform to the requirements of the Act and the Rules and Regulations; neither the Registration Statement nor the Prospectus, nor any amendment or supplement thereto, will contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, provided, however, -------- -------

that this representation and warranty does not apply to statements made or statements omitted in reliance upon and in conformity with information furnished to the Company in writing by or on behalf of any Underwriter expressly for use in the Preliminary Prospectus, Registration Statement or Prospectus or any amendment thereof or supplement thereto.

(d) The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the state of its incorporation. Except as set forth in the Prospectus, the Company does not own an interest in any corporation, partnership, trust, joint venture or other business entity. The Company is duly qualified and licensed and in good standing as a foreign corporation in each jurisdiction in which its ownership or leasing of any properties or the character of its operations requires such qualification or licensing. The Company has all requisite power and authority (corporate and other), and has obtained any and all necessary authorizations, approvals, orders, licenses, certificates, franchises and permits of and from all governmental or regulatory officials and bodies (including, without limitation, those

having jurisdiction over environmental or similar matters), to own or lease its properties and conduct its business as described in the Prospectus; the Company is and has been doing business in compliance with all such authorizations, approvals, orders, licenses, certificates, franchises and permits and all applicable federal, state, local and foreign laws, rules and regulations; and the Company has not received any notice of proceedings relating to the revocation or modification of any such authorization, approval, order, license, certificate, franchise, or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would materially and adversely affect the condition, financial or otherwise, or the earnings, position, prospects, value, operation, properties, business or results of operations of the Company. The disclosures in the Registration Statement concerning the effects of federal, state, local, and foreign laws, rules and regulations on the Company's business as currently conducted and as contemplated are correct in all material respects and do not omit to state a material fact required to be stated therein or necessary to make the statements contained therein not misleading in light of the circumstances under which they were made.

(e) The Company has a duly authorized, issued and outstanding capitalization as set forth in the Prospectus under "Capitalization" and "Description of Securities" and will have the adjusted capitalization set forth therein on the Closing Date and each Option Closing Date, if any, based upon the assumptions set forth therein, and the Company is not a party to or bound by any instrument, agreement or other arrangement providing for it to issue any capital stock, rights, warrants, options or other securities, except for this Agreement, the Warrant Agreement, the Representative's Warrant Agreement and as described in the Prospectus. The Securities and all other securities issued or issuable by the Company conform or, when issued and paid for, will conform, in all respects to all statements with respect thereto contained in the Registration Statement and the Prospectus. All issued and outstanding securities of the Company have been duly authorized and validly issued and are fully paid and non-assessable and the holders thereof have no rights of rescission with respect thereto, and are not subject to personal liability by reason of being such holders; and none of such securities were issued in violation of the preemptive rights of any holders of any security of the Company or similar contractual rights granted by the Company. The Securities are not and will not be subject to any preemptive or other similar rights of any stockholder, have been duly authorized and, when issued, paid for and delivered in accordance with the terms

hereof, will be validly issued, fully paid and non-assessable and will conform to the description thereof contained in the Prospectus; the holders thereof will not be subject to any liability solely as such holders; all corporate action required to be taken for the authorization, issue and sale of the Securities has been duly and validly taken; and the certificates representing the Securities will be in due and proper form. Upon the issuance and delivery pursuant to the terms hereof of the Securities to be sold by the Company hereunder, the Underwriters or the Representative, as the case may be, will acquire good and marketable title to such Securities free and clear of any lien, charge, claim, encumbrance, pledge, security interest, defect or other restriction or equity of any kind whatsoever.

(f) The financial statements of the Company, together with the related notes and schedules thereto, included in the Registration Statement, each Preliminary Prospectus and the Prospectus fairly present the financial position, income, changes in cash flow, changes in stockholders' equity and the results of operations of the Company at the respective dates and for the respective periods to which they apply and such financial statements have been prepared in

conformity with generally accepted accounting principles and the Rules and Regulations, consistently applied throughout the periods involved and such financial statements as are audited have been examined by Ernst & Young LLP, who are independent certified public accountants within the meaning of the Act and the Rules and Regulations, as indicated in their reports filed therewith. There has been no adverse change or development involving a prospective adverse change in the condition, financial or otherwise, or in the earnings, position, prospects, value, operation, properties, business, or results of operations of the Company, whether or not arising in the ordinary course of business, since the date of the financial statements included in the Registration Statement and the Prospectus and the outstanding debt, the property, both tangible and intangible, and the business of the Company, conform in all material respects to the descriptions thereof contained in the Registration Statement and the Prospectus. Financial information (including, without limitation, any pro forma financial information) set forth in the Prospectus under the headings "Summary Financial Information," "Selected Financial Data," "Capitalization," and "Management's Discussion and Analysis of Financial Condition and Results of Operations," fairly present, on the basis stated in the Prospectus, the information set forth therein, and have been derived from or compiled on a basis consistent with that of the audited financial statements included in the Prospectus; and, in the case of pro forma financial information, if any, the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein. The amounts shown as accrued for current and deferred income and other taxes in such financial statements are sufficient for the payment of all accrued and unpaid federal, state, local and foreign income taxes, interest, penalties, assessments or deficiencies applicable to the Company, whether disputed or not, for the applicable period then ended and periods prior thereto; adequate allowance for doubtful accounts has been provided for unindemnified losses due to the operations of the Company; and the statements of income do not contain any items of special or nonrecurring income not earned in the ordinary course of business, except as specified in the notes thereto.

(g) The Company (i) has paid all federal, state, local, and foreign taxes for which it is liable, including, but not limited to, withholding taxes and amounts payable under Chapters 21 through 24 of the Internal Revenue Code of 1986, as amended (the "Code"), and has furnished all information returns it is required to furnish pursuant to the Code, (ii) has established adequate reserves for such taxes which are not due and payable, and (iii) does not have any tax deficiency or claims outstanding, proposed or assessed against it.

(h) No transfer tax, stamp duty or other similar tax is payable by or on behalf of the Underwriters in connection with (i) the issuance by the Company of the Securities, (ii) the purchase by the Underwriters of the Firm Securities and the Option Securities from the Company and the purchase by the Representative of

the Representative's Warrants from the Company, (iii) the consummation by the Company of any of its obligations under this Agreement, or (iv) resales of the Firm Securities and the Option Securities in connection with the distribution contemplated hereby.

(i) The Company maintains insurance policies, including, but not limited to, general liability, malpractice and property insurance, which insures each of the Company and its employees, against such losses and risks generally insured against by comparable businesses.

The Company (A) has not failed to give notice or present any insurance claim with respect to any matter, including but not limited to the Company's business, property or employees, under any insurance policy or surety bond in a due and timely manner, (B) does not have any disputes or claims against any underwriter of such insurance policies or surety bonds or has failed to pay any premiums due and payable thereunder, or (C) has failed to comply with all conditions contained in such insurance policies and surety bonds. There are no facts or circumstances under any such insurance policy or surety bond which would relieve any insurer of its obligation to satisfy in full any valid claim of the Company.

(j) There is no action, suit, proceeding, inquiry, arbitration, investigation, litigation or governmental proceeding (including, without limitation, those having jurisdiction over environmental or similar matters), domestic or foreign, pending or threatened against (or circumstances that may give rise to the same), or involving the properties or business of, the Company which (i) questions the validity of the capital stock of the Company, this Agreement, the Warrant Agreement or the Representative's Warrant Agreement, or of any action taken or to be taken by the Company pursuant to or in connection with this Agreement, the Warrant Agreement or the Representative's Warrant Agreement, (ii) is required to be disclosed in the Registration Statement which is not so disclosed (and such proceedings as are summarized in the Registration Statement are accurately summarized in all material respects), or (iii) might materially and adversely affect the condition, financial or otherwise, or the earnings, position, prospects, stockholders' equity, value, operation, properties, business or results of operations of the Company.

(k) The Company has full legal right, power and authority to authorize, issue, deliver and sell the Securities, enter into this Agreement, the Warrant Agreement and the Representative's Warrant Agreement and to consummate the transactions provided for in this Agreement, the Warrant Agreement and the Representative's Warrant Agreement; and this Agreement, the Warrant Agreement and the Representative's Warrant Agreement have each been duly and properly authorized, executed and delivered by the Company. Each of this Agreement, the Warrant Agreement and the Representative's Warrant Agreement constitutes a legal, valid and binding agreement of the Company enforceable against the Company in accordance with its terms, and none of the Company's issue and sale of the Securities, execution or delivery of this Agreement, the Warrant Agreement or the Representative's Warrant Agreement, its performance hereunder and thereunder, its consummation of the transactions contemplated herein and therein, or the conduct of its business as described in the Registration Statement, the Prospectus, and any amendments or supplements thereto, conflicts with or will conflict with or results or will result in any breach or violation of any of the terms or provisions of, or constitutes or will constitute a default under, or result in the creation or imposition of any lien, charge, claim, encumbrance, pledge, security interest, defect or other restriction or equity of any kind whatsoever upon, any property or assets (tangible or intangible) of the Company pursuant to the terms of (i) the certificate of incorporation or by-laws of the Company, (ii) any license, contract, collective bargaining agreement, indenture, mortgage, deed of trust, lease, voting trust agreement, stockholders agreement, note, loan or credit agreement or any other agreement or instrument to which the Company is a party or by which the Company is or may be bound or to which its or assets (tangible or intangible) is or may be subject, or any indebtedness, or (iii) any statute, judgment, decree, order, rule or regulation applicable to the Company of any arbitrator, court,

regulatory body or administrative agency or other governmental agency or body (including, without limitation, those having jurisdiction over environmental or similar matters), domestic or foreign, having jurisdiction over the Company or any of its activities or properties.

(l) No consent, approval, authorization or order of, and no filing with, any court, regulatory body, government agency or other body, domestic or foreign, is required for the issuance of the Securities pursuant to the Prospectus and the Registration Statement, the performance of this Agreement, the Warrant Agreement and the Representative's Warrant Agreement and the transactions contemplated hereby and thereby, including without limitation, any waiver of any preemptive, first refusal or other rights that any entity or person may have for the issue and/or sale of any of the Securities, except such as have been or may be obtained under the Act or may be required under state securities or Blue Sky laws in connection with the Underwriters' purchase and distribution of the Firm Securities and the Option Securities, and the Representative's Warrants to be sold by the Company hereunder.

(m) All executed agreements, contracts or other documents or copies of executed agreements, contracts or other documents filed as exhibits to the Registration Statement to which the Company is a party or by which it or they may be bound or to which its or their respective assets, properties or business may be subject have been duly and validly authorized, executed and delivered by the Company and constitute the legal, valid and binding agreements of the Company, as the case may be, enforceable against it in accordance with its terms. The descriptions in the Registration Statement of agreements, contracts and other documents are accurate and fairly present the information required to be shown with respect thereto by Form SB-2, and there are no contracts or other documents which are required by the Act to be described in the Registration Statement or filed as exhibits to the Registration Statement which are not described or filed as required, and the exhibits which have been filed are complete and correct copies of the documents of which they purport to be copies.

(n) Subsequent to the respective dates as of which information is set forth in the Registration Statement and Prospectus, and except as may otherwise be indicated or contemplated herein or therein, the Company has not (i) issued any securities or incurred any liability or obligation, direct or contingent, for borrowed money, (ii) entered into any transaction other than in the ordinary course of business, or (iii) declared or paid any dividend or made any other distribution on or in respect of its capital stock of any class, and there has not been any change in the capital stock, or any change in the debt (long or short term) or liabilities or material adverse change in or affecting the general affairs, management, financial operations, stockholders' equity or results of operations of the Company.

(o) No default exists in the due performance and observance of any term, covenant or condition of any license, contract, collective bargaining agreement, indenture, mortgage, installment sale agreement, lease, deed of trust, voting trust agreement, stockholders agreement, partnership agreement, note, loan or credit agreement, purchase order, or any other agreement or instrument evidencing an obligation for borrowed money, or any other material agreement or instrument to which the Company is a party or by which the Company may be bound or to which the property or assets (tangible or intangible) of the Company is subject or affected.

(p) The Company has generally enjoyed a satisfactory employer-employee relationship with its employees and is in compliance with all federal, state, local, and foreign laws and regulations respecting employment and employment practices, terms and conditions of employment and wages and hours. There are no pending investigations involving the Company by the U.S. Department of Labor, or any other governmental agency responsible for the enforcement of such federal, state, local, or foreign laws and regulations. There is no unfair labor

practice charge or complaint against the Company pending before the National Labor Relations Board or any lockout, strike, picketing, boycott, dispute, slowdown or stoppage pending or threatened against or involving the Company, or any predecessor entity, and none has ever occurred. No representation question exists respecting the employees of the Company, and no collective bargaining agreement or modification thereof is currently being negotiated by the Company. No grievance or arbitration proceeding is pending under any expired or existing collective bargaining agreements of the Company. No labor dispute with the employees of the Company exists, or, is imminent.

(q) The Company does not maintain, sponsor or contribute to any program or arrangement that is an "employee pension benefit plan," an "employee welfare benefit plan," or a "multiemployer plan" as such terms are defined in Sections 3(2), 3(1) and 3(37), respectively, of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") ("ERISA Plans"). The Company does not maintain or contribute, now or at any time previously, to a defined benefit plan, as defined in Section 3(35) of ERISA. No ERISA Plan (or any trust created thereunder) has engaged in a "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code, which could subject the Company or the Subsidiaries to any tax penalty on prohibited transactions and which has not adequately been corrected. Each ERISA Plan is in compliance with all reporting, disclosure and other requirements of the Code and ERISA as they relate to any such ERISA Plan. Determination letters have been received from the Internal Revenue Service with respect to each ERISA Plan which is intended to comply with Code Section 401(a), stating that such ERISA Plan and the attendant trust are qualified thereunder. None of the Company has ever completely or partially withdrawn from a "multiemployer plan."

(r) Neither the Company, nor any of its employees, directors, stockholders, partners, or affiliates (within the meaning of the Rules and Regulations) of any of the foregoing has taken or will take, directly or indirectly, any action designed to or which has constituted or which might be expected to cause or result in, under the Exchange Act, or otherwise, stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities or otherwise.

(s) Except as otherwise disclosed in the Prospectus, none of the patents, patent applications, trademarks, service marks, trade names and copyrights, and licenses and rights to the foregoing presently owned or held by the Company, are in dispute so far as known by the Company or are in any conflict with the right of any other person or entity. The Company (i) owns or has the right to use, free and clear of all liens, charges, claims, encumbrances, pledges, security interests, defects or other restrictions or equities of any kind whatsoever, all patents, trademarks, service marks, trade names and copyrights, technology and licenses and rights with respect to the foregoing, used in the conduct of its business as now conducted or proposed to

be conducted without infringing upon or otherwise acting adversely to the right or claimed right of any person, corporation or other entity under or with respect to any of the foregoing and (ii) is not obligated or under any liability whatsoever to make any payment by way of royalties, fees or otherwise to any owner or licensee of, or other claimant to, any patent, trademark, service mark, trade name, copyright, know-how, technology or other intangible asset, with respect to the use thereof or in connection with the conduct of its business or otherwise.

(t) The Company has good and marketable title to, or valid and enforceable leasehold estates in, all items of real and personal property stated in the Prospectus to be owned or leased by it, free and clear of all liens, charges, claims, encumbrances, pledges, security interests, defects, or other restrictions or equities of any kind whatsoever, other than those referred to in the Prospectus and liens for taxes not yet due and payable.

(u) Ernst & Young LLP, whose report is filed with the Commission as a part of the Registration Statement, are independent certified public accountants

as required by the Act and the Rules and Regulations.

(v) The Company has caused to be duly executed legally binding and enforceable agreements pursuant to which each of the Company's officers, directors, stockholders and holders of securities exchangeable or exercisable for or convertible into shares of Common Stock has agreed not to, directly or indirectly, issue, offer, offer to sell, sell, grant any option for the sale or purchase of, assign, transfer, pledge, hypothecate or otherwise encumber or dispose of any shares of Common Stock or securities convertible into, exercisable or exchangeable for or evidencing any right to purchase or subscribe for any shares of Common Stock (either pursuant to Rule 144 of the Rules and Regulations or otherwise) or dispose of any beneficial interest therein for a period of not less than twelve (12) months following the effective date of the Registration Statement without the prior written consent of the Representative and the Company. During the 12 month period commencing on the effective date of the Registration Statement, the Company shall not, without the prior written consent of the Representative, sell, contract or offer to sell, issue, transfer, assign, pledge, distribute, or otherwise dispose of, directly or indirectly, any shares of Common Stock or any options, rights or warrants with respect to any shares of Common Stock. The Company will cause the Transfer Agent (as hereinafter defined) to mark an appropriate legend on the face of stock certificates representing all of such securities and to place "stop transfer" orders on the Company's stock ledgers.

(w) There are no claims, payments, issuances, arrangements or understandings, whether oral or written, for services in the nature of a finder's or origination fee with respect to the sale of the Securities hereunder or any other arrangements, agreements, understandings, payments or issuance with respect to the Company, or any of its officers, directors, stockholders, partners, employees or affiliates, that may affect the Underwriters' compensation, as determined by the National Association of Securities Dealers, Inc. ("NASD").

(x) The Common Stock has been approved for listing on the American Stock Exchange ("Amex") SmallCap Market ("Nasdaq").

(y) None of the Company, nor any of its officers, employees, agents or any other person acting on behalf of the Company has, directly or indirectly, given or agreed to give any money, gift or similar benefit (other than legal price concessions to customers in the ordinary course of business) to any customer, supplier, employee or agent of a customer or supplier, or official or employee of any governmental agency (domestic or foreign) or instrumentality of any government (domestic or foreign) or any political party or candidate for office (domestic or foreign) or other person who was, is, or may be in a position to help or hinder the business of the Company (or assist the Company in connection with any actual or proposed transaction) which (a) might subject the Company, or any other such person to any damage or penalty in any civil, criminal or governmental litigation or proceeding (domestic or foreign), (b) if not given in the past, might have had a material adverse effect on the assets, business or operations of the Company, or (c) if not continued in the future, might adversely affect the assets, business, condition, financial or otherwise, earnings, position, properties, value, operations or prospects of the Company. The Company's internal accounting controls are sufficient to cause the Company to comply with the Foreign Corrupt Practices Act of 1977, as amended.

(z) Except as set forth in the Prospectus, no officer, director, stockholder or partner of the Company, or any "affiliate" or "associate" (as these terms are defined in Rule 405 promulgated under the Rules and Regulations) of any of the foregoing persons or entities has or has had, either directly or indirectly, (i) an interest in any person or entity which (A) furnishes or sells services or products which are furnished or sold or are proposed to be furnished or sold by the Company, or (B) purchases from or sells or furnishes to the Company any goods or services, or (ii) a beneficiary interest in any contract or agreement to which the Company is a party or by which it may be bound or affected. Except as set forth in the Prospectus under "Certain Transactions,"

there are no existing agreements, arrangements, understandings or transactions, or proposed agreements, arrangements, understandings or transactions, between or among the Company, and any officer, director, or 5% or greater securityholder of the Company, or any partner, affiliate or associate of any of the foregoing persons or entities.

(aa) Any certificate signed by any officer of the Company, and delivered to the Underwriters or to Underwriters' Counsel (as defined herein) shall be deemed a representation and warranty by the Company to the Underwriters as to the matters covered thereby.

(bb) The minute books of the Company have been made available to the Underwriters and contain a complete summary of all meetings and actions of the directors (including committees thereof) and stockholders of the Company, since the time of its incorporation, and reflect all transactions referred to in such minutes accurately in all material respects.

(cc) Except and to the extent described in the Prospectus, no holders of any securities of the Company or of any options, warrants or other convertible or exchangeable securities of the Company have the right to include any securities issued by the Company in the Registration Statement or any registration statement to be filed by the Company or to require the Company

to file a registration statement under the Act and no person or entity holds any anti-dilution rights with respect to any securities of the Company.

(dd) The Company has as of the effective date of the Registration Statement (i) entered into an employment agreement with each of _____ and _____ in the form filed as Exhibit _____ and Exhibit __, respectively, to the Registration Statement and (ii) purchased term key person insurance on the lives of each of _____ and _____ in the amount of $__ million which policies name the Company as the sole beneficiary thereof.

(ee) The Company confirms as of the date hereof that it is in compliance with all provisions of Section 1 of Laws of Florida, Chapter 92-198, An Act Relating to Disclosure of Doing Business with Cuba, and the Company further agrees that if it or any affiliate commences engaging in business with the government of Cuba or with any person or affiliate located in Cuba after the date the Registration Statement becomes or has become effective with the Commission or with the Florida Department of Banking and Finance (the "Department"), whichever date is later, or if the information reported or incorporated by reference in the Prospectus, if any, concerning the Company's, or any affiliate's, business with Cuba or with any person or affiliate located in Cuba changes in any material way, the Company will provide the Department notice of such business or change, as appropriate, in a form acceptable to the Department.

(ff) The Company is not, and upon the issuance and sale of the Securities as herein contemplated and the application of the net proceeds therefrom as described in the Prospectus under the caption "Use of Proceeds" will not be, an "investment company" or an entity "controlled" by an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended (the "1940 Act").

(gg) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparations of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorizations; 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.

(ah) The Company has entered into a warrant agreement substantially in the form filed as Exhibit ____ to the Registration Statement (the "Warrant Agreement") with Continental Stock Transfer and Trust Company, as Warrant Agent, in form and substance satisfactory to the Representative, with respect to the Redeemable Warrants and providing for the payment of the commission contemplated by Section 4(v).

2. Purchase, Sale and Delivery of the Securities.

(a) On the basis of the representations, warranties, covenants and agreements herein contained, but subject to the terms and conditions herein set forth, the Company agrees to sell to each Underwriter, and each Underwriter, severally and not jointly, agrees to purchase from the Company at a price of $_____ [92% of the public offering price] per Share and $_____ [92% of the public offering price] per Redeemable Warrant, that number of Firm Securities set forth in Schedule A opposite the name of such Underwriter, subject to such adjustment as the Representative in its sole discretion shall make to eliminate any sales or purchases of fractional shares, plus any additional number of Firm Securities which such Underwriter may become obligated to purchase pursuant to the provisions of Section 11 hereof.

(b) In addition, on the basis of the representations, warranties, covenants and agreements herein contained, but subject to the terms and conditions herein set forth, the Company hereby grants an option to the Underwriters, severally and not jointly, to purchase all or any part of an additional 375,000 shares of Common Stock at a price of $ ____ [92% of the public offering price] per share of Common Stock and/or an additional 187,500 Redeemable Warrants at a price of $_____ [92% of the public offering price] per Redeemable Warrant. The option granted hereby will expire forty-five (45) days after (i) the date the Registration Statement becomes effective, if the Company has elected not to rely on Rule 430A under the Rules and Regulations, or (ii) the date of this Agreement if the Company has elected to rely upon Rule 430A under the Rules and Regulations, and may be exercised in whole or in part from time to time only for the purpose of covering over-allotments which may be made in connection with the offering and distribution of the Firm Securities upon notice by the Representative to the Company setting forth the number of Option Securities as to which the several Underwriters are then exercising the option and the time and date of payment and delivery for any such Option Securities. Any such time and date of delivery (an "Option Closing Date") shall be determined by the Representative, but shall not be later than three (3) full business days after the exercise of said option, nor in any event prior to the Closing Date, as hereinafter defined, unless otherwise agreed upon by the Representative and the Company. Nothing herein contained shall obligate the Underwriters to make any over-allotments. No Option Securities shall be delivered unless the Firm Securities shall be simultaneously delivered or shall theretofore have been delivered as herein provided.

(c) Payment of the purchase price for, and delivery of certificates for, the Firm Securities shall be made at the offices of the Representative at 1001 Fourth Avenue, Suite 2200, Seattle, Washington 98154, or at such other place as shall be agreed upon by the Representative and the Company. Such delivery and payment shall be made at 10:00 a.m. (New York City time) on _____, 1997 or at such other time and date as shall be agreed upon by the Representative and the Company, but not less than three (3) nor more than five (5) full business days after the effective date of the Registration Statement (such time and date of payment and delivery being herein called the "Closing Date"). In addition, in the event that any or all of the Option Securities are purchased by the Underwriters, payment of the purchase price for, and delivery of certificates for, such Option Securities shall be made at the above-mentioned office of the Representative or at such other place as shall be agreed upon by

the Representative and the Company on each Option Closing Date as specified in the notice from the Representative to

the Company. Delivery of the certificates for the Firm Securities and the Option Securities, if any, shall be made to the Underwriters against payment by the Underwriters, severally and not jointly, of the purchase price for the Firm Securities and the Option Securities, if any, to the order of the Company for the Firm Securities and the Option Securities, if any, by New York Clearing House funds. In the event such option is exercised, each of the Underwriters, acting severally and not jointly, shall purchase that proportion of the total number of Option Securities then being purchased which the number of Firm Securities set forth in Schedule A hereto opposite the name of such Underwriter bears to the total number of Firm Securities, subject in each case to such adjustments as the Representative in its discretion shall make to eliminate any sales or purchases of fractional shares. Certificates for the Firm Securities and the Option Securities, if any, shall be in definitive, fully registered form, shall bear no restrictive legends and shall be in such denominations and registered in such names as the Underwriters may request in writing at least two (2) business days prior to the Closing Date or the relevant Option Closing Date, as the case may be. The certificates for the Firm Securities and the Option Securities, if any, shall be made available to the Representative at such office or such other place as the Representative may designate for inspection, checking and packaging no later than 9:30 a.m. on the last business day prior to the Closing Date or the relevant Option Closing Date, as the case may be.

(d) On the Closing Date, the Company shall issue and sell to the Representative Representative's Warrants at a purchase price of $.0001 per warrant, which Representative's Warrants shall entitle the holders thereof to purchase an aggregate of 250,000 shares of Common Stock and/or 125,000 Redeemable Warrants. The Representative's Warrants shall be exercisable for a period of four (4) years commencing one (1) year from the effective date of the Registration Statement at a price equaling one hundred sixty five percent (165%) of the respective initial public offering price of the Shares and the Redeemable Warrants. The Representative's Warrant Agreement and form of Warrant Certificate shall be substantially in the form filed as Exhibit [___] to the Registration Statement. Payment for the Representative's Warrants shall be made on the Closing Date.

3. Public Offering of the Shares and Redeemable Warrants. As soon after the Registration Statement becomes effective as the Representative deems advisable, the Underwriters shall make a public offering of the Shares and Redeemable Warrants (other than to residents of or in any jurisdiction in which qualification of the Shares and Redeemable Warrants is required and has not become effective) at the price and upon the other terms set forth in the Prospectus. The Representative may from time to time increase or decrease the respective public offering price after distribution of the Shares and Redeemable Warrants has been completed to such extent as the Representative, in its sole discretion deems advisable. The Underwriters may enter into one of more agreements as the Underwriters, in each of their sole discretion, deem advisable with one or more broker-dealers who shall act as dealers in connection with such public offering.

4. Covenants and Agreements of the Company. The Company covenants and agrees with each of the Underwriters as follows:

(a) The Company shall use its best efforts to cause the Registration Statement and any amendments thereto to become effective as promptly as practicable and will not at any time, whether before or after the effective date of the Registration Statement, file any amendment to the Registration Statement or supplement to the Prospectus or file any document under the Act or Exchange

Act before termination of the offering of the Shares and Redeemable Warrants by the Underwriters of which the Representative shall not previously have been advised and furnished with a copy, or to which the Representative shall have objected or which is not in compliance with the Act, the Exchange Act or the Rules and Regulations.

(b) As soon as the Company is advised or obtains knowledge thereof, the Company will advise the Representative and confirm the notice in writing (i) when the Registration Statement, as amended, becomes effective, if the provisions of Rule 430A promulgated under the Act will be relied upon, when the Prospectus has been filed in accordance with said Rule 430A and when any post-effective amendment to the Registration Statement becomes effective; (ii) of the issuance by the Commission of any stop order or of the initiation, or the threatening, of any proceeding suspending the effectiveness of the Registration Statement or any order preventing or suspending the use of the Preliminary Prospectus or the Prospectus, or any amendment or supplement thereto, or the institution of proceedings for that purpose; (iii) of the issuance by the Commission or by any state securities commission of any proceedings for the suspension of the qualification of any of the Securities for offering or sale in any jurisdiction or of the initiation, or the threatening, of any proceeding for that purpose; (iv) of the receipt of any comments from the Commission; and (v) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or for additional information. If the Commission or any state securities commission shall enter a stop order or suspend such qualification at any time, the Company will make every effort to obtain promptly the lifting of such order.

(c) The Company shall file the Prospectus (in form and substance satisfactory to the Representative) or transmit the Prospectus by a means reasonably calculated to result in filing with the Commission pursuant to Rule 424(b)(1) (or, if applicable and if consented to by the Representative, pursuant to Rule 424(b)(4)) not later than the Commission's close of business on the earlier of (i) the second business day following the execution and delivery of this Agreement and (ii) the fifth business day after the effective date of the Registration Statement.

(d) The Company will give the Representative notice of its intention to file or prepare any amendment to the Registration Statement (including any post-effective amendment) or any amendment or supplement to the Prospectus (including any revised prospectus which the Company proposes for use by the Underwriters in connection with the offering of the Securities which differs from the corresponding prospectus on file at the Commission at the time the Registration Statement becomes effective, whether or not such revised prospectus is required to be filed pursuant to Rule 424(b) of the Rules and Regulations), and will furnish the Representative with copies of any such amendment or supplement a reasonable amount of time prior to such proposed filing or use, as the case may be, and will not file any such prospectus to which the Representative or Orrick, Herrington & Sutcliffe LLP ("Underwriters' Counsel") shall object.

(e) The Company shall endeavor in good faith, in cooperation with the Representative, at or prior to the time the Registration Statement becomes effective, to qualify the Securities for offering and sale under the securities laws of such jurisdictions as the Representative may designate to permit the continuance of sales and dealings therein for as long as may be necessary to complete the distribution, and shall make such applications, file such documents and furnish such information as may be required for such purpose; provided, however, the Company shall not be required to qualify as a foreign corporation or file a general or limited consent to service of process in any such jurisdiction. In each jurisdiction where such qualification shall be effected, the Company will, unless the Representative agrees that such action is not at the time necessary or advisable, use all reasonable efforts to file and make such statements or reports at such times as are or may reasonably be required by the laws of such jurisdiction to continue such qualification.

(f) During the time when a prospectus is required to be delivered under the Act, the Company shall use all reasonable efforts to comply with all requirements imposed upon it by the Act and the Exchange Act, as now and hereafter amended and by the Rules and Regulations, as from time to time in force, so far as necessary to permit the continuance of sales of or dealings in the Securities in accordance with the provisions hereof and the Prospectus, or any amendments or supplements thereto. If at any time when a prospectus relating to the Securities is required to be delivered under the Act, any event shall have occurred as a result of which, in the opinion of counsel for the Company or Underwriters' Counsel, the Prospectus, as then amended or supplemented, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if it is necessary at any time to amend the Prospectus to comply with the Act, the Company will notify the Representative promptly and prepare and file with the Commission an appropriate amendment or supplement in accordance with Section 10 of the Act, each such amendment or supplement to be satisfactory to Underwriters' Counsel, and the Company will furnish to the Underwriters copies of such amendment or supplement as soon as available and in such quantities as the Underwriters may request.

(g) As soon as practicable, but in any event not later than forty-five (45) days after the end of the 12-month period beginning on the day after the end of the fiscal quarter of the Company during which the effective date of the Registration Statement occurs (ninety (90) days in the event that the end of such fiscal quarter is the end of the Company's fiscal year), the Company shall make generally available to its security holders, in the manner specified in Rule 158(b) of the Rules and Regulations, and to the Representative, an earnings statement which will be in the detail required by, and will otherwise comply with, the provisions of Section 11(a) of the Act and Rule 158(a) of the Rules and Regulations, which statement need not be audited unless required by the Act, covering a period of at least twelve (12) consecutive months after the effective date of the Registration Statement.

(h) During a period of seven (7) years after the date hereof, the Company will furnish to its stockholders, as soon as practicable, annual reports (including financial statements audited by independent public accountants) and unaudited quarterly reports of earnings, and will deliver to the Representative:

i. concurrently with furnishing such quarterly reports to its stockholders, statements of income of the Company for each quarter in the form furnished to the Company's stockholders and certified by the Company's principal financial or accounting officer;

ii. concurrently with furnishing such annual reports to its stockholders, a balance sheet of the Company as at the end of the preceding fiscal year, together with statements of operations, stockholders' equity, and cash flows of the Company for such fiscal year, accompanied by a copy of the certificate thereon of independent certified public accountants;

iii. as soon as they are available, copies of all reports (financial or other) mailed to stockholders;

iv. as soon as they are available, copies of all reports and financial statements furnished to or filed with the Commission, the NASD or any securities exchange;

v. every press release and every material news item or article of interest to the financial community in respect of the Company, or its affairs, which was released or prepared by or on behalf of the Company; and

vi. any additional information of a public nature concerning the Company (and any future subsidiary) or its businesses which the Representative may request.

During such seven-year period, if the Company has an active subsidiary, the foregoing financial statements will be on a consolidated basis to the extent that the accounts of the Company and its subsidiary(ies) are consolidated, and will be accompanied by similar financial statements for any significant subsidiary which is not so consolidated.

(i) The Company will maintain a transfer agent and warrant agent ("Transfer Agent") and, if necessary under the jurisdiction of incorporation of the Company, a Registrar (which may be the same entity as the Transfer Agent) for its Common Stock and Redeemable Warrants.

(j) The Company will furnish to the Representative or on the Representative's order, without charge, at such place as the Representative may designate, copies of each Preliminary Prospectus, the Registration Statement and any pre-effective or post-effective amendments thereto (two of which copies will be signed and will include all financial statements and exhibits), the Prospectus, and all amendments and supplements thereto, including any prospectus prepared after the effective date of the Registration Statement, in each case as soon as available and in such quantities as the Representative may request.

(k) On or before the effective date of the Registration Statement, the Company shall provide the Representative with true original copies of duly executed, legally binding and enforceable agreements pursuant to which, for a period of twelve (12) months from the effective date of the Registration Statement, each of the Company's stockholders and holders of securities exchangeable or exercisable for or convertible into shares of Common Stock agrees that it or he or she will not, directly or indirectly, issue, offer to sell, sell, grant an option for the sale

or purchase of, assign, transfer, pledge, hypothecate or otherwise encumber or dispose of any shares of Common Stock or securities convertible into, exercisable or exchangeable for or evidencing any right to purchase or subscribe for any shares of Common Stock (either pursuant to Rule 144 of the Rules and Regulations or otherwise) or dispose of any beneficial interest therein without the prior consent of the Representative (collectively, the "Lock-up Agreements"). During the 12 month period commencing on the effective date of the Registration Statement, the Company shall not, without the prior written consent of the Representative, sell, contract or offer to sell, issue, transfer, assign, pledge, distribute, or otherwise dispose of, directly or indirectly, any shares of Common Stock or any options, rights or warrants with respect to any shares of Common Stock. On or before the Closing Date, the Company shall deliver instructions to the Transfer Agent authorizing it to place appropriate legends on the certificates representing the securities subject to the Lock-up Agreements and to place appropriate stop transfer orders on the Company's ledgers.

(l) None of the Company, nor any of its officers, directors, stockholders, nor any of its affiliates (within the meaning of the Rules and Regulations) will take, directly or indirectly, any action designed to, or which might in the future reasonably be expected to cause or result in, stabilization or manipulation of the price of any securities of the Company.

(m) The Company shall apply the net proceeds from the sale of the Securities in the manner, and subject to the conditions, set forth under "Use of Proceeds" in the Prospectus. No portion of the net proceeds will be used, directly or indirectly, to acquire any securities issued by the Company.

(n) The Company shall timely file all such reports, forms or other documents as may be required (including, but not limited to, a Form SR as may be required pursuant to Rule 463 under the Act) from time to time, under the Act, the Exchange Act, and the Rules and Regulations, and all such reports, forms and documents filed will comply as to form and substance with the applicable requirements under the Act, the Exchange Act, and the Rules and Regulations.

(o) The Company shall furnish to the Representative as early as practicable prior to each of the date hereof, the Closing Date and each Option Closing Date, if any, but no later than two (2) full business days prior thereto, a copy of the latest available unaudited interim financial statements of the Company (which in no event shall be as of a date more than thirty (30) days prior to the date of the Registration Statement) which have been read by the Company's independent public accountants, as stated in their letters to be furnished pursuant to Sections 6(l) and 6(m) hereof.

(p) The Company shall cause the Common Stock and Redeemable Warrants to be on listed on Amex and, for a period of seven (7) years from the date hereof, use its best efforts to maintain the Amex quotation of the Common Stock and the Redeemable Warrants to the extent outstanding.

(q) For a period of five (5) years from the Closing Date, the Company shall furnish to the Representative at the Company's sole expense, (i) daily consolidated transfer sheets relating to the Common Stock and Redeemable Warrants (ii) the list of holders of all of the Company's securities and (iii) a Blue Sky "Trading Survey" for secondary sales of the Company's securities prepared by counsel to the Company.

(r) As soon as practicable, (i) but in no event more than five (5) business days before the effective date of the Registration Statement, file a Form 8-A with the Commission providing for the registration under the Exchange Act of the Securities and (ii) but in no event more than thirty (30) days after the effective date of the Registration Statement, take all necessary and appropriate actions to be included in Standard and Poor's Corporation Descriptions and Moody's OTC Manual and to continue such inclusion for a period of not less than seven (7) years.

(s) The Company hereby agrees that, except for the 750,000 shares reserved for future issuance under the Company's 1995 Stock Option Plan it will not, for a period of twelve (12) months from the effective date of the Registration Statement, adopt, propose to adopt or otherwise permit to exist any employee, officer, director, consultant or compensation plan or similar arrangement permitting (i) the grant, issue, sale or entry into any agreement to grant, issue or sell any option, warrant or other contract right (x) at an exercise price that is less than the greater of the public offering price of the Shares set forth herein and the fair market value on the date of grant or sale or (y) to any of its executive officers or directors or to any holder of 5% or more of the Common Stock; (ii) the maximum number of shares of Common Stock or other securities of the Company purchasable at any time pursuant to options or warrants issued by the Company to exceed the such 750,000 shares reserved for future issuance under the Company's 1995 Stock Option Plan; (iii) the payment for such securities with any form of consideration other than cash; or (iv) the existence of stock appreciation rights, phantom options or similar arrangements.

(t) Until the completion of the distribution of the Securities, the Company shall not, without the prior written consent of the Representative and Underwriters' Counsel, issue, directly or indirectly, any press release or other communication or hold any press conference with respect to the Company or its activities or the offering contemplated hereby, other than trade releases issued in the ordinary course of the Company's business consistent with past practices with respect to the Company's operations.

(u) For a period equal to the lesser of (i) seven (7) years from the date hereof, and (ii) the sale to the public of the Representative's Securities, the Company will not take any action or actions which may prevent or disqualify the Company's use of Form SB-2 (or other appropriate form) for the registration under the Act of the Representative's Securities. The Company further agrees to use its best efforts to file such post-effective amendments to the Registration Statement, as may be necessary, in order to maintain its effectiveness and to keep such Registration Statement effective while any of the Redeemable Warrants

or Representative's Warrants remain outstanding.

(v) Commencing one year and one day from the date hereof, if the Company engages the Representative as a warrant solicitation agent under the terms of the Warrant Agreement, the Company shall pay the Representative a commission equal to five percent (5%)

of the exercise price of the Redeemable Warrants, payable on the date of the exercise thereof on the terms provided in the Warrant Agreement; provided, however, the Representative shall be entitled to receive the commission contemplated by this Section 4(v) only if: (i) the Representative has provided actual services in connection with the solicitation of the exercise of a Redeemable Warrant by a Warrantholder and (ii) the Warrantholder exercising a Redeemable Warrant affirmatively designates in writing on the exercise form on the reverse side of the Redeemable Warrant Certificate that the exercise of such Warrantholder's Redeemable Warrant was solicited by the Representative.

5. Payment of Expenses.

(a) The Company hereby agrees to pay on each of the Closing Date and the Option Closing Date (to the extent not paid at the Closing Date) all expenses and fees (other than fees of Underwriters' Counsel, except as provided in (iv) below) incident to the performance of the obligations of the Company under this Agreement, the Warrant Agreement and the Representative's Warrant Agreement, including, without limitation, (i) the fees and expenses of accountants and counsel for the Company, (ii) all costs and expenses incurred in connection with the preparation, duplication, printing (including mailing and handling charges), filing, delivery and mailing (including the payment of postage with respect thereto) of the Registration Statement and the Prospectus and any amendments and supplements thereto and the printing, mailing (including the payment of postage with respect thereto) and delivery of this Agreement, the Warrant Agreement, the Representative's Warrant Agreement, the Agreement Among Underwriters, the Selected Dealer Agreements, and related documents, including the cost of all copies thereof and of the Preliminary Prospectuses and of the Prospectus and any amendments thereof or supplements thereto supplied to the Underwriters and such dealers as the Underwriters may request, in quantities as hereinabove stated, (iii) the printing, engraving, issuance and delivery of the Securities including, but not limited to, (x) the purchase by the Underwriters of the Firm Securities and the Option Securities and the purchase by the Representative of the Representative's Warrants from the Company, (y) the consummation by the Company of any of its obligations under this Agreement, the Warrant Agreement and the Representative's Warrant Agreement, and (z) resale of the Firm Securities and the Option Securities by the Underwriters in connection with the distribution contemplated hereby, (iv) the qualification of the Securities under state or foreign securities or "Blue Sky" laws and determination of the status of such securities under legal investment laws, including the costs of printing and mailing the "Preliminary Blue Sky Memorandum", the "Supplemental Blue Sky Memorandum" and "Legal Investments Survey," if any, and disbursements and fees of counsel in connection therewith (such counsel fees not to exceed $35,000 if the Securities are listed on Nasdaq or elsewhere or $20,000 if the Securities are listed on the Nasdaq National Market or a national exchange), (v) advertising costs and expenses, including but not limited to costs and expenses in connection with the "road show", information meetings and presentations, bound volumes and prospectus memorabilia and "tomb-stone" advertisement expenses, (vi) costs and expenses in connection with due diligence investigations (not to exceed $15,000), including but not limited to the fees of any independent counsel, expert or consultant retained, (vii) fees and expenses of the Transfer Agent and registrar and all issue and transfer taxes, if any, (viii) applications for assignment of a rating of the Securities by qualified rating agencies, (ix) the fees payable to the Commission

and the NASD, and (x) the fees and expenses incurred in connection with the quotation of the Securities on Nasdaq and any other exchange.

(b) If this Agreement is terminated by the Underwriters in accordance with the provisions of Section 6 or Section 12, the Company shall reimburse and indemnify the Underwriters for all of their actual out-of-pocket expenses, including the fees and disbursements of Underwriters' Counsel, less any amounts already paid pursuant to Section 5(c) hereof.

(c) The Company further agrees that, in addition to the expenses payable pursuant to subsection (a) of this Section 5, it will pay to the Representative on the Closing Date by certified or bank cashier's check or, at the election of the Representative, by deduction from the proceeds of the offering of the Firm Securities, a non-accountable expense allowance equal to 2 1/2% of the gross proceeds received by the Company from the sale of the Firm Securities, $50,000 of which has been paid to date. In the event the Representative elects to exercise the overallotment option described in Section 2(b) hereof, the Company further agrees to pay to the Representative on each Option Closing Date, by certified or bank cashier's check, or at the Representative's election, by deduction from the proceeds of the Option Securities purchased on such Option Closing Date, a non-accountable expense allowance equal to 2 1/2% of the gross proceeds received by the Company from the sale of such Option Securities.

6. Conditions of the Underwriters' Obligations. The obligations of the Underwriters hereunder shall be subject to the continuing accuracy of the representations and warranties of the Company herein as of the date hereof and as of the Closing Date and each Option Closing Date, if any, as if they had been made on and as of the Closing Date or each Option Closing Date, as the case may be; the accuracy on and as of the Closing Date or Option Closing Date, if any, of the statements of the officers of the Company made pursuant to the provisions hereof; and the performance by the Company on and as of the Closing Date and each Option Closing Date, if any, of its covenants and obligations hereunder and to the following further conditions:

(a) The Registration Statement shall have become effective not later than 12:00 P.M., New York time, on the date of this Agreement or such later date and time as shall be consented to in writing by the Representative, and, at the Closing Date and each Option Closing Date, if any, no stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that purpose shall have been instituted or shall be pending or contemplated by the Commission and any request on the part of the Commission for additional information shall have been complied with to the reasonable satisfaction of Underwriters' Counsel. If the Company has elected to rely upon Rule 430A of the Rules and Regulations, the price of the Shares and Redeemable Warrants and any price-related information previously omitted from the effective Registration Statement pursuant to such Rule 430A shall have been transmitted to the Commission for filing pursuant to Rule 424(b) of the Rules and Regulations within the prescribed time period and, prior to the Closing Date, the Company shall have provided evidence satisfactory to the Representative of such timely filing, or a post-effective amendment providing such information shall have been promptly filed and declared effective in accordance with the requirements of Rule 430A of the Rules and Regulations.

(b) The Representative shall not have advised the Company that the Registration Statement, or any amendment thereto, contains an untrue statement of fact which, in the Representative's opinion, is material, or omits to state a fact which, in the Representative's opinion, is material and is required to be stated therein or is necessary to make the statements therein not misleading, or that the Prospectus, or any supplement thereto, contains an untrue statement of

fact which, in the Representative's opinion, is material, or omits to state a fact which, in the Representative's opinion, is material and is required to be stated therein or is necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(c) On or prior to each of the Closing Date and each Option Closing Date, if any, the Representative shall have received from Underwriters' Counsel, such opinion or opinions with respect to the organization of the Company, the validity of the Securities, the Registration Statement, the Prospectus and other related matters as the Representative may request and Underwriters' Counsel shall have received such papers and information as they request to enable them to pass upon such matters.

(d) At the Closing Date, the Underwriters shall have received the favorable opinion of Heller Ehrman White & McAuliffe, counsel to the Company and the Subsidiaries, dated the Closing Date, addressed to the Underwriters and substantially in the form of Schedule C.

(e) At the Closing Date, the Underwriters shall have received the favorable opinion of _____ , patent counsel to the Company, dated the Closing Date, addressed to the Underwriters, in form and substance satisfactory to Underwriters' Counsel and in substantially the form of Schedule B hereto.

(f) At each Option Closing Date, if any, the Underwriters shall have received the favorable opinions of each of Heller Ehrman White & McAuliffe, counsel to the Company, and _____, patent counsel to the Company dated such Option Closing Date, addressed to the Underwriters and in form and substance satisfactory to Underwriters' Counsel confirming as of such Option Closing Date the statements made by each of Heller Ehrman White & McAuliffe, and _____, in their respective opinions delivered on the Closing Date.

(g) On or prior to each of the Closing Date and each Option Closing Date, if any, Underwriters' Counsel shall have been furnished such documents, certificates and opinions as they may reasonably require for the purpose of enabling them to review or pass upon the matters referred to in subsection (c) of this Section 6, or in order to evidence the accuracy, completeness or satisfaction of any of the representations, warranties or conditions of the Company, or herein contained.

(h) Prior to each of the Closing Date and each Option Closing Date, if any, (i) there shall have been no material adverse change nor development involving a prospective change in the condition, financial or otherwise, earnings, position, value, properties, results of operations, prospects, stockholders' equity or the business activities of the Company, whether or not in the ordinary course of business, from the latest dates as of which such condition is set forth in the Registration Statement and Prospectus; (ii) there shall have been no transaction, not in the ordinary course of business, entered into by the Company, from the latest date as of which the financial condition of the Company is set forth in the Registration Statement and Prospectus which is adverse to the Company; (iii) the Company shall not be in default under any provision of any instrument relating to any outstanding indebtedness; (iv) none of the Company shall not have issued any securities (other than the Securities) or declared or paid any dividend or made any distribution in respect of its capital stock of any class and there has not been any change in the capital stock or any material change in the debt (long or short term) or liabilities or obligations of the Company (contingent or otherwise); (v) no material amount of the assets of the Company shall have been pledged or mortgaged, except as set forth in the Registration Statement and Prospectus; (vi) no action, suit or proceeding, at law or in equity, shall have been pending or threatened (or circumstances giving rise to same) against the Company, or affecting any of its or their respective properties or businesses before or by any court or federal, state or foreign commission, board or other administrative agency wherein an unfavorable decision, ruling or finding may adversely affect the business,

operations, earnings, position, value,

properties, results of operations, prospects or financial condition or income of the Company and the Subsidiaries taken as a whole; and (vii) no stop order shall have been issued under the Act and no proceedings therefor shall have been initiated, threatened or contemplated by the Commission.

(i) At each of the Closing Date and each Option Closing Date, if any, the Underwriters shall have received a certificate of the Company signed by the principal executive officer and by the chief financial or chief accounting officer of the Company, dated the Closing Date or Option Closing Date, as the case may be, to the effect that each of such persons has carefully examined the Registration Statement, the Prospectus and this Agreement, and that:

i. The representations and warranties of the Company in this Agreement are true and correct, as if made on and as of the Closing Date or the Option Closing Date, as the case may be, and the Company has complied with all agreements and covenants and satisfied all conditions contained in this Agreement on its part to be performed or satisfied at or prior to such Closing Date or Option Closing Date, as the case may be;

ii. No stop order suspending the effectiveness of the Registration Statement or any part thereof has been issued, and no proceedings for that purpose have been instituted or are pending or, to the best of each of such person's knowledge, are contemplated or threatened under the Act;

iii. The Registration Statement and the Prospectus and, if any, each amendment and each supplement thereto, contain all statements and information required to be included therein, and none of the Registration Statement, the Prospectus nor any amendment or supplement thereto includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading and neither the Preliminary Prospectus or any supplement thereto included any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

iv. Subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, (a) the Company has not incurred up to and including the Closing Date or the Option Closing Date, as the case may be, other than in the ordinary course of its business, any material liabilities or obligations, direct or contingent; (b) the Company has not paid or declared any dividends or other distributions on its capital stock; (c) the Company has not entered into any transactions not in the ordinary course of business; (d) there has not been any change in the capital stock or long-term debt or any increase in the short-term borrowings (other than any increase in the short-term borrowings in the ordinary course of business) of the Company; (e) the Company has not sustained any loss or damage to its properties or assets, whether or not insured; (f) there is no litigation which is pending or threatened (or circumstances giving rise to same) against the Company or any affiliated party which is required to be set forth in an amended or supplemented Prospectus which has not been set forth; and (g) there has

occurred no event required to be set forth in an amended or supplemented Prospectus which has not been set forth.

References to the Registration Statement and the Prospectus in this subsection (j) are to such documents as amended and supplemented at the date of such certificate.

(j) By the Closing Date, the Underwriters will have received clearance from the NASD as to the amount of compensation allowable or payable to the Underwriters, as described in the Registration Statement.

(k) At the time this Agreement is executed, the Underwriters shall have received a letter, dated such date, addressed to the Underwriters in form and substance satisfactory (including the non-material nature of the changes or decreases, if any, referred to in clause (iii) below) in all respects to the Underwriters and Underwriters' Counsel, from Ernst & Young LLP:

i. confirming that they are independent certified public accountants with respect to the Company within the meaning of the Act and the applicable Rules and Regulations;

ii. stating that it is their opinion that the financial statements and supporting schedules of the Company included in the Registration Statement comply as to form in all material respects with the applicable accounting requirements of the Act and the Rules and Regulations thereunder and that the Representative may rely upon the opinion of Ernst & Young LLP with respect to the financial statements and supporting schedules included in the Registration Statement;

iii. stating that, on the basis of a limited review which included a reading of the latest available unaudited interim financial statements of the Company, a reading of the latest available minutes of the stockholders and board of directors and the various committees of the board of directors of the Company, consultations with officers and other employees of the Company responsible for financial and accounting matters and other specified procedures and inquiries, nothing has come to their attention which would lead them to believe that (A) the unaudited financial statements and supporting schedules of the Company included in the Registration Statement do not comply as to form in all material respects with the applicable accounting requirements of the Act and the Rules and Regulations or are not fairly presented in conformity with generally accepted accounting principles applied on a basis substantially consistent with that of the audited financial statements of the Company included in the Registration Statement, or (B) at a specified date not more than five (5) days prior to the effective date of the Registration Statement, there has been any change in the capital stock or long-term debt of the Company, or any decrease in the stockholders' equity or net current assets or net assets of the Company as compared with amounts shown in the December 31, 1996 balance sheet included in the Registration Statement, other than as set forth in or contemplated by the Registration Statement, or, if there was any change or decrease, setting forth the amount of such change or decrease, and (C) during the period from December 31, 1996 to a specified date not more than five (5) days prior to the effective date of the Registration Statement, there

was any decrease in net revenues, net earnings or increase in net earnings per common share of any of the Company or the Subsidiaries, in each case as compared with the corresponding period beginning December 31, 1995, other than as set forth in or contemplated by the Registration Statement, or, if there was any such decrease, setting forth the amount of such decrease;

iv. setting forth, at a date not later than five (5) days prior to the date of the Registration Statement, the amount of liabilities of the Company and the Subsidiaries taken as a whole (including a break-down of commercial paper and notes payable to banks);

v. stating that they have compared specific dollar amounts, numbers of shares, percentages of revenues and earnings, statements and other financial information pertaining to the Company set forth in the Prospectus in each case to the extent that such amounts, numbers, percentages, statements and information may be derived from the general accounting records, including work sheets, of the Company and excluding any questions requiring an interpretation by legal counsel, with the results obtained from the

application of specified readings, inquiries and other appropriate procedures (which procedures do not constitute an examination in accordance with generally accepted auditing standards) set forth in the letter and found them to be in agreement;

vi. statements as to such other matters incident to the transaction contemplated hereby as the Representative may request.

(l) At the Closing Date and each Option Closing Date, if any, the Underwriters shall have received from Ernst & Young LLP a letter, dated as of the Closing Date or the Option Closing Date, as the case may be, to the effect that they reaffirm that statements made in the letter furnished pursuant to subsection (k) of this Section, except that the specified date referred to shall
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be a date not more than five (5) days prior to the Closing Date or the Option Closing Date, as the case may be, and, if the Company has elected to rely on Rule 430A of the Rules and Regulations, to the further effect that they have carried out procedures as specified in clause (v) of subsection (k) of this
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Section with respect to certain amounts, percentages and financial information as specified by the Representative and deemed to be a part of the Registration Statement pursuant to Rule 430A(b) and have found such amounts, percentages and financial information to be in agreement with the records specified in such clause (v).

(m) On each of the Closing Date and each Option Closing Date, if any, there shall have been duly tendered to the Representative for the several Underwriters' accounts the appropriate number of Securities.

(n) No order suspending the sale of the Securities in any jurisdiction designated by the Representative pursuant to subsection (e) of Section 4 hereof
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shall have been issued on either the Closing Date or the Option Closing Date, if any, and no proceedings for that purpose shall have been instituted or shall be contemplated.

(o) On or before the Closing Date, the Company shall have executed and delivered to the Representative, (i) the Representative's Warrant Agreement substantially in the form filed

as Exhibit [___] to the Registration Statement, in final form and substance satisfactory to the Representative, and (ii) the Representative's Warrants in such denominations and to such designees as shall have been provided to the Company.

(p) On or before the Closing Date, the Firm Securities and Option Securities shall have been duly approved for quotation on Nasdaq, subject to official notice of issuance.

(q) On or before the Closing Date, there shall have been delivered to the Representative all of the Lock-up Agreements, in form and substance satisfactory to Underwriters' Counsel.

(r) On or before the Closing Date, the Company shall have executed and delivered to the Representative and the Transfer Agent the Warrant Agreement substantially in the form filed as Exhibit [___] to the Registration Statement, in final form and substance satisfactory to the Representative.

If any condition to the Underwriters' obligations hereunder to be fulfilled prior to or at the Closing Date or the relevant Option Closing Date, as the case may be, is not so fulfilled, the Representative may terminate this Agreement or, if the Representative so elects, it may waive any such conditions which have not been fulfilled or extend the time for their fulfillment.

7. Indemnification.

(a) The Company agrees to indemnify and hold harmless each of the Underwriters (for purposes of this Section 7 "Underwriter" shall include the
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officers, directors, partners, employees, agents and counsel of the Underwriter, including specifically each person who may be substituted for an Underwriter as provided in Section 11 hereof), and each person, if any, who controls the
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Underwriter ("controlling person") within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act, from and against any and all losses, claims, damages, expenses or liabilities, joint or several (and actions, proceedings, investigations, inquiries, suits and litigation in respect thereof), whatsoever (including but not limited to any and all expenses whatsoever reasonably incurred in investigating, preparing or defending against any such claim, action, proceeding, investigation, inquiry, suit or litigation, commenced or threatened, or any claim whatsoever), as such are incurred, to which the Underwriter or such controlling person may become subject under the Act, the Exchange Act or any other statute or at common law or otherwise or under the laws of foreign countries, arising out of or based upon (A) any untrue statement or alleged untrue statement of a material fact contained (i) in any Preliminary Prospectus, the Registration Statement or the Prospectus (as from time to time amended and supplemented); (ii) in any post-effective amendment or amendments or any new registration statement and prospectus in which is included securities of the Company issued or issuable upon exercise of the Securities; or (iii) in any application or other document or written communication (in this Section 7 collectively called "application") executed by the Company or based
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upon written information furnished by the Company in any jurisdiction in order to qualify the Securities under the securities laws thereof or filed with the Commission, any state securities commission or agency, Nasdaq or any other securities exchange; (B) the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the

statements therein not misleading (in the case of the Prospectus, in the light of the circumstances under which they were made), or (C) any breach of any representation, warranty, covenant or agreement of the Company contained herein or in any certificate by or on behalf of the Company or any of its officers delivered pursuant hereto, unless, in the case of clause (A) or (B) above, such statement or omission was made in reliance upon and in strict conformity with written information furnished to the Company with respect to any Underwriter by or on behalf of such Underwriter expressly for use in any Preliminary Prospectus, the Registration Statement or Prospectus, or any amendment thereof or supplement thereto, or in any application, as the case may be.

The indemnity agreement in this subsection (a) shall be in addition to any
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liability which the Company may have at common law or otherwise.

(b) Each of the Underwriters agrees severally, but not jointly, to indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the Registration Statement, and each other person, if any, who controls the Company within the meaning of the Act, to the same extent as the foregoing indemnity from the Company to the Underwriters but only with respect to statements or omissions, if any, made in any Preliminary Prospectus, the Registration Statement or Prospectus or any amendment thereof or supplement thereto or in any application made in reliance upon, and in strict conformity with, written information furnished to the Company with respect to any Underwriter by such Underwriter expressly for use in such Preliminary Prospectus, the Registration Statement or Prospectus or any amendment thereof or supplement thereto or in any such application, provided that such written information or omissions only pertain to disclosures in the Preliminary Prospectus, the Registration Statement or Prospectus directly relating to the transactions effected by the Underwriters in connection with this Offering. The Company acknowledges that the statements with respect to the public offering of

the Firm Securities and the Option Securities set forth under the heading "Underwriting" and the stabilization legend in the Prospectus have been furnished by the Underwriters expressly for use therein and constitute the only information furnished in writing by or on behalf of the Underwriters for inclusion in the Prospectus.

(c) Promptly after receipt by an indemnified party under this Section 7 of notice of the commencement of any claim, action, suit, investigation, inquiry, proceeding or litigation, such indemnified party shall, if a claim in respect thereof is to be made against one or more indemnifying parties under this Section 7, notify each party against whom indemnification is to be sought in writing of the commencement thereof (but the failure so to notify an indemnifying party shall not relieve it from any liability which it may have under this Section 7 except to the extent that it has been prejudiced in any material respect by such failure or from any liability which it may have otherwise). In case any such claim, action, suit, investigation, inquiry, proceeding or litigation is brought against any indemnified party, and it notifies an indemnifying party or parties of the commencement thereof, the indemnifying party or parties will be entitled to participate therein, and to the extent it may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party. Notwithstanding the foregoing, the indemnified party or parties shall have the right to employ its or their own counsel in any such case but the fees and expenses of such counsel shall be at

the expense of such indemnified party or parties unless (i) the employment of such counsel shall have been authorized in writing by the indemnifying parties in connection with the defense of thereof at the expense of the indemnifying party, (ii) the indemnifying parties shall not have employed counsel reasonably satisfactory to such indemnified party to have charge of the defense thereof within a reasonable time after notice of commencement thereof, or (iii) such indemnified party or parties shall have reasonably concluded that there may be defenses available to it or them which are different from or additional to those available to one or all of the indemnifying parties (in which case the indemnifying parties shall not have the right to direct the defense thereof on behalf of the indemnified party or parties), in any of which events such fees and expenses of one additional counsel shall be borne by the indemnifying parties. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one claim, action, suit, investigation, inquiry, proceeding or litigation or separate but similar or related claims, actions, suits, investigations, inquiries, proceedings or litigation in the same jurisdiction arising out of the same general allegations or circumstances. Anything in this Section 7 to the contrary notwithstanding, an indemnifying party shall not be liable for any settlement of any claim, action, suit, investigation, inquiry, proceeding or litigation effected without its written consent; provided, however, that such consent was not unreasonably withheld. An indemnifying party will not, without the prior written consent of the indemnified parties, settle, compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit, investigation, inquiry, proceeding or litigation in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim, action, suit, investigation, inquiry, proceeding or litigation), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit, investigation, inquiry, proceeding or litigation and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) In order to provide for just and equitable contribution in any case in which (i) an indemnified party makes claim for indemnification pursuant to this Section 7, but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case notwithstanding the fact that the express provisions of this Section 7 provide for indemnification in such case, or (ii) contribution under the Act may be required on the part of any indemnified party, then each indemnifying party shall contribute to the amount paid as a result of such losses, claims, damages, expenses or liabilities (or actions in respect thereof) (A) in such proportion as is appropriate to reflect the relative benefits received by each of the contributing parties, on the one hand, and the party to be indemnified on the other hand, from the offering of the Firm Securities and the Option Securities or (B) if the allocation provided by clause (A) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of each of the contributing parties, on the one hand, and the party to be indemnified on the other hand in connection with the statements or omissions that resulted in such losses, claims, damages, expenses or liabilities, as well as any other relevant equitable considerations. In any case where the Company is the contributing party and the Underwriters are the indemnified party, the relative benefits received by the Company on the one hand, and

the Underwriters, on the other, shall be deemed to be in the same proportion as the total net proceeds from the offering of the Firm Securities and the Option Securities (before deducting expenses) bear to the total underwriting discounts received by the Underwriters hereunder, in each case as set forth in the table on the Cover Page of the Prospectus. Relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company, or by the Underwriters, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, expenses or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), the Underwriters shall not be required to contribute any amount in excess of the underwriting discount applicable to the Firm Securities and the Option Securities purchased by the Underwriters hereunder. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 7, each person, if any, who controls the Company or the Underwriter within the meaning of the Act, each officer of the Company who has signed the Registration Statement, and each director of the Company shall have the same rights to contribution as the Company or the Underwriter, as the case may be, subject in each case to this subsection (d). Any party entitled to contribution will, promptly after receipt of notice of commencement of any action, suit or proceeding against such party in respect to which a claim for contribution may be made against another party or parties under this subsection (d), notify such party or parties from whom contribution may be sought, but the omission so to notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any obligation it or they may have hereunder or otherwise than under this subsection (d), or to the extent that such party or parties were not adversely

affected by such omission. The contribution agreement set forth above shall be in addition to any liabilities which any indemnifying party may have at common law or otherwise.

8. Representations and Agreements to Survive Delivery. All representations, warranties and agreements contained in this Agreement or contained in certificates of officers of the Company submitted pursuant hereto, shall be deemed to be representations, warranties and agreements at the Closing Date and the Option Closing Date, as the case may be, and such representations, warranties and agreements of the Company and the indemnity agreements contained in Section 7 hereof, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any Underwriter, the Company, any controlling person of any Underwriter or the Company, and shall survive termination of this Agreement or the issuance and delivery of the Securities to the Underwriters and the Representative, as the case may be.

9. Effective Date. This Agreement shall become effective at 10:00 a.m., New York City time, on the next full business day following the date hereof, or at such earlier time after the Registration Statement becomes effective as the Representative, in its discretion, shall release the Securities for sale to the public; provided, however, that the provisions of Sections 5, 7 and 10 of this Agreement shall at all times be effective. For purposes of this Section 9, the Securities to be purchased hereunder shall be deemed to have been so released upon the earlier of dispatch by the Representative of telegrams to securities dealers releasing such securities for offering or the release by the Representative for publication of the first newspaper advertisement which is subsequently published relating to the Securities.

10. Termination.

(a) Subject to subsection (b) of this Section 10, the Representative shall have the right to terminate this Agreement, (i) if any domestic or international event or act or occurrence has materially adversely disrupted, or in the Representative's opinion will in the immediate future materially adversely disrupt, the financial markets; or (ii) if any material adverse change in the financial markets shall have occurred; or (iii) if trading generally shall have been suspended or materially limited on or by, as the case may be, any of the New York Stock Exchange, the American Stock Exchange, the NASD, the Commission or any governmental authority having jurisdiction over such matters; or (iv) if trading of any of the securities of the Company shall have been suspended, or any of the securities of the Company shall have been delisted, on any exchange or in any over-the-counter market; (v) if the United States shall have become involved in a war or major hostilities, or if there shall have been an escalation in an existing war or major hostilities or a national emergency shall have been declared in the United States; or (vi) if a banking moratorium has been declared by a state or federal authority; or (vii) if a moratorium in foreign exchange trading has been declared; or (viii) if the Company shall have sustained a loss material or substantial to the Company by fire, flood, accident, hurricane, earthquake, theft, sabotage or other calamity or malicious act which, whether or not such loss shall have been insured, will, in the Representative's opinion, make it inadvisable to proceed with the offering, sale and/or delivery of the Securities; or (ix) if there shall have been such a material adverse change in the conditions or prospects of the Company, or such material adverse change in the general market, political or economic conditions, in the United States or elsewhere, that, in each case, in the Representative's judgment, would make it

inadvisable to proceed with the offering, sale and/or delivery of the Securities or (x) if either John W. Fara or John W. Shell shall no longer serve the Company in his present capacity.

(b) If this Agreement is terminated by the Representative in accordance with the provisions of Section 10(a) the Company shall promptly reimburse and indemnify the Representative for all of its actual out-of-pocket expenses, in an amount not to exceed $100,000, including the fees and disbursements of counsel for the Underwriters and all Blue Sky Counsel fees (excluding filing fees) and disbursements (less amounts previously paid pursuant to Section 5(c) above). Notwithstanding any contrary provision contained in this Agreement, if this Agreement shall not be carried out within the time specified herein, or any extension thereof granted to the Representative, by reason of any failure on the part of the Company to perform any undertaking or satisfy any condition of this Agreement by it to be performed or satisfied (including, without limitation, pursuant to Section 6 (except if this Agreement is terminated pursuant to Sections 6(c), 6(k) or 6(o) or Section 12) then, the Company shall promptly reimburse and indemnify the Representative for all of its actual out-of-pocket expenses, including the fees and disbursements of counsel for the Underwriters (less amounts previously paid pursuant to Section 5(c) above). In addition, the Company shall remain liable for all Blue Sky counsel fees and disbursements, expenses and filing fees (such counsel fees not to exceed $35,000 if the Securities are listed on Nasdaq or elsewhere or $20,000 if the Securities are listed on the Nasdaq National

Market or a national exchange). Notwithstanding any contrary provision contained in this Agreement, any election hereunder or any termination of this Agreement (including, without limitation, pursuant to Sections 6, 10, 11 and 12 hereof), and whether or not this Agreement is otherwise carried out, the provisions of Section 5 and Section 7 shall not be in any way affected by such election or termination or failure to carry out the terms of this Agreement or any part hereof.

11. Substitution of the Underwriters. If one or more of the Underwriters shall fail (otherwise than for a reason sufficient to justify the termination of this Agreement under the provisions of Section 6, Section 10 or Section 12 hereof) to purchase the Securities which it or they are obligated to purchase on such date under this Agreement (the "Defaulted Securities"), the Representative shall have the right, within 24 hours thereafter, to make arrangement for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Representative shall not have completed such arrangements within such 24-hour period, then:

(a) if the number of Defaulted Securities does not exceed 10% of the total number of Firm Securities to be purchased on such date, the non-defaulting Underwriters shall be obligated to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Underwriters, or

(b) if the number of Defaulted Securities exceeds 10% of the total number of Firm Securities, this Agreement shall terminate without liability on the part of any non-defaulting Underwriters (or, if such default shall occur with respect to any Option Securities to be purchased on an Option Closing

Date, the Underwriters may at the Representative's option, by notice from the Representative to the Company, terminate the Underwriters' obligation to purchase Option Securities from the Company on such date).

No action taken pursuant to this Section 11 shall relieve any defaulting Underwriter from liability in respect of any default by such Underwriter under this Agreement.

In the event of any such default which does not result in a termination of this Agreement, the Representative shall have the right to postpone the Closing Date for a period not exceeding seven (7) days in order to effect any required changes in the Registration Statement or Prospectus or in any other documents or arrangements.

12. Default by the Company. If the Company shall fail at the Closing Date or at any Option Closing Date, as applicable, to sell and deliver the number of Securities which it is obligated to sell hereunder on such date, then this Agreement shall terminate (or, if such default shall occur with respect to any Option Securities to be purchased on an Option Closing Date, the Underwriters may at the Representative's option, by notice from the Representative to the Company, terminate the Underwriters' obligation to purchase Option Securities from the Company on such date) without any liability on the part of any non-defaulting party other than

pursuant to Section 5, Section 7 and Section 10 hereof. No action taken pursuant to this Section 12 shall relieve the Company from liability, if any, in respect of such default.

13. Notices. All notices and communications hereunder, except as herein otherwise specifically provided, shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed to the Representative at National Securities Corporation, 1001 Fourth Avenue, Suite 2200, Seattle, Washington 98154, Attention: Steven A. Rothstein, Chairman, with a copy to Orrick, Herrington & Sutcliffe LLP, 666 Fifth Avenue, New York, New York 10103, Attention: Lawrence B. Fisher, Esq. Notices to the Company shall be directed to the Company at 1170 B Chess Drive, Foster City, California, 94404, Attention: John W. Fara, President and Chief Executive Officer, with a copy to: Heller Ehrman White & McAuliffe, 525 University Avenue, Palo Alto, California 94301, Attention: Julian N. Stern, Esq.

14. Parties. This Agreement shall inure solely to the benefit of and shall be binding upon, the Underwriters, the Company and the controlling persons, directors and officers referred to in Section 7 hereof, and their respective successors, legal representatives and assigns, and no other person shall have or be construed to have any legal or equitable right, remedy or claim under or in respect of or by virtue of this Agreement or any provisions herein contained. No purchaser of Securities from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

15. Construction. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York without giving effect to the choice of law or conflict of laws principles.

16. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which

taken together shall be deemed to be one and the same instrument.

17. Entire Agreement; Amendments. This Agreement, the Warrant Agreement and the Representative's Warrant Agreement constitute the entire agreement of the parties hereto and supersede all prior written or oral agreements, understandings and negotiations with respect to the subject matter hereof. This Agreement may not be amended except in a writing, signed by the Representative and the Company.

If the foregoing correctly sets forth the understanding between the Underwriters and the Company, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement among us.

Very truly yours,

DEPOMED, INC.

By:_____
John W. Fara
President and Chief Executive Officer

Confirmed and accepted as of
the date first above written.

NATIONAL SECURITIES CORPORATION

For itself and as Representative
of the several Underwriters named
in Schedule A hereto.

By:_____
Steven A. Rothstein
Chairman

SCHEDULE A

NAME OF UNDERWRITERS	NUMBER OF SHARES OF COMMON STOCK TO BE PURCHASED	NUMBER OF REDEEMABLE WARRANTS TO BE PURCHASED
National Securities Corporation...		

Total.....	2,500,000	1,250,000

SCHEDULE B

[FORM OF INTELLECTUAL PROPERTY OPINION]

_____, 1997

NATIONAL SECURITIES CORPORATION
As Representative of the several
Underwriters named in Schedule A
to the Underwriting Agreement
1001 Fourth Avenue
Suite 2200
Seattle, Washington 98154

Re: Initial Public Offering of 2,500,000 Shares of Common Stock and 1,250,000 Redeemable Common Stock Purchase Warrants of DepoMed, Inc.

Gentlemen:

We have acted as special counsel to DepoMed, Inc., a California corporation (the "Company"), in connection with the entering into by the Company of that certain Underwriting Agreement by and between National Securities Corporation (as representative of the several underwriters named therein) (the "Representative") and the Company, dated _____, 1997 (the "Underwriting Agreement"). This opinion is provided to you pursuant to Section 6(e) of the Underwriting Agreement.

For the purpose of rendering the opinions set forth below we have reviewed the following (collectively, the "Documents"):

(i) the Underwriting Agreement;

(ii) that certain Form SB-2 as filed by the Company with the Securities and Exchange Commission on _____, 1997, together with any and all exhibits and schedules and all heretofore filed amendments thereto (collectively, the "Registration Statement");

(iii) the Company's prospectus dated _____, 1997 (the "Prospectus");

(iv) a search of the United States Patent and Trademark Office records relevant to ownership of any and all:

patents and patent applications (including, without limitation, the patents and patent applications listed on Schedule A annexed hereto and hereby incorporated by reference herein (collectively, the "Patents")), and trademarks, trademark applications, service marks and service mark applications (collectively, the "Marks") (including, without limitation, the Marks listed on Schedule B annexed hereto and hereby incorporated by reference herein (collectively, the "Trademarks")),

owned, purportedly owned or licensed by either the Company or the Subsidiary (including, those patents, patent applications and Marks licensed, without limitation, pursuant to the licenses listed on Schedule C annexed hereto and hereby incorporated by reference herein (collectively, the "Licenses")), conducted by _____ and certified as true and correct as of _____, 1997 (no earlier than 5 days prior to the effective date of the Registration Statement);

(v) a search of the United States Copyright Office records relevant to ownership of any and all copyrighted material (including, without limitation, the copyright in, or license permitting the Company's actual use of, the material licensed or otherwise distributed by either the Company and listed on Schedule D annexed hereto and hereby incorporated by reference herein (collectively, the "Copyrighted Material")), owned, purportedly owned or licensed by the Company conducted by _____ and certified as true and correct as of _____, 1997 (no earlier than 5 days prior to the effective date of the Registration Statement);

(vi) an intellectual property litigation search with respect to all Patents, Trademarks, Licenses and Copyrighted Material, listed on Schedules A, B, C and D, respectively;

(vii) a search of the Uniform Commercial Code ("UCC") recordation offices, in the following jurisdictions -- California, Delaware and New York, with respect to the following two categories of general intangibles:

(a) the intellectual property general intangibles of the Company, including, without limitation, the Company's patents, patent applications, inventions, know how, trademarks, service marks, copyrights, service and trade names, intellectual property licenses and other rights, and

(b) the intellectual property general intangibles licensed to the Company, including, without limitation, the patents, patent applications, inventions, know how, trademarks, service marks, copyrights, service and trade names and other

intellectual property rights licensed to the Company pursuant to the Licenses (listed on Schedule C),

said search certified to us as complete and accurate by _____ and current through _____, 1997 (no earlier than 5 days prior to the effective date of the Registration Statement) and said jurisdictions being the only jurisdictions in which filing of UCC financing statements or other documents may be filed to effectively evidence a security or other interest in said general intangibles; and

(viii) any and all records, documents, instruments and agreements in our possession or under our control relating to the Company.

We have also examined such corporate records, documents, instruments and agreements, and inquired into such other matters, as we have deemed necessary or appropriate as a basis for the opinions set forth herein. Whenever our opinion herein is qualified by the phrase "to the best of our knowledge" or "to the best of our knowledge, after due inquiry," such language means that, based upon (i) our inquiries of officers of the Company, (ii) our review of the Documents, and (iii) our review of such other corporate records, documents, instruments and agreements described in the first sentence of this paragraph, we believe that such opinions are factually correct.

To the best of our knowledge, as to all matters of fact represented to you by the Company, we advise you that nothing has come to our attention that would cause us to believe that such facts are incorrect, incomplete or misleading or that reliance thereon is not warranted under the circumstances. We call to your attention that our opinion is limited to such facts as they exist on the date hereof and do not take into account any change of circumstances, fact or law subsequent thereto.

Based upon and subject to the foregoing, we are of the opinion that:

1. To the best of our knowledge, after due inquiry, except as described in the Prospectus, the Company owns or has the right to use, free and clear of all liens, encumbrances, pledges, security interests, defects or other restrictions or equities of any kind whatsoever,

(i) all patents and patent applications (including, without limitation, the Patents),

(ii) all trademarks and service marks (including, without limitation, the Trademarks),

(iii) all copyrights (including, without limitation, the Copyrighted Material),

(iv) all service and trade names, and

(v) all intellectual property licenses (including, without limitation, the Licenses),

used in, or required for, the conduct of the Company's respective business.

2. To the best of our knowledge, after due inquiry, the Company possesses all material intellectual property licenses or rights used in, or required for, the conduct of its respective business (including, the Licenses and without limitation, any such licenses or rights described in the Prospectus as being owned, possessed or licensed by the Company) and such licenses and rights are in full force and effect.

3. To the best of our knowledge, after due inquiry, there is no claim or action, pending, threatened or potential, which affects or could affect the rights of the Company with respect to any trademarks, service marks, copyrights, service names, trade names, patents, patent applications or licenses used in, or required for, the conduct of the Company's business.

4. To the best of our knowledge, after due inquiry, there is no intellectual property based claim or action, pending, threatened or potential, which affects or could affect the rights of the Company with respect to any products, services, processes or licenses,

including, without limitation, the Licenses used in the conduct of the Company's business.

5. To the best of our knowledge, after due inquiry, except as described in the Prospectus, the Company is not under any obligation to pay royalties or fees to any third party with respect to any material, technology or intellectual properties developed, employed, licensed or used by the Company.

6. To the best of our knowledge, after due inquiry, the statements in the Prospectus under the headings, "Risk Factors - Uncertainty Regarding Patents and Proprietary Rights," and "Business - Patents and Proprietary Rights", are accurate in all material respects, fairly represent the information disclosed therein and do not omit to state any fact necessary to make the statements made therein complete and accurate.

7. To the best of our knowledge, after due inquiry, the statements in the Registration Statement and Prospectus do not contain any untrue statement of a material fact with respect to the intellectual property position of the Company, or omit to state any material fact relating to the intellectual property position of the Company which is required to be stated in the Registration Statement and the Prospectus or is necessary to make the statements therein not misleading.

_____, 1997

We call your attention to the fact that the members of this firm are licensed to practice law in the State of _____ and before the United States Patent and Trademark Office as Registered Patent Attorneys. Accordingly, we express no opinion with respect to the laws, rules and regulations of any jurisdictions other than the State of _____ and the United States of America.

The opinions expressed herein are for the sole benefit of, and may be relied upon only by, the several Underwriters named in Schedule A to the Underwriting Agreement and Orrick, Herrington & Sutcliffe LLP.

Very truly yours,

Exhibit 3.2

AMENDED AND RESTATED
ARTICLES OF INCORPORATION OF
DEPOMED, INC.

Dr. John W. Fara and Julian N. Stern hereby certify that:

1. They are the President and Secretary, respectively, of DepoMed, Inc. (the "Corporation").

2. The Articles of Incorporation of the Corporation are hereby amended and restated to read in full as follows:

I.

The name of this Corporation is DEPOMED, INC.

II.

The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

III.

This Corporation is authorized to issue two classes of shares, which shall be known as Common Stock and Preferred Stock respectively. The total number of shares of Common Stock which this Corporation is authorized to issue is 25,000,000 shares, and the total number of shares of Preferred Stock this Corporation is authorized to issue is 5,000,000 shares.

Shares of Preferred Stock may be issued from time to time in one or more series. The Board of Directors shall determine the designation of each series and the authorized number of shares of each series. The Board of Directors is authorized to determine and alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of shares of Preferred Stock and to increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series subsequent to the issue of shares of that series. If the number of shares of any series of Preferred

Stock shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

IV.

The liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law. This Corporation is also authorized, to the fullest extent permissible under California law, to indemnify its agents (as defined in Section 317 of the California Corporations Code), whether by by-law, agreement or otherwise, for breach of duty to this Corporation and its shareholders in excess of that expressly permitted by Section 317 and to advance defense expenses to its agents in connection with such matters as they are incurred, subject to the limits on such excess indemnification set forth in Section 204 of the California Corporations Code. If, after the effective date of this Article, California law

is amended in a manner which permits a corporation to limit the monetary or other liability of its directors or to authorize indemnification of, or advancement of such defense expenses to, its directors or other persons, in any such case to a greater extent than is permitted on such effective date, the references in this Article to "California law" shall to that extent be deemed to refer to California law as so amended.

V.

The right to cumulate votes in the election of directors shall be eliminated in accordance with Section 301.5 of the California Corporations Code. This provision shall become effective only when the Corporation becomes a listed corporation within the meaning of Section 301.5 of the Corporations Code.

VI.

Any action required or permitted to be taken by the shareholders of the Corporation at any time after the registration of any class of securities of this Corporation pursuant to the Securities Act of 1933 must be effected as a duly called annual or special meeting of shareholders of the Corporation and may not be effected by any consent in writing by the shareholders.

3. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the Board of Directors.

4. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the required vote of the

shareholders of this Corporation in accordance with Sections 902 and 903 of the California Corporations Code. The total number of outstanding shares of stock of the Corporation is 2,327,368 shares of Series A Preferred, 278,500 shares of Series B Preferred and 10,064,474 shares of Common Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required, such required vote being a majority of the outstanding shares of the Preferred and of the outstanding shares of the Common Stock voting together as a class and a majority of the outstanding shares of the Series A Preferred, Series B Preferred and the Common Stock voting as separate classes.

John W. Fara and Julian N. Stern further declare under penalty of perjury under the laws of the State of California that the matters set forth in these Third Amended and Restated Articles of Incorporation are true and correct of our own knowledge.

Executed at Palo Alto, California, this __th day of ____, 1997.

JOHN W. FARA, President

JULIAN N. STERN, Secretary

EXHIBIT 4.3

OHS DRAFT
6/12/97

[FORM OF REPRESENTATIVE'S WARRANT AGREEMENT]
[SUBJECT TO ADDITIONAL REVIEW]

- ---

DEPOMED, INC.

AND

NATIONAL SECURITIES CORPORATION

REPRESENTATIVE'S
WARRANT AGREEMENT

DATED AS OF _____, 1997

- ---

REPRESENTATIVE'S WARRANT AGREEMENT dated as of _____, 1997 between DEPOMED, INC., a California corporation (the "Company"), and NATIONAL SECURITIES CORPORATION (hereinafter referred to variously as the "Holder" or the "Representative").

W I T N E S S E T H:
- - - - - - - - - -

WHEREAS, the Company proposes to issue to the Representative warrants ("Warrants") to purchase up to an aggregate 250,000 shares of Common Stock, no par value, of the Company and/or 125,000 redeemable common stock purchase warrants of the Company ("Redeemable Warrants"), each Redeemable Warrant to purchase one additional share of Common Stock; and

WHEREAS, the Representative has agreed pursuant to the underwriting agreement (the "Underwriting Agreement") dated as of the date hereof between the Company and the several Underwriters listed therein to act as the Representative in connection with the Company's proposed public offering of up to 2,500,000 shares of Common Stock and 1,250,000 Redeemable Warrants (the "Public Warrants") at a public offering price of $____ per share of Common Stock and $.10 per Public Warrant (the "Public Offering"); and

WHEREAS, the Warrants to be issued pursuant to this Agreement will be issued on the Closing Date (as such term is defined in the Underwriting Agreement) by the Company to the Representative in consideration for, and as part of the Representative's compensation in connection with, the Representative acting as the Representative pursuant to the Underwriting Agreement;

NOW, THEREFORE, in consideration of the premises, the payment by the Representative to the Company of an aggregate twenty-five dollars ($25.00), the agreements herein set forth and other good and valuable consideration, hereby acknowledged, the parties hereto agree as follows:

1. Grant. The Representative (or its designees) is hereby granted the right to purchase, at any time from _____, 1998 [one year from the effective date of the Registration Statement], until 5:30 P.M., New York time, on _____, 2002 [five years from the effective date of the Registration Statement], up to an aggregate of 250,000 shares of Common Stock and/or 125,000 Redeemable Warrants at an initial exercise price (subject to adjustment as provided in Section 8 hereof) of $____ per share of Common Stock [165% of the initial public offering price per share] and $____ per Redeemable Warrant [165% of the initial public offering price per Redeemable Warrant], subject to the terms and conditions of this Agreement. One Redeemable Warrant is exercisable to purchase one additional share of Common Stock at an initial exercise price of $_____ [140% of the initial public offering price per share] from _____, 1998 [one year from the effective date of the registration statement] until 5:30 p.m. New York time on _____, 2002 [five years from the effective date of the registration statement], at which time the Redeemable Warrants shall expire. Except as set forth herein, the shares of Common Stock and the Redeemable Warrants issuable upon exercise of the Warrants are in all respects identical to the shares of Common Stock and the Public Warrants being purchased by the Underwriters for resale to the public pursuant to the terms and provisions of the Underwriting Agreement. The shares of Common Stock and the Redeemable Warrants issuable upon exercise of the Warrants are sometimes hereinafter referred to collectively as the "Securities."

2. Warrant Certificates. The warrant certificates (the "Warrant Certificates") delivered and to be delivered pursuant to this Agreement shall be in the form set forth in Exhibit A, attached hereto and made a part hereof, with such appropriate insertions, omissions, substitutions, and other variations as required or permitted by this Agreement.

3. Exercise of Warrant.

3.1 Method of Exercise. The Warrants initially are exercisable at an aggregate initial exercise price (subject to adjustment as provided in Section 8 hereof) per share of Common Stock and Redeemable Warrant set forth in Section 6 hereof payable by certified or official bank check in New York Clearing House funds, subject to adjustment as provided in Section 8 hereof. Upon surrender of a Warrant Certificate with the annexed Form of Election to Purchase duly executed, together with payment of the Exercise Price (as hereinafter defined) for the shares of Common Stock and/or Redeemable Warrants purchased at the Company's principal executive offices in New York (presently located at 1170 B Chess Drive, Foster City, California 94404) the registered holder of a Warrant Certificate ("Holder" or "Holders") shall be entitled to receive a certificate or certificates for the shares of Common Stock so purchased and a certificate or certificates for the Redeemable Warrants so purchased. The purchase rights represented by each Warrant Certificate are exercisable at the option of the Holder thereof, in whole or in part (but not as to fractional shares of the Common Stock and Redeemable Warrants underlying the Warrants). In the event the Company redeems all of the Public Warrants (other than the Redeemable Warrants underlying the Warrants), then the Warrants may only be exercised if such exercise is accompanied by the simultaneous exercise

of the Redeemable Warrant(s) underlying the Warrants being so exercised. Warrants may be exercised to purchase all or part of the shares of Common Stock together with an equal or unequal number of the Redeemable Warrants represented thereby. In the case of the

purchase of less than all the shares of Common Stock and/or Redeemable Warrants purchasable under any Warrant Certificate, the Company shall cancel said Warrant Certificate upon the surrender thereof and shall execute and deliver a new Warrant Certificate of like tenor for the balance of the shares of Common Stock and/or Redeemable Warrants purchasable thereunder.

3.2 Exercise by Surrender of Warrant. In addition to the method of payment set forth in Section 3.1 and in lieu of any cash payment required thereunder, the Holder(s) of the Warrants shall have the right at any time and from time to time to exercise the Warrants in full or in part by surrendering the Warrant Certificate in the manner specified in Section 3.1 hereof. The number of shares of Common Stock to be issued pursuant to this Section 3.2 shall be equal to the difference between (a) the number of shares of Common Stock in respect of which the Warrants are exercised and (b) a fraction, the numerator of which shall be number of shares of Common Stock in respect of which the Warrants are exercised multiplied by the Exercise Price and the denominator of which shall be the Market Price (as defined in Section 3.3 hereof) of the Common Stock. The number of Redeemable Warrants to be issued pursuant to this Section 3.2 shall be equal to the difference between (a) the number of Redeemable Warrants in respect of which the Warrants are exercised and (b) a fraction, the numerator of which shall be the number of Redeemable Warrants in respect of which the Warrants are exercised multiplied by the Exercise Price and the denominator of which shall be the Market Price (as defined in Section 3.3 hereof) of the Redeemable Warrants. Solely for the purposes of this paragraph, Market Price shall be calculated either (i) on the date on which the form of election attached hereto is deemed to have been sent to the Company pursuant to Section 14 hereof ("Notice Date") or (ii) as the average of the Market Prices for each of the five trading days preceding the Notice Date, whichever of (i) or (ii) is greater.

3.3 Definition of Market Price. As used herein, the phrase "Market Price" at any date shall be deemed to be (i) when referring to the Common Stock, the last reported sale price, or, in case no such reported sale takes place on such day, the average of the last reported sale prices for the last three (3) trading days, in either case as officially reported by the principal securities exchange on which the Common Stock is listed or admitted to trading or by the Nasdaq SmallCap Market ("Nasdaq SmallCap") or by the National Association of Securities Dealers Automated Quotation System ("Nasdaq"), or, if the Common Stock is not listed or admitted to trading on any national securities exchange or quoted by Nasdaq, the average closing bid price as furnished by the National Association of Securities Dealers, Inc. ("NASD") through Nasdaq or similar organization if Nasdaq is no longer reporting such information, or if the Common Stock is not quoted on Nasdaq, as determined in good faith (using customary valuation methods) by resolution of the members of the Board of Directors of the Company, based on the best information available to it or (ii) when referring to a Redeemable Warrant, the last reported sales price, or, in the case no such reported sale takes place on such day, the average of the last reported sale prices for the last three (3) trading days, in either case as officially reported by the principal securities exchange on which the Redeemable Warrants

are listed or admitted to trading or by Nasdaq, or, if the Redeemable Warrants are not listed or admitted to trading on any national securities exchange or quoted by Nasdaq, the average closing bid price as furnished by the NASD through Nasdaq or similar organization if Nasdaq is no longer reporting such information, or if the Redeemable Warrants are not quoted on Nasdaq or are no longer outstanding, the Market Price of a Redeemable Warrant shall equal the difference between the Market Price of the Common Stock and the Exercise Price of the Redeemable Warrant.

4. Issuance of Certificates. Upon the exercise of the Warrants, the issuance of certificates for shares of Common Stock and/or Redeemable Warrants and/or other securities,

properties or rights underlying such Warrants and, upon the exercise of the Redeemable Warrants, the issuance of certificates for shares of Common Stock and/or other securities, properties or rights underlying such Redeemable Warrants shall be made forthwith (and in any event within five (5) business days thereafter) without charge to the Holder thereof including, without limitation, any tax which may be payable in respect of the issuance thereof, and such certificates shall (subject to the provisions of Sections 5 and 7 hereof) be issued in the name of, or in such names as may be directed by, the Holder thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificates in a name other than that of the Holder, and the Company shall not be required to issue or deliver such certificates unless or until the person or persons requesting the issuance 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.

The Warrant Certificates and the certificates representing the shares of Common Stock and the Redeemable Warrants underlying the Warrants and the shares of Common Stock underlying the Redeemable Warrants (and/or other securities, property or rights issuable upon the exercise of the Warrants or the Redeemable Warrants) shall be executed on behalf of the Company by the manual or facsimile signature of the then Chairman or Vice Chairman of the Board of Directors or President or Vice President of the Company. Warrant Certificates shall be dated the date of execution by the Company upon initial issuance, division, exchange, substitution or transfer. Certificates representing the shares of Common Stock and Redeemable Warrants, and the shares of Common Stock underlying each Redeemable Warrant (and/or other securities, property or rights issuable upon exercise of the Warrants) shall be dated as of the Notice Date (regardless of when

executed or delivered) and dividend bearing securities so issued shall accrue dividends from the Notice Date.

5. Restriction On Transfer of Warrants. The Holder of a Warrant Certificate, by its acceptance thereof, covenants and agrees that the Warrants are being acquired as an investment and not with a view to the distribution thereof; that the Warrants may not be sold, transferred, assigned, hypothecated or otherwise disposed of, in whole or in part, for a period of one (1) year from the date hereof, except to officers of the Representative.

6. Exercise Price.

6.1 Initial and Adjusted Exercise Price. Except as otherwise provided in Section 8 hereof, the initial exercise price of each Warrant shall be $____

[165% of the initial public offering price] per share of Common Stock and $_____ per Redeemable Warrant [165% of the initial public offering price per Public Warrant]. The adjusted exercise price shall be the price which shall result from time to time from any and all adjustments of the initial exercise price in accordance with the provisions of Section 8 hereof. Any transfer of a Warrant shall constitute an automatic transfer and assignment of the registration rights set forth in Section 7 hereof with respect to the Securities or other securities, properties or rights underlying the Warrants.

6.2 Exercise Price. The term "Exercise Price" herein shall mean the initial exercise price or the adjusted exercise price, depending upon the context or unless otherwise specified.

7. Registration Rights.

7.1 Registration Under the Securities Act of 1933. The Warrants, the shares of Common Stock and Redeemable Warrants or other securities issuable upon exercise of the Warrants, and the shares of Common Stock or other securities issuable upon exercise of the Redeemable Warrants (collectively, the "Warrant Securities") have been registered under the Securities Act of 1933, as amended (the "Act") pursuant to the Company's Registration Statement on Form SB-2 (Registration No. 333-25445) (the "Registration Statement"). All of the representatives and warranties of the Company contained in the Underwriting Agreement relating to the Registration Statement, the Preliminary Prospectus and Prospectus (as such terms are defined in the Underwriting Agreement) and made as of the dates provided therein, are incorporated by reference herein. The Company agrees and covenants promptly to file post-effective amendments to such Registration Statement as may be necessary in order to maintain its effectiveness and otherwise to take such action as may be necessary to maintain the effectiveness of the Registration Statement as long as any Warrants are outstanding. In the event that, for any reason, whatsoever, the Company shall fail to maintain the effectiveness of the Registration Statement, the certificates representing the Warrant Securities shall bear the following legend:

> The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended ("Act"), and may not be offered or sold except pursuant to (i) an effective registration statement under the Act, (ii) to the extent applicable, Rule 144 under the Act (or any similar rule under such Act relating to the disposition of securities), or (iii) an opinion of counsel, if such opinion shall be reasonably satisfactory to counsel to the issuer, that an exemption from registration under such Act is available.

7.2 Piggyback Registration. If, at any time commencing after the date hereof and expiring seven (7) years thereafter, the Company proposes to register any of its securities under the

Act (other than pursuant to Form S-4, Form S-8 or a comparable registration statement) it will give written notice by registered mail, at least thirty (30) days prior to the filing of each such registration statement, to the Representative and to all other Holders of the Warrants and/or the Warrant Securities of its intention to do so. If the Representative or other Holders of the Warrants and/or Warrant Securities notify the Company within twenty (20) business days after receipt of any such notice of its or their desire to include

any such securities in such proposed registration statement, the Company shall afford the Representative and such Holders of the Warrants and/or Warrant Securities the opportunity to have any such Warrant Securities registered under such registration statement.

Notwithstanding the provisions of this Section 7.2, the Company shall have the right at any time after it shall have given written notice pursuant to this Section 7.2 (irrespective of whether a written request for inclusion of any such securities shall have been made) to elect not to file any such proposed registration statement, or to withdraw the same after the filing but prior to the effective date thereof.

7.3 Demand Registration.

(a) At any time commencing after the date hereof and expiring five (5) years thereafter, the Holders of the Warrants and/or Warrant Securities representing a "Majority" (as hereinafter defined) of such securities (assuming the exercise of all of the Warrants) shall have the right (which right is in addition to the registration rights under Section 7.2 hereof), exercisable by written notice to the Company, to have the Company prepare and file with the Securities and Exchange Commission (the "Commission"), on one occasion, a registration statement and such other documents, including a prospectus, as may be necessary in the opinion of both counsel for the Company and counsel for the Representative and Holders, in order to comply with the

provisions of the Act, so as to permit a public offering and sale of their respective Warrant Securities for six (6) consecutive months by such Holders and any other Holders of the Warrants and/or Warrant Securities who notify the Company within ten (10) days after receiving notice from the Company of such request.

(b) The Company covenants and agrees to give written notice of any registration request under this Section 7.3 by any Holder or Holders to all other registered Holders of the Warrants and the Warrant Securities within ten (10) days from the date of the receipt of any such registration request.

(c) Notwithstanding anything to the contrary contained herein, if the Company shall not have filed a registration statement for the Warrant Securities within the time period specified in Section 7.4(a) hereof pursuant to the written notice specified in Section 7.3(a) of a Majority of the Holders of the Warrants and/or Warrant Securities, the Company may, at its option, upon the written notice of election of a Majority of the Holders of the Warrants and/or Warrant Securities requesting such registration, repurchase (i) any and all Warrant Securities of such Holders at the higher of the Market Price per share of Common Stock and per Redeemable Warrant on (x) the date of the notice sent pursuant to Section 7.3(a) or (y) the expiration of the period specified in Section 7.4(a) and (ii) any and all Warrants of such Holders at such Market Price less the Exercise Price of such Warrant. Such repurchase shall be in immediately available funds and shall close within two (2) days after the later of (i) the expiration of the period specified in Section 7.4(a) or (ii) the delivery of the written notice of election specified in this Section 7.3(c).

(d) If all of the Holders are able to sell the Warrant Securities pursuant to Rule 144 under the Securities Act of 1933, as amended, and without regard to the volume limitations thereunder, the Holders' rights under Section 7.2 and 7.3(a) shall terminate.

7.4 Covenants of the Company With Respect to Registration. In connection with any registration under Section 7.2 or 7.3 hereof, the Company covenants and agrees as follows:

(a) The Company shall use its best efforts to file a registration statement within thirty (30) days of receipt of any demand therefor, shall use its best efforts to have any registration statements declared effective at the earliest possible time, and shall furnish each Holder desiring to sell Warrant Securities such number of prospectuses as shall reasonably be requested.

(b) The Company shall pay all costs (excluding fees and expenses of Holder(s)' counsel and any underwriting or selling commissions), fees and expenses in connection with all registration statements filed pursuant to Sections 7.2 and 7.3(a) hereof including, without limitation, the Company's legal and accounting fees, printing expenses, blue sky fees and expenses.

(c) The Company will take all necessary action which may be required in qualifying or registering the Warrant Securities included in a registration statement for offering and sale under the securities or blue sky laws of such states as reasonably are requested by the Holder(s), provided that the Company shall not be obligated to execute or file any general consent to service of process or to qualify as a foreign corporation to do business under the laws of any such jurisdiction.

(d) The Company shall indemnify the Holder(s) of the Warrant Securities to be sold pursuant to any registration statement and each person, if any, who controls such Holders within the meaning of Section 15 of the Act or Section 20(a) of the Securities Exchange Act of 1934, as

amended ("Exchange Act"), against all loss, claim, damage, expense or liability (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which any of them may become subject under the Act, the Exchange Act or otherwise, arising from such registration statement but only to the same extent and with the same effect as the provisions pursuant to which the Company has agreed to indemnify each of the Underwriters contained in Section 7 of the Underwriting Agreement.

(e) The Holder(s) of the Warrant Securities to be sold pursuant to a registration statement, and their successors and assigns, shall severally, and not jointly, indemnify the Company, its officers and directors and each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act, against all loss, claim, damage, expense or liability (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which they may become subject under the Act, the Exchange Act or otherwise, arising from information furnished by or on behalf of such Holders, or their successors or assigns, for specific inclusion in such registration statement to the same extent and with the same effect as the provisions contained in Section 7 of the Underwriting Agreement pursuant to which the Underwriters have agreed to indemnify the

Company.

(f) Nothing contained in this Agreement shall be construed as requiring the Holder(s) to exercise their Warrants prior to the initial filing of any registration statement or the effectiveness thereof.

(g) The Company shall not permit the inclusion of any securities other than the Warrant Securities to be included in any registration statement filed pursuant to Section 7.3 hereof, or permit any other registration statement to be
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or remain effective during the effectiveness of a registration statement filed pursuant to Section 7.3 hereof (other than (i) shelf registrations effective
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prior thereto and (ii) registrations on Form S-4 or S-8), without the prior written consent of the Holders of the Warrants and Warrant Securities representing a Majority of such securities.

(h) The Company shall furnish to each Holder participating in the offering and to each underwriter, if any, a signed counterpart, addressed to such Holder or underwriter, of (i) an opinion of counsel to the Company, dated the effective date of such registration statement (and, if such registration includes an underwritten public offering, an opinion dated the date of the closing under the underwriting agreement) relating to the due incorporation of the Company, the validity of the shares issued and the due authorization and execution of the Agreement, and (ii) a "cold comfort" letter dated the effective date of such registration statement (and, if such registration includes an underwritten public offering, a letter dated the date of the closing under the underwriting agreement) signed by the independent public accountants who have issued a report on the Company's financial statements included in such registration statement covering substantially the same matters with respect to such registration statement (and the prospectus included therein) and, in the case of such accountants' letter, with respect to events subsequent to the date of such financial statements, as are customarily covered in accountants' letters delivered to underwriters in underwritten public offerings of securities.

(i) The Company shall as soon as practicable after the effective date of the registration statement, and in any event within 15 months thereafter, make "generally available to its security holders" (within the meaning of Rule 158 under the Act) an earnings statement (which need not be audited) complying with

Section 11(a) of the Act and covering a period of at least 12 consecutive months
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beginning after the effective date of the registration statement.

(j) The Company shall deliver promptly to each Holder participating in the offering requesting the correspondence and memoranda described below and to the managing underwriters, copies of all correspondence between the Commission and the Company, its counsel or auditors

and all memoranda relating to discussions with the Commission or its staff with respect to the registration statement and permit each Holder and underwriter to do such investigation, upon reasonable advance notice, with respect to information contained in or omitted from the registration statement as it deems reasonably necessary to comply with applicable securities laws or rules of the NASD. Such investigation shall include access to books, records and properties and opportunities to discuss the business of the Company with its officers and independent auditors, all to such reasonable extent and at such reasonable times and as often as any such Holder or underwriter shall reasonably request.

(k) The Company shall enter into an underwriting agreement with the

managing underwriters selected for such underwriting by Holders holding a Majority of the Warrant Securities requested pursuant to Section 7.3(a) to be included in such underwriting, which may be the Representative. Such agreement shall be satisfactory in form and substance to the Company, each Holder and such managing underwriter(s), and shall contain such representations, warranties and covenants by the Company and such other terms as are customarily contained in agreements of that type used by the managing underwriter(s). The Holders shall be parties to any underwriting agreement relating to an underwritten sale of their Warrant Securities whether pursuant to Section 7.2 or Section 7.3(a) and may, at their option, require that any or all of the representations, warranties and covenants of the Company to or for the benefit of such underwriter(s) shall also be made to and for the benefit of such Holders. Such Holders shall not be required to make any representations or warranties to or agreements with the Company or the underwriter(s) except as they may relate to such Holders and their intended methods of distribution.

(l) For purposes of this Agreement, the term "Majority" in reference to the Holders of Warrants or Warrant Securities, shall mean in excess of fifty percent (50%) of the then

outstanding Warrants or Warrant Securities that (i) are not held by the Company, an affiliate, officer, creditor, employee or agent thereof or any of their respective affiliates, members of their family, persons acting as nominees or in conjunction therewith and (ii) have not been resold to the public pursuant to a registration statement filed with the Commission under the Act.

8. Adjustments to Exercise Price and Number of Securities.

8.1 Subdivision and Combination. In case the Company shall at any time subdivide or combine the outstanding shares of Common Stock, the Exercise Price shall forthwith be proportionately decreased in the case of subdivision or increased in the case of combination.

8.2 Stock Dividends and Distributions. In case the Company shall pay a dividend in, or make a distribution of, shares of Common Stock or of the Company's capital stock convertible into Common Stock, the Exercise Price shall forthwith be proportionately decreased. An adjustment made pursuant to this Section 8.2 shall be made as of the record date for the subject stock dividend or distribution.

8.3 Adjustment in Number of Securities. Upon each adjustment of the Exercise Price pursuant to the provisions of this Section 8, the number of Warrant Securities issuable upon the exercise at the adjusted exercise price of each Warrant shall be adjusted to the nearest full amount by multiplying a number equal to the Exercise Price in effect immediately prior to such adjustment by the number of Warrant Securities issuable upon exercise of the Warrants immediately prior to such adjustment and dividing the product so obtained by the adjusted Exercise Price.

8.4 Definition of Common Stock. For the purpose of this Agreement, the term "Common Stock" shall mean (i) the class of stock designated as Common Stock in the Certificate of Incorporation of the Company as may be amended as of the date hereof, or (ii) any other class

of stock resulting from successive changes or reclassifications of such Common Stock consisting solely of changes in par value, or from par value to no par value, or from no par value to par value.

8.5 Merger or Consolidation. In case of any consolidation of the Company with, or merger of the Company with, or merger of the Company into, another corporation (other than a consolidation or merger which does not result in any reclassification or change of the outstanding Common Stock), the corporation formed by such consolidation or merger shall execute and deliver to the Holder a supplemental warrant agreement providing that the holder of each Warrant then outstanding or to be outstanding shall have the right thereafter (until the expiration of such Warrant) to receive, upon exercise of such Warrant, the kind and amount of shares of stock and other securities and property receivable upon such consolidation or merger, by a holder of the number of securities of the Company for which such Warrant might have been exercised immediately prior to such consolidation, merger, sale or transfer. Such supplemental warrant agreement shall provide for adjustments which shall be identical to the adjustments provided in Section 8. The above provision of this subsection shall similarly apply to successive consolidations or mergers.

8.6 No Adjustment of Exercise Price in Certain Cases. No adjustment of the Exercise Price shall be made if the amount of said adjustment shall be less than two cents (2c) per Warrant Security, provided, however, that in such case any adjustment that would otherwise be required then to be made shall be carried forward and shall be made at the time of and together with the next subsequent adjustment which, together with any adjustment so carried forward, shall amount to at least two cents (2c) per Warrant Security.

9. Exchange and Replacement of Warrant Certificates. Each Warrant Certificate is exchangeable without expense, upon the surrender thereof by the registered Holder at the principal executive office of the Company, for a new Warrant Certificate of like tenor and date representing in the aggregate the right to purchase the same number of Warrant Securities in such denominations as shall be designated by the Holder thereof at the time of such surrender.

Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of any Warrant Certificate, and, in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it, and reimbursement to the Company of all reasonable expenses incidental thereto, and upon surrender and cancellation of the Warrants, if mutilated, the Company will make and deliver a new Warrant Certificate of like tenor, in lieu thereof.

10. Elimination of Fractional Interests. The Company shall not be required to issue certificates representing fractions of shares of Common Stock or Redeemable Warrants upon the exercise of the Warrants, nor shall it be required to issue scrip or pay cash in lieu of fractional interests, it being the intent of the parties that all fractional interests shall be eliminated by rounding any fraction up to the nearest whole number of shares of Common Stock or Redeemable Warrants or other securities, properties or rights.

11. Reservation and Listing of Securities. The Company shall at all times reserve and keep available out of its authorized shares of Common Stock, solely for the purpose of issuance upon the exercise of the Warrants and the Redeemable Warrants, such number of shares of Common Stock or other securities, properties or rights as shall be issuable upon the exercise thereof. The Company covenants and agrees that, upon exercise of the Warrants and payment of the Exercise Price therefor, all shares of Common Stock, Redeemable Warrants and other securities

issuable upon such exercise shall be duly and validly issued, fully paid, non-assessable and not subject to the preemptive rights of any stockholder. The Company further covenants and agrees that upon exercise of the Redeemable Warrants underlying the Warrants and payment of the respective Redeemable Warrant exercise price therefor, all shares of Common Stock and other securities issuable upon such exercises shall be duly and validly issued, fully paid, non-assessable and not subject to the preemptive rights of any stockholder. As long as the Warrants shall be outstanding, the Company shall use its best efforts to cause all shares of Common Stock issuable upon the exercise of the Warrants and Redeemable Warrants and all Redeemable Warrants underlying the Warrants to be listed (subject to official notice of issuance) on all securities exchanges on which the Common Stock or the Public Warrants issued to the public in connection herewith may then be listed and/or quoted on Nasdaq SmallCap or Nasdaq.

12. Notices to Warrant Holders. Nothing contained in this Agreement shall be construed as conferring upon the Holders the right to vote or to consent or to receive notice as a stockholder in respect of any meetings of stockholders for the election of directors or any other matter, or as having any rights whatsoever as a stockholder of the Company. If, however, at any time prior to the expiration of the Warrants and their exercise, any of the following events shall occur:

(a) the Company shall take a record of the holders of its shares of Common Stock for the purpose of entitling them to receive a dividend or distribution payable otherwise than in cash, or a cash dividend or distribution payable otherwise than out of current or retained earnings or capital surplus (in accordance with applicable law), as indicated by the accounting treatment of such dividend or distribution on the books of the Company; or

(b) the Company shall offer to all the holders of its Common Stock any additional shares of capital stock of the Company or securities convertible into or exchangeable for shares of capital stock of the Company, or any option, right or warrant to subscribe therefor; or

(c) a dissolution, liquidation or winding up of the Company (other than in connection with a consolidation or merger) or a sale of all or substantially all of its property, assets and business as an entirety shall be proposed;

then, in any one or more of said events, the Company shall give written notice of such event at least thirty (30) days prior to the date fixed as a record date or the date of closing the transfer books for the determination of the stockholders entitled to such dividend, distribution, convertible or exchangeable securities or subscription rights, or entitled to vote on such proposed dissolution, liquidation, winding up or sale. Such notice shall specify such record date or the date of closing the transfer books, as the case may be. Failure to give such notice or any defect therein shall not affect the validity of any action taken in connection with the declaration or payment of any such dividend, or the issuance of any convertible or exchangeable securities, or subscription rights, options or warrants, or any proposed dissolution, liquidation, winding up or sale.

13. Redeemable Warrants.

The form of the certificate representing Redeemable Warrants (and the form of election to purchase shares of Common Stock upon the exercise of Redeemable Warrants and the form of assignment printed on the reverse thereof) shall be substantially as set forth in Exhibit "A" to the Warrant Agreement dated as of the date hereof by and between the Company and Continental Stock Transfer and

Trust Company (the "Redeemable Warrant Agreement"). Each Redeemable Warrant issuable upon exercise of the Warrants shall evidence the right to initially purchase a fully

paid and non-assessable share of Common Stock at an initial purchase price of $_____ [140% of the initial public offering price per share] from _____ 1998 [one year from the effective date of the Registration Statement] until 5:30 p.m. New York time on _____ 2002 [5 years from the effective date of the Registration Statement] at which time the Redeemable Warrants, unless the exercise period has been extended, shall expire. The exercise price of the Redeemable Warrants and the number of shares of Common Stock issuable upon the exercise of the Redeemable Warrants are subject to adjustment, whether or not the Warrants have been exercised and the Redeemable Warrants have been issued, in the manner and upon the occurrence of the events set forth in Section 8 of the Redeemable Warrant Agreement, which is hereby incorporated herein by reference and made a part hereof as if set forth in its entirety herein. Subject to the provisions of this Agreement and upon issuance of the Redeemable Warrants underlying the Warrants, each registered holder of such Redeemable Warrant shall have the right to purchase from the Company (and the Company shall issue to such registered holders) up to the number of fully paid and non-assessable shares of Common Stock (subject to adjustment as provided herein and in the Redeemable Warrant Agreement), free and clear of all preemptive rights of stockholders, provided that such registered holder complies with the terms governing exercise of the Redeemable Warrant set forth in the Redeemable Warrant Agreement, and pays the applicable exercise price, determined in accordance with the terms of the Redeemable Warrant Agreement. Upon exercise of the Redeemable Warrants, the Company shall forthwith issue to the registered holder of any such Redeemable Warrant in his name or in such name as may be directed by him, certificates for the number of shares of Common Stock so purchased. Except as otherwise provided in this Agreement, the Redeemable Warrants underlying the Warrants shall be governed in all respects by the terms of the Redeemable Warrant Agreement. The Redeemable Warrants shall be

transferable in the manner provided in the Redeemable Warrant Agreement, and upon any such transfer, a new Redeemable Warrant Certificate shall be issued promptly to the transferee. The Company covenants to, and agrees with, the Holder(s) that without the prior written consent of the Holder(s), which will not be unreasonably withheld, the Redeemable Warrant Agreement will not be modified, amended, canceled, altered or superseded, and that the Company will send to each Holder, irrespective of whether or not the Warrants have been exercised, any and all notices required by the Redeemable Warrant Agreement to be sent to holders of Redeemable Warrants.

14. Notices.

All notices, requests, consents and other communications hereunder shall be in writing and shall be deemed to have been duly made and sent when delivered, or mailed by registered or certified mail, return receipt requested:

(a) If to the registered Holder of the Warrants, to the address of such Holder as shown on the books of the Company; or

(b) If to the Company, to the address set forth in Section 3 hereof or to such other address as the Company may designate by notice to the Holders.

15. Supplements and Amendments. The Company and the Representative may from time to time supplement or amend this Agreement without the approval of any Holders of Warrant Certificates (other than the Representative) in order to cure

any ambiguity, to correct or supplement any provision contained herein which may be defective or inconsistent with any provisions herein, or to make any other provisions in regard to matters or questions arising hereunder which the Company and the Representative may deem necessary or desirable and which the Company and the Representative deem shall not adversely affect the interests of the Holders of Warrant Certificates.

16. Successors. All the covenants and provisions of this Agreement shall be binding upon and inure to the benefit of the Company, the Holders and their respective successors and assigns hereunder.

17. Termination. This Agreement shall terminate at the close of business on _____, 2004. Notwithstanding the foregoing, the indemnification provisions of Section 7 shall survive such termination until the close of business on _____, 2010.

18. Governing Law; Legal Costs and Expenses. This Agreement and each Warrant Certificate issued hereunder shall be deemed to be a contract made under the laws of the State of New York and for all purposes shall be construed in accordance with the laws of said State without giving effect to the rules of said State governing the conflicts of laws.

The Company, the Representative and the Holders agree that the prevailing party(ies) in any action, proceeding or claim arising out of, or relating in any way to this Agreement shall be entitled to recover from the other party(ies) all of its/their reasonable legal costs and expenses relating to such action or proceeding and/or incurred in connection with the preparation therefor.

19. Entire Agreement; Modification. This Agreement (including the Underwriting Agreement and the Redeemable Warrant Agreement to the extent portions thereof are referred to herein) contains the entire understanding between the parties hereto with respect to the subject matter hereof and may not be modified or amended except by a writing duly signed by the party against whom enforcement of the modification or amendment is sought.

20. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Agreement.

21. Captions. The caption headings of the Sections of this Agreement are for convenience of reference only and are not intended, nor should they be construed as, a part of this Agreement and shall be given no substantive effect.

22. Benefits of this Agreement. Nothing in this Agreement shall be construed to give to any person or corporation other than the Company and the Representative and any other registered Holder(s) of the Warrant Certificates or Warrant Securities any legal or equitable right, remedy or claim under this Agreement; and this Agreement shall be for the sole benefit of the Company and the Representative and any other registered Holders of Warrant Certificates or Warrant Securities.

23. Counterparts. This Agreement may be executed in any number of

counterparts and each of such counterparts shall for all purposes be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

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

DEPOMED, INC.

By:_____
Name:
Title:

Attest:

_____
Secretary

NATIONAL SECURITIES CORPORATION

By:_____
Name:
Title:

EXHIBIT A

[FORM OF WARRANT CERTIFICATE]

THE WARRANTS REPRESENTED BY THIS CERTIFICATE AND THE OTHER SECURITIES ISSUABLE UPON EXERCISE THEREOF MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO (i) AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, (ii) TO THE EXTENT APPLICABLE, RULE 144 UNDER SUCH ACT (OR ANY SIMILAR RULE UNDER SUCH ACT RELATING TO THE DISPOSITION OF SECURITIES), OR (iii) AN OPINION OF COUNSEL, IF SUCH OPINION SHALL BE REASONABLY SATISFACTORY TO COUNSEL FOR THE ISSUER, THAT AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT IS AVAILABLE.

THE TRANSFER OR EXCHANGE OF THE WARRANTS REPRESENTED BY THIS CERTIFICATE IS RESTRICTED IN ACCORDANCE WITH THE WARRANT AGREEMENT REFERRED TO HEREIN.

EXERCISABLE ON OR BEFORE
5:30 P.M., NEW YORK TIME, _____, 2002

No. W-

Warrants to Purchase
____ Shares of Common Stock and/or
____ Redeemable Warrants

WARRANT CERTIFICATE

This Warrant Certificate certifies that _____, or registered assigns, is the registered holder of _____ Warrants to purchase initially, at any time from _____, 1998 [one year from the effective date of the Registration Statement] until 5:30 p.m. New York time on _____, 2002 [five years from the effective date of the Registration Statement]

("Expiration Date"), up to _____ fully-paid and non-assessable shares of common stock, no par value ("Common Stock"), of DEPOMED, INC., a California corporation (the "Company"), and/or _____ Redeemable Warrants of the Company (one Redeemable Warrant entitling the owner to purchase one fully-paid and non-assessable share of Common Stock) at the initial exercise price, subject to adjustment in certain events (the "Exercise Price"), of $_____ [165% of the initial public offering price] per share of Common Stock and $____ [165% of the initial public offering price] per Redeemable Warrant upon surrender of this Warrant Certificate and payment of the Exercise Price at an office or agency of the Company, but subject to the conditions set forth herein and in the warrant agreement dated as of _____, 1997 between the Company and NATIONAL

SECURITIES CORPORATION (the "Warrant Agreement"). Payment of the Exercise Price shall be made by certified or official bank check in New York Clearing House funds payable to the order of the Company or by surrender of this Warrant Certificate.

No Warrant may be exercised after 5:30 p.m., New York time, on the Expiration Date, at which time all Warrants evidenced hereby, unless exercised prior thereto, hereby shall thereafter be void.

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants issued pursuant to the Warrant Agreement, which Warrant Agreement is hereby incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Company and the holders (the words "holders" or "holder" meaning the registered holders or registered holder) of the Warrants.

The Warrant Agreement provides that upon the occurrence of certain events the Exercise Price and the type and/or number of the Company's securities issuable thereupon may, subject to certain conditions, be adjusted. In such event, the Company will, at the request of the holder, issue a new Warrant Certificate evidencing the adjustment in the Exercise Price and the number and/or type of securities issuable upon the exercise of the Warrants; provided, however, that the failure of the Company to issue such new Warrant Certificates shall not in any way change, alter, or otherwise impair, the rights of the holder as set forth in the Warrant Agreement.

Upon due presentment for registration of transfer of this Warrant Certificate at an office or agency of the Company, a new Warrant Certificate or Warrant Certificates of like tenor and evidencing in the aggregate a like number of Warrants shall be issued to the transferee(s) in exchange for this Warrant Certificate, subject to the limitations provided herein and in the Warrant Agreement, without any charge except for any tax or other governmental charge imposed in connection with such transfer.

Upon the exercise of less than all of the Warrants evidenced by this Certificate, the Company shall forthwith issue to the holder hereof a new Warrant Certificate representing such number of unexercised Warrants.

The Company may deem and treat the registered holder(s) hereof as the absolute owner(s) of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone), for the purpose of any exercise hereof, and of any distribution to the holder(s) hereof, and for all other purposes, and the Company shall not be affected by any notice to the contrary.

All terms used in this Warrant Certificate which are defined in the Warrant Agreement shall have the meanings assigned to them in the Warrant Agreement.

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

Dated as of _____, 1997

DEPOMED, INC.

By:_____
Name:
Title:

[FORM OF ELECTION TO PURCHASE PURSUANT TO SECTION 3.1]

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to purchase:

[_] _____ shares of Common Stock;

[_] _____ Redeemable Warrants;

[_] _____ shares of Common Stock together with an equal number of Redeemable Warrants; or

[_] _____ shares of Common Stock together with _____ Redeemable Warrants.

and herewith tenders in payment for such securities a certified or official bank check payable in New York Clearing House Funds to the order of Depomed, Inc. in the amount of $_____, all in accordance with the terms of Section 3.1 of the Representative's Warrant Agreement dated as of _____, 1997 between Depomed, Inc. and National Securities Corporation. The undersigned requests that a certificate for such securities be registered in the name of _____ whose address is _____ and that such Certificate be delivered to _____ whose address is _____ _____.

Dated:

Signature_____
(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

_____
(Insert Social Security or Other Identifying Number of Holder)

[FORM OF ELECTION TO PURCHASE PURSUANT TO SECTION 3.2]

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to purchase:

[_] _____ shares of Common Stock;

[_] _____ Redeemable Warrants;

[_] _____ shares of Common Stock together with an equal number of Redeemable Warrants; or

[_] _____ shares of Common Stock together with
_____ Redeemable Warrants.

and herewith tenders in payment for such securities _____ Warrants all in accordance with the terms of Section 3.2 of the Representative's Warrant Agreement dated as of _____, 1997 between Depomed, Inc. and National Securities Corporation. The undersigned requests that a certificate for such securities be registered in the name of _____ _____ whose address is _____ and that such Certificate be delivered to _____ whose address is _____.

Dated:

Signature_____
(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

_____
(Insert Social Security or Other Identifying Number of Holder)

[FORM OF ASSIGNMENT]

(To be executed by the registered holder if such holder desires to transfer the Warrant Certificate.)

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers unto_____
(Please print name and address of transferee)

this Warrant Certificate, together with all right, title and interest therein, and does hereby irrevocably constitute and appoint _____ Attorney, to transfer the within Warrant Certificate on the books of the within-named Company, with full power of substitution.

Dated:_____

Signature:_____
(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

_____
(Insert Social Security or Other Identifying Number of Assignee)

EXHIBIT 4.4
OH&S DRAFT
6/10/97

[Form of Warrant Agreement Subject to Additional Review]

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DEPOMED, INC.

AND

CONTINENTAL STOCK TRANSFER AND TRUST COMPANY

AND

NATIONAL SECURITIES CORPORATION

WARRANT AGREEMENT

DATED AS OF _____ __, 1997

==========

AGREEMENT, dated this ____ day of _____, 1997, by and among DEPOMED, INC., a California corporation (the "Company"), CONTINENTAL STOCK TRANSFER AND TRUST COMPANY, as Warrant Agent (the "Warrant Agent") and NATIONAL SECURITIES CORPORATION ("National" or the "Representative").

W I T N E S S E T H:

WHEREAS, in connection with (i) the offering to the public of up to 2,500,000 shares of Common Stock (as defined in Section 1) and 1,250,000 redeemable common stock purchase warrants (the "Warrants"), each warrant entitling the holder thereof to purchase one additional share of Common Stock, (ii) the over-allotment option to purchase up to an additional 375,000 shares of Common Stock and/or 187,500 Warrants (the "Over-allotment Option"), and (iii) the sale to National of warrants (the "Representative's Warrants") to purchase up to 250,000 shares of Common Stock and/or 125,000 Warrants, the Company will issue up to 1,562,500 Warrants (subject to increase as provided in the Representative's Warrant Agreement); and

WHEREAS, the Company desires to provide for the issuance of certificates representing the Warrants; and

WHEREAS, the Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing to so act, in connection with the issuance, registration, transfer, exchange and redemption of the Warrants, the issuance of certificates representing the Warrants, the exercise of the Warrants and the rights of the holders thereof.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter set forth and for the purpose of defining the terms and provisions

of the Warrants and the certificates representing the Warrants and the respective rights and obligations thereunder of the

Company, National, the holders of certificates representing the Warrants and the Warrant Agent, the parties hereto agree as follows:

SECTION 1. Definitions. As used herein, the following terms shall have the following meanings, unless the context shall otherwise require:

(a) "Act" shall mean the Securities Act of 1933, as amended.

(b) "Common Stock" shall mean the authorized stock of the Company of any class, whether now or hereafter authorized, which has the right to participate in the voting and in the distribution of earnings and assets of the Company without limit as to amount or percentage.

(c) "Commission" shall mean the Securities and Exchange Commission.

(d) "Corporate Office shall mean the office of the Warrant Agent (or its successor) at which at any particular time its business in New York, New York, shall be administered, which office is located on the date hereof at 2 Broadway.

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

(f) "Exercise Date" shall mean, subject to the provisions of Section 5(b) hereof, as to any Warrant, the date on which the Warrant Agent shall have received both (i) the Warrant Certificate representing such Warrant, with the exercise form thereon duly executed by the Registered Holder thereof or his attorney duly authorized in writing, and (ii) payment in cash or by official bank or certified check made payable to the Warrant Agent for the account of the Company, of the amount in lawful money of the United States of America equal to the applicable Purchase Price (as hereinafter defined) in good funds.

(g) "Initial Public Offering Price" shall mean $_____ [initial public offering price of the Common Stock].

(h) "Initial Warrant Exercise Date" shall mean _____ __, 1998 [12 months from the effective date of the Registration Statement].

(i) "Initial Warrant Redemption Date" shall mean _____ __, 1998 [18 months from the effective date of the Registration Statement].

(j) "NASD" shall mean the National Association of Securities Dealers, Inc.

(k) "Nasdaq" shall mean the Nasdaq Stock Market.

(l) "Purchase Price" shall mean, subject to modification and adjustment as provided in Section 8, $_____ [140% of the initial public offering price of the Common Stock] and further subject to the Company's right, in its sole discretion, to decrease the Purchase Price for a period of not less than 30 days on not less than 30 days' prior written notice to the Registered Holders and National.

(m) "Redemption Date" shall mean the date (which may not occur before the Initial Warrant Redemption Date) fixed for the redemption of the Warrants in accordance with the terms hereof.

(n) "Redemption Price" shall mean the price at which the

Company may, at its option, redeem the Warrants, in accordance with the terms hereof, which price shall be $0.10 per Warrant, subject to adjustment from time to time pursuant to the provisions of Section 9 hereof.

(o) "Registered Holder" shall mean the person in whose name any certificate representing the Warrants shall be registered on the books maintained by the Warrant Agent pursuant to Section 6.

(p) "Transfer Agent" shall mean Continental Stock Transfer and Trust Company, or its authorized successor.

(q) "Underwriting Agreement" shall mean the underwriting agreement dated _____ __, 1997 [the date of the Prospectus] between the Company and the several underwriters listed therein relating to the purchase for resale to the public of the 2,500,000 shares of Common Stock and 1,250,000 Warrants.

(r) "Representative's Warrant Agreement" shall mean the agreement dated as of _____ __, 1997 [the date of the Prospectus] between the Company and National relating to and governing the terms and provisions of the Representative's Warrants.

(s) "Warrant Certificate" shall mean a certificate representing each of the Warrants substantially in the form annexed hereto as Exhibit A.

(t) "Warrant Expiration Date" shall mean, unless the Warrants are redeemed as provided in Section 9 hereof prior to such date, 5:30 p.m. (New York time), on _____ __, 2002 [60 months after the date of the Prospectus], or the Redemption Date as defined herein, whichever date is earlier; provided that if such date shall in the State of New York be a
---
holiday or a day on which banks are authorized to close, then 5:30 p.m. (New York time) on the next following day which, in the State of New York, is not a holiday or a day on which banks are authorized to close. Upon five business days' prior written notice to the Registered Holders, the Company shall have the right to extend the Warrant Expiration Date.

SECTION 2. Warrants and Issuance of Warrant Certificates.

(a) Each Warrant shall initially entitle the Registered Holder of the Warrant Certificate representing such Warrant to purchase at the Purchase Price therefor from the Initial Warrant Exercise Date until the Warrant Expiration Date one share of Common Stock upon the

exercise thereof in accordance with the terms hereof, subject to modification and adjustment as provided in Section 8.

(b) Upon execution of this Agreement, Warrant Certificates representing the number of Warrants sold pursuant to the Underwriting Agreement (subject to modification and adjustment as provided in Section 8) shall be executed by the Company and delivered to the Warrant Agent.

(c) Upon exercise of the Representative's Warrants as provided therein, Warrant Certificates representing all or a portion of 125,000 Warrants to purchase up to an aggregate of 125,000 shares of Common Stock (subject to modification and adjustment as provided in Section 8 hereof and in the Representative's Warrant Agreement), shall be countersigned, issued and delivered by the Warrant Agent upon written order of the Company signed by its Chairman of the Board, Chief Executive Officer, President or a Vice President and by its Treasurer or an Assistant Treasurer or its Secretary or an Assistant

Secretary.

(d) From time to time, up to the Warrant Expiration Date or the Redemption Date, whichever date is earlier, the Warrant Agent shall countersign and deliver Warrant Certificates in required denominations of one or whole number multiples thereof to the person entitled thereto in connection with any transfer or exchange permitted under this Agreement. Except as provided herein, no Warrant Certificates shall be issued except (i) Warrant Certificates initially issued hereunder and those issued on or after the Initial Warrant Exercise Date, upon the exercise of fewer than all Warrants held by the exercising Registered Holder, (ii) Warrant Certificates issued upon any transfer or exchange of Warrants, (iii) Warrant Certificates issued in replacement of lost, stolen, destroyed or mutilated Warrant Certificates pursuant to Section 7, (iv) Warrant Certificates issued pursuant to the Representative's Warrant Agreement, and (v) at the option of the Company, Warrant

Certificates in such form as may be approved by its Board of Directors, to reflect any adjustment or change in the Purchase Price, the number of shares of Common Stock purchasable upon exercise of the Warrants or the Redemption Price therefor made pursuant to Section 8 hereof.

SECTION 3. Form and Execution of Warrant Certificates.

(a) The Warrant Certificates shall be substantially in the form annexed hereto as Exhibit A (the provisions of which are hereby incorporated herein) and may have such letters, numbers or other marks of identification or designation and such legends, summaries or endorsements printed, lithographed or engraved thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any stock exchange on which the Warrants may be listed, or to conform to usage. The Warrant Certificates shall be dated the date of issuance thereof (whether upon initial issuance, transfer, exchange or in lieu of mutilated, lost, stolen or destroyed Warrant Certificates) and issued in registered form. Warrants shall be numbered serially with the letter W on the Warrants.

(b) Warrant Certificates shall be executed on behalf of the Company by its Chairman of the Board, Chief Executive Officer, President or any Vice President and by its Treasurer or an Assistant Treasurer or its Secretary or an Assistant Secretary, by manual signatures or by facsimile signatures printed thereon, and shall have imprinted thereon a facsimile of the Company's seal. Warrant Certificates shall be manually countersigned by the Warrant Agent and shall not be valid for any purpose unless so countersigned. In case any officer of the Company who shall have signed any of the Warrant Certificates shall cease to be such officer of the Company before the date of issuance of the Warrant Certificates or before countersignature by the Warrant Agent and issue and delivery thereof, such Warrant Certificates, nevertheless, may be countersigned by the Warrant

Agent, issued and delivered with the same force and effect as though the person who signed such Warrant Certificates had not ceased to be such officer of the Company. After countersignature by the Warrant Agent, Warrant Certificates shall be delivered by the Warrant Agent to the Registered Holder promptly and without further action by the Company, except as otherwise provided by Section 4(a) hereof.

SECTION 4. Exercise.

(a) Warrants in denominations of one or whole number

multiples thereof may be exercised by the Registered Holder thereof commencing at any time on or after the Initial Warrant Exercise Date, but not after the Warrant Expiration Date, upon the terms and subject to the conditions set forth herein and in the applicable Warrant Certificate. A Warrant shall be deemed to have been exercised immediately prior to the close of business on the Exercise Date and the person entitled to receive the securities deliverable upon such exercise shall be treated for all purposes as the holder, upon exercise thereof, as of the close of business on the Exercise Date. If Warrants in denominations other than whole number multiples thereof shall be exercised at one time by the same Registered Holder, the number of full shares of Common Stock which shall be issuable upon exercise thereof shall be computed on the basis of the aggregate number of full shares of Common Stock issuable upon such exercise. As soon as practicable on or after the Exercise Date and in any event within five business days after such date, if one or more Warrants have been exercised, the Warrant Agent on behalf of the Company shall cause to be issued to the person or persons entitled to receive the same a Common Stock certificate or certificates for the shares of Common Stock deliverable upon such exercise, and the Warrant Agent shall deliver the same to the person or persons entitled thereto. Upon the exercise of any one or more Warrants, the Warrant Agent shall promptly notify the Company in writing of such fact and of the number of securities delivered upon

such exercise and, subject to subsection (b) below, shall cause all payments of an amount in cash or by check made payable to the order of the Company, equal to the Purchase Price, to be deposited promptly in the Company's bank account.

(b) At any time upon the exercise of any Warrants after one year and one day from the date hereof, the Warrant Agent shall, on a daily basis, within two business days after such exercise, notify National of the exercise of any such Warrants and shall, on a weekly basis (subject to collection of funds constituting the tendered Purchase Price, but in no event later than five business days after the last day of the calendar week in which such funds were tendered), remit to National an amount equal to five percent (5%) of the Purchase Price of such Warrants then being exercised unless National shall have notified the Warrant Agent that the payment of such amount with respect to such Warrant is violative of the General Rules and Regulations promulgated under the Exchange Act, or the rules and regulations of the NASD or applicable state securities or "blue sky" laws, or the Warrants are those underlying the Representative's Warrants in which event, the Warrant Agent shall remit the full Purchase Price to the Company; provided, that the Warrant Agent shall not be obligated to pay any amounts pursuant to this Section 4(b) during any week that such amounts payable are less than $1,000 and the Warrant Agent's obligation to make such payments shall be suspended until the amount payable aggregates $1,000, and provided further, that, in any event, any such payment (regardless of amount) shall be made not less frequently than monthly. Notwithstanding the foregoing, National shall be entitled to receive the commission contemplated by this Section 4(b) as Warrant solicitation agent only if: (i) National has provided actual services in connection with the solicitation of the exercise of a Warrant by a Registered Holder and (ii) the Registered Holder exercising a Warrant affirmatively designates in writing on the exercise form on

the reverse side of the Warrant Certificate that the exercise of such Registered Holder's Warrant was solicited by National.

(c) The Company shall not be required to issue fractional shares on the exercise of Warrants. Warrants may only be exercised in such multiples as are required to permit the issuance by the Company of one or more whole shares. If one or more Warrants shall be presented for exercise in full at the same time by the same Registered Holder, the number of whole shares which shall be issuable upon such exercise thereof shall be computed on the basis of the aggregate number of shares purchasable on exercise of the Warrants so presented. If any fraction of a share would, except for the provisions provided herein, be

issuable on the exercise of any Warrant (or specified portion thereof), the Company shall pay an amount in cash equal to such fraction multiplied by the then current market value of a share of Common Stock, determined as follows:

(1) If the Common Stock is listed, or admitted to unlisted trading privileges on a national securities exchange, or is traded on Nasdaq, the current market value of a share of Common Stock shall be the closing sale price of the Common Stock at the end of the regular trading session on the last business day prior to the date of exercise of the Warrants on whichever of such exchanges or Nasdaq had the highest average daily trading volume for the Common Stock on such day; or

(2) If the Common Stock is not listed or admitted to unlisted trading privileges on any national securities exchange, or listed, quoted or reported for trading on Nasdaq, but is traded in the over-the-counter market, the current market value of a share of Common Stock shall be the average of the last reported bid and asked prices of the Common Stock reported by the National Quotation Bureau, Inc. on the last business day prior to the date of exercise of the Warrants; or

(3) If the Common Stock is not listed, admitted to unlisted trading privileges on any national securities exchange, or listed, quoted or reported for trading on Nasdaq, and bid and asked prices of the Common Stock are not reported by the National Quotation Bureau, Inc., the current market value of a share of Common Stock shall be an amount, not less than the book value thereof as of the end of the most recently completed fiscal quarter of the Company ending prior to the date of exercise, determined by the members of the Board of Directors of the Company exercising good faith and using customary valuation methods.

SECTION 5. Reservation of Shares; Listing; Payment of Taxes; etc.

(a) The Company covenants that it will at all times reserve and keep available out of its authorized Common Stock, solely for the purpose of issue upon exercise of Warrants, such number of shares of Common Stock as shall then be issuable upon the exercise of all outstanding Warrants. The Company covenants that all shares of Common Stock which shall be issuable upon exercise of the Warrants shall, at the time of delivery thereof, be duly and validly issued and fully paid and nonassessable and free from all preemptive or similar rights, taxes, liens and charges with respect to the issue thereof, and that upon issuance such shares shall be listed on each securities exchange, if any, on which the other shares of outstanding Common Stock of the Company are then listed.

(b) The Company covenants that if any securities to be reserved for the purpose of exercise of Warrants hereunder require registration with, or approval of, any governmental authority under any federal securities law before such securities may be validly issued or delivered upon such exercise, then the Company will file a registration statement under the federal securities laws or a post-effective amendment, use its best efforts to cause the same to become effective and to keep such registration statement current while any of the Warrants are outstanding

and deliver a prospectus which complies with Section 10(a)(3) of the Act, to the Registered Holder exercising the Warrant (except, if in the opinion of counsel to the Company, such registration is not required under the federal securities law or if the Company receives a letter from the staff of the Commission stating that it would not take any enforcement action if such registration is not effected). The Company will use its best efforts to obtain appropriate approvals or registrations under state "blue sky" securities laws with respect to any such securities. However, Warrants may not be exercised by, or shares of

Common Stock issued to, any Registered Holder in any state in which such exercise would be unlawful.

(c) The Company shall pay all documentary, stamp or similar taxes and other governmental charges that may be imposed with respect to the issuance of Warrants, or the issuance or delivery of any shares of Common Stock upon exercise of the Warrants; provided, however, that if shares of Common Stock are to be delivered in a name other than the name of the Registered Holder of the Warrant Certificate representing any Warrant being exercised, then no such delivery shall be made unless the person requesting the same has paid to the Warrant Agent the amount of transfer taxes or charges incident thereto, if any.

(d) The Warrant Agent is hereby irrevocably authorized as the Transfer Agent to requisition from time to time certificates representing shares of Common Stock or other securities required upon exercise of the Warrants, and the Company will comply with all such requisitions.

SECTION 6. Exchange and Registration of Transfer.

(a) Warrant Certificates may be exchanged for other Warrant Certificates representing an equal aggregate number of Warrants of the same class or may be transferred in whole or in part. Warrant Certificates to be exchanged shall be surrendered to the Warrant Agent at its Corporate Office, and, upon satisfaction of the terms and provisions hereof, the Company shall

execute and the Warrant Agent shall countersign, issue and deliver in exchange therefor the Warrant Certificate or Certificates which the Registered Holder making the exchange shall be entitled to receive.

(b) The Warrant Agent shall keep, at its office, books in which, subject to such reasonable regulations as it may prescribe, it shall register Warrant Certificates and the transfer thereof in accordance with customary practice. Upon due presentment for registration of transfer of any Warrant Certificate at such office, the Company shall execute and the Warrant Agent shall issue and deliver to the transferee or transferees a new Warrant Certificate or Certificates representing an equal aggregate number of Warrants of the same class.

(c) With respect to all Warrant Certificates presented for registration of transfer, or for exchange or exercise, the subscription or exercise form, as the case may be, on the reverse thereof shall be duly endorsed or be accompanied by a written instrument or instruments of transfer and subscription, in form satisfactory to the Company and the Warrant Agent, duly executed by the Registered Holder thereof or his attorney-in-fact duly authorized in writing.

(d) A service charge may be imposed by the Warrant Agent for any exchange or registration of transfer of Warrant Certificates. In addition, the Company may require payment by such Holder of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith.

(e) All Warrant Certificates surrendered for exercise or for exchange in case of mutilated Warrant Certificates shall be promptly canceled by the Warrant Agent and thereafter retained by the Warrant Agent until termination of this Agreement.

(f) Prior to due presentment for registration of transfer thereof, the Company and the Warrant Agent may deem and treat the Registered Holder of any Warrant Certificate as the

absolute owner thereof and of each Warrant represented thereby (notwithstanding any notations of ownership or writing thereon made by anyone other than a duly authorized officer of the Company or the Warrant Agent) for all purposes and shall not be affected by any notice to the contrary.

SECTION 7. Loss or Mutilation. Upon receipt by the Company and the Warrant Agent of evidence satisfactory to them of the ownership of and the loss, theft, destruction or mutilation of any Warrant Certificate and (in the case of loss, theft or destruction) of indemnity satisfactory to them, and (in case of mutilation) upon surrender and cancellation thereof, the Company shall execute and the Warrant Agent shall (in the absence of notice to the Company and/or the Warrant Agent that a new Warrant Certificate has been acquired by a bona fide purchaser) countersign and deliver to the Registered Holder in lieu thereof a new Warrant Certificate of like tenor representing an equal aggregate number of Warrants. Applicants for a substitute Warrant Certificate shall also comply with such other reasonable regulations and pay such other reasonable charges as the Warrant Agent may prescribe.

SECTION 8. Adjustment of Purchase Price and Number of Shares of Common Stock Deliverable.

(a) Except as hereinafter provided, in the event the Company shall, at any time or from time to time after the date hereof and until _____, 1999 [two years after the effective date of the Registration Statement], issue or sell any shares of Common Stock for a consideration per share less than the Initial Public Offering Price of the Common Stock or issue any shares of Common Stock as a stock dividend to the holders of Common Stock, or subdivide or combine the outstanding shares of Common Stock into a greater or lesser number of shares (any such issuance, subdivision or combination being herein called a "Change of Shares"), then, and thereafter upon each further Change of Shares, the Purchase Price for the Warrants (whether or not the same shall be

issued and outstanding) in effect immediately prior to such Change of Shares shall be changed to a price (including any applicable fraction of a cent to the nearest cent) determined by dividing (i) the sum of (a) the total number of shares of Common Stock outstanding immediately prior to such Change of Shares, multiplied by the Purchase Price in effect immediately prior to such Change of Shares and (b) the consideration, if any, received by the Company upon such sale, issuance, subdivision or combination, by (ii) the total number of shares of Common Stock outstanding immediately after such Change of Shares; provided, however, that in no event shall the Purchase Price be adjusted pursuant to this computation to an amount in excess of the Purchase Price in effect immediately prior to such computation, except in the case of a combination of outstanding shares of Common Stock.

For the purposes of any adjustment to be made in accordance with this Section 8(a), the following provisions shall be applicable:

(A) In case of the issuance or sale of shares of Common Stock (or of other securities deemed hereunder to involve the issuance or sale of shares of Common Stock) for a consideration part or all of which shall be cash, the amount of the cash portion of the consideration therefor deemed to have been received by the Company shall be (i) the subscription price, if shares of Common Stock are offered by the Company for subscription, or (ii) the public offering price (before deducting therefrom any compensation paid or discount allowed in the sale, underwriting or purchase thereof by underwriters or dealers or others performing similar services, or any expenses incurred in connection therewith), if such securities are sold to underwriters or dealers for public offering without a subscription offering, or (iii) the gross amount of cash actually

received by the Company for such securities, in any other case.

(B) In case of the issuance or sale (otherwise than as a dividend or other distribution on any stock of the Company, and otherwise than on the exercise of options, rights or warrants or the conversion or exchange of convertible or exchangeable securities) of shares of Common Stock (or of other securities deemed hereunder to involve the issuance or sale of shares of Common Stock) for a consideration part or all of which shall be other than cash, the amount of the consideration therefor other than cash deemed to have been received by the Company shall be the value of such consideration as determined in good faith by the Board of Directors of the Company, using customary valuation methods and on the basis of prevailing market values for similar property or services.

(C) Shares of Common Stock issuable by way of dividend or other distribution on any stock of the Company shall be deemed to have been issued immediately after the opening of business on the day following the record date for the determination of shareholders entitled to receive such dividend or other distribution and shall be deemed to have been issued without consideration.

(D) The reclassification of securities of the Company other than shares of Common Stock into securities including shares of Common Stock shall be deemed to involve the issuance of such shares of Common Stock for a consideration other than cash immediately prior to the close of business on the date fixed for the determination of security holders entitled to receive such shares, and the value of the consideration allocable to such shares of Common Stock shall be determined as provided in subsection (B) of this Section 8(a).

(E) The number of shares of Common Stock at any one time outstanding shall be deemed to include the aggregate maximum number of shares issuable (subject to readjustment upon the actual issuance thereof) upon the exercise of options, rights or warrants and upon the conversion or exchange of convertible or exchangeable securities.

(b) Upon each adjustment of the Purchase Price pursuant to this Section 8, the number of shares of Common Stock purchasable upon the exercise of each Warrant shall be the number derived by multiplying the number of shares of Common Stock purchasable immediately prior to such adjustment by the Purchase Price in effect prior to such adjustment and dividing the product so obtained by the applicable adjusted Purchase Price.

(c) In case the Company shall at any time after the date hereof until _____, 1999 [two years after the effective date of the Registration Statement] issue options, rights or warrants to subscribe for shares of Common Stock, or issue any securities convertible into or exchangeable for shares of Common Stock, for a consideration per share (determined as provided in Sections 8(a) and 8(b) and as provided below) less than the Initial Public Offering Price of the Common Stock, or without consideration (including the issuance of any such securities by way of dividend or other distribution), the Purchase Price for the Warrants (whether or not the same shall be issued and outstanding) in effect immediately prior to the issuance of such options, rights or warrants, or such convertible or exchangeable securities, as the case may be, shall be reduced to a price determined by making the computation in accordance with the provisions of Sections 8(a) and 8(b) hereof, provided that:

(A) The aggregate maximum number of shares of Common Stock, as the case may be, issuable or that may become issuable under such options, rights or warrants (assuming exercise in full even if not then currently exercisable or currently exercisable in full) shall be deemed to be issued and outstanding at the time such options, rights or warrants were issued, for a consideration equal to the minimum purchase price per share provided for in such options, rights or

warrants at the time of issuance, plus the consideration, if any, received by the Company for such options, rights or warrants; provided, however, that upon the expiration or other termination of such

options, rights or warrants, if any thereof shall not have been exercised, the number of shares of Common Stock deemed to be issued and outstanding pursuant to this subsection (A) (and for the purposes of subsection (E) of Section 8(a) hereof) shall be reduced by the number of shares as to which options, warrants and/or rights shall have expired, and such number of shares shall no longer be deemed to be issued and outstanding, and the Purchase Price then in effect shall forthwith be readjusted and thereafter be the price that it would have been had adjustment been made on the basis of the issuance only of the shares actually issued plus the shares remaining issuable upon the exercise of those options, rights or warrants as to which the exercise rights shall not have expired or terminated unexercised.

(B) The aggregate maximum number of shares of Common Stock issuable or that may become issuable upon conversion or exchange of any convertible or exchangeable securities (assuming conversion or exchange in full even if not then currently convertible or exchangeable in full) shall be deemed to be issued and outstanding at the time of issuance of such securities, for a consideration equal to the consideration received by the Company for such securities, plus the minimum consideration, if any, receivable by the Company upon the conversion or exchange thereof; provided, however, that upon the termination of the right to convert or exchange such convertible or exchangeable securities (whether by reason of redemption or otherwise), the number of shares of Common Stock deemed to be issued and outstanding pursuant to this subsection (B) (and for the purposes of subsection (E) of Section 8(a) hereof) shall be reduced by the number of shares as to which the conversion or exchange rights shall have expired or terminated unexercised, and such number of shares shall no longer be deemed to be issued and outstanding, and the Purchase Price then in effect shall forthwith be readjusted and thereafter be the price that it would have been had adjustment been made on the basis of the issuance only of the shares actually issued plus the shares

remaining issuable upon conversion or exchange of those convertible or exchangeable securities as to which the conversion or exchange rights shall not have expired or terminated unexercised.

(C) If any change shall occur in the price per share provided for in any of the options, rights or warrants referred to in subsection (A) of this Section 8(c), or in the price per share or ratio at which the securities referred to in subsection (B) of this Section 8(c) are convertible or exchangeable, such options, rights or warrants or conversion or exchange rights, as the case may be, to the extent not theretofore exercised, shall be deemed to have expired or terminated on the date when such price change became effective in respect of shares not theretofore issued pursuant to the exercise or conversion or exchange thereof, and the Company shall be deemed to have issued upon such date new options, rights or warrants or convertible or exchangeable securities.

(d) In case of any reclassification or change of outstanding shares of Common Stock issuable upon exercise of the Warrants (other than a change in par value, or from par value to no par value, or from no par value to par value or as a result of a subdivision or combination), or in case of any consolidation or merger of the Company with or into another corporation (other than (1) a merger with a subsidiary of the Company in which merger the Company is the continuing corporation or (2) any consolidation or merger of the Company with or into another corporation which, in either instance, does not result in any reclassification or change of the then outstanding shares of Common Stock or

other capital stock issuable upon exercise of the Warrants (other than a change in par value, or from par value to no par value, or from no par value to par value or as a result of subdivision or combination)) or in case of any sale or conveyance to another corporation of the property of the Company as an entirety or substantially as an entirety, then, as a condition of such reclassification, change, consolidation, merger, sale or conveyance, the Company, or such successor or purchasing corporation, as the case may be, shall make lawful and adequate provision

whereby the Registered Holder of each Warrant then outstanding shall have the right thereafter to receive on exercise of such Warrant the kind and amount of securities and property receivable upon such reclassification, change, consolidation, merger, sale or conveyance by a holder of the number of securities issuable upon exercise of such Warrant immediately prior to such reclassification, change, consolidation, merger, sale or conveyance and shall forthwith file at the Corporate Office of the Warrant Agent a statement signed by its Chief Executive Officer, President or a Vice President and by its Treasurer or an Assistant Treasurer or its Secretary or an Assistant Secretary evidencing such provision. Such provisions shall include provision for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in Sections 8(a), (b) and (c). The above provisions of this Section 8(d) shall similarly apply to successive reclassifications and changes of shares of Common Stock and to successive consolidations, mergers, sales or conveyances.

(e) Irrespective of any adjustments or changes in the Purchase Price or the number of shares of Common Stock purchasable upon exercise of the Warrants, the Warrant Certificates theretofore and thereafter issued shall, unless the Company shall exercise its option to issue new Warrant Certificates pursuant to Section 2(e) hereof, continue to express the Purchase Price per share and the number of shares purchasable thereunder as the Purchase Price per share and the number of shares purchasable thereunder were expressed in the Warrant Certificates when the same were originally issued.

(f) After each adjustment of the Purchase Price pursuant to this Section 8, the Company will promptly prepare a certificate signed by the Chairman, Chief Executive Officer or President, and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary, of the Company setting forth: (i) the Purchase Price as so adjusted, (ii) the number of shares of Common Stock purchasable upon exercise of each Warrant, after such adjustment, and (iii) a brief

statement of the facts accounting for such adjustment. The Company will promptly file such certificate with the Warrant Agent and cause a brief summary thereof to be sent by ordinary first class mail to each Registered Holder at his last address as it shall appear on the registry books of the Warrant Agent. No failure to mail such notice nor any defect therein or in the mailing thereof shall affect the validity thereof except as to the holder to whom the Company failed to mail such notice, or except as to the holder whose notice was defective. The affidavit of an officer of the Warrant Agent or the Secretary or an Assistant Secretary of the Company that such notice has been mailed shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(g) No adjustment of the Purchase Price shall be made as a result of or in connection with (A) the issuance or sale of shares of Common Stock pursuant to options, warrants, stock purchase agreements and convertible or exchangeable securities outstanding or in effect on the date hereof and on the terms described in the final prospectus relating to the public offering contemplated by the Underwriting Agreement; (B) stock options to be granted under the Company's 1995 Stock Option Plan to employees; (C) shares of Common Stock, options or warrants issued to outside parties in connection with strategic alliances, joint ventures or other corporate partnerships with the

Company, or (D) the issuance or sale of shares of Common Stock if the amount of said adjustment shall be less than $.10, provided, however, that in such case, any adjustment that would otherwise be required then to be made shall be carried forward and shall be made at the time of and together with the next subsequent adjustment that shall amount, together with any adjustment so carried forward, to at least $.10. In addition, Registered Holders shall not be entitled to cash dividends paid by the Company prior to the exercise of any Warrant or Warrants held by them.

SECTION 9. Redemption.

(a) Commencing on the Initial Warrant Redemption Date, the Company may, on 30 days' prior written notice, redeem all the Warrants at ten cents ($.10) per Warrant, provided, however, that before any such call for redemption of Warrants can take place, the average closing sale price for the Common Stock as reported by the American Stock Exchange, if the Common Stock is then traded on the American Stock Exchange, (or the closing bid price, if the Common Stock is then traded on Nasdaq) shall have equalled or exceeded $_____ [150% of the initial public offering price per share of Common Stock] per share for any twenty (20) trading days within a period of thirty (30) consecutive trading days ending on the fifth trading day prior to the date on which the notice contemplated by (b) and (c) below is given (subject to adjustment in the event of any stock splits or other similar events as provided in Section 8 hereof).

(b) In case the Company shall exercise its right to redeem all of the Warrants, it shall give or cause to be given notice to the Registered Holders of the Warrants, by mailing to such Registered Holders a notice of redemption, first class, postage prepaid, at their last address as shall appear on the records of the Warrant Agent. Any notice mailed in the manner provided herein shall be conclusively presumed to have been duly given whether or not the Registered Holder receives such notice. Not less than four (4) trading days prior to the mailing to the Registered Holders of the Warrants of the notice of redemption, the Company shall deliver or cause to be delivered to National a similar notice telephonically and confirmed in writing together with a list of the Registered Holders (including their respective addresses and number of Warrants beneficially owned) to whom such notice of redemption has been or will be given.

(c) The notice of redemption shall specify (i) the redemption price, (ii) the Redemption Date, which shall in no event be less than thirty (30) days after the date of mailing of

such notice, (iii) the place where the Warrant Certificate shall be delivered and the redemption price shall be paid, (iv) if National is engaged as a Warrant solicitation agent, that National shall receive the commission contemplated by Section 4(b) hereof, and (v) that the right to exercise the Warrant shall terminate at 5:30 p.m. (New York time) on the business day immediately preceding the date fixed for redemption. No failure to mail such notice nor any defect therein or in the mailing thereof shall affect the validity of the proceedings for such redemption except as to a holder (a) to whom notice was not mailed or (b) whose notice was defective. An affidavit of the Warrant Agent or the Secretary or Assistant Secretary of the Company that notice of redemption has been mailed shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(d) Any right to exercise a Warrant shall terminate at 5:30 p.m. (New York time) on the business day immediately preceding the Redemption Date. The redemption price payable to the Registered Holders shall be mailed to such

persons at their addresses of record.

(e) The Company shall indemnify National and each person, if any, who controls National within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act against all loss, claim, damage, expense or liability (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which any of them may become subject under the Act, the Exchange Act or otherwise, arising from the registration statement or prospectus referred to in Section 5(b) hereof to the same extent and with the same effect (including the provisions regarding contribution) as the provisions pursuant to which the Company has agreed to indemnify National contained in Section 7 of the Underwriting Agreement.

(f) Five business days prior to the Redemption Date, the Company shall furnish to National (i) an opinion of counsel to the Company, dated such date and addressed to National, and (ii) a "cold comfort" letter dated such date addressed to National, signed by the

independent public accountants who have issued a report on the Company's financial statements included in such registration statement, in each case covering substantially the same matters with respect to such registration statement (and the prospectus included therein) and, in the case of such accountants' letter, with respect to events subsequent to the date of such financial statements, as are customarily covered in opinions of issuer's counsel and in accountants' letters delivered to underwriters in underwritten public offerings of securities.

SECTION 10. Concerning the Warrant Agent.

(a) The Warrant Agent acts hereunder as agent and in a ministerial capacity for the Company and National, and its duties shall be determined solely by the provisions hereof. The Warrant Agent shall not, by issuing and delivering Warrant Certificates or by any other act hereunder, be deemed to make any representations as to the validity or value or authorization of the Warrant Certificates or the Warrants represented thereby or of any securities or other property delivered upon exercise of any Warrant or whether any stock issued upon exercise of any Warrant is fully paid and nonassessable.

(b) The Warrant Agent shall not at any time be under any duty or responsibility to any holder of Warrant Certificates to make or cause to be made any adjustment of the Purchase Price or the Redemption Price provided in this Agreement, or to determine whether any fact exists which may require any such adjustments, or with respect to the nature or extent of any such adjustments, when made, or with respect to the method employed in making the same. It shall not (i) be liable for any recital or statement of fact contained herein or for any action taken, suffered or omitted by it in reliance on any Warrant Certificate or other document or instrument believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties, (ii) be responsible for any failure on the part of the Company to comply with any of its covenants and

obligations contained in this Agreement or in any Warrant Certificate, or (iii) be liable for any act or omission in connection with this Agreement except for its own negligence, bad faith or willful misconduct.

(c) The Warrant Agent may at any time consult with counsel satisfactory to it (who may be counsel for the Company or for National) and shall incur no liability or responsibility for any action taken, suffered or omitted by it in good faith in accordance with the opinion or advice of such counsel.

(d) Any notice, statement, instruction, request, direction, order or demand of the Company shall be sufficiently evidenced by an instrument signed by the Chairman of the Board of Directors, Chief Executive Officer, President or any Vice President (unless other evidence in respect thereof is herein specifically prescribed). The Warrant Agent shall not be liable for any action taken, suffered or omitted by it in accordance with such notice, statement, instruction, request, direction, order or demand reasonably believed by it to be genuine.

(e) The Company agrees to pay the Warrant Agent reasonable compensation for its services hereunder and to reimburse it for its reasonable expenses hereunder; the Company further agrees to indemnify the Warrant Agent and save it harmless from and against any and all losses, expenses and liabilities, including judgments, costs and counsel fees, for anything done or omitted by the Warrant Agent in the execution of its duties and powers hereunder

except losses, expenses and liabilities arising as a result of the Warrant
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Agent's negligence, bad faith or willful misconduct.

(f) The Warrant Agent may resign its duties and be discharged from all further duties and liabilities hereunder (except liabilities arising as a result of the Warrant Agent's own gross negligence or willful misconduct), after giving 30 days' prior written notice to the

Company. At least 15 days prior to the date such resignation is to become effective, the Warrant Agent shall cause a copy of such notice of resignation to be mailed to the Registered Holder of each Warrant Certificate at the Company's expense. Upon such resignation, or any inability of the Warrant Agent to act as such hereunder, the Company shall appoint in writing a new warrant agent. If the Company shall fail to make such appointment within a period of 15 days after it has been notified in writing of such resignation by the resigning Warrant Agent, then the Registered Holder of any Warrant Certificate may apply to any court of competent jurisdiction for the appointment of a new warrant agent. Any new warrant agent, whether appointed by the Company or by such a court, shall be a bank or trust company having a capital and surplus, as shown by its last published report to its stockholders, of not less than $10,000,000 or a stock transfer company. After acceptance in writing of such appointment by the new warrant agent is received by the Company, such new warrant agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as the Warrant Agent, without any further assurance, conveyance, act or deed; but if for any reason it shall be necessary or expedient to execute and deliver any further assurance, conveyance, act or deed, the same shall be done at the expense of the Company and shall be legally and validly executed and delivered by the resigning Warrant Agent. Not later than the effective date of any such appointment the Company shall file notice thereof with the resigning Warrant Agent and shall forthwith cause a copy of such notice to be mailed to the Registered Holder of each Warrant Certificate.

(g) Any corporation into which the Warrant Agent or any new warrant agent may be converted or merged, any corporation resulting from any consolidation to which the Warrant Agent or any new warrant agent shall be a party, or any corporation succeeding to the corporate trust business of the Warrant Agent or any new warrant agent shall be a successor warrant agent under

this Agreement without any further act, provided that such corporation is eligible for appointment as successor to the Warrant Agent under the provisions of the preceding paragraph. Any such successor warrant agent shall promptly cause notice of its succession as warrant agent to be mailed to the Company and to the Registered Holders of each Warrant Certificate.

(h) The Warrant Agent, its subsidiaries and affiliates, and any of its or their officers or directors, may buy and hold or sell Warrants or other securities of the Company and otherwise deal with the Company in the same manner and to the same extent and with like effect as though it were not Warrant Agent. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

(i) The Warrant Agent shall retain for a period of two years from the date of exercise any Warrant Certificate received by it upon such exercise.

SECTION 11. Modification of Agreement.

The Warrant Agent and the Company may by supplemental agreement make any changes or corrections in this Agreement (i) that they shall deem appropriate to cure any ambiguity or to correct any defective or inconsistent provision or manifest mistake or error herein contained; or (ii) that they may deem necessary or desirable and which shall not adversely affect the interests of the holders of Warrant Certificates; provided, however, that no change in the number or nature of the securities purchasable upon the exercise of any Warrant, or to increase the Purchase Price therefor or to accelerate the Warrant Expiration Date, shall be made without the consent in writing of the Registered Holders representing not less than 66//2/3//% of the Warrants then outstanding, other than such changes as are presently specifically prescribed by this Agreement as originally executed. In addition, this Agreement may not be modified, amended or supplemented without the prior written consent of National, other than to cure any ambiguity or to correct any provision which is

inconsistent with any other provision of this Agreement or to make any such change that is necessary or desirable and which shall not adversely affect the interests of National and except as may be required by law.

SECTION 12. Notices.

All notices, requests, consents and other communications hereunder shall be in writing and shall be deemed to have been made when delivered or mailed first-class registered or certified mail, postage prepaid, as follows: if to the Registered Holder of a Warrant Certificate, at the address of such holder as shown on the registry books maintained by the Warrant Agent; if to the Company at 1170 B Chess Drive, Foster City, California 94404, Attention: John W. Fara, President and Chief Executive Officer, or at such other address as may have been furnished to the Warrant Agent in writing by the Company; and if to the Warrant Agent, at its Corporate Office. Copies of any notice delivered pursuant to this Agreement shall also be delivered to National Securities Corporation, 1001 Fourth Avenue, Suite 2200, Seattle, Washington 98154-1100, Attention: General Counsel, or at such other address as may have been furnished to the Company and the Warrant Agent in writing.

SECTION 13. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to conflicts of laws.

SECTION 14. Binding Effect.

This Agreement shall be binding upon and inure to the benefit of the Company, National, the Warrant Agent and their respective successors and assigns and the holders from time to time of Warrant Certificates or any of them. Nothing in this Agreement is intended or shall be

construed to confer upon any other person any right, remedy or claim, in equity or at law, or to impose upon any other person any duty, liability or obligation.

SECTION 15. Termination.

This Agreement shall terminate at the close of business on the Expiration Date of all of the Warrants or such earlier date upon which all Warrants have been exercised or redeemed, except that the Warrant Agent shall account to the Company for cash held by it and the provisions of Section 10 hereof shall survive such termination.

SECTION 16. Counterparts.

This Agreement may be executed in several counterparts, which taken together shall constitute a single document.

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

[SEAL]

DEPOMED, INC.

By: _____
Name:
Title:

Attest:

By:_____
Name:
Title:

CONTINENTAL STOCK TRANSFER AND TRUST COMPANY,
As Warrant Agent

By: _____
Name:
Title:

NATIONAL SECURITIES CORPORATION

By: _____
Name: Steven A. Rothstein
Title: Chairman

EXHIBIT A

No. W _____ VOID AFTER _____, 2002

WARRANTS

REDEEMABLE WARRANT CERTIFICATE TO
PURCHASE ONE SHARE OF COMMON STOCK

DEPOMED, INC.

CUSIP _____

THIS CERTIFIES THAT, FOR VALUE RECEIVED

or registered assigns (the "Registered Holder") is the owner of the number of Redeemable Warrants (the "Warrants") specified above. Each Warrant initially entitles the Registered Holder to purchase, subject to the terms and conditions set forth in this Certificate and the Warrant Agreement (as hereinafter defined), one fully paid and nonassessable share of Common Stock, no par value, of Depomed, Inc., a California corporation (the "Company"), at any time between _____, 1998 (the "Initial Warrant Exercise Date"), and the Expiration Date (as hereinafter defined) upon the presentation and surrender of this Warrant Certificate with the Subscription Form on the reverse hereof duly executed, at the corporate office of Continental Stock Transfer and Trust Company, as Warrant Agent, or its successor (the "Warrant Agent"), accompanied by payment of $_____, [140% of the initial public offering price of the Common Stock] subject to adjustment (the "Purchase Price"), in lawful money of the United States of America in cash or by check made payable to the Warrant Agent for the account of the Company.

This Warrant Certificate and each Warrant represented hereby are issued pursuant to and are subject in all respects to the terms and conditions set forth in the Warrant Agreement (the "Warrant Agreement"), dated _____, 1997 [date of the Prospectus], between the Company and the Warrant Agent.

In the event of certain contingencies provided for in the Warrant Agreement, the Purchase Price and the number of shares of Common Stock subject to purchase upon the exercise of each Warrant represented hereby are subject to modification or adjustment.

Each Warrant represented hereby is exercisable at the option of the Registered Holder, but no fractional interests will be issued. In the case of the exercise of less than all the Warrants represented hereby, the Company shall cancel this Warrant Certificate upon the surrender hereof and

shall execute and deliver a new Warrant Certificate or Warrant Certificates of like tenor, which the Warrant Agent shall countersign, for the balance of such Warrants.

The term "Expiration Date" shall mean 5:30 p.m. (New York time) on the date which is forty-eight (48) months after the Initial Warrant Exercise Date. If each such date shall in the State of New York be a holiday or a day on which the banks are authorized to close, then the Expiration Date shall mean 5:30 p.m. (New York time) on the next following day which in the State of New York is not a holiday or a day on which banks are authorized to close.

The Company shall not be obligated to deliver any securities pursuant to the exercise of this Warrant unless a registration statement under the Securities Act of 1933, as amended (the "Act"), with respect to such securities

is effective or an exemption thereunder is available. The Company has covenanted and agreed that it will file a registration statement under the Federal securities laws, use its best efforts to cause the same to become effective, use its best efforts to keep such registration statement current, if required under the Act, while any of the Warrants are outstanding, and deliver a prospectus which complies with Section 10(a)(3) of the Act to the Registered Holder exercising this Warrant. This Warrant shall not be exercisable by a Registered Holder in any state where such exercise would be unlawful.

This Warrant Certificate is exchangeable, upon the surrender hereof by the Registered Holder at the corporate office of the Warrant Agent, for a new Warrant Certificate or Warrant Certificates of like tenor representing an equal aggregate number of Warrants, each of such new Warrant Certificates to represent such number of Warrants as shall be designated by such Registered Holder at the time of such surrender. Upon due presentment and payment of any tax or other charge imposed in connection therewith or incident thereto, for registration of transfer of this Warrant Certificate at such office, a new Warrant Certificate or Warrant Certificates representing an equal aggregate number of Warrants will be issued to the transferee in exchange therefor, subject to the limitations provided in the Warrant Agreement.

Prior to the exercise of any Warrant represented hereby, the Registered Holder shall not be entitled to any rights of a stockholder of the Company, including, without limitation, the right to vote or to receive dividends or other distributions, and shall not be entitled to receive any notice of any proceedings of the Company, except as provided in the Warrant Agreement.

Subject to the provisions of the Warrant Agreement, this Warrant may be redeemed at the option of the Company, at a redemption price of $0.10 per Warrant, at any time commencing after _____, 1998 [18 months after the effective date of the Registration Statement], provided that the average closing sale price for the Common Stock as reported by the American Stock Exchange (or the closing bid price, if the Common Stock is then traded on Nasdaq), shall have equalled or exceeded $_____ [150% of the initial public offering price per share of Common Stock] per share for any twenty (20) trading days within a period of thirty (30) consecutive trading days ending on the fifth trading day prior to the Notice of Redemption, as defined below (subject to adjustment in the event of any stock splits or other similar events). Notice of redemption (the "Notice of Redemption") shall be given not later than the thirtieth day before the date fixed for redemption, all as provided in the Warrant Agreement. On and after the date fixed for redemption,

the Registered Holder shall have no rights with respect to the Warrants except to receive the $.01 per Warrant upon surrender of this Warrant Certificate.

Under certain circumstances, National Securities Corporation may be entitled to receive an aggregate of five percent (5%) of the Purchase Price of the Warrants represented hereby.

Prior to due presentment for registration of transfer hereof, the Company and the Warrant Agent may deem and treat the Registered Holder as the absolute owner hereof and of each Warrant represented hereby (notwithstanding any notations of ownership or writing hereon made by anyone other than a duly authorized officer of the Company or the Warrant Agent) for all purposes and shall not be affected by any notice to the contrary, except as provided in the Warrant Agreement.

This Warrant Certificate shall be governed by and construed in accordance with the laws of the State of New York without giving effect to conflicts of laws.

This Warrant Certificate is not valid unless countersigned by the Warrant Agent.

IN WITNESS WHEREOF, the Company has caused this Warrant Certificate to be duly executed, manually or in facsimile by two of its officers thereunto duly authorized and a facsimile of its corporate seal to be imprinted hereon.

Dated:

DEPOMED, INC.

[SEAL]

By:

_____
Name:
Title:

By:

_____
Secretary

COUNTERSIGNED:

CONTINENTAL STOCK TRANSFER AND TRUST COMPANY,
as Warrant Agent

By:

_____
Authorized Officer

SUBSCRIPTION FORM

To Be Executed by the Registered Holder
in Order to Exercise Warrants

The undersigned Registered Holder hereby irrevocably elects to exercise _____ Warrants represented by this Warrant Certificate, and to purchase the securities issuable upon the exercise of such Warrants, and requests that certificates for such securities shall be issued in the name of

PLEASE INSERT SOCIAL SECURITY
OR OTHER IDENTIFYING NUMBER

(please print or type name and address)

and be delivered to

(please print or type name and address)

and if such number of Warrants shall not be all the Warrants evidenced by this Warrant Certificate, that a new Warrant Certificate for the balance of such Warrants be registered in the name of, and delivered to, the Registered Holder at the address stated below.

IMPORTANT: PLEASE COMPLETE THE FOLLOWING:

1. The exercise of this Warrant was solicited by National Securities Corporation. [_]

2. The exercise of this Warrant was solicited by

_____. [_]

3. The exercise of this Warrant was not solicited. [_]

Dated:

_____

X _____

_____

_____
Address

_____
Social Security or Taxpayer Identification Number

_____
Signature Guaranteed

_____

ASSIGNMENT

To Be Executed by the Registered Holder in Order to Assign Warrants

FOR VALUE RECEIVED, _____, hereby sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER

(please print or type name and address)

_____ of the Warrants represented by this Warrant Certificate, and hereby irrevocably constitutes and appoints _____ Attorney to transfer this Warrant Certificate on the books of the Company, with full power of substitution in the premises.

Dated:_____ X _____
Signature Guaranteed

_____

THE SIGNATURE TO THE ASSIGNMENT OR THE SUBSCRIPTION FORM MUST CORRESPOND TO THE NAME AS WRITTEN UPON THE FACE OF THIS WARRANT CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER AND MUST BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM), PURSUANT TO S.E.C. RULE 17Ad-15.

EXHIBIT 4.5

NATIONAL SECURITIES CORPORATION
As Representative of the several Underwriters
1001 Fourth Avenue
Suite 2200
Seattle, Washington 98154

Ladies and Gentlemen:

In order to induce National Securities Corporation, the representative of the several underwriters (the "Representative") and DepoMed, Inc. (together with its predecessors, successors and assigns, the "Company") to enter into an underwriting agreement with respect to the public offering of 2,500,000 shares of Common Stock and 1,250,000 Common Stock Purchase Warrants, the undersigned hereby agrees that for a period of twelve (12) months following the effective date of the Company's Registration Statement on Form SB-2 (the "Lock-up Period"), he, she or it will not, without the prior written consent of the Representative, directly or indirectly, issue, offer, agree or offer to sell, sell, grant an option for the purchase or sale of, transfer, pledge, assign, hypothecate, distribute or otherwise encumber or dispose of any shares of Common Stock or options, rights, warrants or other securities convertible into, exchangeable or exercisable for or evidencing any right to purchase or subscribe for shares of Common Stock (whether or not beneficially owned by the undersigned), or any beneficial interest therein (collectively, the "Securities").

In order to enable the aforesaid covenants to be enforced, the undersigned hereby consents to the placing of legends and/or stop-transfer orders with the Transfer Agent of the Company's securities with respect to any of the Securities registered in the name of the undersigned or beneficially owned by the undersigned.

Dated: _____, 1997

Signature

Print Name

Print Address

Print Social Security Number
or Taxpayer I.D. Number

Exhibit 10.5

BASIC LEASE INFORMATION

LEASE DATE: September 2, 1992

TENANT: DepoMed Systems, Inc., a California Corporation

TENANTS ADDRESS: 1170 B Chess Drive
Foster City, CA 94404

LANDLORD: 1170 CHESS DRIVE LIMITED PARTNERSHIP, a Texas Limited Partnership

LANDLORD'S ADDRESS: c/o Trammell Crow Company
1820 Gateway Drive, Suite 200
San Mateo, CA 94404

PROJECT: FOSTER CITY TECHNOLOGY CENTER

DESCRIPTION: That 66,869 square foot, two-building complex, located at the corner of Hatch and Chess Drives, in Foster City, California, commonly known as the Foster City Technology Center as outlined in green on Exhibit A.

BUILDING DESCRIPTION: That 33,849 square foot, one-story, concrete, tilt-up building commonly known as 1170 Chess Drive, Foster City, California. The building is in the southwestern most corner of the Project, as outlined in blue on Exhibit "A".

PREMISES: That approximately 3,300 square feet of rentable area of the building commonly known as 1170 B Chess Drive, Foster City, California as outlined in red on Exhibit "A".

PERMITTED USE: Office, laboratory and warehouse

PARKING DENSITY: Three (3) spaces per 1,000 square feet - See Paragraph 40.

ESTIMATED TERM COMMENCEMENT DATE: September 15, 1992

LENGTH OF TERM: Thirty (30) Months. See Paragraph 3.

RENT:

BASE RENT: $ See Paragraph 38.

ESTIMATED FIRST YEAR BASIC OPERATING COST: $ 667.00 per month

SECURITY DEPOSIT: $ 3,389.00

TENANT'S PROPORTIONATE SHARE:

OF BUILDING: 9.75%

OF PROJECT: 4.94%

BROKER: Bruce Bean, TRI Commercial Brokerage

The foregoing Basic Lease Information is incorporated into and made a part of this Lease. Each reference in this Lease to any of the Basic Lease Information shall mean the respective information above and shall be construed to incorporate all of the terms provided under the particular Lease paragraph pertaining to such information. In the event of any conflict between the Basic Lease Information and the Lease, the latter shall control.

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EXHIBITS
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EXHIBIT A.....Site Plan, Legal Description
EXHIBIT B.....Tenant Improvements and Specifications

LEASE

THIS LEASE is made as of this 2nd day of September, 1992, by and between 1170 Chess Drive Limited Partnership, a Texas Limited Partnership (hereinafter called "Landlord") and DepoMed Systems, Inc., a California Corporation (hereinafter called "Tenant").

PREMISES

1. Landlord leases to Tenant and Tenant leases from Landlord, upon the terms and conditions hereinafter set forth, those premises (the "Premises") outlined in red on Exhibit A and described in the Basic Lease Information. The Premises may be all or part of the building (the "Building") or of the project (the "Project") which may consist of more than one building. The Building and Project are outlined in blue and green respectively on Exhibit A.

POSSESSION AND LEASE COMMENCEMENT

2. CONSTRUCTION OF IMPROVEMENTS. In the event this Lease pertains to a Building to be constructed or improvements to be constructed within a Building, the provisions of this Paragraph 2.A. shall apply in lieu of the provisions of some or all of the Premises, or (2) the improvements constructed or to be constructed in the Premises shall have been substantially completed in accordance with the plans and specifications described on _____ whether or not substantial completion of the Building itself shall have occurred. If for any reason Landlord cannot deliver possession of the Premises to Tenant on the Estimated Term Commencement Date, Landlord shall not be subject to any liability therefor, nor shall Landlord be in default hereunder. In the event of any dispute as to substantial completion of work performed or required to be performed by Landlord, the certificate of Landlord's architect or general contractor shall be conclusive. Substantial completion shall have occurred notwithstanding Tenant's submission of a punchlist to Landlord, which Tenant shall submit, if at all, within thirty (30) days after the Term Commencement Date. Tenant shall, upon demand, execute and deliver to Landlord a letter of acceptance of delivery of the Premises.

TERM

3. The Term of this Lease shall commence on the Term Commencement Date and continue in full force and effect for the number of months specified as the Length of Term in the Basic Lease Information or until this Lease is terminated as otherwise provided herein. If the Term Commencement Date is a date other than the first day of the calendar month, the Term shall be the number of months of the Length of Term in addition to the remainder of the calendar month following the Term Commencement Date.

USE

4. A. GENERAL. Tenant shall use the Premises for the Permitted Use and for no other use or purpose. Tenant shall control Tenant's employees, agents, customers, visitors, invitees, licensees, contractors, assignees and subtenants (collectively, "Tenant's Parties") in such a manner that Tenant and Tenant's Parties cumulatively do not exceed the Parking Density at any time. Tenant and Tenant's Parties shall have the nonexclusive right to use, in common with other parties occupying the Building or Project, the parking areas and driveways of the Project, subject to such rules and regulations as Landlord may from time to time prescribe.

B. LIMITATIONS. Tenant shall not permit any odors, smoke, dust, gas, substances, noise or vibrations to emanate from the Premises, nor take any action which would constitute a nuisance or would disturb, obstruct or endanger any other tenants of the Building or Project in which the Premises are situated or interfere with their use of their respective premises. Storage outside the Premises of materials, vehicles or any other items is prohibited. Tenant shall not use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause or maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer the commission of any waste in, on or about the Premises. Tenant shall not allow any sale by auction upon the Premises, or place any loads upon the floors, walls or ceilings which

endanger the structure, or place any harmful liquids in the drainage system of the Building or Project. No waste, materials or refuse shall be dumped upon or permitted to remain outside the Premises except in trash containers placed inside exterior enclosures designated for that purpose by Landlord. Landlord shall not be responsible to Tenant for the non-compliance by any other tenant or occupant of the Building or Project with any of the above-referenced rules or any other terms or provisions of such tenant's or occupant's lease or other contract.

C. COMPLIANCE WITH REGULATIONS. By entering the Premises. Tenant accepts the Premises in the condition existing as of the date of such entry, subject to all existing or future applicable municipal, state and federal and other governmental statutes, regulations, laws and ordinances, including zoning ordinances and regulations governing and relating to the use, occupancy and possession of the Premises and the use, storage, generation and disposal of Hazardous Materials (hereinafter defined) in, on and under the Premises (collectively "Regulations"). Except for pre-existing violations, Tenant shall, at Tenant's sole expense, strictly comply with all Regulations now in force or which may hereafter be in force relating to the Premises and the use of the Premises and/or the use, storage, generation of Hazardous Materials in, on and under the Premises. Tenants shall at its sole cost and expense obtain any and all

licenses or permits necessary for Tenant's use of the Premises. Tenant shall promptly comply with the requirements of any board of fire underwriters or other similar body now or hereafter constituted. Tenant shall not do or permit anything to be done in, on, or about the Premises or bring or keep anything which will in any way increase the rate of any insurance upon the Premises, Building or Project, or upon any contents therein or cause a cancellation of said insurance or otherwise affect said insurance in any manner. Tenant shall indemnity, defend, protect and hold Landlord harmless from and against any loss, cost, expense, damage, attorneys' fees or liability arising out of the failure of Tenant to comply with any applicable law or comply with the requirements as set forth herein.

D. HAZARDOUS WASTES. Tenant shall not cause, or allow any of Tenant's Parties to cause, any Hazardous Materials to be used, generated, stored or disposed of on or about the Premises, the Building or the Project. As used in this Lease, "Hazardous Materials" shall include, but not be limited to, hazardous, toxic and radioactive materials and those substances defined as "hazardous substances," "hazardous materials ... hazardous wastes," "toxic substances," or other similar designations in any federal, state, or local law, regulation, or ordinance. Landlord shall have the right at all reasonable times to inspect the Premises and to conduct tests and investigations to determine whether Tenant is in compliance with the foregoing provisions, the costs of all such inspections, tests and investigations to be borne by Tenant. Tenant shall indemnify, defend, protect and hold Landlord harmless from and against all liabilities, losses, costs and expenses, demands, causes of action, claims or judgments directly or indirectly arising out of the use, generation, storage or disposal of Hazardous Materials by Tenant or any of Tenant's Parties, which indemnity shall include, without limitation, the cost of any required or necessary repair, cleanup or detoxification, and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the termination of this Lease. Neither the written consent by Landlord to the use, generation, storage or disposal of Hazardous Materials nor the strict compliance by Tenant with all laws pertaining to Hazardous Materials shall excuse Tenant from Tenant's obligation of indemnification pursuant to this Paragraph 4.D. Tenant's,obligations pursuant to the foregoing indemnity shall survive the termination of this Lease.

5. Tenant shall faithfully observe and comply with any reasonable rules and regulations Landlord may from time to time prescribe in writing for the purpose of maintaining the proper care, cleanliness, safety, traffic flow and general order of the Premises or Project. Tenant shall cause

Tenant's Parties to comply with such rules and regulations. Landlord shall not be responsible to Tenant for the non-compliance by any other tenant or occupant of the Building or Project with any of the rules and regulations.

RENT

6. A. BASE RENT. Tenant shall pay to Landlord, without demand throughout the Term, Base Rent as specified in the Basic Lease Information, payable in monthly installments in advance on or before the first day of each calendar month, in lawful money of the United States, without deduction or offset whatsoever, at the address specified in the Basic Lease Information or to such other place as Landlord may from time to time designate in writing. Base Rent for the first full month of the Term shall be paid by Tenant upon Tenant's execution of this Lease. If the obligation for payment of Base Rent commences on other than the first day of a month, then Base Rent shall be prorated and the prorated installment shall be paid on the first day of the calendar month next succeeding the Term Commencement Date.

B. ADDITIONAL RENT. All monies other than Base Rent required to be paid by Tenant hereunder, including, but not limited to, the interest and late charge described in Paragraph 26.D., any monies spent by Landlord pursuant to Paragraph 30, and Tenant's Proportionate Share of Basic Operating Cost, as specified in Paragraph 7 of this Lease, shall be considered additional rent ("Additional Rent"). "Rent" shall mean Base Rent and Additional Rent.

BASIC OPERATING COST

7. A. BASIC OPERATING COST. In addition to the Base Rent required to be paid hereunder, Tenant shall pay as Additional Rent, Tenant's Proportionate Share, as defined in the Basic Lease Information, of Basic Operating Cost in the manner set forth below. Landlord shall account for each item of Basic Operating Cost as either a cost attributable to the Building or to the Project, as determined by Landlord in Landlord's sole discretion, and unless provided to the contrary in this Lease, Tenant shall pay the applicable Tenant's Proportionate Share of each such Basic Operating Cost, as set forth in the Basic Lease Information. Basic Operating Cost shall mean all expenses and costs of every kind and nature which Landlord shall pay or become obligated to pay, because of or in connection with the management, maintenance, preservation and operation of the Project and its supporting facilities (determined in accordance with generally accepted accounting principles, consistently applied) including but not limited to the following:

(1) TAXES. All real property taxes, possessory interest taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, transit charges, housing fund

assessments, open space charges, assessments, levies, fees or charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind (including fees "in-lieu" of any such tax or assessment) which are assessed, levied, charged, confirmed, or imposed by any public authority upon the Project, its operations or the Rent (or any portion or component thereof (all of the foregoing being hereinafter collectively referred to as "real property taxes"), or any tax imposed in substitution, partially or totally, of any tax previously included within the definition of real property taxes, or any additional tax the nature of

which was previously included within the definition of real property taxes, except (a) inheritance or estate taxes imposed upon or assessed against the Project, or any part thereof or interest therein, and (b) taxes computed upon the basis of net income of Landlord or the owner of any interest therein. Basic Operating Cost shall also include any taxes, assessments, or any other fees imposed by any public authority upon or measured by the monthly rental or other charges payable hereunder, including, without limitation, any gross income tax or excise tax levied by the local governmental authority in which the Project is located, the federal government, or any other governmental body with respect to receipt of such rental, or upon, with respect to or by reason of the development, possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion thereof, or upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises. In the event that it shall not be lawful for Tenant to reimburse Landlord for all or any part of such taxes, the monthly rental payable to Landlord under this Lease shall be revised to net to Landlord the same net rental after imposition of any such taxes by Landlord as would have been payable to Landlord prior to the payment of any such taxes.

(2) INSURANCE. All insurance premiums and costs, including but not limited to, any deductible amounts, premiums and cost of insurance incurred by Landlord, as more fully set forth in Paragraph 8.A. herein.

(3) REPAIRS AND IMPROVEMENTS. Repairs, replacements and general maintenance for the Premises, Building and Project (except for those repairs expressly made the financial responsibility of Landlord pursuant to the terms of this Lease, repairs to the extent paid for by proceeds of insurance or by Tenant or other third parties, and alterations attributable solely to tenants of the Project other than Tenant). Such repairs, replacements, and general maintenance shall include the cost of any capital improvements made to or capital assets acquired for the Project, Building, or Premises after the Term Commencement Date that reduce any other Basic Operating Cost, are reasonably necessary for the health and safety of the

occupants of the Project, or are made to the Building by Landlord after the date of this Lease and are required under any governmental law or regulation, such costs or allocable portions thereof to be amortized over such reasonable period as Landlord shall determine, together with interest on the unamortized balance at the "prime rate" charged at the time such improvements or capital assets are constructed or acquired by Wells Fargo Bank, N.A. (San Francisco), plus two (2) percentage points, but in no event more than the maximum rate permitted by law.

(4) SERVICES. All expenses relating to maintenance, janitorial and service agreements and services, and costs of supplies and equipment used in maintaining the Premises, Building and Project and the equipment therein and the adjacent sidewalks, driveways, parking and service areas, including, without limitation, alarm service, window cleaning, elevator maintenance, Building exterior maintenance and landscaping.

(5) UTILITIES. Utilities which benefit all or a portion of the Premises, Building or Project.

(6) MANAGEMENT FEE. A management and accounting cost recovery fee equal to three percent (3%) of the sum of Base Rent and Basic Operating Cost.

(7) LEGAL AND ACCOUNTING. Reasonable legal and accounting expenses relating to the Project, including the cost of audits by certified public accountants.

In the event that the Building is not fully occupied during any fiscal year of the Term as determined by Landlord, an adjustment shall be made in computing the Basic Operating Cost for such year so that Tenant pays an

equitable portion of all variable items of Basic Operating Cost, as reasonably determined by Landlord; provided, however, that in no event shall Landlord be entitled to collect in excess of one hundred percent (100%) of the total Basic Operating Cost from all of the tenants in the Building including Tenant.

Basic Operating Cost shall not include specific costs incurred for the account of, separately billed to and paid by specific tenants. Notwithstanding anything herein to the contrary, in any instance wherein Landlord, in Landlord's sole discretion, deems Tenant to be responsible for any amounts greater than Tenant's Proportionate Share, Landlord shall have the right to allocate costs in any reasonable manner Landlord deems appropriate.

B. PAYMENT OF ESTIMATED BASIC OPERATING COST. "Estimated Basic Operating Cost" for any particular year shall mean Landlord's estimate of the Basic Operating Cost for such fiscal year made prior to commencement of such fiscal year as hereinafter provided. Landlord shall have the right from time to time to revise its fiscal year and interim

accounting periods so long as the periods as so revised are reconciled with prior periods in accordance with generally accepted accounting principles applied in a consistent manner. During the last month of each fiscal year during the Term, or as soon thereafter as practicable, Landlord shall give Tenant written notice of the Estimated Basic Operating Cost made in good faith for the ensuing fiscal year. Tenant shall pay Tenant's Proportionate Share of the Estimated Basic Operating Cost with installments of Base Rent for the fiscal year to which the Estimated Basic Operating Cost applies in monthly installments on the first day of each calendar month during such year, in advance. If at any time during the course of the fiscal year, Landlord determines in good faith that Basic Operating Cost is projected to vary from the then Estimated Basic Operating Cost by more than ten percent (10%), Landlord may, by written notice to Tenant, revise the Estimated Basic Operating Cost for the balance of such fiscal year, and Tenant's monthly installments for the remainder of such year shall be adjusted so that by the end of such fiscal year Tenant has paid to Landlord Tenant's Proportionate Share of the revised Estimated Basic Operating Cost for such year.

C. COMPUTATION OF BASIC OPERATING COST ADJUSTMENT. "Basic Operating Cost Adjustment" shall mean the difference between Estimated Basic Operating Cost and Basic Operating Cost for any fiscal year determined as hereinafter provided. Within one hundred twenty (120) days after the end of each fiscal year, as determined by Landlord, or as soon thereafter as practicable, Landlord shall deliver to Tenant a statement of Basic Operating Cost for the fiscal year just ended, accompanied by a computation of Basic Operating Cost Adjustment. If such statement shows that Tenant's payment based upon Estimated Basic Operating Cost is less than Tenant's Proportionate Share of Basic Operating Cost, then Tenant shall pay to Landlord the difference within twenty (20) days after receipt of such statement. If such statement shows that Tenant's payments of Estimated Basic Operating Cost exceed Tenant's Proportionate Share of Basic Operating Cost, then (provided that Tenant is not in default under this Lease) Landlord shall pay to Tenant the difference within twenty (20) days after delivery of such statement to Tenant. If this Lease has been terminated or the Term hereof has expired prior to the date of such statement, then the Basic Operating Cost Adjustment shall be paid by the appropriate party within twenty (20) days after the date of delivery of the statement. Should this Lease commence or terminate at any time other than the first day of the fiscal year, Tenant's Proportionate Share of the Basic Operating Cost Adjustment shall be prorated by reference to the exact number of calendar days during such fiscal year that this Lease is in effect.

D. NET LEASE. This shall be a net Lease and Base Rent shall be paid to Landlord absolutely net of all costs and expenses, except as specifically

provided to the contrary in

this Lease. The provisions for payment of Basic Operating Cost and the Basic Operating Cost Adjustment are intended to pass on to Tenant and reimburse Landlord for all costs and expenses of the nature described in Paragraph 7.A. incurred in connection with the ownership, maintenance and operation of the Building or Project and such additional facilities now and in subsequent years as may be determined by Landlord to be necessary to the Building or Project.

E. TENANT AUDIT. In the event that Tenant shall dispute the amount set forth in any statement provided by Landlord under Paragraph 7.B. or 7.C. above, Tenant shall have the right, not later than ninety (90) days following the receipt of such statement and upon the condition that Tenant shall first deposit with Landlord the full amount in dispute, to cause Landlord's books and records with respect to Basic Operating Cost for such fiscal year to be audited by certified public accountants selected by Tenant and subject to Landlord's reasonable right of approval. The Basic Operating Cost Adjustment shall be appropriately adjusted on the basis of such audit. If such audit discloses a liability for a refund in excess of ten percent (10%) of Tenant's Proportionate Share of the Basic Operating Cost Adjustment previously reported, the cost of such audit shall be borne by Landlord; otherwise the cost of such audit shall be paid by Tenant. If Tenant shall not request an audit in accordance with the provisions of this Paragraph 7.E. within ninety (90) days after receipt of Landlord's statement provided pursuant to Paragraph 7.B. or 7.C., such statement shall be final and binding for all purposes hereof.

INSURANCE AND INDEMNIFICATION

8. A. LANDLORD'S INSURANCE. Landlord agrees to maintain insurance insuring the Building against fire, lightning, vandalism and malicious mischief (including, if Landlord elects, "All Risk" coverage, earthquake, and/or flood insurance), in an amount not less than eighty percent (80%) of the replacement cost thereof, with deductibles and the form and endorsements of such coverage as selected by Landlord. Such insurance may also include, at Landlord's option, insurance against loss of Base Rent and Additional Rent, in an amount equal to the amount of Base Rent and Additional Rent payable by Tenant for a period of at least twelve (12) months commencing on the date of loss. Such insurance shall be for the sole benefit of Landlord and under Landlord's sole control. Landlord shall not be obligated to insure any furniture, equipment, machinery, goods or supplies which Tenant may keep or maintain in the Premises, or any leasehold improvements, additions or alterations within the Premises. Landlord may also carry such other insurance as Landlord may deem prudent or advisable, including, without limitation, liability insurance in such amounts and on such terms as Landlord shall determine.

B. TENANT'S INSURANCE.

(1) PROPERTY INSURANCE. Tenant shall procure at Tenant's sole cost and expense and keep in effect from the date of this Lease and at all times until the end of the Term, insurance on all personal property and fixtures of Tenant and all improvements made by or for Tenant to the Premises, insuring such property for the full replacement value of such property.

(2) LIABILITY INSURANCE. Tenant shall procure at Tenant's sole cost and expense and keep in effect from the date of this Lease and at all times until the end of the Term either Comprehensive General Liability insurance or Commercial General Liability insurance applying to the use and occupancy of the Premises and the Building, and any part of either, and any areas adjacent thereto, and the business operated by Tenant, or by any other

occupant on the Premises. Such insurance shall include Broad Form Contractual Liability insurance coverage insuring all of Tenant's indemnity obligations under this Lease. Such coverage shall have a minimum combined single limit of liability of at least One Million Dollars ($1,000,000.00), and a general aggregate limit of Two Million Dollars ($2,000,000.00). All such policies shall be written to apply to all bodily injury, property damage or loss, personal injury and other covered loss, however occasioned, occurring during the policy term, shall be endorsed to add Landlord and any party holding an interest to which this Lease may be subordinated as an additional insured, and shall provide that such coverage shall be primary and that any insurance maintained by Landlord shall be excess insurance only. Such coverage shall also contain endorsements: (i) deleting any employee exclusion on personal injury coverage; (ii) including employees as additional insureds; (iii) deleting any liquor liability exclusion; and (iv) providing for coverage of employer's automobile non-ownership liability. All such insurance shall provide for severability of interests; shall provide that an act or omission of one of the named insureds shall not reduce or avoid coverage to the other named insureds; and shall afford coverage for all claims based on acts, omissions, injury and damage, which claims occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period. Said coverage shall be written on an "occurrence" basis, if available. If an "occurrence" basis form is not available, Tenant must purchase "tail" coverage for the most number of years available, and tenant must also purchase "tail" coverage if the retroactive date of an "occurrence" basis form is changed so as to leave a gap in coverage for occurrences that might have occurred in prior years. If a "claims made" policy is ever used, the policy must be endorsed so that Landlord is given the right to purchase "tail" coverage should Tenant for any reason not do so or if the policy is to be cancelled for nonpayment of premium.

(3) GENERAL INSURANCE REQUIREMENTS. All coverages described in this Paragraph 8.B. shall be endorsed to provide Landlord with thirty (30) days' notice of cancellation or change in terms. If at any time during the Term the amount or coverage of insurance which Tenant is required to carry under this Paragraph 8.B. is, in Landlord's reasonable judgment, materially less than the amount or type of insurance coverage typically carried by owners or tenants of properties located in the general area in which the Premises are located which are similar to and operated for similar purposes as the Premises, Landlord shall have the right to require Tenant to increase the amount or change the types of insurance coverage required under this Paragraph 8.B. All insurance policies required to be carried under this Lease shall be written by companies rated A+XII or better in "Best's Insurance Guide" and authorized to do business in California. Any deductible amounts under any insurance policies required hereunder shall be subject to Landlord's prior written approval. In any event deductible amounts shall not exceed One Thousand Dollars ($1,000,00.00). Tenant shall deliver to Landlord on or before the Term Commencement Date, and thereafter at least thirty (30) days before the expiration dates of the expiring policies, certified copies of Tenant's insurance policies, or a certificate evidencing the same issued by the insurer thereunder, showing that all premiums have been paid for the full policy period; and, in the event Tenant shall fail to procure such insurance, or to deliver such policies or certificates, Landlord may, at Landlord's option and in addition to Landlord's other remedies in the event of a default by Tenant hereunder, procure the same for the account of Tenant, and the cost thereof shall be paid to Landlord as Additional Rent.

C. INDEMNIFICATION. Landlord shall not be liable to Tenant for any loss or damage to person or property caused by theft, fire, acts of God, acts of a public enemy, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority or for any damage or inconvenience which may arise through repair or alteration of any part of the Building or Project or failure to make any such repair, except as expressly otherwise provided in Paragraph 10. Tenant shall indemnify,

defend by counsel reasonably acceptable to Landlord, protect and hold Landlord harmless from and against any and all liabilities, losses, costs, damages, injuries or expenses, including reasonable attorneys' fees and court costs, arising out of or related to: (1) claims of injury to or death of persons or damage to property occurring or resulting directly or indirectly from the use or occupancy of the Premises, or from activities of Tenant, Tenant's Parties or anyone in or about the Premises or Project, or from any cause whatsoever; (2) claims for work or labor performed, or for materials or supplies furnished to or at the request of Tenant in connection with performance of any work done for the account of Tenant within the Premises or Project; and (3) claims arising from

any breach or default on the part of Tenant in the performance of any covenant contained in this Lease. The foregoing indemnity shall not be applicable to claims arising from the active negligence or willful misconduct of Landlord. The provisions of this Paragraph shall survive the expiration or termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination.

WAIVER OF SUBROGATION

9. To the extent permitted by law and without affecting the coverage provided by insurance to be maintained hereunder, Landlord and Tenant each waive any right to recover against the other for: (a) damages for injury to or death of persons; (b) damages to property; (c) damages to the Premises or any part thereof; and (d) claims arising by reason of the foregoing due to hazards covered by insurance to the extent of proceeds recovered therefrom. This provision is intended to waive fully, and for the benefit of each party, any rights and/or claims which might give rise to a right of subrogation in favor of any insurance carrier. The coverage obtained by each party pursuant to this Lease shall include, without limitation, a waiver of subrogation by the carrier which conforms to the provisions of this paragraph.

LANDLORD'S REPAIRS AND SERVICES

10. Landlord shall at Landlord's expense maintain the structural soundness of the structural beams of the roof, foundations and exterior walls of the Building in good repair, reasonable wear and tear excepted. The term "exterior walls" as used herein shall not include windows, glass or plate glass, doors, special store fronts or office entries. Landlord shall perform on behalf of Tenant and other tenants of the Project, as an item of Basic Operating Cost, the maintenance of the Building, Project, and public and common areas of the Project, including but not limited to the roof, pest extermination, the landscaped areas, parking areas, driveways, the truck staging areas, rail spur areas, fire sprinkler systems, sanitary and storm sewer lines, utility services, electric and telephone equipment servicing the Building(s), exterior lighting, and anything which affects the operation and exterior appearance of the Project, which determination shall be at Landlord's sole discretion. Except for the expenses directly involving the items specifically described in the first sentence of this Paragraph 10, Tenant shall reimburse Landlord for all such costs in accordance with Paragraph 7. Any damage caused by or repairs necessitated by any act of Tenant may be repaired by Landlord at Landlord's option and at Tenant's expense. Tenant shall immediately give Landlord written notice of any defect or need of repairs after which Landlord shall have a reasonable opportunity to repair same. Landlord's liability with respect to any defects, repairs, or maintenance for

which Landlord is responsible under any of the provisions of this Lease shall be limited to the cost of such repairs or maintenance.

TENANT'S REPAIRS

11. Tenant shall at Tenant's expense maintain all parts of the Premises in a good, clean and secure condition, reasonable wear and tear excepted, and promptly make all necessary repairs and replacements, including but not limited to all windows, glass, doors, walls and wall finishes, floor covering, heating, ventilating and air conditioning systems, truck doors, dock bumpers, dock plates and levelers, plumbing work and fixtures, downspouts, electrical and lighting systems, and fire sprinklers. Tenant shall at Tenant's expense also perform regular removal of trash and debris. If required by the railroad company, Tenant agrees to sign a joint maintenance agreement governing the use of the rail spur, if any. Tenant shall, at Tenant's own expense, enter into a regularly scheduled preventive maintenance/service contract with a maintenance contractor for servicing all hot water, heating and air conditioning systems and equipment within or serving the Premises. The maintenance contractor and the contract must be approved by Landlord. The service contract must include all services suggested by the equipment manufacturer within the operation/maintenance manual and must become effective and a copy thereof delivered to Landlord within thirty (30) days after the Term Commencement Date. Tenant shall not damage any demising wall or disturb the integrity and support provided by any demising wall and shall, at its sole expense, immediately repair any damage to any demising wall caused by Tenant or Tenant's Parties. See Paragraph 41.

ALTERATIONS

12. Tenant shall not make, or allow to be made, any alterations or physical additions in, about or to the Premises without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld with respect to proposed alterations and additions which: (a) comply with all applicable laws, ordinances, rules and regulations; (b) are in Landlord's opinion compatible with the Project and its mechanical, plumbing, electrical, heating/ventilation/ air conditioning systems; and (c) will not interfere with the use and occupancy of any other portion of the Building or Project by any other tenant or its invitees. Specifically, but without limiting the generality of the foregoing, Landlord shall have the right of written consent for all plans and specifications for the proposed alterations or additions, construction means and methods, all appropriate permits and licenses, any contractor or subcontractor to be employed on the work of alteration or additions, and the time for performance of such work. Tenant shall also supply to Landlord any documents and information reasonably requested by Landlord in connection

with Landlord's consideration of a request for approval hereunder. Tenant shall reimburse Landlord for all costs which Landlord may incur in connection with granting approval to Tenant for any such alterations and additions, including any costs or expenses which Landlord may incur in electing to have outside architects and engineers review said plans and specifications. All such alterations, physical additions or improvements (other than trade fixtures paid for by Tenant which shall be and remain the property of Tenant) shall remain the property of Tenant until termination of this Lease, at which time they shall be and become the property of Landlord if Landlord so elects; provided, however, that Landlord may, at Landlord's option, require that Tenant, at Tenant's expense, remove any or all alterations, additions, improvements and partitions made by Tenant and restore the Premises by the termination of this Lease, whether by lapse of time, or otherwise, to their condition existing prior to the construction of any such alterations, additions, partitions or leasehold improvements. All such removals and restoration shall be accomplished in a good and workmanlike manner so as not to cause any damage to the Premises or Project whatsoever. If Tenant fails to so remove such alterations, additions, improvements and partitions or Tenant's trade fixtures or furniture, Landlord may keep and use them or remove any of them and cause them to be stored or sold in accordance with applicable law, at Tenant's sole expense.

In addition to and wholly apart from Tenant's obligation to pay Tenant's Proportionate Share of Basic Operating Cost, Tenant shall be responsible for and shall pay prior to delinquency any taxes or governmental service fees, possessory interest taxes, fees or charges in lieu of any such taxes, capital levies, or other charges imposed upon, levied with respect to or assessed against its personal property, on the value of the alterations, additions or improvements within the Premises, and on Tenant's interest pursuant to this Lease. To the extent that any such taxes are not separately assessed or billed to Tenant, Tenant shall pay the amount thereof as invoiced to Tenant by Landlord.

SIGNS

13. All signs, notices and graphics of every kind or character, visible in or from public view or corridors, the common areas or the exterior of the Premises, shall be subject to Landlord's prior written approval. Tenant shall not place or maintain any banners whatsoever or any window decor in or on any exterior window or window fronting upon any common areas or service area or upon any truck doors or man doors without Landlord's prior written approval. Any installation of signs or graphics on or about the Premises and Project shall be subject to any applicable governmental laws, ordinances, regulations and to any other requirements imposed by Landlord. Tenant shall remove all such signs and graphics prior to the termination of this Lease. Such installations and removals shall be made in such manner as

to avoid injury or defacement of the Premises, Building or Project and any other improvements contained therein, and Tenant shall repair any injury or defacement, including without limitation, discoloration caused by such installation or removal.

INSPECTION/POSTING NOTICES

14. After reasonable notice, except in emergencies where no such notice shall be required, Landlord, and Landlord's agents and representatives, shall have the right to enter the Premises to inspect the same, to clean, to perform such work as may be permitted or required hereunder, to make repairs or alterations to the Premises or Project or to other tenant spaces therein, to deal with emergencies, to post such notices as may be permitted or required by law to prevent the perfection of liens against Landlord's interest in the Project or to exhibit the Premises to prospective tenants, purchasers, encumbrancers or others, or for any other purpose as Landlord may deem necessary or desirable: provided, however, that Landlord shall use reasonable efforts not to unreasonably interfere with Tenant's business operations. Tenant shall not be entitled to any abatement of Rent by reason of the exercise of any such right of entry. At any time within six (6) months prior to the end of the Term, Landlord shall have the right to erect on the Premises and/or Project a suitable sign indicating that the Premises are available for lease. Tenant shall give written notice to Landlord at least thirty (30) days prior to vacating the Premises and shall meet with Landlord for a joint inspection of the Premises at the time of vacating. In the event of Tenant's failure to give such notice or participate in such joint inspection, Landlord's inspection at or after Tenant's vacating the Premises shall conclusively be deemed correct for purposes of determining Tenant's responsibility for repairs and restoration.

UTILITIES

15. Tenant shall pay directly for all water, gas, heat, air conditioning, light, power, telephone, sewer, sprinkler charges and other utilities and services used on or from the Premises, together with any taxes, penalties, surcharges or the like pertaining thereto, and maintenance charges for utilities and shall furnish all electric light bulbs, ballasts and tubes. If any such services are not separately metered to Tenant, Tenant shall pay

a reasonable proportion, as determined by Landlord, of all charges jointly serving other premises. Landlord shall not be liable for any damages directly or indirectly resulting from nor shall the Rent or any monies owed Landlord under this Lease herein reserved be abated by reason of: (a) the installation, use or interruption of use of any equipment used in connection with the furnishing of any such utilities or services; (b) the failure to furnish or delay in furnishing any such utilities or services when such failure or delay is caused by acts of

God or the elements, labor disturbances of any character, or any other accidents or other conditions beyond the reasonable control of Landlord; or (c) the limitation, curtailment, rationing or restriction on use of water, electricity, gas or any other form of energy or any other service or utility whatsoever serving the Premises or Project. Landlord shall be entitled to cooperate voluntarily and in a reasonable manner with the efforts of national, state or local governmental agencies or utility suppliers in reducing energy or other resource consumption. The obligation to make services available hereunder shall be subject to the limitations of any such voluntary, reasonable program.

SUBORDINATION

16. Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, the Lease shall be subject and subordinate at all times to: (a) all ground leases or underlying leases which may now exist or hereafter be executed affecting the Premises and/or the land upon which the Premises and Project are situated, or both; and (b) any mortgage or deed of trust which may now exist or be placed upon said Project, land, ground leases or underlying leases, or Landlord's interest or estate in any of said items which is specified as security. Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground leases or underlying leases or any such liens to this Lease. In the event that any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination, attorn to and become the Tenant of the successor in interest to Landlord at the option of such successor in interest. Within ten (10) days after request by Landlord, Tenant shall execute and deliver any additional documents evidencing Tenant's attornment or the subordination of this Lease with respect to any such ground leases or underlying leases or any such mortgage or deed of trust, in the form requested by Landlord or by any ground landlord, mortgagee, or beneficiary under a deed of trust.

FINANCIAL STATEMENTS

17. At the request of Landlord, Tenant shall provide to Landlord Tenant's current financial statement or other information discussing financial worth of Tenant, which Landlord shall use solely for purposes of this Lease and in connection with the ownership, management and disposition of the Project.

ESTOPPEL CERTIFICATE

18. Tenant agrees from time to time, within ten (10) days after request of Landlord, to deliver to Landlord, or Landlord's

designee, an estoppel certificate stating that this Lease is in full force and effect, the date to which Rent has been paid, the unexpired portion of this Lease, and such other matters pertaining to this Lease as may be reasonably requested by Landlord. Failure by Tenant to execute and deliver such certificate shall constitute an acceptance of the Premises and

acknowledgment by Tenant that the statements included are true and correct without exception. Landlord and Tenant intend that any statement delivered pursuant to this Paragraph may be relied upon by any mortgagee, beneficiary, purchaser or prospective purchaser of the Project or any interest therein. The parties agree that Tenant's obligation to furnish such estoppel certificates in a timely fashion is a material inducement for Landlord's execution of the Lease, and shall be an event of default if Tenant fails to fully comply.

SECURITY DEPOSIT

19. Tenant agrees to deposit with Landlord upon execution of this Lease, a Security Deposit as stated in the Basic Lease Information, which sum shall be held by Landlord, without obligation for interest, as security for the performance of Tenant's covenants and obligations under this Lease. The Security Deposit is not an advance rental deposit or a measure of damages incurred by Landlord in case of Tenant's default. Upon the occurrence of any event of default by Tenant, Landlord may, from time to time, without prejudice to any other remedy provided herein or provided by law, use such fund to the extent necessary to make good any arrears of Rent or other payments due to Landlord hereunder, and any other damage, injury, expense or liability caused by such event of default, and Tenant shall pay to Landlord, on demand, the amount so applied in order to restore the Security Deposit to its original amount. Although the Security Deposit shall be deemed the property of Landlord, any remaining balance of such deposit shall be returned by Landlord to Tenant at such time after termination of this Lease that all of Tenant's obligations under this Lease have been fulfilled. Landlord may use and commingle the Security Deposit with other funds of Landlord.

TENANT'S REMEDIES

20. The liability of Landlord to Tenant for any default by Landlord under the terms of this Lease are not personal obligations of the individual or other partners, directors, officers and shareholders of Landlord, and Tenant agrees to look solely to Landlord's interest in the Project for the recovery of any amount from Landlord, and shall not look to other assets of Landlord nor seek recourse against the assets of the individual or other partners, directors, officers and shareholders of Landlord. Any lien obtained to enforce any such judgment and any levy of execution thereon shall be subject and subordinate to any lien, mortgage or deed of trust on the Project.

ASSIGNMENT AND SUBLETTING

21. A. GENERAL. Tenant shall not assign or sublet the Premises or any part thereof without Landlord's prior written approval except as provided herein. If Tenant desires to assign this Lease or sublet any or all of the Premises, Tenant shall give Landlord written notice forty-five (45) days prior to the anticipated effective date of the assignment or sublease. Landlord shall then have a period of thirty (30) days following receipt of such notice to notify Tenant in writing that Landlord elects either: (1) to terminate this Lease as to the space so affected as of the date so requested by Tenant; or (2) to permit Tenant to assign this Lease or sublet such space, subject, however, to Landlord's prior written approval of the proposed assignee or subtenant and of any related documents or agreements associated with the assignment or sublease. If Landlord should fail to notify Tenant in writing of such election within said period, Landlord shall be deemed to have waived option (1) above, but written approval by Landlord of the proposed assignee or subtenant shall be required. If Landlord does not exercise the option provided in subitem (1) above, Landlord's consent to a proposed assignment or sublet shall not be unreasonably withheld. Without limiting the other instances in which it may be reasonable for Landlord to withhold Landlord's consent to an assignment or subletting, Landlord and Tenant acknowledge that it shall be

reasonable for Landlord to withhold Landlord's consent in the following instances: The use of the Premises by such proposed assignee or subtenant would not be a permitted use or would increase the Parking Density of the Project; the proposed assignee or subtenant is not of sound financial condition; the proposed assignee or subtenant is a governmental agency; the proposed assignee or subtenant does not have a good reputation as a tenant of property; the proposed assignee or subtenant is a person with whom Landlord is negotiating to lease space in the Project; the assignment or subletting would entail any alterations which would lessen the value of the leasehold improvements in the Premises; or if Tenant is in default of any obligation of Tenant under this Lease, or Tenant has defaulted under this Lease on three (3) or more occasions during any twelve (12) months preceding the date that Tenant shall request consent. Failure by Landlord to approve a proposed assignee or subtenant shall not cause a termination of this Lease. Upon a termination under this Paragraph 21.A., Landlord may lease the Premises to any party, including parties with whom Tenant has negotiated an assignment or sublease, without incurring any liability to Tenant.

B. BONUS RENT. Any Rent or other consideration realized by Tenant under any such sublease or assignment in excess of the Rent payable hereunder, after amortization of a reasonable brokerage commission, shall be divided and paid, ten percent (10%) to Tenant, ninety percent (90%) to

Landlord. In any subletting or assignment undertaken by Tenant, Tenant shall diligently seek to obtain the maximum rental amount available in the marketplace for such subletting or assignment.

C. PARTNERSHIP. If Tenant is a partnership, joint venture or other incorporated business form, a transfer of the interest of persons, firms or entities responsible for managerial control of Tenant by sale, assignment, bequest, inheritance, operation of law or other disposition, so as to result in a change in the present control of said entity and/or a change in the identity of the persons responsible for the general credit obligations of said entity shall constitute an assignment for all purposes of this Lease.

D. LIABILITY. No assignment or subletting by Tenant shall relieve Tenant of any obligation under this Lease. Any assignment or subletting which conflicts with the provisions hereof shall be void.

AUTHORITY OF PARTIES

22. Landlord represents and warrants that it has full right and authority to enter into this Lease and to perform all of Landlords's obligations hereunder. Tenant represents and warrants that it has full right and authority to enter into this Lease and to perform all of Tenant's obligations hereunder.

CONDEMNATION

23. A. CONDEMNATION RESULTING IN TERMINATION. If the whole or any substantial part of the Project of which the Premises are a part should be taken or condemned for any public use under governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, and the taking would prevent or materially interfere with the Permitted Use of the Premises, this Lease shall terminate and the Rent shall be abated during the unexpired portion of this Lease, effective when the physical taking of said Premises shall have occurred.

B. CONDEMNATION NOT RESULTING IN TERMINATION. If a portion of the Project of which the Premises are a part should be taken or condemned for any public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof, and this Lease is not terminated as provided in Paragraph 23.A. above, this Lease

shall not terminate, but the Rent payable hereunder during the unexpired portion of the Lease shall be reduced, beginning on the date when the physical taking shall have occurred, to such amount as may be fair and reasonable under all of the circumstances.

C. AWARD. Landlord shall be entitled to any and all payment, income, rent, award, or any interest therein

whatsoever which may be paid or made in connection with such taking or conveyance and Tenant shall have no claim against Landlord or otherwise for the value of any unexpired portion of this Lease. Notwithstanding the foregoing, any compensation specifically awarded Tenant for loss of business, Tenant's personal property, moving costs or loss of goodwill, shall be and remain the property of Tenant.

CASUALTY DAMAGE

24. A. GENERAL. If the Premises or Building should be damaged or destroyed by fire, tornado or other casualty, Tenant shall give immediate written notice thereof to Landlord. Within thirty (30) days after Landlord's receipt of such notice, Landlord shall notify Tenant whether in Landlord's opinion such repairs can reasonably be made either: (1) within ninety (90) days; (2) in more than ninety (90) days but in less than one hundred eighty (180) days; or (3) in more than one hundred eighty (180) days from the date of such notice. Landlord's determination shall be binding on Tenant.

B. LESS THAN 90 DAYS. If the Premises or Building should be damaged by fire, tornado or other casualty but only to such extent that rebuilding or repairs can in Landlord's estimation be reasonably completed within ninety (90) days after the date of such damage, this Lease shall not terminate, and provided that insurance proceeds are available to fully repair the damage, Landlord shall proceed to rebuild and repair the Premises in the manner determined by Landlord, except that Landlord shall not be required to rebuild, repair or replace any part of the partitions, fixtures, additions and other leasehold improvements which may have been placed in, on or about the Premises. If the Premises are untenantable in whole or in part following such damage, the Rent payable hereunder during the period in which they are untenantable shall be abated proportionately, but only to the extent of rental abatement insurance proceeds received by Landlord during the time and to the extent the Premises are unfit for occupancy.

C. GREATER THAN 90 DAYS. If the Premises or Building should be damaged by fire, tornado or other casualty but only to such extent that rebuilding or repairs can in Landlord's estimation be reasonably completed in more than ninety (90) days but in less than one hundred eighty (180) days, then Landlord shall have the option of either: (1) terminating the Lease effective upon the date of the occurrence of such damage, in which event the Rent shall be abated during the unexpired portion of the Lease; or (2) electing to rebuild or repair the Premises to substantially the condition in which they existed prior to such damage, provided that insurance proceeds are available, to fully repair the damage, except that Landlord shall not be required to rebuild, repair or replace any part of the partitions, fixtures, additions and other improvements which

may have been placed in, on or about the Premises. If the Premises are untenantable in whole or in part following such damage, the Rent payable hereunder during the period in which they are untenantable shall be abated proportionately, but only to the extent of rental abatement insurance proceeds received by Landlord during the time and to the extent the Premises are unfit for occupancy. In the event that Landlord should fail to complete such repairs and rebuilding within one hundred eighty days (180) days after the date upon which Landlord is notified by Tenant of such

damage, such period of time to be extended for delays caused by the fault or neglect of Tenant or because of acts of God, acts of public agencies, labor disputes, strikes, fires, freight embargoes, rainy or stormy weather, inability to obtain materials, supplies or fuels, or delays of the contractors or subcontractors or any other causes or contingencies beyond the reasonable control of Landlord, Tenant may at Tenant's option within ten (10) days after the expiration of such one hundred eighty (180) day period (as such may be extended), terminate this Lease by delivering written notice of termination to Landlord as Tenant's exclusive remedy, whereupon all rights hereunder shall cease and terminate thirty (30) days after Landlord's receipt of such termination notice.

D. GREATER THAN 180 DAYS. If the Premises or Building should be so damaged by fire, tornado or other casualty that rebuilding or repairs cannot in Landlord's estimation be completed within one hundred eighty (180) days after such damage, this Lease shall terminate and the Rent shall be abated during the unexpired portion of this Lease, effective upon the date of the occurrence of such damage.

E. TENANT'S FAULT. If the Premises or any other portion of the Building are damaged by fire or other casualty resulting from the fault, negligence, or breach of this Lease by Tenant or any of Tenant's Parties, Base Rent and Additional Rent shall not be diminished during the repair of such damage and Tenant shall be liable to Landlord for the cost and expense of the repair and restoration of the Building caused thereby to the extent such cost and expense is not covered by insurance proceeds.

F. UNINSURED CASUALTY. Notwithstanding anything herein to the contrary, in the event that the Premises or Building are damaged or destroyed and are not fully covered by the insurance proceeds received by Landlord or in the event that the holder of any indebtedness secured by a mortgage or deed of trust covering the Premises requires that the insurance proceeds be applied to such indebtedness, then in either case Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant within thirty (30) days after the date of notice to Landlord that said damage or destruction is not fully covered by insurance or such requirement is made by any such holder, as the case

may be, whereupon all rights and obligations hereunder shall cease and terminate.

G. WAIVER. Except as otherwise provided in this Paragraph 24, Tenant hereby waives the provisions of Sections 1932(a), 1933(4), 1941 and 1942 of the Civil Code of California.

HOLDING OVER

25. If Tenant shall retain possession of the Premises or any portion thereof without Landlord's consent following the expiration of the Lease or sooner termination for any reason, then Tenant shall pay to Landlord for each day of such retention triple the amount of the daily rental as of the last month prior to the date of expiration or termination. Tenant shall also indemnify, defend, protect and hold Landlord harmless from any loss, liability or cost, including reasonable attorneys' fees, resulting from delay by Tenant in surrendering the Premises, including, without limitation, any claims made by any succeeding tenant founded on such delay. Acceptance of Rent by Landlord following expiration or termination shall not constitute a renewal of this Lease, and nothing contained in this Paragraph 25 shall waive Landlord's right of reentry or any other right. Unless Landlord consents in writing to Tenant's holding over, Tenant shall be only a Tenant at sufferance, whether or not Landlord accepts any Rent from Tenant while Tenant is holding over without Landlord's written consent. Additionally, in the event that upon termination of the Lease, Tenant has not fulfilled its obligation with respect to repairs and cleanup of the Premises or any other Tenant obligations as set forth in this Lease,

then Landlord shall have the right to perform any such obligations as it deems necessary at Tenant's sole cost and expense, and any time required by Landlord to complete such obligations shall be considered a period of holding over and the terms of this Paragraph 25 shall apply.

DEFAULT

26. A. EVENTS OF DEFAULT. The occurrence of any of the following shall constitute an event of default on the part of Tenant:

(1) ABANDONMENT. Abandonment of the Premises for a continuous period in excess of five days. Tenant waives any right to notice Tenant may have under Section 1951.3 of the Civil Code of the State of California, the terms of this Paragraph 26.A. being deemed such notice to Tenant as required by said Section 1951.3.

(2) NONPAYMENT OF RENT. Failure to pay any installment of Rent or any other amount due and payable hereunder upon the date when said payment is due.

(3) OTHER OBLIGATIONS. Failure to perform any obligation, agreement or covenant under this Lease other than those matters specified in subparagraphs (1) and (2) of this Paragraph 26.A., such failure continuing for fifteen (15) days after written notice of such failure.

(4) GENERAL ASSIGNMENT. A general assignment by Tenant for the benefit of creditors.

(5) BANKRUPTCY. The filing of any voluntary petition in bankruptcy by Tenant, or the filing of involuntary petition by Tenant's creditors, which involuntary petition remains undischarged for a period of thirty (30) days. In the event that under applicable law the trustee in bankruptcy Tenant has the right to affirm this Lease and continue to perform the obligations of Tenant hereunder, such trustee or Tenant shall, in such time period as may be permitted by the bankruptcy court having jurisdiction, cure all defaults of Tenant hereunder outstanding as of the date of the affirmance of this Lease and provide to Landlord such adequate assurances as may be necessary to ensure Landlord of the continued performance of Tenant's obligations under the Lease.

(6) RECEIVERSHIP. The employment of a receiver to take possession of substantially all of Tenant's assets or the Premises, if such appointment remains undismissed or undischarged for a period of ten (10) days after the order therefor.

(7) ATTACHMENT. The attachment, execution or other judicial seizure of all or substantially all of Tenant's assets or the Premises, if such attachment or other seizure remains undismissed or undischarged for a period of ten (10) days after the levy thereof.

B. REMEDIES UPON DEFAULT.

(1) TERMINATION. In the event of the occurrence of any event of default, Landlord shall have the right to give a written termination notice to Tenant, and on the date specified in such notice Tenant's right to possession shall terminate, and this Lease shall terminate unless on or before such date all arrears of rental and all other sums payable by Tenant under this Lease and all cost and expenses incurred by or on behalf of Landlord hereunder shall have been paid by Tenant and all other events of default of this Lease by Tenant at the time existing shall have been fully remedied to the satisfaction of Landlord. At any time after such termination, Landlord may recover possession of the Premises or any part thereof and expel and remove therefrom Tenant and any other person occupying the same, by any lawful means, and again repossess and enjoy the Premises without prejudice to any of the remedies that Landlord may have

under this Lease, or at law or equity by reason of Tenant's default or of such termination.

(2) CONTINUATION AFTER DEFAULT. Even though an event of default may have occurred, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession under Paragraph 26.B.(1) hereof, and Landlord may enforce all of Landlord's rights and remedies under this Lease, including without limitation, the right to recover Rent as it becomes due, and Landlord, without terminating this Lease, may exercise all of the rights and remedies of a landlord under Section 1951.4 of the Civil Code of the State of California or any successor code section. Acts of maintenance, preservation or efforts to lease the Premises or the appointment of a receiver upon application of Landlord to protect Landlord's interest under this Lease shall not constitute an election to terminate Tenant's right to possession.

C. DAMAGES AFTER DEFAULT. Should Landlord terminate this Lease pursuant to the provisions of Paragraph 26.B.(1) hereof, Landlord shall have the rights and remedies of a landlord provided by Section 1951.2 of the Civil Code of the State of California, or successor code sections. Upon such termination, in addition to any other rights and remedies to which Landlord may be entitled under applicable law, Landlord shall be entitled to recover from Tenant: (1) the worth at the time of award of the unpaid Rent and other amounts which had been earned at the time of termination, (2) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; (3) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that the Tenant proves could be reasonably avoided; and (4) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or which, in the ordinary course of things, would be likely to result therefrom. The "worth at the time of award" of the amounts referred to in (1) and (2), above shall be computed at the lesser of the "prime rate," as announced from time to time by Wells Fargo Bank, N.A. (San Francisco), plus five (5) percentage points, or the maximum interest rate allowed by law ("Applicable Interest Rate"). The "worth at the time of award" of the amount referred to in (3) above shall be computed by discounting such amount at the Federal Discount Rate of the Federal Reserve Bank of San Francisco at the time of the award. If this Lease provides for any periods during the Term during which Tenant is not required to pay Base Rent or if Tenant otherwise receives a Rent concession, then upon the occurrence of an event of default, Tenant shall owe to Landlord the full amount of such Base Rent or value of such Rent concession, plus interest at the Applicable Interest Rate, calculated from the date that such Base Rent or Rent concession would have been payable.

D. LATE CHARGE. If any installment of Rent is not paid within five (5) days promptly when due, such amount shall bear interest at the Applicable Interest Rate from the date on which said payment shall be due until the date on which Landlord shall receive said payment. In addition, Tenant shall pay Landlord a late charge equal to five percent (5%) of the delinquency, to compensate Landlord for the loss of the use of the amount not paid and the administrative costs caused by the delinquency, the parties agreeing that Landlord's damage by virtue of such delinquencies would be difficult to compute and the amount stated herein represents a reasonable estimate thereof. This provision shall not relieve Tenant of Tenant's obligation to pay Rent at the time and in the manner herein specified.

E. REMEDIES CUMULATIVE. All rights, privileges and elections of the

parties are cumulative and not alternative, to the extent permitted by law and except as otherwise provided herein.

LIENS

27. Tenant shall keep the Premises free from liens arising out of or related to work performed, materials or supplies furnished or obligations incurred by Tenant or in connection with work made, suffered or done by or on behalf of Tenant in or on the Premises or Project. In the event that Tenant shall not, within ten (10) days following the imposition of any such lien, cause the same to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, to cause the same to be released by such means as Landlord shall deem proper, including payment of the claim giving rise to such lien. All sums paid by Landlord on behalf of Tenant and all expenses incurred by Landlord in connection therefor shall be payable to Landlord by Tenant on demand with interest at the Applicable Interest Rate. Landlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law, or which Landlord shall deem proper, for the protection of Landlord, the Premises, the Project and any other party having an interest therein, from mechanics' and materialmen's liens, and Tenant shall give Landlord not less than ten (10) business days prior written notice of the commencement of any work in the Premises or Project which could lawfully give rise to a claim for mechanics' or materialmen's liens.

TRANSFERS BY LANDLORD

28. In the event of a sale or conveyance by Landlord of the Building or a foreclosure by any creditor of Landlord, the same shall operate to release Landlord from any liability upon any of the covenants or conditions, express or implied, herein contained in favor of Tenant, to the extent required to be performed after the passing of title to Landlord's

successor-in-interest. In such event, Tenant agrees to look solely to the responsibility of the successor-in-interest of Landlord under this Lease with respect to the performance of the covenants and duties of "Landlord" to be performed after the passing of title to Landlord's successor-in-interest. This Lease shall not be affected by any such sale and Tenant agrees to attorn to the purchaser or assignee. Landlord's successor(s)-in-interest shall not have liability to Tenant with respect to the failure to perform all of the obligations of "Landlord", to the extent required to be performed prior to the date such successor(s)-in-interest became the owner of the Building.

RIGHT OF LANDLORD TO PERFORM TENANT'S COVENANTS

29. All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any abatement of Rent. If Tenant shall fail to pay any sum of money, other than Base Rent and Basic Operating Cost, required to be paid by Tenant hereunder or shall fail to perform any other act on Tenant's part to be performed hereunder, and such failure shall continue for five (5) days after notice thereof by Landlord, Landlord may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such act on Tenant's part to be made or performed. All sums, so paid by Landlord and all necessary incidental costs together with interest thereon at the Applicable Interest Rate from the date of such payment by Landlord shall be payable to Landlord on demand, and Tenant covenants to pay such sums, and Landlord shall have, in addition to any other right or remedy of Landlord, the same right and remedies in the event of the non-payment thereof by Tenant as in the case of default by Tenant in the payment of Base Rent and Basic Operating Cost.

WAIVER

30. If either Landlord or Tenant waives the performance of any term, covenant or condition contained in this Lease, such waiver shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein. The acceptance of Rent by Landlord shall not constitute a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, regardless of Landlord's knowledge of such preceding breach at the time Landlord accepted such Rent. Failure by Landlord to enforce any of the terms, covenants or conditions of this Lease for any length of time shall not be deemed to waive or to decrease the right of Landlord to insist thereafter upon strict performance by Tenant. Waiver by Landlord of any term, covenant or condition contained in this Lease may only be made by a written document signed by Landlord.

NOTICES

31. Each provision of this Lease or of any applicable governmental laws, ordinances, regulations and other requirements with reference to sending, mailing or delivery of any notice or the making of any payment by Landlord or Tenant to the other shall be deemed to be complied with when and if the following steps are taken:

A. RENT. All Rent and other payments required to be made by Tenant to Landlord hereunder shall be payable to Landlord at the address set forth in the Basic Lease Information, or at such other address as Landlord may specify from time to time by written notice delivered in accordance herewith. Tenant's obligation to pay Rent and any other amounts to Landlord under the terms of this Lease shall not be deemed satisfied until such Rent and other amounts have been actually received by Landlord.

B. OTHER. All notices, demands, consents and approvals which may or are required to be given by either party to the other hereunder shall be in writing and either personally delivered, sent by commercial overnight courier, or mailed, certified or registered, postage prepaid, and addressed to the party to be notified at the address for such party as specified in the Basic Lease Information or to such other place as the party to be notified may from time to time designate by at least fifteen (15) days notice to the notifying party. Notices shall be deemed served upon receipt or refusal to accept delivery. Tenant appoints as its agent to receive the service of all default notices and notice of commencement of unlawful detainer proceedings the person in charge of or apparently in charge of occupying the Premises at the time, and, if there is no such person, then such service may be made by attaching the same on the main entrance of the Premises.

ATTORNEYS' FEES

32. In the event that Landlord places the enforcement of this Lease, or any part thereof, or the collection of any Rent due, or to become due hereunder, or recovery of possession of the Premises in the hands of an attorney, Tenant shall pay to Landlord, upon demand, Landlord's reasonable attorneys' fees and court costs. In any action which Landlord or Tenant brings to enforce its respective rights hereunder, the unsuccessful party shall pay all costs incurred by the prevailing party including reasonable attorneys' fees, to be fixed by the court, and said costs and attorneys' fees shall be a part of the judgment in said action.

SUCCESSORS AND ASSIGNS

33. This Lease shall be binding upon and inure to the benefit of Landlord, its successors and assigns, and shall be binding

upon and inure to the benefit of Tenant, its successors, and to the extent assignment is approved by Landlord hereunder, Tenant's assigns.

FORCE MAJEURE

34. Whenever a period of time is herein prescribed for action to be taken by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the control of Landlord.

BROKERAGE COMMISSION

35. Landlord shall pay a brokerage commission to Broker in accordance with a separate agreement between Landlord and Broker. Tenant warrants to Landlord that Tenant's sole contact with Landlord or with the Premises in connection with this transaction has been directly with Landlord and Broker, and that no other broker or finder can properly claim a right to a commission or a finder's fee based upon contacts between the claimant and Tenant with respect to Landlord or the Premises. Tenant shall indemnify, defend by counsel acceptable to Landlord, protect and hold Landlord harmless from and against any loss, cost or expense, including, but not limited to, attorneys' fees and costs, resulting from any claim for a fee or commission by any broker or finder in connection with the Premises and this Lease other than Broker.

MISCELLANEOUS

36. A. GENERAL. The term "Tenant" or any pronoun used in place thereof shall indicate and include the masculine or feminine, the singular or plural number, individuals, firms or corporations, and their respective successors, executors, administrators and permitted assigns, according to the context hereof.

B. TIME. Time is of the essence regarding this Lease and all of its provisions.

C. CHOICE OF LAW. This Lease shall in all respects be governed by the laws of the State of California.

D. ENTIRE AGREEMENT. This Lease, together with its Exhibits, contains all the agreements of the parties hereto and supersedes any previous negotiations. There have been no representations made by the Landlord or understandings made between the parties other than those set forth in this Lease and its exhibits.

E. MODIFICATION. This Lease may not be modified except by a written instrument by the parties hereto.

F. SEVERABILITY. If, for any reason whatsoever, any of the provisions hereof shall be unenforceable or ineffective, all of the other provisions shall be and remain in full force and effect.

G. RECORDATION. Tenant shall not record this Lease or a short form memorandum hereof.

H. EXAMINATION OF LEASE. Submission of this Lease to Tenant does not constitute an option or offer to lease and this Lease is not effective otherwise until execution and delivery by both Landlord and Tenant.

I. ACCORD AND SATISFACTION. No payment by Tenant of a lesser amount than the Rent nor any endorsement on any check or letter accompanying any check or payment of Rent shall be deemed an accord and satisfaction of full

payment of Rent, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of such Rent or to pursue other remedies.

J. EASEMENTS. Landlord may grant easements on the Project and dedicate for public use portions of the Project without Tenant's consent; provided that no such grant or dedication shall substantially interfere with Tenant's use of the Premises. Upon Landlord's demand, Tenant shall execute, acknowledge and deliver to Landlord documents, instruments, maps and plats necessary to effectuate Tenant's covenants hereunder.

K. DRAFTING AND DETERMINATION PRESUMPTION. The parties acknowledge that this Lease has been agreed to by both the parties, that both Landlord and Tenant have consulted with attorneys with respect to the terms of this Lease and that no presumption shall be created against Landlord because Landlord drafted this Lease. Except as otherwise specifically set forth in this Lease, with respect to any consent, determination or estimation of Landlord required in this Lease or requested of Landlord, Landlord's consent, determination or estimation shall be made in Landlord's good faith opinion, whether objectively reasonable or unreasonable.

L. EXHIBITS. Exhibits A and B attached hereto are hereby incorporated herein by this reference.

M. NO LIGHT, AIR OR VIEW EASEMENT. Any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to or in the vicinity of the Building shall in no way affect this Lease or impose any liability on Landlord.

N. NO THIRD PARTY BENEFIT. This Lease is a contract between Landlord and Tenant and nothing herein is intended to create any third party benefit.

ADDITIONAL PROVISIONS

37. Exhibits A and B and Paragraphs 38, 39 and 40

Exhibit A - Site Plan
Exhibit B - Personal Guaranty
Paragraph 38 - Base Rent
Paragraph 39 - Tenant Improvements
Paragraph 40 - Designated Parking

Paragraph 38. Base Rent

Base rent for the Premises shall be as follows:

1-15	$2,640.00 per month
16-30	$2,723.00 per month

Paragraph 39. Tenant Improvements

Tenant agrees to accept the Premises substantially in an "as-is" condition except for the following improvements:

- Paint office walls.
- Patch office walls.
- Clean carpet.
- Replace damaged or stained ceiling tiles.
- Remove plywood phone panels.
- Designate two (2) parking spaces.

These improvements shall be constructed at Landlord's sole cost and

expense.

Paragraph 40. Designated Parking

Landlord will label two (2) parking spaces in front of Tenant's premises for Tenant's use. Landlord will in no way be responsible for the policing of such spaces or the ability of Tenant to maintain "reserved" parking through the term of the lease. Currently, the City of Foster City does not permit designated parking. Tenant's ability to maintain designated parking will in no way affect the rest of Tenant's obligations under this Lease.

Paragraph 41. Tenant's Repairs

Landlord warrants that all building systems are in good working condition at the time of lease commencement.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

"Landlord"

1170 CHESS DRIVE LIMITED PARTNERSHIP, A TEXAS LIMITED PARTNERSHIP

By:_____
Vice President

Its:_____

"Tenant"

DEPOMED SYSTEMS, INC., A CALIFORNIA CORPORATION

By:_____
Vice President

Its:_____

EXHIBIT A

EXHIBIT B

Guaranty of Lease Agreement

Mr. John W. Shell ("Guarantor"), whose address is 952 Tournament Drive, Hillsborough, CA 94010, as a material inducement to and in consideration of 1170 Chess Drive Limited Partnership, a Texas Limited Partnership ("Landlord") entering into this Lease with DepoMed Systems, Inc., a California Corporation ("Tenant"), unconditionally guarantees and promises to and for the benefit of Landlord that Tenant shall perform its obligations under the Lease that Tenant is to perform.

Guarantor waives the benefit of any statute of limitations affecting Guarantor's liability under this guaranty.

The provisions of the Lease may be changed by agreement between Landlord and Tenant at any time, or by course of conduct, without the consent of or without notice to the Guarantor. This guaranty shall guarantee the performance of the Lease as changed. Assignment of the Lease shall not affect this guaranty.

This guaranty shall not be affected by Landlord's failure to delay to enforce any of its rights.

If Tenant defaults under the Lease, Landlord can proceed immediately against the Guarantor or Tenant, or both, or Landlord can enforce against the Guarantor or Tenant, or both, any rights that it has under the Lease, or pursuant to applicable laws.

The Guarantor waives the right to require Landlord to (1) proceed against Tenant; (2) proceed against or exhaust any security that Landlord holds from Tenant; or (3) pursue any other remedy in Landlord's power. The Guarantor waives any defense by reason of any disability of Tenant, and waives any other defense based on the termination of Tenant's liability from any cause. Until all Tenant's obligations to Landlord have been discharged in full, the Guarantor has no right of subrogation against Tenant. The Guarantor waives any right to participate in any security now or later held by Landlord. The Guarantor waives all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, and notices of acceptance of this guaranty, and waives all notices of the existence, creation, or incurring of new or additional obligations.

The Guarantor agrees that this guaranty shall be construed as an absolute, unconditional, continuing and unlimited obligation of Guarantor without regard to the regularity, validity or enforceability of any liability or obligation hereby guaranteed. Without limiting the generality of the foregoing, the obligations of Guarantor hereunder shall in no way be released, diminished or otherwise affected by reason of any voluntary or involuntary proceedings by or against Tenant in bankruptcy or for an

arrangement or reorganization or for any other relief under any provision of the Bankruptcy Act as from time to time in effect.

The Guarantor further agrees that if any of their obligations hereunder shall be held to be unenforceable, the remainder of this guaranty and its application to all obligations than those with respect to which it is held unenforceable shall not be affected thereby and shall remain in full force and effect.

If Landlord is required to enforce the Guarantor's obligations by legal proceedings, the Guarantor shall pay to Landlord all costs incurred, including, without limitation, reasonable attorneys' fees.

Guarantor's obligations under this guaranty shall be binding on Guarantor's successors.

IN WITNESS WHEREOF, the Guarantor has executed this guaranty this 3rd day of September 1992 with the intent to be legally bound thereby.

"GUARANTOR"

- ----------
John W. Shell

- ----------
Address

- ----------
Driver's License Number

- ----------
Bank Account Number

- ----------
Date

EXHIBIT 10.7

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT, dated as of _____, 1997, is made and entered into by and between DepoMed, Inc., a California corporation (the "Company") and John W. Shell, an individual ("Employee").

R E C I T A L S:

WHEREAS, the Company, desires to employ Employee and Employee desires to perform the duties and obligations hereinafter described for a period commencing on the date of this Agreement (the "Effective Date") and ending on the second anniversary of the Effective Date, upon the terms and conditions hereinafter set forth;

NOW THEREFORE, in consideration of the premises and mutual agreements herein, the Company and Employee agree as follows:

1. Employment. The Company hereby agrees to employ Employee, and Employee agrees to serve the Company in the capacity of Chairman and Chief Scientific Officer, subject to the terms and conditions of this Agreement. Employee shall, during the term of this Agreement, in good faith perform his duties as Chairman and Chief Scientific Officer and shall implement the policies of the Company.

2. Employment Term. Employment of Employee shall commence on the Effective Date and shall continue until two years from the Effective Date, unless terminated pursuant to Section 6 below.

3. Compensation and Benefits. From and after the Effective Date and so long as Employee is employed by the Company, Employee shall be entitled to the following compensation and benefits:

(a) Salary. Employee shall receive an annual salary of $185,000 to be paid in periodic installments, in accordance with the Company's standard payroll practice.

(b) Vacation. Employee shall receive vacation in accordance with Company's standard vacation policy for employees; provided, however, in no event shall the Employee receive less than three weeks of vacation per year.

(c) Benefits. Employee shall receive health insurance and dental insurance equivalent to those benefits accorded the Company's other employees. Employee shall receive reimbursement for business-related expenses in accordance with the Company's policies, and shall have the right to contribute to any 401(k) plan or other similar plan established by the Company, on the same terms as the Company's other employees.

4. Duties. Employee shall (i) faithfully devote full-time attention, skill and ability to discharge the duties assigned to him by the Board of Director, (ii) use best efforts to promote and protect the interests of the Company, (iii) comply with all reasonable and lawful instructions that the Board of Directors give from time to time, and (iv) provide information and assistance as requested by the Board of Directors. During the term of this Agreement,

Employee shall not engage in any work, enterprise or activity which is not in the best interests of the Company, or contrary to, or detracting from, the due performance of the business of the Company or the discharge of Employee's duties to the Company.

5. Non-Competition and Confidentiality.

(a) Non-Competition. Employee agrees that during the term of his employment by the Company, he shall not carry on any business that is directly or indirectly competitive with or similar to the business conducted by the Company. For purposes of this Agreement, each of the following activities, without limitation, shall be deemed to constitute carrying on a business: to own or control an interest, directly or indirectly, in any enterprise or endeavor, either individually, in partnership or in conjunction with any person, firm, association, company or corporation, or act as a director, officer, agent, employee, consultant, partner or stockholder of a business; provided, however, that Employee shall not be prohibited from (i) owning less than 5% of the equity securities of an entity, (ii) serving as a director of an entity, where Employee served in such capacity as of the Effective Date; or (iii) engaging in advising or consulting activities approved by the Company's Board of Directors.

(b) Confidentiality.

(i) Definition of Confidential Information. As used herein, the term "Confidential Information" shall mean all information Employee acquired from any source in the course of his employment by the Company if (A) such information is not either in the public domain or part of Employee's general knowledge learned apart from his work for the Company and (B) Employee has reason to believe that such information is confidential information of the Company (or an affiliate of the Company). Information shall be "Confidential Information" even if no legal protection has been obtained or sought for such information under federal, state or foreign laws and whether or not Employee has been specifically notified that such information is "Confidential Information." "Confidential Information" includes, by way of example and without limitation, the operation methods of the Company (and affiliates of the Company), customer lists and arrangements with licensees.

(ii) Use of Confidential Information. Without limiting or otherwise affecting Employee's obligations under

Section 5(a) of this Agreement, Employee agrees not to disclose, communicate or use to the detriment of the Company or for the benefit of any other person (including himself), or misuse in any way any Confidential Information. Employee acknowledges and agrees that all Confidential Information received heretofore or to be received hereafter by him from the Company (or an affiliate of the Company) was or will be received by him in confidence and as a fiduciary of the Company. The obligation not to disclose, communicate, use or misuse Confidential Information shall continue indefinitely after the termination, if any, of this Agreement.

6. Termination. Employee or the Company may terminate this Agreement at any time upon 90 days written notice to the other party.

7. General Provisions.

(a) Waiver. Failure of either party to enforce any of the provisions of this Agreement, or any rights with respect thereto, or failure to exercise

any election provided for herein, shall in no way be considered a waiver of such provisions, rights or elections, or in any way affect the validity of this Agreement. The failure of either party to enforce any of said provisions, rights or elections shall not prejudice such party from later enforcing or exercising the same or any other provisions, rights or elections which it may have under this Agreement.

(b) No Assignment. The rights and duties of Employee under this Agreement shall not be subject to alienation, assignment or transfer, whether voluntary or involuntary.

(c) Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally or by facsimile, or five days after the date of mailing if mailed by first class mail, registered or certified, postage prepaid. Notices shall be addressed as follows:

If to Company: DepoMed, Inc.
1170 B Chess Drive
Foster City, California 94404
ATTENTION: President

If to Employee: John W. Shell
952 Tournament Drive
Hillsborough, California 94010

(d) Supersedes Prior Agreements. This Agreement supersedes all prior employment agreements, understandings, oral or written, between Employee and the Company (or any affiliate of the Company).

(e) Captions. The captions used in this Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the construction or interpretation of any of the provisions hereof.

(f) Construction. The language used in this Agreement will be deemed to be the language chosen by each of the parties hereto to express their mutual intent, and no rule of strict construction, including the rule that ambiguities are to be resolved against the drafting party, shall be applied against either party.

(g) Severability. If any term of this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining terms contained herein and any other application of said terms shall not in any way be affected or impaired thereby.

(h) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into by residents of California and to be performed wholly within the State of California.

(i) No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the parties and their respective successors and permitted assigns.

(j) Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and no changes in, additions to, or modifications of this Agreement shall be valid unless set forth in writing and signed by each of the parties.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date first above written.

COMPANY: DEPOMED, INC.

By: _____

Title: _____

EMPLOYEE: _____

John W. Shell

EXHIBIT 10.8

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT, dated as of February 1, 1997, is made and entered into by and between DepoMed, Inc. a California corporation ("Company"), and John W. Fara, an individual ("Employee").

R E C I T A L S:

The Company desires to employ Employee and Employee desires to perform the duties and obligations hereinafter described for a period commencing on the date of this Agreement (the "Effective Date") and ending on the second anniversary of the Effective Date, upon the terms and conditions hereinafter set forth.

A G R E E M E N T

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained and their performance, the Company and Employee agree as follows:

1. Employment. The Company hereby agrees to employ Employee, and Employee agrees to serve the Company in the capacity of President and Chief Executive Officer, subject to the direction of the Board of Directors of the Company and the terms and conditions of this Agreement. Employee shall, during the term of this Agreement, in good faith perform such duties of the office of President and Chief Executive Officer and shall implement the policies of the Company.

2. Employment Term. Employment of Employee shall commence on the Effective Date and shall continue until two years from the Effective Date.

3. Compensation and Benefits. From and after the Effective Date and so long as Employee is employed by the Company, Employee shall be entitled to the following compensation and benefits:

(a) Salary. Employee shall receive an annual salary of $185,000, to be paid in periodic installments, in accordance with the Company's standard payroll practice.

(b) Vacation. Employee shall receive vacation in accordance with Company's standard vacation policy for employees; provided, however, in no event shall the Employee receive less than three weeks of vacation per year.

(c) Benefits. Employee shall receive health insurance and dental insurance equivalent to those benefits accorded the Company's other employees. Employee shall receive reimbursement for business-related expenses in accordance with the Company's policies, and shall have the right to contribute to any 401(k)

plan or other similar plan established by the Company, on the same terms as the Company's other employees.

4. Duties. Employee shall (i) faithfully devote full-time attention,

skill and ability to discharge the duties assigned to him by the Board of Directors of the Company, (ii) use best efforts to promote and protect the interests of the Company, (iii) comply with all reasonable and lawful instructions that the Board of Directors of the Company give from time to time, and (iv) provide information and assistance as requested by the Board of Directors of the Company. During the term of this Agreement, Employee shall not engage in any work, enterprise or activity which is, in the opinion of the Board of Directors of the Company, not in the best interests of the Company, or contrary to, or detracting from, the due performance of the business of the Company or the discharge of Employee's duties to the Company.

5. Non-Competition and Confidentiality.

(a) Non-Competition. Employee agrees that during the term of his employment by the Company, he shall not carry on any business that is directly or indirectly competitive with or similar to the business conducted by the Company. For purposes of this Agreement, each of the following activities, without limitation, shall be deemed to constitute carrying on a business: to own or control an interest, directly or indirectly, in any enterprise or endeavor, either individually, in partnership or in conjunction with any person, firm, association, company or corporation, or act as a director, officer, agent, employee, consultant, partner or stockholder of a business; provided, however, that Employee shall not be prohibited from (i) owning less than 5% of the equity securities of an entity, (ii) serving as a director of an entity, where Employee served in such capacity as of the Effective Date; or (iii) engaging in advising or consulting activities approved by the Company's Board of Directors.

(b) Confidentiality.

(i) Definition of Confidential Information. As used herein, the term "Confidential Information" shall mean all information Employee acquired from any source in the course of his employment by the Company if (A) such information is not either in the public domain or part of Employee's general knowledge learned apart from his work for the Company and (B) Employee has reason to believe that such information is confidential information of the Company. Information shall be "Confidential Information" even if no legal protection has been obtained or sought for such information under federal, state or foreign laws and whether or not Employee has been specifically notified that such information is "Confidential Information." "Confidential Information" includes, by way of example and without limitation, the operation methods of the Company, customer lists and arrangements with Licensees.

(ii) Use of Confidential Information. Without limiting or otherwise affecting Employee's obligations under Section 5(a) of this Agreement, Employee agrees not to disclose, communicate or use to the detriment of the Company or for the benefit of any other person (including himself), or misuse in any way any Confidential Information. Employee acknowledges and agrees that all Confidential Information received heretofore or to be received hereafter by him from the Company was or will be received by him in confidence and as a fiduciary of the Company. The obligation not to disclose, communicate, use or misuse Confidential Information shall continue indefinitely after the termination, if any, of this Agreement.

6. Termination and Severance Payments.

(a) General. Employee's employment hereunder shall terminate upon the occurrence of any of the following: (i) the death of Employee; (ii) termination of Employee by the Board of Directors of the Company without Cause (as defined

below); (iii) termination of Employee by the Board of Directors of the Company for Cause; (iv) Involuntary Termination of Employee after a Change of Control (as such terms are defined below) or (v) resignation by Employee.

(b) Definition of Cause. As used herein, the term "Cause" shall mean
---

(i) willful and habitual breach of the duties or obligations required of him by the terms of this Agreement, (ii) habitual neglect of the duties or obligations required of him by the terms of this Agreement, (iii) commission of fraud, embezzlement or misappropriation, or other willful acts of dishonesty or willful misconduct, or commission of a crime of moral turpitude involving Employee whether or not a criminal or civil charge is filed in connection therewith, (iv) the willful unauthorized disclosure of Confidential Information or, (v) breach of the covenant not to compete under Section 5.1 of this Agreement.

(c) Definition of Change of Control. As used herein, "Change of
---

Control" means the occurrence of any of the following events: (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing 50% or more of the total voting power represented by the Company"s then outstanding voting securities; or (ii) the stockholders of the Company approve a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least 50% of the total voting power represented by the voting securities of such surviving entity outstanding immediately after such merger or consolidation, or the stockholders of the Company

approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all the Company's assets.

(d) Definition of Involuntary Termination. As used herein,

"Involuntary Termination" means (i) the elimination of Employee's job position or a material reduction of Employee's job position or a material reduction of Employee's duties, authority or responsibilities, relative to Employee's job position or duties, authority or responsibilities as in effect immediately prior to such reduction; (ii) the relocation of Employee to a facility or a location more than 50 miles from Company's then present location; or (iii) any other involuntary termination of Employee's employment without Cause, except in the event of disability.

(e) Severance Payments.

(i) If Employee's employment with the Company is terminated during the term of this Agreement without Cause or, if following a Change of Control, Employee's employment is terminated as a result of an Involuntary Termination, other than for Cause, following such Change of Control, then the Company shall pay to Employee an amount equal to Employee's compensation under this Agreement, in the same periodic installments that Employee would otherwise receive such salary ("Severance Payments"); provided, however, that the Company may, in its sole discretion, pay to Employee a lump sum cash payment with the present value of such Severance Payments within thirty (30) days of Employee's termination. In addition, the Company shall pay, so as to provide coverage through the term of this Agreement, or when Employee obtains other employment providing health care coverage, the COBRA insurance premium on behalf of Employee for the group health benefits that he has received while employed by the Company, to the extent permitted under the Company's benefits plans as they may be amended and pursuant to applicable law. This payment of COBRA premiums by

the Company does not expand or extend the maximum period of COBRA coverage to which Employee would otherwise be entitled. Employee will not accrue or be entitled to any employee or other benefits, including without limitation, the Company's life insurance coverage, nor shall he accrue vacation under the Company's existing policies or any other arrangements after his termination, other than as expressly set forth in this Agreement.

(ii) If Employee terminates his employment or if the Company terminates Employee for Cause or by reason of Employee's death, then Employee shall not receive the Severance Payments or other payments set forth in (i) above.

(iii) Employee agrees that the Severance Payments shall fully compensate him for, and he agrees fully and forever to release any and all claims, if any then exist, arising out of his employment and the termination thereof with the sole

exception of any alleged violation of applicable state or federal employment statutes, and upon payment of the Severance Payments the Company shall be fully released and discharged as to any and all such claims.

7. General Provisions.

(a) Notices. All notices and other communications hereunder shall be in writing and, unless otherwise provided herein, shall be deemed to have been duly given if delivered or mailed, first-class postage prepaid:

If to Company: DepoMed, Inc.
1170 B Chess Drive
Foster City, California 94404
ATTENTION: Chairman
(Fax Number: 415-513-0999)

If to Employee: _____
_____
_____

(b) Assignment. The rights and duties of Employee under this Agreement shall not be subject to alienation, assignment or transfer, whether voluntary or involuntary.

(c) Supersedes Prior Agreements. This Agreement supersedes all prior employment agreements, understandings, oral or written, between Employee and the Company (or any affiliate of the Company).

(d) Captions. The captions used in this Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the construction or interpretation of any of the provisions hereof.

(e) Construction. The language used in this Agreement will be deemed to be the language chosen by each of the parties hereto to express their mutual intent, and no rule of strict construction, including the rule that ambiguities are to be resolved against the drafting party, shall be applied against either party.

(f) Severability. If any term of this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity,

legality and enforceability of the remaining terms contained herein and any other application of said terms shall not in any way be affected or impaired thereby.

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into by residents of California and to be performed wholly within the State of

California.

(h) No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the parties and their respective successors and permitted assigns.

(i) Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and no changes in, additions to, or modifications of this Agreement shall be valid unless set forth in writing and signed by each of the parties.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date first above written.

COMPANY: DEPOMED, INC

By: _____

Title: _____

EMPLOYEE: _____
John W. Fara

Exhibit 10.9

AGREEMENT RE SETTLEMENT OF LAWSUIT, CONVEYANCE OF ASSETS AND ASSUMPTION OF LIABILITIES

This Agreement Re Settlement of Lawsuit, Conveyance of Assets and Assumption of Liabilities (the "Agreement"), entered into as of August 28, 1995 is made by and among DepoMed Systems, Inc. ("DSI"), a California corporation, DepoMed, Inc. ("DI"), a California corporation, Dr. John W. Shell ("Shell"), and M6 Pharmaceuticals, Inc. ("M6"), a Delaware corporation (collectively, the "Parties").

RECITALS

A. On or about March 29, 1994, DSI and M6 executed an Agreement and Plan of Merger Between M6 Pharmaceuticals, Inc. and DepoMed Systems, Inc. (the "Merger Agreement"), providing for the merger of DSI into M6. A Certificate of Merger was filed with the California Secretary of State on or about July 26, 1994, merging DSI into M6, the surviving corporation.

B. On or about July 17, 1995, DSI and Shell instituted an action against M6 and David Blech in the United States District Court for the Northern District of California, DepoMed Systems, Inc., et al. v. M6 Pharmaceuticals, Inc., No. C95 2574 VRW (the "Action"), asserting claims for specific performance, rescission and damages relating to the merger and related events.

C. The Parties now desire to enter into a definitive agreement in settlement of all claims and disputes between M6, on the one hand, and DSI and Shell, on the other hand.

AGREEMENT

In consideration of the mutual covenants, agreements and representations contained in this Agreement, constituting mutual, valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Definitions. As used in this Agreement the following terms shall have the following meanings:

A. "Acquired Assets" is as defined in Paragraph 3.

B. "Assumed Liabilities" is as defined in Paragraph 4.

C. "Closing Date" means the date upon which DI acknowledges receipt of all documentation and assets necessary to effect fully the transfers contemplated by this Agreement, and on which DI executes the Closing Statement, in the form attached hereto as Schedule 1.1, acknowledging such receipt of assets and documentation; in no event shall the Closing Date be later than August 31, 1995.

D. "Closing Statement" is as defined in Subparagraph 1.C.

E. "DepoMed Business" means the research, development, marketing, production and sales of oral drug delivery systems and technology developed by or under the direction of Dr. John W. Shell.

F. "Furniture, Fixtures and Equipment" is as defined in Subparagraph 3.C.

2. Releases.

A. Effective as of the Closing Date, Shell, DI and DSI fully and forever release M6, Dr. Dennis Hruby, and M6's officers, directors and employees of and from any and all claims, demands, duties, obligations, liabilities and causes of action, relating in any way to claims asserted in the Action or otherwise relating to the Merger Agreement, excepting those obligations created by this Agreement. Notwithstanding anything to the contrary contained herein, this Agreement shall not release or otherwise affect in any way the claims or rights of Shell, DI and DSI, or any of them, against Mr. David Blech.

B. Effective as of the Closing Date, M6 fully and forever releases, Shell, DSI and DI and their respective past and present officers, directors and employees, of and from any and all claims, demands, duties, obligations, liabilities and causes of action relating in any way to claims asserted in the Action or otherwise relating to the Merger Agreement, excepting those obligations created by this Agreement.

C. The releases contained in this Paragraph 2 are intended to cover all existing or prior claims or possible claims relating to the specified subjects, as between the specified parties, whether the same are known, unknown, or hereafter discovered or ascertained. Each of the Parties acknowledge that such Party is familiar with the provisions of Section 1542 of the California Civil Code, which provides as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Each of the Parties expressly, knowingly and intentionally waives and relinquishes any and all rights which it or he has under the provisions of Section 1542, as well as any other similar statute or common law principle.

D. DI agrees to indemnify the present officers and directors of M6 against any claims brought by current or former DSI shareholders arising from the execution of this Agreement. Notwithstanding anything else to the contrary contained herein, nothing in this Paragraph or in this Agreement shall provide for any indemnity for Mr. David Blech.

3. Conveyance of Assets. M6 hereby agrees to cause to be conveyed, transferred, assigned and delivered and hereby does convey, transfer, assign and deliver to DI all assets and all rights, properties, interests, title and claims in and to the assets of M6 used in connection with or derived from the DepoMed Business; all assets and all rights, properties, interests, title and claims in and to the assets previously belonging to DSI that became the property of M6 by virtue of the Merger Agreement, including, without limitation, all assets and all rights, properties, interests, title and claims in and to those assets described in Subparagraphs 3.A through 3.L below. The Assets described in this Paragraph 3 are sometimes collectively referred to as the "Acquired Assets."

A. All U.S. patents and patent applications listed and identified on Schedule 3.1 hereto, and any foreign counterpart thereof, and all patents, patent applications and unpatented inventions of which Shell is named as either inventory or co-inventor, together with the right to sue for past infringement thereof. M6 further agrees to execute, have notarized and deliver to Shell prior to the Closing Date, the Patent Assignment attached hereto as Schedule 3.2.

B. All trade secrets and proprietary rights and knowledge of any kind related to or used in connection with the DepoMed Business.

C. All furniture, fixtures, supplies and equipment (including, without limitation, computer equipment, computer hardware and software, leasehold improvements, cabinets, telephones, facsimile equipment, laboratory equipment, laboratory supplies and materials) and all other physical assets located on the premises at 1170 B Chess Drive, Foster City, California 94404 (collectively,"Furniture, Fixtures and Equipment").

D. All of the lessee's interest under the lease of the premises at 1170 B Chess Drive, Foster City, California 94404.

E. All rights to sue, choses in action and claims relating to the DepoMed Business.

F. All rights and incidents of interest of M6 in and to all technical documentation used in the DepoMed Business, including, without limitation, know-how, discoveries, formulae, production outlines, product designs, drawings, technical data, computerized data and information, computer software and databases, material specifications, purchasing specifications, invention records, research records, labor records, manufacturing information, processes and techniques, testing, inspection and quality control processes and techniques, equipment lists and other intellectual property; and copies of the invention file records on the patents, patent applications and inventions referred to in Subparagraph 3.A, and any file records on the trademarks referred to in Subparagraph 3.J.

G. All business plans, sales and promotional literature, contact and customer lists, reports and other records relating to compliance with laws and regulations, state and federal income tax filings, written instructions, manuals, data, procedures and other records, relating to or used in the DepoMed Business.

H. Copies of all employment history records, employment contracts and other employee records (including without limitation, records reflecting salary deductions and filings made with the State of California Employment Development Department) for those employees of DSI and/or M6 who have worked in California and whose duties have pertained to the DepoMed Business. M6 also agrees to provide information and assistance to former M6 employees (whose duties have pertained to the DepoMed Business) in terminating and/or transferring funds from such employees' M6 401(k) plans.

I. The goodwill and value of the DepoMed Business as a going concern.

J. All common law, statutory law, or contractual rights in the trademarks and trade names used in the DepoMed Business, including such rights to DEPOMED, DEPOMED SYSTEMS, INC. and DEPOMED, INC., and all rights to sue for past infringements thereof.

K. All other intangible rights and assets (including, without limitation, all rights to receive mail and other communications directed to M6 and related to the DepoMed Business and all post office boxes and telephone listing related to the DepoMed Business) relating to the DepoMed Business. M6 shall promptly forward to DI all mail, telephone and fax messages and other communications received by M6 which are related to the DepoMed Business.

L. All documentation and agreements necessary to implement the transfers set forth in this Agreement, including without limitation, documents for submission to or filing with the Patent and Trademark Office. M6 agrees to cooperate reasonably after the Closing Date to provide such documentation and

agreements.

4. Assumed Liabilities. Subject to the terms and conditions set forth herein, effective as of the Closing Date, DI fully assumes and agrees to pay, perform and discharge when due only those debts, obligations, responsibilities, contracts and liabilities which are specifically described in this Paragraph 4 (collectively, the "Assumed Liabilities"). The Assumed Liabilities shall include only the following liabilities, responsibilities and obligations:

A. All promissory notes (including interest thereon) executed in favor of, and all other debt owed to, Shell, Julian N. Stern and Julian N. Stern, a Professional Corporation.

B. All promissory notes executed in favor of, and debt owed to, McNeil Consumer Products Co.

C. All of the lessee's unpaid obligations under the lease of the premises at 1170 B Chess Drive, Foster City, California 94404.

D. All unpaid lease or purchase obligations for the Furniture, Fixtures and Equipment.

E. All obligations arising under the Employment Agreement, Exhibit "C" to the Merger Agreement, by and between M6 and Shell and under the Employment Agreement of Edward Brennan and all other salary and related interest obligations to Shell.

F. Any trade payable invoices received by Shell or DSI on or after July 1, 1995 and not forwarded to M6.

G. For the period commencing October 15, 1994, any unpaid salary, or vacation accrual obligations as of October 15, 1994, for California employees of the DepoMed Business.

H. For the period commencing July 1, 1995, taxes or assessments due with respect to salaries or wages paid to employees of the DepoMed Business.

I. Any obligations relating to the operations of the DepoMed Business, entered into by Shell on or after July 1, 1995 through the Closing Date, without the knowledge of M6.

J. Any obligations arising from the operations of the DepoMed Business prior to March 29, 1994.

K. All obligations arising from the operations of the DepoMed Business after the Closing Date.

L. Those specific trade payables related to the DepoMed Business set forth on Schedule 4.1 hereto.

With the exception of those liabilities and obligations specifically assumed by DI pursuant to this Paragraph 4, DI shall not assume or be obligated for any of the liabilities or obligations of M6 or its officers, directors or employees, of any kind whatsoever, direct or indirect, known or unknown, absolute or contingent, matured or unmatured, whether or not incurred in connection with or related to the DepoMed Business or otherwise.

5. M6 Stock and Stock Options. DI shall secure, within sixty (60) days after the Closing Date, for submission to M6 for cancellation, certificates representing all shares of M6 stock (duly endorsed for transfer or accompanied by duly executed stock powers) issued to the shareholders of DSI as the result of the merger of DSI and M6. DSI shall secure and deliver to M6 within sixty (60) days after the Closing Date, from the holders of any options to acquire

stock of M6 issued to former option holders of DSI as the result of such merger, the agreement of such holders that any such options still outstanding shall be canceled without payment of additional consideration by M6. To the extent that DI is unable to secure the cancellation of any such M6 stock or stock options, DI shall, as an alternative, indemnify M6 for the cash value of such stock or stock options.

6. Dismissal. Concurrently herewith the Parties are executing a Stipulation and Order for Dismissal With Prejudice of M6 Pharmaceuticals, in the form attached hereto as Schedule 6.1. Within five business days following the Closing Date, attorneys for Shell shall file said Stipulation and Order in the Action.

7. Closing. The Closing Date shall be on or before August 31, 1995.

8. No Third Party Rights. Any assumption by DI of any liabilities shall not in any way or at any time create any third party beneficiary rights for or on behalf of any persons or entities other than the Parties to this Agreement and the persons specifically released hereunder.

9. Interpretation of the Agreement. This Agreement is the product of negotiation by and among the Parties and their respective counsel. The Agreement shall be interpreted and construed naturally as to all Parties, without any party being deemed the drafter of the Agreement.

10. Entire Agreement. This Agreement contains the entire agreement between the Parties pertaining to the subject matter

contained in it and supersedes any prior and/or contemporaneous oral or written negotiations, agreements, representations and understandings of the Parties. Each Party represents that it has not relied on any inducement, statement, promise or representation other than those contained in the Agreement. This Agreement may not be changed or amended except in writing, executed by all Parties.

11. Governing Law. This Agreement shall be construed, interpreted and enforced in accordance with and governed by the laws of the State of California, without reference to conflicts of law principles. Any dispute arising from or relating to this Agreement shall be subject to California law and the exclusive jurisdiction and venue of the state or federal courts of Santa Clara County or San Francisco County, California.

12. Attorneys' Fees. Each Party to this Agreement shall bear its own attorneys' fees and costs in connection with the Action and the negotiation and drafting of this Agreement. The Parties further agree that if legal or equitable action is brought by any Party against another Party to enforce any of the provisions of this Agreement, the prevailing party in such action will be entitled to recover from the opposing party, his or its costs, including attorneys' fees, of such legal action.

13. Warranty of Authorized Signatures. By execution of this Agreement, each person signing on behalf of an entity warrants that the consent of all persons or entities whatsoever necessary for the execution of the Agreement has been obtained.

14. Counterparts. This Agreement may be executed in any number of

counterparts, each of which shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the Parties.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first set forth above.

M6 PHARMACEUTICALS, INC.

By: /s/ David de Weese

David de Weese,
its President and CEO

DEPOMED SYSTEMS, INC.

By: /s/ John W. Shell

John W. Shell,
its President and CEO

JOHN W. SHELL

/s/ John W. Shell

DEPOMED, INC.

By: /s/ John W. Shell

John W. Shell,
its President and CEO

CLOSING STATEMENT Schedule 1.1

DEPOMED, INC. hereby acknowledges receipt of all documentation and assets necessary to effect the transfers to it contemplated by the Agreement Re Settlement of Lawsuit, Conveyance of Assets and Assumption of Liabilities, dated August ___, 1995.

Dated: _____ DEPOMED, INC.

By: _____

Its: _____

SCHEDULE 1.1

Schedule 3.1

PATENTS AND PATENT APPLICATIONS

United States
- ---

Patent 5,007,790
Sustained-Release Oral Drug Dosage Form
Continuation-in-part of application USSN 07/858,320
originally filed March 5, 1992
Alkyl-Substituted Cellulose-Based-Sustained-Release Oral Drug Dosage Form

Europe
- ---

Serial Number 90906689.6-2214
Sustained-Release Oral Drug Dosage Form
Application Serial Number 93/02420
Corresponds to C-I-P of patent application USSN 07/858,320
Filing Date: 17 March 1993

SCHEDULE 3.1

Schedule 3.2

PATENT ASSIGNMENT

WHEREAS, M6 Pharmaceuticals, Inc. (Assignor) of 599 Lexington Avenue, 23rd Floor, New York, NY 10022 (address), a corporation of the state of Delaware, is the owner by assignment of the following patent properties:

No.	Dated	Titled
USSN 08/316,265	Filed Sept. 30, 1994	Alkyl-Substituted Cellulose-Based Sustained-Release Oral Drug Dosage Forms
USSN 08/453,144	Filed May 30, 1995	Alkyl-Substituted Cellulose-Based Sustained-Release Oral Drug Dosage Forms

WHEREAS, DepoMed, Inc. (Assignee) of 1170 B Chess Drive, Foster City, CA 94404 (address), a corporation of the state of California, wishes to purchase all rights to and under the patent.

NOW, THEREFORE, for valuable consideration, the receipt of which is hereby acknowledged, Assignor hereby assigns all its right, title and interest in said patent properties to Assignee for the entire term of the patent(s) and any reissues, reexaminations or extensions thereof.

Date: Aug. 28, 1995 /s/ David de Weese

Name: David H. DeWeese
Title: President & CEO

STATE OF NEW YORK)
) ss.
COUNTY OF)

On August 28, 1995, before me, Norman H. Henderson , personally appeared David H. de Weese , personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

/s/ Norman H. Henderson
Notary Public
My commission expires: 11/29/95

SCHEDULE 3.2

Schedule 4.1

DEPOMED SYSTEMS TRADE/OTHER PAYABLES/ACCRUALS
ON BOOKS OF M6 AT JUNE 30, 1995 AND STILL OUTSTANDING *
(EXCLUDING ALL LEASES)

Vendor	Invoice No.	Invoice Date	Invoice Amount
Alron Heating & Air conditioning	53236	1/4/95	158.46
Altair Gases & Equipment	144919	8/19/95	60.00
Anza Building Maintenance	3192	9/23/94	160.00
Anza Building Maintenance	11048	10/24/94	160.00
Anza Building Maintenance	11065	11/23/94	750.00
Anza Building Maintenance	11082	12/24/94	160.00
Anza Building Maintenance	11111	1/22/95	185.00
Anza Building Maintenance	11133	2/21/95	190.00
Anza Building Maintenance	11127	3/22/95	160.00
Anza Building Maintenance	11164	4/24/95	160.00
Aqualon Company	893889	2/20/95	270.25
Barlocker Insurance (10/15/93-94)	22088	10/31/94	1,283.00
California Chamber of Commerce	B181162	9/18/94	234.41
California Security	130041, 13081	5/28/95	60.00
Clement Communications	A-7012343	10/24/94	35.47
CRC Press	85813-009	9/12/94	274.07
Employment Development Dept.		12/5/94	42.46
Gerboth Fire & Extin.		4/28/95	39.50
Heller, Ehrman, White & McAuliffe			3,082.21
Roy Kuramoto		10/4/94	750.00
Roy Kuramoto		1/5/95	750.00
Roy Kuramoto		4/3/95	1,437.50
M.J. Murphy & Associates		9/30/94	1,000.00
Pacific Bell		4/23/95	142.03
pacific Bell		5/23/95	141.90
Martha A. Reitman, MD		9/16/94	2,000.00
San Mateo Environmental Health		9/1/94	129.00
Standard Insurance		9/21/94	101.70

SCHEDULE 4.1

Vendor	Invoice No.	Invoice Date	Invoice Amount

Standard Insurance		10/24/94	101.70
Standard Insurance		11/24/94	101.70
Standard Insurance		12/22/94	101.70
Townsend & Townsend		5/10/95	25,725.87
University of Arizona		9/16/94	12,000.00
VWR Scientific	19415350	9/22/94	14.75
VWR Scientific	19415340	9/22/94	585.00
VWR Scientific	20379220	10/13/94	31.06
VWR Scientific	19415330	10/25/94	1,458.13
John W. Shell Expenses		5/2/95	437.57
Total Invoices Rec'd by 6/30/96			53,844.44

* Still outstanding as far as we know.

SCHEDULE 4.1

Schedule 6.1

Robert B. Hawk (California Bar #118054)
Edith L. Morris (California Bar #176979)
HELLER, EHRMAN, WHITE & MCAULIFFE
525 University Avenue, Suite 1100
Palo ALto, California 94301
(415) 324-7000

Attorneys for Plantiffs
DEPOMED SYSTEMS, INC.
and JOHN W. SHELL

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DEPOMED SYSTEMS, INC., a California Corporation; JOHN W. SHELL,	Case No. C95-2574 VRW NOTICE OF DISMISSAL OF M6 PHARMACEUTICALS, INC., PURSUANT TO FED. R. CIV. PROC. 41(a)(1)
Plaintiffs,	
v.	
M6 PHARMACEUTICALS, INC., a Delaware corporations; DAVID BLECH,	
Defendants	

Pursuant to Federal Rule of Civil Procedure 41(a)(1), plaintiffs DEPOMED SYSTEMS, INC. and JOHN W. SHELL hereby dismiss defandant M6 PHARMACEUTICALS, INC., with prejudice, from this action.

DATED: August __, 1995 HELLER, EHRMAN, WHITE & MCAULIFFE

By: _____
Robert B. Hawk
Attorneys for Plaintiffs DEPOMED SYSTEMS, INC. and JOHN W. SHELL

SCHEDULE 4.1

EXHIBIT 11.1

DEPOMED, INC.
STATEMENT RE: COMPUTATION OF NET LOSS PER SHARE

	PERIOD FROM INCEPTION (AUGUST 7, 1995) TO DECEMBER 31, 1995	YEAR ENDED DECEMBER 31, 1996	THREE MONTHS ENDED MARCH 31,	
			1996	1997
Weighted average common shares outstanding.....	2,859,993	3,285,747	3,263,158	3,354,825
Common equivalent shares pursuant to Staff Accounting Bulletin Nos. 55, 64 and 83.....	211,374	211,374	211,374	211,374
Shares used in computing net loss per share.....	3,071,367	3,497,121	3,474,532	3,566,199
Shares used in computing pro forma net loss per share:				
Shares from above.....		3,497,121	3,474,532	3,566,199
Assumed conversion of preferred stock at the date of issuance.....		815,789	815,789	878,483
Shares used in computing pro forma net loss per share...		4,312,910	4,290,321	4,444,682

EXHIBIT 23.1

CONSENT OF ERNST & YOUNG LLP, INDEPENDENT AUDITORS

We consent to the references to our firm under the captions "Selected Financial Data"and "Experts" and to the use of our report dated January 31, 1997 (except for Note 9, as to which the date is , 1997) included in Amendment No. 1 to the Registration Statement (Form SB-2, No. 333-25445) and related Prospectus of DepoMed, Inc. for the registration of 4,687,500 shares of its common stock.

Palo Alto, California
1997

- ---

The foregoing consent is in the form that will be signed upon completion of the one-for-three reverse common stock split as described in Note 9 to the Financial Statements.

/s/ Ernst & Young LLP

Palo Alto, California

June 16, 1997

<ARTICLE> 5
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THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE UNAUDITED FINANCIAL STATEMENTS FOR THE THREE MONTHS ENDED MARCH 31, 1997 AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.
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